

114TH CONGRESS
2D SESSION

H. R. 5983

To create hope and opportunity for consumers, investors, and entrepreneurs by ending bailouts and Too Big to Fail, holding Washington and Wall Street accountable, eliminating red tape to increase access to capital and credit, and repealing the provisions of the Dodd-Frank Act that make America less prosperous, less stable, and less free, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2016

Mr. HENSARLING (for himself, Mr. GARRETT, Mr. NEUGEBAUER, Mr. LUETKEMEYER, Mr. HUIZENGA of Michigan, and Mr. DUFFY) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Agriculture, Ways and Means, the Judiciary, Oversight and Government Reform, Transportation and Infrastructure, Rules, the Budget, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To create hope and opportunity for consumers, investors, and entrepreneurs by ending bailouts and Too Big to Fail, holding Washington and Wall Street accountable, eliminating red tape to increase access to capital and credit, and repealing the provisions of the Dodd-Frank Act that make America less prosperous, less stable, and less free, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Financial CHOICE Act of 2016”.

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

Sec. 1. Short title; table of contents.

**TITLE I—REGULATORY RELIEF FOR STRONGLY CAPITALIZED,
 WELL MANAGED BANKING ORGANIZATIONS**

Sec. 101. Capital election.

Sec. 102. Regulatory relief.

Sec. 103. Contingent capital study.

Sec. 104. Study on altering the current prompt corrective action rules.

Sec. 105. Definitions.

TITLE II—ENDING “TOO BIG TO FAIL” AND BANK BAILOUTS

Subtitle A—Reform of the Financial Stability Act of 2010

Sec. 211. Repeal and modification of provisions of the Financial Stability Act
 of 2010.

Subtitle B—Repeal of the Orderly Liquidation Authority

Sec. 221. Repeal of the orderly liquidation authority.

Subtitle C—Financial Institution Bankruptcy

Sec. 231. General provisions relating to covered financial corporations.

Sec. 232. Liquidation, reorganization, or recapitalization of a covered financial
 corporation.

Sec. 233. Amendments to title 28, United States Code.

Subtitle D—Ending Government Guarantees

Sec. 241. Repeal of obligation guarantee program.

Sec. 242. Repeal of systemic risk determination in resolutions.

Sec. 243. Restrictions on use of the Exchange Stabilization Fund.

Subtitle E—Eliminating Financial Market Utility Designations

Sec. 251. Repeal of title VIII.

**TITLE III—EMPOWERING AMERICANS TO ACHIEVE FINANCIAL
 INDEPENDENCE**

Subtitle A—Separation of Powers and Liberty Enhancements

- Sec. 311. Consumer Financial Opportunity Commission.
- Sec. 312. Bringing the Commission into the regular appropriations process.
- Sec. 313. Consumer Financial Opportunity Commission Inspector General Reform.
- Sec. 314. Private parties authorized to compel the Commission to seek sanctions by filing civil actions; Adjudications deemed actions.
- Sec. 315. Civil investigative demands to be appealed to courts.
- Sec. 316. Commission dual mandate and economic analysis.
- Sec. 317. No deference to Commission interpretation.

Subtitle B—Administrative Enhancements

- Sec. 321. Commission Advisory Boards.
- Sec. 322. Advisory opinions.
- Sec. 323. Reform of Consumer Financial Civil Penalty Fund.
- Sec. 324. Commission research paper transparency.
- Sec. 325. Commission pay fairness.
- Sec. 326. Separation of market monitoring functions and supervisory functions.
- Sec. 327. Requirement to verify information in the complaint database before it may be released to the general public.
- Sec. 328. Commission supervision limited to banks, thrifts, and credit unions with greater than \$50 billion in assets.
- Sec. 329. Transfer of old OTS building from OCC to GSA.

Subtitle C—Policy Enhancements

- Sec. 331. Consumer right to financial privacy.
- Sec. 332. Repeal of Council authority to set aside Bureau rules and requirement of safety and soundness considerations when issuing rules.
- Sec. 333. State and tribal payday loan regulation 5-year exemption.
- Sec. 334. Reforming indirect auto financing guidance.
- Sec. 335. Prohibition of Government price controls for payment card transactions.
- Sec. 336. Annual studies on ending the conservatorship of Fannie Mae, Freddie Mac, and reforming the housing finance system.
- Sec. 337. Removal of “abusive” authority.
- Sec. 338. Repeal of authority to restrict arbitration.

TITLE IV—CAPITAL MARKETS IMPROVEMENTS

Subtitle A—SEC Reform, Restructuring, and Accountability

- Sec. 401. Authorization of appropriations.
- Sec. 402. Report on unobligated appropriations.
- Sec. 403. SEC Reserve Fund abolished.
- Sec. 404. Fees to offset appropriations.
- Sec. 405. Implementation of recommendations.
- Sec. 406. Office of Credit Ratings to report to the Division of Trading and Markets.
- Sec. 407. Office of Municipal Securities to report to the Division of Trading and Markets.
- Sec. 408. Independence of Commission Ombudsman.
- Sec. 409. Coordination with the Investor Advisory Committee.
- Sec. 410. Duties of Investor Advocate.
- Sec. 411. Internal risk controls.

- Sec. 412. Applicability of Notice and Comment Requirements of the Administrative Procedure Act to Guidance Voted on by the Commission.
- Sec. 413. Process for closing investigations.
- Sec. 414. Enforcement Ombudsman.
- Sec. 415. Process to ensure enforcement actions are within authority of Commission.
- Sec. 416. Process to permit recipient of Wells notification to appear before Commission staff in-person.
- Sec. 417. Publication of enforcement manual.
- Sec. 418. Private parties authorized to compel the Securities and Exchange Commission to seek sanctions by filing civil actions.
- Sec. 419. Certain findings required to approve civil money penalties against issuers.
- Sec. 420. Repeal of authority of the Commission to prohibit persons from serving as officers or directors.
- Sec. 421. Subpoena duration and renewal.
- Sec. 422. Elimination of automatic disqualifications.
- Sec. 423. Confidentiality of records obtained from foreign securities and law enforcement authorities.
- Sec. 424. Clarification of authority to impose sanctions on persons associated with a broker or dealer.
- Sec. 425. Congressional access to information held by the Public Company Accounting Oversight Board.
- Sec. 426. Repeal of requirement for Public Company Accounting Oversight Board to use certain funds for merit scholarship program.
- Sec. 427. Reallocation of fines for violations of rules of municipal securities rulemaking board.

Subtitle B—Eliminating Excessive Government Intrusion in the Capital Markets

- Sec. 441. Repeal of Department of Labor fiduciary rule and requirements prior to rulemaking relating to standards of conduct for brokers and dealers.
- Sec. 442. Exemption from risk retention requirements for nonresidential mortgage.
- Sec. 443. Frequency of shareholder approval of executive compensation.
- Sec. 444. Requirement for municipal advisor for issuers of municipal securities.
- Sec. 445. Small issuer exemption from internal control evaluation.
- Sec. 446. Exemptive authority for certain provisions relating to registration of nationally recognized statistical rating organizations.
- Sec. 447. Restriction on recovery of erroneously awarded compensation.
- Sec. 448. Risk-Based Examinations of Nationally Recognized Statistical Rating Organizations.
- Sec. 449. Repeals.
- Sec. 450. Exemption of and reporting by private equity fund advisers.
- Sec. 451. Records and reports of private funds.
- Sec. 452. Definition of accredited investor.
- Sec. 453. Repeal of certain provisions requiring a study and report to Congress.
- Sec. 454. Technical correction.
- Sec. 455. Repeal.

Subtitle C—Commodity Futures Trading Commission Reforms

- Sec. 461. Division directors.

- Sec. 462. Procedures governing actions taken by commission staff.
- Sec. 463. Strategic technology plan.
- Sec. 464. Internal risk controls.
- Sec. 465. Subpoena duration and renewal.
- Sec. 466. Applicability of notice and comment requirements of the administrative procedure act to guidance voted on by the commission.
- Sec. 467. Judicial review of commission rules.
- Sec. 468. Cross-border regulation of derivatives transactions.

Subtitle D—Harmonization of Derivatives Rules

- Sec. 471. Agency review and harmonization of rules relating to the regulation of over-the-counter swaps markets.

TITLE V—IMPROVING INSURANCE COORDINATION THROUGH AN INDEPENDENT ADVOCATE

- Sec. 501. Repeal of the Federal Insurance Office; Creation of the Office of the Independent Insurance Advocate.
- Sec. 502. Treatment of covered agreements.

TITLE VI—DEMANDING ACCOUNTABILITY FROM FINANCIAL REGULATORS AND DEVOLVING POWER AWAY FROM WASHINGTON

Subtitle A—Cost-Benefit Analyses

- Sec. 611. Definitions.
- Sec. 612. Required regulatory analysis.
- Sec. 613. Rule of construction.
- Sec. 614. Public availability of data and regulatory analysis.
- Sec. 615. Five-year regulatory impact analysis.
- Sec. 616. Retrospective review of existing rules.
- Sec. 617. Judicial review.
- Sec. 618. Chief Economists Council.
- Sec. 619. Conforming amendments.
- Sec. 620. Other regulatory entities.
- Sec. 621. Avoidance of duplicative or unnecessary analyses.

Subtitle B—Congressional Review of Federal Financial Agency Rulemaking

- Sec. 631. Congressional review.
- Sec. 632. Congressional approval procedure for major rules.
- Sec. 633. Congressional disapproval procedure for nonmajor rules.
- Sec. 634. Definitions.
- Sec. 635. Judicial review.
- Sec. 636. Effective date of certain rules.
- Sec. 637. Budgetary effects of rules subject to section 632 of the Financial CHOICE Act of 2016.

Subtitle C—Judicial Review of Agency Actions

- Sec. 641. Scope of judicial review of agency actions.

Subtitle D—Leadership of Financial Regulators

- Sec. 651. Federal Deposit Insurance Corporation.
- Sec. 652. Federal Housing Finance Agency.
- Sec. 653. National Credit Union Administration.

Sec. 654. Office of the Comptroller of the Currency.

Subtitle E—Congressional Oversight of Appropriations

- Sec. 661. Bringing the Federal Deposit Insurance Corporation into the regular appropriations process.
- Sec. 662. Bringing the Federal Housing Finance Agency into the regular appropriations process.
- Sec. 663. Bringing the National Credit Union Administration into the regular appropriations process.
- Sec. 664. Bringing the Office of the Comptroller of the Currency into the regular appropriations process.
- Sec. 665. Bringing the non-monetary policy related functions of the Board of Governors of the Federal Reserve System into the regular appropriations process.

Subtitle F—International Processes

Sec. 671. Requirements for international processes.

TITLE VII—FED OVERSIGHT REFORM AND MODERNIZATION

- Sec. 701. Requirements for policy rules of the Federal Open Market Committee.
- Sec. 702. Federal Open Market Committee blackout period.
- Sec. 703. Membership of Federal Open Market Committee.
- Sec. 704. Frequency of testimony of the Chairman of the Board of Governors of the Federal Reserve System to Congress.
- Sec. 705. Vice Chairman for Supervision report requirement.
- Sec. 706. Salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System.
- Sec. 707. Amendments to powers of the Board of Governors of the Federal Reserve System.
- Sec. 708. Interest rates on balances maintained at a Federal Reserve bank by depository institutions established by Federal Open Market Committee.
- Sec. 709. Audit reform and transparency for the Board of Governors of the Federal Reserve System.
- Sec. 710. Establishment of a Centennial Monetary Commission.
- Sec. 711. Public transcripts of FOMC meetings.

TITLE VIII—DEMANDING ACCOUNTABILITY FROM WALL STREET

Subtitle A—SEC Penalties Modernization

- Sec. 801. Enhancement of civil penalties for securities laws violations.
- Sec. 802. Updated civil money penalties of Public Company Accounting Oversight Board.
- Sec. 803. Updated civil money penalty for controlling persons in connection with insider trading.
- Sec. 804. Update of certain other penalties.
- Sec. 805. Monetary sanctions to be used for the relief of victims.
- Sec. 806. GAO report on use of civil money penalty authority by Commission.

Subtitle B—FIRREA Penalties Modernization

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TITLE IX—REPEAL OF THE VOLCKER RULE AND OTHER PROVISIONS

Sec. 901. Repeals.

TITLE X—UNLEASHING OPPORTUNITIES FOR SMALL BUSINESSES, INNOVATORS, AND JOB CREATORS BY FACILITATING CAPITAL FORMATION

Subtitle A—Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification

Sec. 1001. Registration exemption for merger and acquisition brokers.
Sec. 1002. Effective date.

Subtitle B—Encouraging Employee Ownership

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Subtitle C—Small Company Disclosure Simplification

Sec. 1011. Exemption from XBRL requirements for emerging growth companies and other smaller companies.
Sec. 1012. Analysis by the SEC.
Sec. 1013. Report to Congress.
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Subtitle D—Securities and Exchange Commission Overpayment Credit

Sec. 1016. Refunding or crediting overpayment of section 31 fees.

Subtitle E—Fair Access to Investment Research

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Subtitle F—Accelerating Access to Capital

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Sec. 1031. Establishment of Office of the Advocate for Small Business Capital Formation and Small Business Capital Formation Advisory Committee.

Subtitle H—Small Business Credit Availability

Sec. 1036. Business development company ownership of securities of investment advisers and certain financial companies.
Sec. 1037. Expanding access to capital for business development companies.
Sec. 1038. Parity for business development companies regarding offering and proxy rules.

Subtitle I—Fostering Innovation

Sec. 1041. Temporary exemption for low-revenue issuers.

Subtitle J—Small Business Capital Formation Enhancement

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Sec. 1056. Venture exchanges.

Subtitle M—Micro Offering Safe Harbor

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Sec. 1066. Revisions to SEC Regulation D.

Subtitle O—Supporting America’s Innovators

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Subtitle S—National Securities Exchange Regulatory Parity

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TITLE XI—REGULATORY RELIEF FOR MAIN STREET AND
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Subtitle A—Preserving Access to Manufactured Housing

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Subtitle C—Financial Institution Customer Protection

- Sec. 1111. Requirements for deposit account termination requests and orders.
- Sec. 1112. Amendments to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Subtitle D—Portfolio Lending and Mortgage Access

- Sec. 1116. Safe harbor for certain loans held on portfolio.

Subtitle E—Application of the Expedited Funds Availability Act

- Sec. 1121. Application of the Expedited Funds Availability Act.

Subtitle F—Small Bank Holding Company Policy Statement

- Sec. 1126. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.

Subtitle G—Community Institution Mortgage Relief

- Sec. 1131. Community financial institution mortgage relief.

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- Sec. 1136. Timeliness of examination reports.

Subtitle I—National Credit Union Administration Budget Transparency

- Sec. 1141. Budget transparency for the NCUA.

Subtitle J—Taking Account of Institutions With Low Operation Risk

- Sec. 1146. Regulations appropriate to business models.

Subtitle K—Federal Savings Association Charter Flexibility

- Sec. 1151. Option for Federal savings associations to operate as a covered savings association.

Subtitle L—SAFE Transitional Licensing

- Sec. 1156. Eliminating barriers to jobs for loan originators.

Subtitle M—Right to Lend

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Subtitle N—Community Bank Reporting Relief

- Sec. 1166. Short form call report.

Subtitle O—Homeowner Information Privacy Protection

- Sec. 1171. Study regarding privacy of information collected under the Home Mortgage Disclosure Act of 1975.

Subtitle P—Home Mortgage Disclosure Adjustment

- Sec. 1176. Depository institutions subject to maintenance of records and disclosure requirements.

Subtitle Q—National Credit Union Administration Advisory Council

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Subtitle R—Credit Union Examination Reform

Sec. 1186. Extension of examination cycle of the National Credit Union Administration to 18 months or longer.

Subtitle S—NCUA Overhead Transparency

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1 **TITLE I—REGULATORY RELIEF**
 2 **FOR STRONGLY CAPITALIZED,**
 3 **WELL MANAGED BANKING**
 4 **ORGANIZATIONS**

5 **SEC. 101. CAPITAL ELECTION.**

6 (a) IN GENERAL.—A banking organization may make
 7 an election under this section to be treated as a qualifying
 8 banking organization for purposes of the regulatory relief
 9 described under section 102.

10 (b) REQUIREMENTS.—A banking organization may
 11 qualify to be treated as a qualifying banking organization
 12 if—

13 (1) the banking organization has an average le-
 14 verage ratio of at least 10 percent;

15 (2) with respect to a banking organization that
 16 is an insured depository institution or insured credit
 17 union, the institution received a CAMELS composite
 18 rating of 1 or 2 under the Uniform Financial Insti-
 19 tutions Rating System (or an equivalent rating
 20 under a comparable rating system) as of the most
 21 recent examination of the institution;

1 (3) with respect to a depository institution hold-
2 ing company, each insured depository institution
3 subsidiary of the holding company simultaneously
4 makes the election described under subsection (a);
5 and

6 (4) with respect to an insured depository insti-
7 tution, any parent depository institution holding
8 company of the institution simultaneously makes the
9 election described under subsection (a).

10 (c) ELECTION PROCESS.—To make an election under
11 this section, a banking organization shall submit an elec-
12 tion to the appropriate Federal banking agency (and any
13 applicable State bank supervisor that regulates the bank-
14 ing organization) containing—

15 (1) a notice of such election;

16 (2) the banking organization’s average leverage
17 ratio, as well as the organization’s quarterly leverage
18 ratio for each of the most recently completed four
19 calendar quarters;

20 (3) if the banking organization is a depository
21 institution holding company, the information de-
22 scribed under paragraph (2) for each of the organi-
23 zation’s insured depository institution subsidiaries;
24 and

1 (4) if the banking organization is an insured
2 depository institution, the information described
3 under paragraph (2) for any parent depository insti-
4 tution holding company of the institution.

5 (d) EFFECTIVE DATE OF ELECTION.—

6 (1) IN GENERAL.—An election made under this
7 section shall take effect at the end of the 30-day pe-
8 riod beginning on the date that the appropriate Fed-
9 eral banking agency receives the application de-
10 scribed under subsection (c), unless the appropriate
11 Federal banking agency determines that the banking
12 organization has not met the requirements described
13 under subsection (b).

14 (2) NOTICE OF FAILURE TO MEET REQUIRE-
15 MENTS.—If the appropriate Federal banking agency
16 determines that a banking organization submitting
17 an election notice under subsection (c) does not meet
18 the requirements described under subsection (b), the
19 agency shall—

20 (A) notify the banking organization (and
21 any applicable State bank supervisor that regu-
22 lates the banking organization), in writing, of
23 such determination as soon as possible after
24 such determination is made, but in no case
25 later than the end of the 30-day period begin-

1 ning on the date that the appropriate Federal
2 banking agency receives the election; and

3 (B) include in such notification the specific
4 reasons for such determination and steps that
5 the banking organization can take to meet such
6 requirements.

7 (e) TREATMENT OF CERTAIN NEW BANKING ORGA-
8 NIZATIONS.—In the case of a banking organization that
9 is a newly-chartered insured depository institution or a
10 banking organization that becomes a banking organization
11 because it controls a newly-chartered insured depository
12 institution, such banking organization may be treated as
13 a qualifying banking organization immediately upon be-
14 coming a banking organization, if—

15 (1) an election to be treated as a qualifying
16 banking organization was included in the application
17 filed with the appropriate Federal banking agency in
18 connection with becoming a banking organization;
19 and

20 (2) as of the date the banking organization be-
21 comes a banking organization, the banking organiza-
22 tion's tangible equity divided by the banking organi-
23 zation's leverage exposure, expressed as a percent-
24 age, is at least 10 percent.

1 (f) FAILURE TO MAINTAIN QUARTERLY LEVERAGE
2 RATIO AND LOSS OF ELECTION.—

3 (1) EFFECT OF FAILURE TO MAINTAIN QUAR-
4 TERLY LEVERAGE RATIO.—

5 (A) IN GENERAL.—If, with respect to the
6 most recently completed calendar quarter, the
7 appropriate Federal banking agency determines
8 that a qualifying banking organization's quar-
9 terly leverage ratio is below 10 percent—

10 (i) the appropriate Federal banking
11 agency shall notify the qualifying banking
12 organization and any applicable State bank
13 supervisor that regulates the banking orga-
14 nization of such determination;

15 (ii) the appropriate Federal banking
16 agency may prohibit the banking organiza-
17 tion from making a capital distribution;
18 and

19 (iii) the banking organization shall,
20 within 3 months of the first such deter-
21 mination, submit a capital restoration plan
22 to the appropriate Federal banking agency.

23 (B) LOSS OF ELECTION AFTER ONE-YEAR
24 REMEDIATION PERIOD.—If a banking organiza-
25 tion described under subparagraph (A) does

1 not, within the 1-year period beginning on the
2 date of such determination, raise the organiza-
3 tion's quarterly leverage ratio for a calendar
4 quarter ending in such 1-year period to at least
5 10 percent, the banking organization's election
6 under this section shall be terminated, and the
7 appropriate Federal banking agency shall notify
8 any applicable State bank supervisor that regu-
9 lates the banking organization of such termi-
10 nation.

11 (C) EFFECT OF SUBSIDIARY ON PARENT
12 ORGANIZATION.—With respect to a qualifying
13 banking organization described under subpara-
14 graph (A) that is an insured depository institu-
15 tion, any parent depository institution holding
16 company of the qualifying banking organization
17 shall—

18 (i) if the appropriate Federal banking
19 agency determines it appropriate, be pro-
20 hibited from making a capital distribution
21 (other than a capital contribution to such
22 qualifying banking organization described
23 under subparagraph (A)); and

24 (ii) if the qualifying banking organiza-
25 tion has an election terminated under sub-

1 paragraph (B), any such parent depository
2 institution holding company shall also have
3 its election under this section terminated.

4 (2) IMMEDIATE LOSS OF ELECTION IF THE
5 QUARTERLY LEVERAGE RATIO FALLS BELOW 6 PER-
6 CENT.—

7 (A) IN GENERAL.—If, with respect to the
8 most recently completed calendar quarter, the
9 appropriate Federal banking agency determines
10 that a qualifying banking organization's quar-
11 terly leverage ratio is below 6 percent, the
12 banking organization's election under this sec-
13 tion shall be terminated, and the appropriate
14 Federal banking agency shall notify any appli-
15 cable State bank supervisor that regulates the
16 banking organization of such termination.

17 (B) EFFECT OF SUBSIDIARY ON PARENT
18 ORGANIZATION.—With respect to a qualifying
19 banking organization described under subpara-
20 graph (A) that is an insured depository institu-
21 tion, any parent depository institution holding
22 company of the qualifying banking organization
23 shall also have its election under this section
24 terminated.

1 (3) ABILITY TO MAKE FUTURE ELECTIONS.—If
2 a banking organization has an election under this
3 section terminated, the banking organization may
4 not apply for another election under this section
5 until the banking organization has maintained a
6 quarterly leverage ratio of at least 10 percent for 8
7 consecutive calendar quarters.

8 **SEC. 102. REGULATORY RELIEF.**

9 (a) IN GENERAL.—A qualifying banking organization
10 shall be exempt from the following:

11 (1) Any Federal law, rule, or regulation ad-
12 dressing capital or liquidity requirements or stand-
13 ards.

14 (2) Any Federal law, rule, or regulation that
15 permits an appropriate Federal banking agency to
16 object to a capital distribution.

17 (3) Any consideration by an appropriate Fed-
18 eral banking agency of the following:

19 (A) Any risk the qualifying banking orga-
20 nization may pose to “the stability of the finan-
21 cial system of the United States”, under section
22 5(e)(2) of the Bank Holding Company Act of
23 1956.

24 (B) The “extent to which a proposed ac-
25 quisition, merger, or consolidation would result

1 in greater or more concentrated risks to the
2 stability of the United States banking or finan-
3 cial system”, under section 3(c)(7) of the Bank
4 Holding Company Act of 1956, so long as the
5 banking organization, after such proposed ac-
6 quisition, merger, or consolidation, would main-
7 tain a quarterly leverage ratio of at least 10
8 percent.

9 (C) Whether the performance of an activity
10 by the banking organization could possibly pose
11 a “risk to the stability of the United States
12 banking or financial system”, under section
13 4(j)(2)(A) of the Bank Holding Company Act
14 of 1956.

15 (D) Whether the acquisition of control of
16 shares of a company engaged in an activity de-
17 scribed in section 4(j)(1)(A) of the Bank Hold-
18 ing Company Act of 1956 could possibly pose a
19 “risk to the stability of the United States bank-
20 ing or financial system”, under section
21 4(j)(2)(A) of the Bank Holding Company Act
22 of 1956, so long as the banking organization,
23 after acquiring control of such company, would
24 maintain a quarterly leverage ratio of at least
25 10 percent.

1 (E) Whether a merger would pose a “risk
2 to the stability of the United States banking or
3 financial system”, under section 18(c)(5) of the
4 Federal Deposit Insurance Act, so long as the
5 banking organization, after such proposed
6 merger, would maintain a quarterly leverage
7 ratio of at least 10 percent.

8 (F) Any risk the qualifying banking orga-
9 nization may pose to “the stability of the finan-
10 cial system of the United States”, under section
11 10(b)(4) of the Home Owners’ Loan Act.

12 (4) Subsections (i)(8) and (k)(6)(B)(ii) of sec-
13 tion 4 and section 14 of the Bank Holding Company
14 Act of 1956.

15 (5) Section 18(c)(13) of the Federal Deposit
16 Insurance Act.

17 (6) Section 163 of the Financial Stability Act
18 of 2010.

19 (7) Section 10(e)(2)(E) of the Home Owners’
20 Loan Act.

21 (8) Any Federal law, rule, or regulation imple-
22 menting standards of the type provided for in sub-
23 sections (b), (c), (d), (e), (g), (h), (i), and (j) of sec-
24 tion 165 of the Financial Stability Act of 2010.

1 (9) Any Federal law, rule, or regulation pro-
2 viding limitations on mergers, consolidations, or ac-
3 quisitions of assets or control, to the extent such
4 limitations relate to capital or liquidity standards or
5 concentrations of deposits or assets, so long as the
6 banking organization, after such proposed merger,
7 consolidation, or acquisition, would maintain a quar-
8 terly leverage ratio of at least 10 percent.

9 (b) STRESS TEST EXCEPTION.—Notwithstanding
10 subsection (a), other than paragraph (2) of subsection (a),
11 the appropriate Federal banking agencies may conduct
12 stress tests of qualifying banking organizations. A quali-
13 fying banking organization with total consolidated assets
14 of more than \$10,000,000,000 and less than
15 \$50,000,000,000 shall not be required to conduct annual
16 stress tests required under section 165(i)(2)(A) of the Fi-
17 nancial Stability Act of 2010.

18 (c) QUALIFYING BANKING ORGANIZATIONS TREATED
19 AS WELL CAPITALIZED.—A qualifying banking organiza-
20 tion shall be deemed to be “well capitalized” for purposes
21 of—

22 (1) section 216 of the Federal Credit Union
23 Act; and

24 (2) sections 29, 38, 44, and 46 of the Federal
25 Deposit Insurance Act.

1 (d) TREATMENT OF CERTAIN RISK-WEIGHTED
2 ASSET REQUIREMENTS FOR QUALIFYING BANKING ORGA-
3 NIZATIONS.—

4 (1) ACQUISITION SIZE CRITERIA TREATMENT.—

5 A qualifying banking organization shall be deemed
6 to meet the criteria described under section
7 4(j)(4)(D) of the Bank Holding Company Act of
8 1956, so long as after the proposed transaction the
9 acquiring qualifying banking organization would
10 maintain a quarterly leverage ratio of at least 10
11 percent.

12 (2) USE OF LEVERAGE EXPOSURE.—With re-
13 spect to a qualifying banking organization, in deter-
14 mining whether a proposal qualifies with the criteria
15 described under subparagraphs (A)(iii) and (B)(i) of
16 section 4(j)(4) of the Bank Holding Company Act of
17 1956, the Board of Governors of the Federal Re-
18 serve System shall consider the leverage exposure of
19 an insured depository institution instead of the total
20 risk-weighted assets of such institution.

21 **SEC. 103. CONTINGENT CAPITAL STUDY.**

22 (a) STUDY.—The Board of Governors of the Federal
23 Reserve System, the Federal Deposit Insurance Corpora-
24 tion, and the Office of the Comptroller of the Currency
25 shall each carry out a study, which shall include holding

1 public hearings, on how to design a requirement that
2 banking organizations issue contingent capital with a mar-
3 ket-based conversion trigger.

4 (b) REPORT.—Not later than the end of the 1-year
5 period beginning on the date of the enactment of this Act,
6 each agency described under subsection (a) shall submit
7 a report to the Congress containing—

8 (1) all findings and determinations made by the
9 agency in carrying out the study required under sub-
10 section (a); and

11 (2) the agency’s recommendations on how the
12 Congress should design a requirement that banking
13 organizations issue contingent capital with a market-
14 based conversion trigger.

15 **SEC. 104. STUDY ON ALTERING THE CURRENT PROMPT**
16 **CORRECTIVE ACTION RULES.**

17 (a) STUDY.—The Comptroller General of the United
18 States shall conduct a study to assess the benefits and
19 feasibility of altering the current prompt corrective action
20 rules and replacing the Basel-based capital ratios with the
21 nonperforming asset coverage ratio or NACR as the trig-
22 ger for specific required supervisory interventions. The
23 Comptroller General shall ensure that such study includes
24 the following:

1 (1) An assessment of the performance of an
2 NACR forward-looking measure of a banking orga-
3 nization’s solvency condition relative to the regu-
4 latory capital ratios currently used by prompt cor-
5 rective action rules.

6 (2) An analysis of the performance of alter-
7 native definitions of nonperforming assets.

8 (3) An assessment of the impact of two alter-
9 native intervention thresholds:

10 (A) An initial (high) intervention thresh-
11 old, below which appropriate Federal banking
12 agency examiners are required to intervene and
13 assess a banking organization’s condition and
14 prescribe remedial measures.

15 (B) A lower threshold, below which bank-
16 ing organizations must increase their capital,
17 seek an acquirer, or face mandatory resolution
18 within 90 days.

19 (b) REPORT.—Not later than the end of the 1-year
20 period beginning on the date of the enactment of this Act,
21 the Comptroller General shall submit a report to the Con-
22 gress containing—

23 (1) all findings and determinations made in car-
24 rying out the study required under subsection (a);
25 and

1 (2) recommendations on the most suitable defi-
2 nition of nonperforming assets, as well as the two
3 numerical thresholds that trigger specific required
4 supervisory interventions.

5 **SEC. 105. DEFINITIONS.**

6 For purposes of this title:

7 (1) **APPROPRIATE FEDERAL BANKING AGEN-**
8 **CY.**—The term “appropriate Federal banking agen-

9 **cy”**—
10 (A) has the meaning given such term
11 under section 3 of the Federal Deposit Insur-
12 ance Act; and

13 (B) means the National Credit Union Ad-
14 ministration, in the case of an insured credit
15 union.

16 (2) **BANKING ORGANIZATION.**—The term
17 “banking organization” means—

18 (A) an insured depository institution;

19 (B) an insured credit union;

20 (C) a depository institution holding com-
21 pany;

22 (D) a company that is treated as a bank
23 holding company for purposes of section 8 of
24 the International Banking Act; and

1 (E) a U.S. intermediate holding company
2 established by a foreign banking organization
3 pursuant to section 252.153 of title 12, Code of
4 Federal Regulations.

5 (3) FOREIGN EXCHANGE SWAP.—The term
6 “foreign exchange swap” has the meaning given that
7 term under section 1a of the Commodity Exchange
8 Act.

9 (4) INSURED CREDIT UNION.—The term “in-
10 sured credit union” has the meaning given that term
11 under section 101 of the Federal Credit Union Act.

12 (5) LEVERAGE EXPOSURE.—The term “lever-
13 age exposure”—

14 (A) with respect to a banking organization
15 other than a credit union or a traditional bank-
16 ing organization, has the meaning given the
17 term “total leverage exposure” under section
18 3.10(c)(4)(ii), 217.10(c)(4), or 324.10(c)(4) of
19 title 12, Code of Federal Regulations, as appli-
20 cable, as in effect on January 1, 2015;

21 (B) with respect to a traditional banking
22 organization other than a credit union, means
23 total assets (minus any items deducted from
24 common equity tier 1 capital) as calculated in
25 accordance with generally accepted accounting

1 principles and as reported on the traditional
2 banking organization’s applicable regulatory fil-
3 ing with the banking organization’s appropriate
4 Federal banking agency; and

5 (C) with respect to a banking organization
6 that is a credit union, has the meaning given
7 the term “total assets” under section 702.2 of
8 title 12, Code of Federal Regulations, as in ef-
9 fect on January 1, 2015.

10 (6) LEVERAGE RATIO DEFINITIONS.—

11 (A) AVERAGE LEVERAGE RATIO.—With re-
12 spect to a banking organization, the term “av-
13 erage leverage ratio” means the average of the
14 banking organization’s quarterly leverage ratios
15 for each of the most recently completed four
16 calendar quarters.

17 (B) QUARTERLY LEVERAGE RATIO.—With
18 respect to a banking organization and a cal-
19 endar quarter, the term “quarterly leverage
20 ratio” means the organization’s tangible equity
21 divided by the organization’s leverage exposure,
22 expressed as a percentage, on the last day of
23 such quarter.

24 (7) NACR.—The term “NACR” means—

1 (A) book equity less nonperforming assets
2 plus loan loss reserves, divided by

3 (B) total banking organization assets.

4 (8) NONPERFORMING ASSETS.—The term “non-
5 performing assets” means—

6 (A) 20 percent of assets that are past due
7 30 to 89 days, plus

8 (B) 50 percent of assets that are past due
9 90 days or more, plus

10 (C) 100 percent of nonaccrual assets and
11 other real estate owned.

12 (9) QUALIFYING BANKING ORGANIZATION.—
13 The term “qualifying banking organization” means
14 a banking organization that has made an election
15 under section 101 and with respect to which such
16 election is in effect.

17 (10) SECURITY-BASED SWAP.—The term “se-
18 curity-based swap” has the meaning given that term
19 under section 3 of the Securities Exchange Act of
20 1934.

21 (11) SWAP.—The term “swap” has the mean-
22 ing given that term under section 1a of the Com-
23 modity Exchange Act.

24 (12) TANGIBLE EQUITY.—The term “tangible
25 equity”—

1 (A) with respect to a banking organization
2 other than a credit union, means the sum of—

3 (i) common equity tier 1 capital;

4 (ii) additional tier 1 capital consisting
5 of instruments issued on or before June 1,
6 2016; and

7 (iii) with respect to a depository insti-
8 tution holding company that had less than
9 \$15,000,000,000 in total consolidated as-
10 sets as of December 31, 2009, or March
11 31, 2010, or a banking organization that
12 was a mutual holding company as of May
13 19, 2010, trust preferred securities issued
14 prior to May 19, 2010, to the extent such
15 organization was permitted, as of the date
16 of the enactment of this Act, to consider
17 such securities as tier 1 capital under ex-
18 isting regulations of the appropriate Fed-
19 eral banking agency; and

20 (B) with respect to a banking organization
21 that is a credit union, has the meaning given
22 the term “net worth” under section 702.2 of
23 title 12, Code of Federal Regulations, as in ef-
24 fect on January 1, 2015.

1 (13) TRADITIONAL BANKING ORGANIZATION.—

2 The term “traditional banking organization” means
3 a banking organization that—

4 (A) has zero trading assets and zero trad-
5 ing liabilities;

6 (B) does not engage in swaps or security-
7 based swaps, other than swaps or security-
8 based swaps referencing interest rates or for-
9 eign exchange swaps; and

10 (C) has a total notional exposure of swaps
11 and security-based swaps of not more than
12 \$8,000,000,000.

13 (14) OTHER BANKING TERMS.—The terms “in-
14 sured depository institution” and “depository insti-
15 tution holding company” have the meaning given
16 those terms, respectively, under section 3 of the
17 Federal Deposit Insurance Act.

18 (15) OTHER CAPITAL TERMS.—With respect to
19 a banking organization, the terms “additional tier 1
20 capital” and “common equity tier 1 capital” have
21 the meaning given such terms, respectively, under
22 section 3.20, 217.20, or 324.20 of title 12, Code of
23 Federal Regulations, as applicable, as in effect on
24 January 1, 2015.

1 **TITLE II—ENDING “TOO BIG TO**
2 **FAIL” AND BANK BAILOUTS**
3 **Subtitle A—Reform of the**
4 **Financial Stability Act of 2010**

5 **SEC. 211. REPEAL AND MODIFICATION OF PROVISIONS OF**
6 **THE FINANCIAL STABILITY ACT OF 2010.**

7 (a) REPEALS.—The following provisions of the Fi-
8 nancial Stability Act of 2010 are repealed, and the provi-
9 sions of law amended or repealed by such provisions are
10 restored or revived as if such provisions had not been en-
11 acted:

- 12 (1) Subtitle B.
13 (2) Section 113.
14 (3) Section 114.
15 (4) Section 115.
16 (5) Section 116.
17 (6) Section 117.
18 (7) Section 119.
19 (8) Section 120.
20 (9) Section 121.
21 (10) Section 161.
22 (11) Section 162.
23 (12) Section 164.
24 (13) Section 166.
25 (14) Section 167.

1 (15) Section 168.

2 (16) Section 170.

3 (17) Section 172.

4 (18) Section 174.

5 (19) Section 175.

6 (b) ADDITIONAL MODIFICATIONS.—The Financial
7 Stability Act of 2010 (12 U.S.C. 5311 et seq.) is amend-
8 ed—

9 (1) in section 102(a), by striking paragraph
10 (5);

11 (2) in section 111—

12 (A) in subsection (b)—

13 (i) in paragraph (1)—

14 (I) by striking “who shall each”
15 and inserting “who shall, except as
16 provided below, each”; and

17 (II) by amending subparagraphs

18 (B) through (I) to read as follows:

19 “(B) each member of the Board of Gov-
20 ernors, who shall collectively have 1 vote on the
21 Council;

22 “(C) each member of the Board of Direc-
23 tors of the Office of the Comptroller of the Cur-
24 rency, who shall collectively have 1 vote on the
25 Council;

1 “(D) each member of the Consumer Fi-
2 nancial Opportunity Commission, who shall col-
3 lectively have 1 vote on the Council;

4 “(E) each member of the Commission, who
5 shall collectively have 1 vote on the Council;

6 “(F) each member of the Corporation, who
7 shall collectively have 1 vote on the Council;

8 “(G) each member of the Commodity Fu-
9 tures Trading Commission, who shall collec-
10 tively have 1 vote on the Council;

11 “(H) each member of the Board of Direc-
12 tors of the Federal Housing Finance Agency,
13 who shall collectively have 1 vote on the Council

14 “(I) each member of the National Credit
15 Union Administration Board, who shall collec-
16 tively have 1 vote on the Council;”;

17 (ii) in paragraph (2)—

18 (I) by striking subparagraph (A);

19 and

20 (II) by redesignating subpara-
21 graphs (B), (C), (D), and (E) as sub-
22 paragraphs (A), (B), (C), and (D), re-
23 spectively; and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(4) VOTING BY MULTI-PERSON ENTITY.—

2 “(A) VOTING WITHIN THE ENTITY.—An
3 entity described under subparagraph (B)
4 through (I) of paragraph (1) shall determine
5 the entity’s Council vote by using the voting
6 process normally applicable to votes by the enti-
7 ty’s members.

8 “(B) CASTING OF ENTITY VOTE.—The 1
9 collective Council vote of an entity described
10 under subparagraph (A) shall be cast by the
11 head of such agency or, in the event such head
12 is unable to cast such vote, the next most senior
13 member of the entity available.”;

14 (B) in subsection (e), by striking “sub-
15 paragraphs (C), (D), and (E)” and inserting
16 “subparagraphs (B), (C), and (D)”;

17 (C) in subsection (e), by adding at the end
18 the following:

19 “(3) STAFF ACCESS.—Any member of the
20 Council may select to have one or more individuals
21 on the member’s staff attend a meeting of the Coun-
22 cil, including any meeting of representatives of the
23 member agencies other than the members them-
24 selves.

1 “(4) CONGRESSIONAL OVERSIGHT.—All meet-
2 ings of the Council, whether or not open to the pub-
3 lic, shall be open to the attendance by members of
4 the Committee on Financial Services of the House of
5 Representatives and the Committee on Banking,
6 Housing, and Urban Affairs of the Senate.

7 “(5) MEMBER AGENCY MEETINGS.—Any meet-
8 ing of representatives of the member agencies other
9 than the members themselves shall be open to at-
10 tendance by staff of the Committee on Financial
11 Services of the House of Representatives and the
12 Committee on Banking, Housing, and Urban Affairs
13 of the Senate.”;

14 (D) by striking subsection (g) (relating to
15 the nonapplicability of FACA); and

16 (E) by inserting after subsection (f) the
17 following:

18 “(g) OPEN MEETING REQUIREMENT.—The Council
19 shall be an agency for purposes of section 552b of title
20 5, United States Code (commonly referred to as the ‘Gov-
21 ernment in the Sunshine Act’).

22 “(h) CONFIDENTIAL CONGRESSIONAL BRIEFINGS.—
23 At the request of the Chairman of the Committee on Fi-
24 nancial Services of the House of Representatives or the
25 Chairman of the Committee on Banking, Housing, and

1 Urban Affairs of the Senate, the Chairperson shall appear
2 before Congress to provide a confidential briefing.”;

3 (3) in section 112—

4 (A) in subsection (a)(2)—

5 (i) in subparagraph (A), by striking
6 “direct the Office of Financial Research
7 to”;

8 (ii) by striking subparagraphs (B),
9 (H), (I), and (J);

10 (iii) by redesignating subparagraphs
11 (C), (D), (E), (F), (G), (K), (L), (M), and
12 (N) as subparagraphs (B), (C), (D), (E),
13 (F), (G), (H), (I), and (J), respectively;

14 (iv) in subparagraph (J), as so reded-
15 igned—

16 (I) in clause (iii), by adding
17 “and” at the end; and

18 (II) by striking clauses (iv) and
19 (v);

20 (B) in subsection (d)—

21 (i) in paragraph (1), by striking “the
22 Office of Financial Research, member
23 agencies, and” and inserting “member
24 agencies and”;

1 (ii) in paragraph (2), by striking “the
2 Office of Financial Research, any member
3 agency, and” and inserting “any member
4 agency and”;

5 (iii) in paragraph (3)—

6 (I) by striking “, acting through
7 the Office of Financial Research,”
8 each place it appears; and

9 (II) in subparagraph (B), by
10 striking “the Office of Financial Re-
11 search or”; and

12 (iv) in paragraph (5)(A), by striking
13 “, the Office of Financial Research,”;

14 (4) by amending section 118 to read as follows:

15 **“SEC. 118. COUNCIL FUNDING.**

16 “There is authorized to be appropriated to the Coun-
17 cil \$4,000,000 for fiscal year 2017 and each fiscal year
18 thereafter to carry out the duties of the Council.”;

19 (5) in section 163(b)(4)—

20 (A) by striking “In addition” and inserting
21 the following:

22 “(A) IN GENERAL.—In addition”; and

23 (B) by adding at the end the following:

24 “(B) EXCEPTION FOR QUALIFYING BANK-
25 ING ORGANIZATION.—Subparagraph (A) shall

1 not apply to a proposed acquisition by a quali-
2 fying banking organization, as defined under
3 section 105 of the Financial CHOICE Act of
4 2016.”; and

5 (6) in section 165—

6 (A) by striking “nonbank financial compa-
7 nies supervised by the Board of Governors and”
8 each place such term appears;

9 (B) by striking “nonbank financial com-
10 pany supervised by the Board of Governors
11 and” each place such term appears;

12 (C) in subsection (a), by amending para-
13 graph (2) to read as follows:

14 “(2) TAILORED APPLICATION.—In prescribing
15 more stringent prudential standards under this sec-
16 tion, the Board of Governors may differentiate
17 among companies on an individual basis or by cat-
18 egory, taking into consideration their capital struc-
19 ture, riskiness, complexity, financial activities (in-
20 cluding the financial activities of their subsidiaries),
21 size, and any other risk-related factors that the
22 Board of Governors deems appropriate.”;

23 (D) in subsection (b)—

24 (i) in paragraph (1)(B)(iv), by strik-
25 ing “, on its own or pursuant to a rec-

1 commendation made by the Council in ac-
2 cordance with section 115,”;

3 (ii) in paragraph (2)—

4 (I) by striking “foreign nonbank
5 financial company supervised by the
6 Board of Governors or”;

7 (II) by striking “shall—” and all
8 that follows through “give due” and
9 inserting “shall give due”;

10 (III) in subparagraph (A), by
11 striking “; and” and inserting a pe-
12 riod; and

13 (IV) by striking subparagraph
14 (B);

15 (iii) in paragraph (3)—

16 (I) in subparagraph (A)—

17 (aa) by striking clause (i);

18 (bb) by redesignating
19 clauses (ii), (iii), and (iv) as
20 clauses (i), (ii), and (iii), respec-
21 tively; and

22 (cc) in clause (iii), as so re-
23 designated, by adding “and” at
24 the end;

1 (II) by striking subparagraphs
2 (B) and (C); and

3 (III) by redesignating subpara-
4 graph (D) as subparagraph (B); and

5 (iv) in paragraph (4), by striking “a
6 nonbank financial company supervised by
7 the Board of Governors or”;

8 (E) in subsection (c)—

9 (i) in paragraph (1), by striking
10 “under section 115(c)”; and

11 (ii) in paragraph (2)—

12 (I) by amending subparagraph
13 (A) to read as follows:

14 “(A) any recommendations of the Coun-
15 cil;”; and

16 (II) in subparagraph (D), by
17 striking “nonbank financial company
18 supervised by the Board of Governors
19 or”;

20 (F) in subsection (d)—

21 (i) by striking “a nonbank financial
22 company supervised by the Board of Gov-
23 ernors or” each place such term appears;

1 (ii) in paragraph (1), by striking “pe-
2 riodically” and inserting “not more often
3 than every 2 years”;

4 (iii) in paragraph (3)—

5 (I) by striking “The Board” and
6 inserting the following:

7 “(A) IN GENERAL.—The Board”;

8 (II) by striking “shall review”
9 and inserting the following: “shall—
10 “(i) review”;

11 (III) by striking the period and
12 inserting “; and”; and

13 (IV) by adding at the end the fol-
14 lowing:

15 “(ii) not later than the end of the 6-
16 month period beginning on the date the
17 bank holding company submits the resolu-
18 tion plan, provide feedback to the bank
19 holding company on such plan.

20 “(B) DISCLOSURE OF ASSESSMENT
21 FRAMEWORK.—The Board of Governors and
22 the Corporation shall each publicly disclose the
23 assessment framework that is used to review in-
24 formation under this paragraph and shall pro-
25 vide the public with a notice and comment pe-

1 riod before finalizing such assessment frame-
2 work.”.

3 (iv) in paragraph (6), by striking
4 “nonbank financial company supervised by
5 the Board, any bank holding company,”
6 and inserting “bank holding company”;

7 (G) in subsection (e)—

8 (i) in paragraph (1), by striking “a
9 nonbank financial company supervised by
10 the Board of Governors or”;

11 (ii) in paragraph (3), by striking
12 “nonbank financial company supervised by
13 the Board of Governors or” each place
14 such term appears; and

15 (iii) in paragraph (4), by striking “a
16 nonbank financial company supervised by
17 the Board of Governors or”;

18 (H) in subsection (g)(1), by striking “and
19 any nonbank financial company supervised by
20 the Board of Governors”;

21 (I) in subsection (h)—

22 (i) by striking paragraph (1);

23 (ii) by redesignating paragraphs (2),
24 (3), and (4) as paragraphs (1), (2), and
25 (3), respectively;

1 (iii) in paragraph (1), as so redesignated,
2 nated, by striking “paragraph (3)” each
3 place such term appears and inserting
4 “paragraph (2)”; and

5 (iv) in paragraph (2), as so redesignated,
6 nated, by striking “nonbank financial com-
7 pany supervised by the Board of Governors
8 or” each place such term appears;

9 (J) in subsection (i)—

10 (i) in paragraph (1)—

11 (I) in subparagraph (B)—

12 (aa) by amending clause (i)

13 to read as follows:

14 “(i) shall—

15 “(I) issue regulations, after providing for public notice and comment,
16 that provide for at least 3 different
17 sets of conditions under which the
18 evaluation required by this subsection
19 shall be conducted, including baseline,
20 adverse, and severely adverse, and
21 methodologies, including models used
22 to estimate losses on certain assets;
23 and
24

1 “(II) provide copies of such regu-
2 lations to the Comptroller General of
3 the United States and the Panel of
4 Economic Advisors of the Congres-
5 sional Budget Office before publishing
6 such regulations;”;

7 (bb) in clause (ii), by strik-
8 ing “and nonbank financial com-
9 panies”; and

10 (cc) in clause (v), by insert-
11 ing before the period the fol-
12 lowing: “, including any results
13 of a resubmitted test”; and

14 (II) by adding at the end the fol-
15 lowing:

16 “(C) APPLICATION TO CCAR.—The require-
17 ments of subparagraph (B) shall apply to all
18 stress tests performed under the Comprehensive
19 Capital Analysis and Review exercise estab-
20 lished by the Board of Governors.”; and

21 (ii) in paragraph (2)(A)—

22 (I) by striking “a bank holding
23 company” and inserting “bank hold-
24 ing company”; and

1 (II) by striking “All other finan-
2 cial companies” and inserting “All
3 other bank holding companies”;

4 (K) in subsection (j)—

5 (i) in paragraph (1), by striking “or a
6 nonbank financial company supervised by
7 the Board of Governors”; and

8 (ii) in paragraph (2), by striking “the
9 factors described in subsections (a) and (b)
10 of section 113 and any other” and insert-
11 ing “any”;

12 (L) in subsection (k)(1), by striking “or
13 nonbank financial company supervised by the
14 Board of Governors”; and

15 (M) by adding at the end the following:

16 “(l) EXEMPTION FOR QUALIFYING BANKING ORGA-
17 NIZATIONS.—This section shall not apply to a proposed
18 acquisition by a qualifying banking organization, as de-
19 fined under section 105 of the Financial CHOICE Act of
20 2016.”.

21 (c) ACTIONS TO CREATE A BANK HOLDING COM-
22 PANY.—Section 3(b)(1) of the Bank Holding Company
23 Act of 1956 (12 U.S.C. 1842(b)(1)) is amended—

24 (1) by striking “Upon receiving” and inserting
25 the following:

1 “(A) IN GENERAL.—Upon receiving”;

2 (2) by striking “Notwithstanding any other pro-
3 vision” and inserting the following:

4 “(B) IMMEDIATE ACTION.—

5 “(i) IN GENERAL.—Notwithstanding
6 any other provision”; and

7 (3) by adding at the end the following:

8 “(ii) EXCEPTION.—The Board may
9 not take any action pursuant to clause (i)
10 on an application that would cause any
11 company to become a bank holding com-
12 pany unless such application involves the
13 company acquiring a bank that is critically
14 undercapitalized (as such term is defined
15 under section 38(b) of the Federal Deposit
16 Insurance Act).”.

17 (d) CONCENTRATION LIMITS APPLIED ONLY TO
18 BANKING ORGANIZATIONS.—Section 14 of the Bank
19 Holding Company Act of 1956 (12 U.S.C. 1852) is
20 amended—

21 (1) by striking “financial company” each place
22 such term appears and inserting “banking organiza-
23 tion”;

24 (2) in subsection (a)—

1 (A) by amending paragraph (2) to read as
2 follows:

3 “(2) the term ‘banking organization’ means—

4 “(A) an insured depository institution;

5 “(B) a bank holding company;

6 “(C) a savings and loan holding company;

7 “(D) a company that controls an insured
8 depository institution; and

9 “(E) a foreign bank or company that is
10 treated as a bank holding company for purposes
11 of this Act; and”;

12 (B) in paragraph (3)—

13 (i) in subparagraph (A)(ii), by adding
14 “and” at the end;

15 (ii) in subparagraph (B)(ii), by strik-
16 ing “; and” and inserting a period; and

17 (iii) by striking subparagraph (C);

18 and

19 (3) in subsection (b), by striking “financial
20 companies” and inserting “banking organizations”.

21 (e) CONFORMING AMENDMENT.—Section 3502(5) of
22 title 44, United States Code, is amended by striking “the
23 Office of Financial Research,”.

24 (f) CLERICAL AMENDMENT.—The table of contents
25 under section 1(b) of the Dodd-Frank Wall Street Reform

1 and Consumer Protection Act is amended by striking the
2 items relating to subtitle B of title I and 113, 114, 115,
3 116, 117, 119, 120, 121, 161, 162, 164, 166, 167, 168,
4 170, 172, 174, and 175.

5 **Subtitle B—Repeal of the Orderly**
6 **Liquidation Authority**

7 **SEC. 221. REPEAL OF THE ORDERLY LIQUIDATION AU-**
8 **THORITY.**

9 (a) IN GENERAL.—Title II of the Dodd-Frank Wall
10 Street Reform and Consumer Protection Act is hereby re-
11 pealed and any Federal law amended by such title shall,
12 on and after the effective date of this Act, be effective
13 as if title II of the Dodd-Frank Wall Street Reform and
14 Consumer Protection Act had not been enacted.

15 (b) CONFORMING AMENDMENTS.—

16 (1) DODD-FRANK WALL STREET REFORM AND
17 CONSUMER PROTECTION ACT.—The Dodd-Frank
18 Wall Street Reform and Consumer Protection Act is
19 amended—

20 (A) in the table of contents for such Act,
21 by striking all items relating to title II;

22 (B) in section 151, by amending paragraph
23 (2) to read as follows:

24 “(2) the term ‘financial company’ means—

1 “(A) any company that is incorporated or
2 organized under any provision of Federal law or
3 the laws of any State;

4 “(B) any company that is—

5 “(i) a bank holding company, as de-
6 fined in section 2(a) of the Bank Holding
7 Company Act of 1956 (12 U.S.C.
8 1841(a));

9 “(ii) a nonbank financial company su-
10 pervised by the Board of Governors;

11 “(iii) any company that is predomi-
12 nantly engaged in activities that the Board
13 of Governors has determined are financial
14 in nature or incidental thereto for purposes
15 of section 4(k) of the Bank Holding Com-
16 pany Act of 1956 (12 U.S.C. 1843(k))
17 other than a company described in clause
18 (i) or (ii); or

19 “(iv) any subsidiary of any company
20 described in any of clauses (i) through (iii)
21 that is predominantly engaged in activities
22 that the Board of Governors has deter-
23 mined are financial in nature or incidental
24 thereto for purposes of section 4(k) of the
25 Bank Holding Company Act of 1956 (12

1 U.S.C. 1843(k)) (other than a subsidiary
2 that is an insured depository institution or
3 an insurance company);

4 “(C) any company that is not a Farm
5 Credit System institution chartered under and
6 subject to the provisions of the Farm Credit
7 Act of 1971, as amended (12 U.S.C. 2001 et
8 seq.), a governmental entity, or a regulated en-
9 tity, as defined under section 1303(20) of the
10 Federal Housing Enterprises Financial Safety
11 and Soundness Act of 1992 (12 U.S.C.
12 4502(20)); and

13 “(D) includes an insured depository insti-
14 tution and an insurance company;”;

15 (C) in section 165(d)(6), by striking “, a
16 receiver appointed under title II,”; and

17 (D) in section 716(g), by striking “or a
18 covered financial company under title II”.

19 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
20 tion 10(b)(3) of the Federal Deposit Insurance Act
21 (12 U.S.C. 1820(b)(3)) is amended by striking “, or
22 of such nonbank financial company supervised by
23 the Board of Governors or bank holding company
24 described in section 165(a) of the Financial Stability
25 Act of 2010, for the purpose of implementing its au-

1 thority to provide for orderly liquidation of any such
2 company under title II of that Act”.

3 (3) FEDERAL RESERVE ACT.—Section 13(3) of
4 the Federal Reserve Act is amended—

5 (A) in subparagraph (B)—

6 (i) in clause (ii), by striking “, resolu-
7 tion under title II of the Dodd-Frank Wall
8 Street Reform and Consumer Protection
9 Act, or” and inserting “or is subject to
10 resolution under”; and

11 (ii) in clause (iii), by striking “, reso-
12 lution under title II of the Dodd-Frank
13 Wall Street Reform and Consumer Protec-
14 tion Act, or” and inserting “or resolution
15 under”; and

16 (B) by striking subparagraph (E).

17 **Subtitle C—Financial Institution**
18 **Bankruptcy**

19 **SEC. 231. GENERAL PROVISIONS RELATING TO COVERED**
20 **FINANCIAL CORPORATIONS.**

21 (a) DEFINITION.—Section 101 of title 11, United
22 States Code, is amended by inserting the following after
23 paragraph (9):

24 “(9A) The term ‘covered financial corporation’
25 means any corporation incorporated or organized

1 under any Federal or State law, other than a stock-
2 broker, a commodity broker, or an entity of the kind
3 specified in paragraph (2) or (3) of section 109(b),
4 that is—

5 “(A) a bank holding company, as defined
6 in section 2(a) of the Bank Holding Company
7 Act of 1956; or

8 “(B) a corporation that exists for the pri-
9 mary purpose of owning, controlling and financ-
10 ing its subsidiaries, that has total consolidated
11 assets of \$50,000,000,000 or greater, and for
12 which, in its most recently completed fiscal
13 year—

14 “(i) annual gross revenues derived by
15 the corporation and all of its subsidiaries
16 from activities that are financial in nature
17 (as defined in section 4(k) of the Bank
18 Holding Company Act of 1956) and, if ap-
19 plicable, from the ownership or control of
20 one or more insured depository institu-
21 tions, represents 85 percent or more of the
22 consolidated annual gross revenues of the
23 corporation; or

24 “(ii) the consolidated assets of the
25 corporation and all of its subsidiaries re-

1 lated to activities that are financial in na-
2 ture (as defined in section 4(k) of the
3 Bank Holding Company Act of 1956) and,
4 if applicable, related to the ownership or
5 control of one or more insured depository
6 institutions, represents 85 percent or more
7 of the consolidated assets of the corpora-
8 tion.”.

9 (b) APPLICABILITY OF CHAPTERS.—Section 103 of
10 title 11, United States Code, is amended by adding at the
11 end the following:

12 “(l) Subchapter V of chapter 11 of this title applies
13 only in a case under chapter 11 concerning a covered fi-
14 nancial corporation.”.

15 (c) WHO MAY BE A DEBTOR.—Section 109 of title
16 11, United States Code, is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (2), by striking “or” at
19 the end;

20 (B) in paragraph (3)(B), by striking the
21 period at the end and inserting “; or”; and

22 (C) by adding at the end the following:

23 “(4) a covered financial corporation.”; and

24 (2) in subsection (d)—

1 (A) by striking “and” before “an unin-
2 sured State member bank”;

3 (B) by striking “or” before “a corpora-
4 tion”; and

5 (C) by inserting “, or a covered financial
6 corporation” after “Federal Deposit Insurance
7 Corporation Improvement Act of 1991”.

8 (d) CONVERSION TO CHAPTER 7.—Section 1112 of
9 title 11, United States Code, is amended by adding at the
10 end the following:

11 “(g) Notwithstanding section 109(b), the court may
12 convert a case under subchapter V to a case under chapter
13 7 if—

14 “(1) a transfer approved under section 1185
15 has been consummated;

16 “(2) the court has ordered the appointment of
17 a special trustee under section 1186; and

18 “(3) the court finds, after notice and a hearing,
19 that conversion is in the best interest of the credi-
20 tors and the estate.”.

21 (e)(1) Section 726(a)(1) of title 11, United States
22 Code, is amended by inserting after “first,” the following:
23 “in payment of any unpaid fees, costs, and expenses of
24 a special trustee appointed under section 1186, and then”.

1 (2) Section 1129(a) of title 11, United States Code,
2 is amended by inserting after paragraph (16) the fol-
3 lowing:

4 “(17) In a case under subchapter V, all payable
5 fees, costs, and expenses of the special trustee have
6 been paid or the plan provides for the payment of
7 all such fees, costs, and expenses on the effective
8 date of the plan.

9 “(18) In a case under subchapter V, confirma-
10 tion of the plan is not likely to cause serious adverse
11 effects on financial stability in the United States.”.

12 (f) Section 322(b)(2) of title 11, United States Code,
13 is amended by striking “The” and inserting “In cases
14 under subchapter V, the United States trustee shall rec-
15 ommend to the court, and in all other cases, the”.

16 **SEC. 232. LIQUIDATION, REORGANIZATION, OR RECAPITAL-**
17 **IZATION OF A COVERED FINANCIAL COR-**
18 **PORATION.**

19 Chapter 11 of title 11, United States Code, is amend-
20 ed by adding at the end the following:

1 “SUBCHAPTER V—LIQUIDATION, REORGANIZA-
2 TION, OR RECAPITALIZATION OF A COV-
3 ERED FINANCIAL CORPORATION

4 **“§ 1181. Inapplicability of other sections**

5 “Sections 303 and 321(c) do not apply in a case
6 under this subchapter concerning a covered financial cor-
7 poration. Section 365 does not apply to a transfer under
8 section 1185, 1187, or 1188.

9 **“§ 1182. Definitions for this subchapter**

10 “In this subchapter, the following definitions shall
11 apply:

12 “(1) The term ‘Board’ means the Board of
13 Governors of the Federal Reserve System.

14 “(2) The term ‘bridge company’ means a newly
15 formed corporation to which property of the estate
16 may be transferred under section 1185(a) and the
17 equity securities of which may be transferred to a
18 special trustee under section 1186(a).

19 “(3) The term ‘capital structure debt’ means all
20 unsecured debt of the debtor for borrowed money for
21 which the debtor is the primary obligor, other than
22 a qualified financial contract and other than debt se-
23 cured by a lien on property of the estate that is to
24 be transferred to a bridge company pursuant to an
25 order of the court under section 1185(a).

1 sonable action taken in good faith in contemplation of or
2 in connection with such a petition or a transfer under sec-
3 tion 1185 or section 1186, whether prior to or after com-
4 mencement of the case.

5 “(d) Counsel to the debtor shall provide, to the great-
6 est extent practicable without disclosing the identity of the
7 potential debtor, sufficient confidential notice to the chief
8 judge of the court of appeals for the circuit embracing the
9 district in which such counsel intends to file a petition to
10 commence a case under this subchapter regarding the po-
11 tential commencement of such case. The chief judge of
12 such court shall randomly assign to preside over such case
13 a bankruptcy judge selected from among the bankruptcy
14 judges designated by the Chief Justice of the United
15 States under section 298 of title 28.

16 **“§ 1184. Regulators**

17 “The Board, the Securities Exchange Commission,
18 the Office of the Comptroller of the Currency of the De-
19 partment of the Treasury, the Commodity Futures Trad-
20 ing Commission, and the Federal Deposit Insurance Cor-
21 poration may raise and may appear and be heard on any
22 issue in any case or proceeding under this subchapter.

23 **“§ 1185. Special transfer of property of the estate**

24 “(a) On request of the trustee, and after notice and
25 a hearing that shall occur not less than 24 hours after

1 the order for relief, the court may order a transfer under
2 this section of property of the estate, and the assignment
3 of executory contracts, unexpired leases, and qualified fi-
4 nancial contracts of the debtor, to a bridge company.
5 Upon the entry of an order approving such transfer, any
6 property transferred, and any executory contracts, unex-
7 pired leases, and qualified financial contracts assigned
8 under such order shall no longer be property of the estate.
9 Except as provided under this section, the provisions of
10 section 363 shall apply to a transfer and assignment under
11 this section.

12 “(b) Unless the court orders otherwise, notice of a
13 request for an order under subsection (a) shall consist of
14 electronic or telephonic notice of not less than 24 hours
15 to—

16 “(1) the debtor;

17 “(2) the holders of the 20 largest secured
18 claims against the debtor;

19 “(3) the holders of the 20 largest unsecured
20 claims against the debtor;

21 “(4) counterparties to any debt, executory con-
22 tract, unexpired lease, and qualified financial con-
23 tract requested to be transferred under this section;

24 “(5) the Board;

1 “(6) the Federal Deposit Insurance Corpora-
2 tion;

3 “(7) the Secretary of the Treasury and the Of-
4 fice of the Comptroller of the Currency of the Treas-
5 ury;

6 “(8) the Commodity Futures Trading Commis-
7 sion;

8 “(9) the Securities and Exchange Commission;

9 “(10) the United States trustee or bankruptcy
10 administrator; and

11 “(11) each primary financial regulatory agency,
12 as defined in section 2(12) of the Dodd-Frank Wall
13 Street Reform and Consumer Protection Act, with
14 respect to any affiliate the equity securities of which
15 are proposed to be transferred under this section.

16 “(c) The court may not order a transfer under this
17 section unless the court determines, based upon a prepon-
18 derance of the evidence, that—

19 “(1) the transfer under this section is necessary
20 to prevent serious adverse effects on financial sta-
21 bility in the United States;

22 “(2) the transfer does not provide for the as-
23 sumption of any capital structure debt by the bridge
24 company;

1 “(3) the transfer does not provide for the trans-
2 fer to the bridge company of any property of the es-
3 tate that is subject to a lien securing a debt, execu-
4 tory contract, unexpired lease or agreement (includ-
5 ing a qualified financial contract) of the debtor un-
6 less—

7 “(A)(i) the bridge company assumes such
8 debt, executory contract, unexpired lease or
9 agreement (including a qualified financial con-
10 tract), including any claims arising in respect
11 thereof that would not be allowed secured
12 claims under section 506(a)(1) and after giving
13 effect to such transfer, such property remains
14 subject to the lien securing such debt, executory
15 contract, unexpired lease or agreement (includ-
16 ing a qualified financial contract); and

17 “(ii) the court has determined that as-
18 sumption of such debt, executory contract, un-
19 expired lease or agreement (including a quali-
20 fied financial contract) by the bridge company
21 is in the best interests of the estate; or

22 “(B) such property is being transferred to
23 the bridge company in accordance with the pro-
24 visions of section 363;

1 “(4) the transfer does not provide for the as-
2 sumption by the bridge company of any debt, execu-
3 tory contract, unexpired lease or agreement (includ-
4 ing a qualified financial contract) of the debtor se-
5 cured by a lien on property of the estate unless the
6 transfer provides for such property to be transferred
7 to the bridge company in accordance with paragraph
8 (3)(A) of this subsection;

9 “(5) the transfer does not provide for the trans-
10 fer of the equity of the debtor;

11 “(6) the trustee has demonstrated that the
12 bridge company is not likely to fail to meet the obli-
13 gations of any debt, executory contract, qualified fi-
14 nancial contract, or unexpired lease assumed and as-
15 signed to the bridge company;

16 “(7) the transfer provides for the transfer to a
17 special trustee all of the equity securities in the
18 bridge company and appointment of a special trustee
19 in accordance with section 1186;

20 “(8) after giving effect to the transfer, ade-
21 quate provision has been made for the fees, costs,
22 and expenses of the estate and special trustee; and

23 “(9) the bridge company will have governing
24 documents, and initial directors and senior officers,

1 that are in the best interest of creditors and the es-
2 tate.

3 “(d) Immediately before a transfer under this section,
4 the bridge company that is the recipient of the transfer
5 shall—

6 “(1) not have any property, executory con-
7 tracts, unexpired leases, qualified financial contracts,
8 or debts, other than any property acquired or execu-
9 tory contracts, unexpired leases, or debts assumed
10 when acting as a transferee of a transfer under this
11 section; and

12 “(2) have equity securities that are property of
13 the estate, which may be sold or distributed in ac-
14 cordance with this title.

15 **“§ 1186. Special trustee**

16 “(a)(1) An order approving a transfer under section
17 1185 shall require the trustee to transfer to a qualified
18 and independent special trustee, who is appointed by the
19 court, all of the equity securities in the bridge company
20 that is the recipient of a transfer under section 1185 to
21 hold in trust for the sole benefit of the estate, subject to
22 satisfaction of the special trustee’s fees, costs, and ex-
23 penses. The trust of which the special trustee is the trust-
24 ee shall be a newly formed trust governed by a trust agree-
25 ment approved by the court as in the best interests of the

1 estate, and shall exist for the sole purpose of holding and
2 administering, and shall be permitted to dispose of, the
3 equity securities of the bridge company in accordance with
4 the trust agreement.

5 “(2) In connection with the hearing to approve a
6 transfer under section 1185, the trustee shall confirm to
7 the court that the Board has been consulted regarding the
8 identity of the proposed special trustee and advise the
9 court of the results of such consultation.

10 “(b) The trust agreement governing the trust shall
11 provide—

12 “(1) for the payment of the fees, costs, ex-
13 penses, and indemnities of the special trustee from
14 the assets of the debtor’s estate;

15 “(2) that the special trustee provide—

16 “(A) quarterly reporting to the estate,
17 which shall be filed with the court; and

18 “(B) information about the bridge com-
19 pany reasonably requested by a party in inter-
20 est to prepare a disclosure statement for a plan
21 providing for distribution of any securities of
22 the bridge company if such information is nec-
23 essary to prepare such disclosure statement;

24 “(3) that for as long as the equity securities of
25 the bridge company are held by the trust, the special

1 trustee shall file a notice with the court in connec-
2 tion with—

3 “(A) any change in a director or senior of-
4 ficer of the bridge company;

5 “(B) any modification to the governing
6 documents of the bridge company; and

7 “(C) any material corporate action of the
8 bridge company, including—

9 “(i) recapitalization;

10 “(ii) a material borrowing;

11 “(iii) termination of an intercompany
12 debt or guarantee;

13 “(iv) a transfer of a substantial por-
14 tion of the assets of the bridge company;

15 or

16 “(v) the issuance or sale of any secu-
17 rities of the bridge company;

18 “(4) that any sale of any equity securities of
19 the bridge company shall not be consummated until
20 the special trustee consults with the Federal Deposit
21 Insurance Corporation and the Board regarding
22 such sale and discloses the results of such consulta-
23 tion with the court;

24 “(5) that, subject to reserves for payments per-
25 mitted under paragraph (1) provided for in the trust

1 agreement, the proceeds of the sale of any equity se-
2 curities of the bridge company by the special trustee
3 be held in trust for the benefit of or transferred to
4 the estate;

5 “(6) the process and guidelines for the replace-
6 ment of the special trustee; and

7 “(7) that the property held in trust by the spe-
8 cial trustee is subject to distribution in accordance
9 with subsection (c).

10 “(c)(1) The special trustee shall distribute the assets
11 held in trust—

12 “(A) if the court confirms a plan in the case,
13 in accordance with the plan on the effective date of
14 the plan; or

15 “(B) if the case is converted to a case under
16 chapter 7, as ordered by the court.

17 “(2) As soon as practicable after a final distribution
18 under paragraph (1), the office of the special trustee shall
19 terminate, except as may be necessary to wind up and con-
20 clude the business and financial affairs of the trust.

21 “(d) After a transfer to the special trustee under this
22 section, the special trustee shall be subject only to applica-
23 ble nonbankruptcy law, and the actions and conduct of
24 the special trustee shall no longer be subject to approval
25 by the court in the case under this subchapter.

1 **“§ 1187. Temporary and supplemental automatic stay;**
2 **assumed debt**

3 “(a)(1) A petition filed under section 1183 operates
4 as a stay, applicable to all entities, of the termination, ac-
5 celeration, or modification of any debt, contract, lease, or
6 agreement of the kind described in paragraph (2), or of
7 any right or obligation under any such debt, contract,
8 lease, or agreement, solely because of—

9 “(A) a default by the debtor under any such
10 debt, contract, lease, or agreement; or

11 “(B) a provision in such debt, contract, lease,
12 or agreement, or in applicable nonbankruptcy law,
13 that is conditioned on—

14 “(i) the insolvency or financial condition of
15 the debtor at any time before the closing of the
16 case;

17 “(ii) the commencement of a case under
18 this title concerning the debtor;

19 “(iii) the appointment of or taking posses-
20 sion by a trustee in a case under this title con-
21 cerning the debtor or by a custodian before the
22 commencement of the case; or

23 “(iv) a credit rating agency rating, or ab-
24 sence or withdrawal of a credit rating agency
25 rating—

1 “(I) of the debtor at any time after
2 the commencement of the case;

3 “(II) of an affiliate during the period
4 from the commencement of the case until
5 48 hours after such order is entered;

6 “(III) of the bridge company while the
7 trustee or the special trustee is a direct or
8 indirect beneficial holder of more than 50
9 percent of the equity securities of—

10 “(aa) the bridge company; or

11 “(bb) the affiliate, if all of the di-
12 rect or indirect interests in the affil-
13 iate that are property of the estate
14 are transferred under section 1185; or

15 “(IV) of an affiliate while the trustee
16 or the special trustee is a direct or indirect
17 beneficial holder of more than 50 percent
18 of the equity securities of—

19 “(aa) the bridge company; or

20 “(bb) the affiliate, if all of the di-
21 rect or indirect interests in the affil-
22 iate that are property of the estate
23 are transferred under section 1185.

24 “(2) A debt, contract, lease, or agreement described
25 in this paragraph is—

1 “(A) any debt (other than capital structure
2 debt), executory contract, or unexpired lease of the
3 debtor (other than a qualified financial contract);

4 “(B) any agreement under which the debtor
5 issued or is obligated for debt (other than capital
6 structure debt);

7 “(C) any debt, executory contract, or unexpired
8 lease of an affiliate (other than a qualified financial
9 contract); or

10 “(D) any agreement under which an affiliate
11 issued or is obligated for debt.

12 “(3) The stay under this subsection terminates—

13 “(A) for the benefit of the debtor, upon the ear-
14 liest of—

15 “(i) 48 hours after the commencement of
16 the case;

17 “(ii) assumption of the debt, contract,
18 lease, or agreement by the bridge company
19 under an order authorizing a transfer under
20 section 1185;

21 “(iii) a final order of the court denying the
22 request for a transfer under section 1185; or

23 “(iv) the time the case is dismissed; and

24 “(B) for the benefit of an affiliate, upon the
25 earliest of—

1 “(i) the entry of an order authorizing a
2 transfer under section 1185 in which the direct
3 or indirect interests in the affiliate that are
4 property of the estate are not transferred under
5 section 1185;

6 “(ii) a final order by the court denying the
7 request for a transfer under section 1185;

8 “(iii) 48 hours after the commencement of
9 the case if the court has not ordered a transfer
10 under section 1185; or

11 “(iv) the time the case is dismissed.

12 “(4) Subsections (d), (e), (f), and (g) of section 362
13 apply to a stay under this subsection.

14 “(b) A debt, executory contract (other than a quali-
15 fied financial contract), or unexpired lease of the debtor,
16 or an agreement under which the debtor has issued or is
17 obligated for any debt, may be assumed by a bridge com-
18 pany in a transfer under section 1185 notwithstanding
19 any provision in an agreement or in applicable nonbank-
20 ruptcy law that—

21 “(1) prohibits, restricts, or conditions the as-
22 signment of the debt, contract, lease, or agreement;
23 or

24 “(2) accelerates, terminates, or modifies, or
25 permits a party other than the debtor to terminate

1 or modify, the debt, contract, lease, or agreement on
2 account of—

3 “(A) the assignment of the debt, contract,
4 lease, or agreement; or

5 “(B) a change in control of any party to
6 the debt, contract, lease, or agreement.

7 “(c)(1) A debt, contract, lease, or agreement of the
8 kind described in subparagraph (A) or (B) of subsection
9 (a)(2) may not be accelerated, terminated, or modified,
10 and any right or obligation under such debt, contract,
11 lease, or agreement may not be accelerated, terminated,
12 or modified, as to the bridge company solely because of
13 a provision in the debt, contract, lease, or agreement or
14 in applicable nonbankruptcy law—

15 “(A) of the kind described in subsection
16 (a)(1)(B) as applied to the debtor;

17 “(B) that prohibits, restricts, or conditions the
18 assignment of the debt, contract, lease, or agree-
19 ment; or

20 “(C) that accelerates, terminates, or modifies,
21 or permits a party other than the debtor to termi-
22 nate or modify, the debt, contract, lease or agree-
23 ment on account of—

24 “(i) the assignment of the debt, contract,
25 lease, or agreement; or

1 “(ii) a change in control of any party to
2 the debt, contract, lease, or agreement.

3 “(2) If there is a default by the debtor under a provi-
4 sion other than the kind described in paragraph (1) in
5 a debt, contract, lease or agreement of the kind described
6 in subparagraph (A) or (B) of subsection (a)(2), the
7 bridge company may assume such debt, contract, lease,
8 or agreement only if the bridge company—

9 “(A) shall cure the default;

10 “(B) compensates, or provides adequate assur-
11 ance in connection with a transfer under section
12 1185 that the bridge company will promptly com-
13 pensate, a party other than the debtor to the debt,
14 contract, lease, or agreement, for any actual pecu-
15 niary loss to the party resulting from the default;
16 and

17 “(C) provides adequate assurance in connection
18 with a transfer under section 1185 of future per-
19 formance under the debt, contract, lease, or agree-
20 ment, as determined by the court under section
21 1185(c)(4).

22 **“§ 1188. Treatment of qualified financial contracts**
23 **and affiliate contracts**

24 “(a) Notwithstanding sections 362(b)(6), 362(b)(7),
25 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and

1 561, a petition filed under section 1183 operates as a stay,
2 during the period specified in section 1187(a)(3)(A), ap-
3 plicable to all entities, of the exercise of a contractual
4 right—

5 “(1) to cause the modification, liquidation, ter-
6 mination, or acceleration of a qualified financial con-
7 tract of the debtor or an affiliate;

8 “(2) to offset or net out any termination value,
9 payment amount, or other transfer obligation arising
10 under or in connection with a qualified financial con-
11 tract of the debtor or an affiliate; or

12 “(3) under any security agreement or arrange-
13 ment or other credit enhancement forming a part of
14 or related to a qualified financial contract of the
15 debtor or an affiliate.

16 “(b)(1) During the period specified in section
17 1187(a)(3)(A), the trustee or the affiliate shall perform
18 all payment and delivery obligations under such qualified
19 financial contract of the debtor or the affiliate, as the case
20 may be, that become due after the commencement of the
21 case. The stay provided under subsection (a) terminates
22 as to a qualified financial contract of the debtor or an
23 affiliate immediately upon the failure of the trustee or the
24 affiliate, as the case may be, to perform any such obliga-
25 tion during such period.

1 “(2) Any failure by a counterparty to any qualified
2 financial contract of the debtor or any affiliate to perform
3 any payment or delivery obligation under such qualified
4 financial contract, including during the pendency of the
5 stay provided under subsection (a), shall constitute a
6 breach of such qualified financial contract by the
7 counterparty.

8 “(c) Subject to the court’s approval, a qualified finan-
9 cial contract between an entity and the debtor may be as-
10 signed to or assumed by the bridge company in a transfer
11 under, and in accordance with, section 1185 if and only
12 if—

13 “(1) all qualified financial contracts between
14 the entity and the debtor are assigned to and as-
15 sumed by the bridge company in the transfer under
16 section 1185;

17 “(2) all claims of the entity against the debtor
18 in respect of any qualified financial contract between
19 the entity and the debtor (other than any claim that,
20 under the terms of the qualified financial contract,
21 is subordinated to the claims of general unsecured
22 creditors) are assigned to and assumed by the bridge
23 company;

24 “(3) all claims of the debtor against the entity
25 under any qualified financial contract between the

1 entity and the debtor are assigned to and assumed
2 by the bridge company; and

3 “(4) all property securing or any other credit
4 enhancement furnished by the debtor for any quali-
5 fied financial contract described in paragraph (1) or
6 any claim described in paragraph (2) or (3) under
7 any qualified financial contract between the entity
8 and the debtor is assigned to and assumed by the
9 bridge company.

10 “(d) Notwithstanding any provision of a qualified fi-
11 nancial contract or of applicable nonbankruptcy law, a
12 qualified financial contract of the debtor that is assumed
13 or assigned in a transfer under section 1185 may not be
14 accelerated, terminated, or modified, after the entry of the
15 order approving a transfer under section 1185, and any
16 right or obligation under the qualified financial contract
17 may not be accelerated, terminated, or modified, after the
18 entry of the order approving a transfer under section 1185
19 solely because of a condition described in section
20 1187(c)(1), other than a condition of the kind specified
21 in section 1187(b) that occurs after property of the estate
22 no longer includes a direct beneficial interest or an indi-
23 rect beneficial interest through the special trustee, in more
24 than 50 percent of the equity securities of the bridge com-
25 pany.

1 “(e) Notwithstanding any provision of any agreement
2 or in applicable nonbankruptcy law, an agreement of an
3 affiliate (including an executory contract, an unexpired
4 lease, qualified financial contract, or an agreement under
5 which the affiliate issued or is obligated for debt) and any
6 right or obligation under such agreement may not be ac-
7 celerated, terminated, or modified, solely because of a con-
8 dition described in section 1187(c)(1), other than a condi-
9 tion of the kind specified in section 1187(b) that occurs
10 after the bridge company is no longer a direct or indirect
11 beneficial holder of more than 50 percent of the equity
12 securities of the affiliate, at any time after the commence-
13 ment of the case if—

14 “(1) all direct or indirect interests in the affil-
15 iate that are property of the estate are transferred
16 under section 1185 to the bridge company within the
17 period specified in subsection (a);

18 “(2) the bridge company assumes—

19 “(A) any guarantee or other credit en-
20 hancement issued by the debtor relating to the
21 agreement of the affiliate; and

22 “(B) any obligations in respect of rights of
23 setoff, netting arrangement, or debt of the debt-
24 or that directly arises out of or directly relates
25 to the guarantee or credit enhancement; and

1 “(3) any property of the estate that directly
2 serves as collateral for the guarantee or credit en-
3 hancement is transferred to the bridge company.

4 **“§ 1189. Licenses, permits, and registrations**

5 “(a) Notwithstanding any otherwise applicable non-
6 bankruptcy law, if a request is made under section 1185
7 for a transfer of property of the estate, any Federal, State,
8 or local license, permit, or registration that the debtor or
9 an affiliate had immediately before the commencement of
10 the case and that is proposed to be transferred under sec-
11 tion 1185 may not be accelerated, terminated, or modified
12 at any time after the request solely on account of—

13 “(1) the insolvency or financial condition of the
14 debtor at any time before the closing of the case;

15 “(2) the commencement of a case under this
16 title concerning the debtor;

17 “(3) the appointment of or taking possession by
18 a trustee in a case under this title concerning the
19 debtor or by a custodian before the commencement
20 of the case; or

21 “(4) a transfer under section 1185.

22 “(b) Notwithstanding any otherwise applicable non-
23 bankruptcy law, any Federal, State, or local license, per-
24 mit, or registration that the debtor had immediately before
25 the commencement of the case that is included in a trans-

1 fer under section 1185 shall be valid and all rights and
2 obligations thereunder shall vest in the bridge company.

3 **“§ 1190. Exemption from securities laws**

4 “For purposes of section 1145, a security of the
5 bridge company shall be deemed to be a security of a suc-
6 cessor to the debtor under a plan if the court approves
7 the disclosure statement for the plan as providing ade-
8 quate information (as defined in section 1125(a)) about
9 the bridge company and the security.

10 **“§ 1191. Inapplicability of certain avoiding powers**

11 “A transfer made or an obligation incurred by the
12 debtor to an affiliate prior to or after the commencement
13 of the case, including any obligation released by the debtor
14 or the estate to or for the benefit of an affiliate, in con-
15 templation of or in connection with a transfer under sec-
16 tion 1185 is not avoidable under section 544, 547,
17 548(a)(1)(B), or 549, or under any similar nonbankruptcy
18 law.

19 **“§ 1192. Consideration of financial stability**

20 “The court may consider the effect that any decision
21 in connection with this subchapter may have on financial
22 stability in the United States.”.

1 **SEC. 233. AMENDMENTS TO TITLE 28, UNITED STATES**
2 **CODE.**

3 (a) AMENDMENT TO CHAPTER 13.—Chapter 13 of
4 title 28, United States Code, is amended by adding at the
5 end the following:

6 **“§ 298. Judge for a case under subchapter V of chap-**
7 **ter 11 of title 11**

8 “(a)(1) Notwithstanding section 295, the Chief Jus-
9 tice of the United States shall designate not fewer than
10 10 bankruptcy judges to be available to hear a case under
11 subchapter V of chapter 11 of title 11. Bankruptcy judges
12 may request to be considered by the Chief Justice of the
13 United States for such designation.

14 “(2) Notwithstanding section 155, a case under sub-
15 chapter V of chapter 11 of title 11 shall be heard under
16 section 157 by a bankruptcy judge designated under para-
17 graph (1), who shall be randomly assigned to hear such
18 case by the chief judge of the court of appeals for the cir-
19 cuit embracing the district in which the case is pending.
20 To the greatest extent practicable, the approvals required
21 under section 155 should be obtained.

22 “(3) If the bankruptcy judge assigned to hear a case
23 under paragraph (2) is not assigned to the district in
24 which the case is pending, the bankruptcy judge shall be
25 temporarily assigned to the district.

1 “(b) A case under subchapter V of chapter 11 of title
2 11, and all proceedings in the case, shall take place in
3 the district in which the case is pending.

4 “(c) In this section, the term ‘covered financial cor-
5 poration’ has the meaning given that term in section
6 101(9A) of title 11.”.

7 (b) AMENDMENT TO SECTION 1334 OF TITLE 28.—
8 Section 1334 of title 28, United States Code, is amended
9 by adding at the end the following:

10 “(f) This section does not grant jurisdiction to the
11 district court after a transfer pursuant to an order under
12 section 1185 of title 11 of any proceeding related to a spe-
13 cial trustee appointed, or to a bridge company formed, in
14 connection with a case under subchapter V of chapter 11
15 of title 11.”.

16 (c) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for chapter 13 of title 28, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

“298. Judge for a case under subchapter V of chapter 11 of title 11.”.

20 **Subtitle D—Ending Government** 21 **Guarantees**

22 **SEC. 241. REPEAL OF OBLIGATION GUARANTEE PROGRAM.**

23 (a) IN GENERAL.—The following sections of the
24 Dodd-Frank Wall Street Reform and Consumer Protec-
25 tion Act (12 U.S.C. 5301 et seq.) are repealed:

1 (1) Section 1104.

2 (2) Section 1105.

3 (3) Section 1106.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 under section 1(b) of the Dodd-Frank Wall Street Reform
6 and Consumer Protection Act is amended by striking the
7 items relating to sections 1104, 1105, and 1106.

8 **SEC. 242. REPEAL OF SYSTEMIC RISK DETERMINATION IN**
9 **RESOLUTIONS.**

10 Section 13(c)(4)(G) of the Federal Deposit Insurance
11 Act (12 U.S.C. 1823(c)(4)(G)) is hereby repealed.

12 **SEC. 243. RESTRICTIONS ON USE OF THE EXCHANGE STA-**
13 **BILIZATION FUND.**

14 (a) IN GENERAL.—Section 5302 of title 31, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 “(e) Amounts in the fund may not be used for the
18 establishment of a guaranty program for any nongovern-
19 mental entity.”.

20 (b) CONFORMING AMENDMENT.—Section 131(b) of
21 the Emergency Economic Stabilization Act of 2008 (12
22 U.S.C. 5236(b)) is amended by inserting “, or for the pur-
23 poses of preventing the liquidation or insolvency of any
24 entity” before the period.

1 **Subtitle E—Eliminating Financial**
2 **Market Utility Designations**

3 **SEC. 251. REPEAL OF TITLE VIII.**

4 (a) REPEAL.—Title VIII of the Dodd-Frank Wall
5 Street Reform and Consumer Protection Act (12 U.S.C.
6 5461 et seq.) is repealed, and provisions of law amended
7 by such title are restored and revived as if such title had
8 never been enacted.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in section 1(b) of the Dodd-Frank Wall Street Reform and
11 Consumer Protection Act is amended by striking the items
12 relating to title VIII.

13 **TITLE III—EMPOWERING AMERI-**
14 **CANS TO ACHIEVE FINANCIAL**
15 **INDEPENDENCE**

16 **Subtitle A—Separation of Powers**
17 **and Liberty Enhancements**

18 **SEC. 311. CONSUMER FINANCIAL OPPORTUNITY COMMIS-**
19 **SION.**

20 (a) MAKING THE BUREAU AN INDEPENDENT CON-
21 SUMER FINANCIAL OPPORTUNITY COMMISSION.—The
22 Consumer Financial Protection Act of 2010 (12 U.S.C.
23 5481 et seq.) is amended—

24 (1) in section 1011—

25 (A) in subsection (a)—

1 (i) by striking “in the Federal Reserve
2 System,”;

3 (ii) by striking “independent bureau”
4 and inserting “independent commission”;

5 (iii) by striking “Bureau of Consumer
6 Financial Protection” and inserting “Con-
7 sumer Financial Opportunity Commission
8 (hereinafter in this section referred to as
9 the ‘Commission’)”; and

10 (iv) by striking “Bureau” each place
11 such term appears and inserting “Commis-
12 sion”;

13 (B) by striking subsections (b), (c), and
14 (d);

15 (C) by redesignating subsection (e) as sub-
16 section (h);

17 (D) in subsection (h), as so redesignated—

18 (i) by striking “, including in cities in
19 which the Federal reserve banks, or
20 branches of such banks, are located,”; and

21 (ii) by striking “Bureau” each place
22 such term appears and inserting “Commis-
23 sion”; and

24 (E) by inserting after subsection (a) the
25 following new subsections:

1 “(b) COMPOSITION OF THE COMMISSION.—

2 “(1) IN GENERAL.—The Commission shall be
3 composed of 5 members who shall be appointed by
4 the President, by and with the advice and consent
5 of the Senate, from among individuals who—

6 “(A) are citizens of the United States; and

7 “(B) have strong competencies and experi-
8 ences related to consumer financial products
9 and services.

10 “(2) STAGGERING.—The members of the Com-
11 mission shall serve staggered terms, which initially
12 shall be established by the President for terms of 1,
13 2, 3, 4, and 5 years, respectively.

14 “(3) TERMS.—

15 “(A) IN GENERAL.—Each member of the
16 Commission, including the Chair, shall serve for
17 a term of 5 years.

18 “(B) REMOVAL.—The President may re-
19 move any member of the Commission for ineffi-
20 ciency, neglect of duty, or malfeasance in office.

21 “(C) VACANCIES.—Any member of the
22 Commission appointed to fill a vacancy occur-
23 ring before the expiration of the term to which
24 that member’s predecessor was appointed (in-

1 including the Chair) shall be appointed only for
2 the remainder of the term.

3 “(D) CONTINUATION OF SERVICE.—Each
4 member of the Commission may continue to
5 serve after the expiration of the term of office
6 to which that member was appointed until a
7 successor has been appointed by the President
8 and confirmed by the Senate, except that a
9 member may not continue to serve more than 1
10 year after the date on which that member’s
11 term would otherwise expire.

12 “(E) OTHER EMPLOYMENT PROHIBITED.—
13 No member of the Commission shall engage in
14 any other business, vocation, or employment.

15 “(c) AFFILIATION.—Not more than 3 members of the
16 Commission shall be members of any one political party.

17 “(d) CHAIR OF THE COMMISSION.—

18 “(1) APPOINTMENT.—The Chair of the Com-
19 mission shall be appointed by the President from
20 among the members of the Commission.

21 “(2) AUTHORITY.—The Chair shall be the prin-
22 cipal executive officer of the Commission, and shall
23 exercise all of the executive and administrative func-
24 tions of the Commission, including with respect to—

1 “(A) the appointment and supervision of
2 personnel employed under the Commission
3 (other than personnel employed regularly and
4 full time in the immediate offices of members of
5 the Commission other than the Chair);

6 “(B) the distribution of business among
7 personnel appointed and supervised by the
8 Chair and among administrative units of the
9 Commission; and

10 “(C) the use and expenditure of funds.

11 “(3) LIMITATION.—In carrying out any of the
12 Chair’s functions under the provisions of this sub-
13 section the Chair shall be governed by general poli-
14 cies of the Commission and by such regulatory deci-
15 sions, findings, and determinations as the Commis-
16 sion may by law be authorized to make.

17 “(4) REQUESTS OR ESTIMATES RELATED TO
18 APPROPRIATIONS.—Requests or estimates for reg-
19 ular, supplemental, or deficiency appropriations on
20 behalf of the Commission may not be submitted by
21 the Chair without the prior approval of the Commis-
22 sion.

23 “(e) NO IMPAIRMENT BY REASON OF VACANCIES.—
24 No vacancy in the members of the Commission shall im-
25 pair the right of the remaining members of the Commis-

1 sion to exercise all the powers of the Commission. Three
2 members of the Commission shall constitute a quorum for
3 the transaction of business, except that if there are only
4 3 members serving on the Commission because of vacan-
5 cies in the Commission, 2 members of the Commission
6 shall constitute a quorum for the transaction of business.
7 If there are only 2 members serving on the Commission
8 because of vacancies in the Commission, 2 members shall
9 constitute a quorum for the 6-month period beginning on
10 the date of the vacancy which caused the number of Com-
11 mission members to decline to 2.

12 “(f) SEAL.—The Commission shall have an official
13 seal.

14 “(g) COMPENSATION.—

15 “(1) CHAIR.—The Chair shall receive com-
16 pensation at the rate prescribed for level I of the
17 Executive Schedule under section 5313 of title 5,
18 United States Code.

19 “(2) OTHER MEMBERS OF THE COMMISSION.—
20 The 4 other members of the Commission shall each
21 receive compensation at the rate prescribed for level
22 II of the Executive Schedule under section 5314 of
23 title 5, United States Code.”;

24 (2) in section 1012(c), by striking paragraphs
25 (2), (3), (4), and (5); and

1 (3) in section 1014(b), by striking “Not fewer
2 than 6 members shall be appointed upon the rec-
3 ommendation of the regional Federal Reserve Bank
4 Presidents, on a rotating basis.”.

5 (b) DEEMING OF NAME.—Any reference in a law,
6 regulation, document, paper, or other record of the United
7 States to the Bureau of Consumer Financial Protection
8 shall be deemed a reference to the Consumer Financial
9 Opportunity Commission.

10 (c) CONFORMING AMENDMENTS.—

11 (1) CONSUMER FINANCIAL PROTECTION ACT OF
12 2010.—

13 (A) IN GENERAL.—Except as provided
14 under subparagraph (B), the Consumer Finan-
15 cial Protection Act of 2010 (12 U.S.C. 5481 et
16 seq.) is amended—

17 (i) by striking “Director of the Bu-
18 reau” each place such term appears, other
19 than where such term is used to refer to
20 a Director other than the Director of the
21 Bureau of Consumer Financial Protection,
22 and inserting “Consumer Financial Oppor-
23 tunity Commission”;

24 (ii) by striking “Director” each place
25 such term appears and inserting “Con-

1 consumer Financial Opportunity Commis-
2 sion”, other than where such term is used
3 to refer to a Director other than the Direc-
4 tor of the Bureau of Consumer Financial
5 Protection; and

6 (iii) in section 1002, by striking para-
7 graph (10).

8 (B) EXCEPTIONS.—The Consumer Finan-
9 cial Protection Act of 2010 (12 U.S.C. 5481 et
10 seq.) is amended—

11 (i) in section 1013(e)(3)—

12 (I) by striking “Assistant Direc-
13 tor of the Bureau for” and inserting
14 “Head of the Office of”; and

15 (II) in subparagraph (B), by
16 striking “Assistant Director” and in-
17 serting “Head of the Office”;

18 (ii) in section 1013(g)(2)—

19 (I) by striking “ASSISTANT DI-
20 RECTOR” and inserting “HEAD OF
21 THE OFFICE”; and

22 (II) by striking “an assistant di-
23 rector” and inserting “a Head of the
24 Office of Financial Protection for
25 Older Americans”;

1 (iii) in section 1016(a), by striking
2 “Director of the Bureau” and inserting
3 “Chair of the Consumer Financial Oppor-
4 tunity Commission”; and

5 (iv) in section 1066(a), by striking
6 “Director of the Bureau is” and inserting
7 “first member of the Commission is”.

8 (2) DODD-FRANK WALL STREET REFORM AND
9 CONSUMER PROTECTION ACT.—Section 1447 of the
10 Dodd-Frank Wall Street Reform and Consumer Pro-
11 tection Act (12 U.S.C. 1701p-2) is amended by
12 striking “Director of the Bureau” each place such
13 term appears and inserting “Consumer Financial
14 Opportunity Commission”.

15 (3) EXPEDITED FUNDS AVAILABILITY ACT.—
16 The Expedited Funds Availability Act (12 U.S.C.
17 4001 et seq.), as amended by section 1086 of the
18 Consumer Financial Protection Act of 2010, is
19 amended by striking “Director of the Bureau” each
20 place such term appears and inserting “Consumer
21 Financial Opportunity Commission”.

22 (4) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
23 tion 2 of the Federal Deposit Insurance Act (12
24 U.S.C. 1812), as amended by section 336(a) of the
25 Dodd-Frank Wall Street Reform and Consumer Pro-

1 tection Act, is amended by striking “Director of the
2 Consumer Financial Protection Bureau” each place
3 such term appears and inserting “Chair of the Con-
4 sumer Financial Opportunity Commission”.

5 (5) FEDERAL FINANCIAL INSTITUTIONS EXAM-
6 INATION COUNCIL ACT OF 1978.—Section 1004(a)(4)
7 of the Federal Financial Institutions Examination
8 Council Act of 1978 (12 U.S.C. 3303(a)(4)), as
9 amended by section 1091 of the Consumer Financial
10 Protection Act of 2010, is amended by striking “Di-
11 rector of the Consumer Financial Protection Bu-
12 reau” and inserting “Chair of the Consumer Finan-
13 cial Opportunity Commission”.

14 (6) FINANCIAL LITERACY AND EDUCATION IM-
15 PROVEMENT ACT.—Section 513 of the Financial Lit-
16 eracy and Education Improvement Act (20 U.S.C.
17 9702), as amended by section 1013(d)(5) of the
18 Consumer Financial Protection Act of 2010, is
19 amended by striking “Director” each place such
20 term appears and inserting “Chair of the Consumer
21 Financial Opportunity Commission”.

22 (7) HOME MORTGAGE DISCLOSURE ACT OF
23 1975.—Section 307 of the Home Mortgage Disclo-
24 sure Act of 1975, as amended by section 1094(6) of
25 the Consumer Financial Protection Act of 2010, is

1 amended by striking “Director of the Bureau of
2 Consumer Financial Protection” each place such
3 term appears and inserting “Consumer Financial
4 Opportunity Commission”.

5 (8) INTERSTATE LAND SALES FULL DISCLO-
6 SURE ACT.—The Interstate Land Sales Full Disclo-
7 sure Act, as amended by section 1098A of the Con-
8 sumer Financial Protection Act of 2010, is amend-
9 ed—

10 (A) by amending section 1402(1) to read

11 as follows:

12 “(1) ‘Chair’ means the Chair of the Consumer
13 Financial Opportunity Commission;” and

14 (B) in section 1416(a), by striking “Direc-

15 tor of the Bureau of Consumer Financial Pro-
16 tection” and inserting “Chair”.

17 (9) REAL ESTATE SETTLEMENT PROCEDURES
18 ACT OF 1974.—Section 5 of the Real Estate Settle-
19 ment Procedures Act of 1974 (12 U.S.C. 2604), as
20 amended by section 1450 of the Dodd-Frank Wall
21 Street Reform and Consumer Protection Act, is
22 amended—

23 (A) by striking “The Director of the Bu-

24 reau of Consumer Financial Protection (here-
25 after in this section referred to as the ‘Direc-

1 tor’)' and inserting “The Consumer Financial
2 Opportunity Commission”; and

3 (B) by striking “Director” each place such
4 term appears and inserting “Consumer Finan-
5 cial Opportunity Commission”.

6 (10) S.A.F.E. MORTGAGE LICENSING ACT OF
7 2008.—The S.A.F.E. Mortgage Licensing Act of
8 2008 (12 U.S.C. 5101 et seq.), as amended by sec-
9 tion 1100 of the Consumer Financial Protection Act
10 of 2010, is amended—

11 (A) by striking “Director” each place such
12 term appears in headings and text, other than
13 where such term is used in the context of the
14 Director of the Office of Thrift Supervision,
15 and inserting “Consumer Financial Opportunity
16 Commission”; and

17 (B) in section 1503, by striking paragraph
18 (10).

19 (11) TITLE 44, UNITED STATES CODE.—Section
20 3513(e) of title 44, United States Code, as amended
21 by section 1100D(b) of the Consumer Financial Pro-
22 tection Act of 2010, is amended by striking “Direc-
23 tor of the Bureau” and inserting “Consumer Finan-
24 cial Opportunity Commission”.

1 **SEC. 312. BRINGING THE COMMISSION INTO THE REGULAR**
2 **APPROPRIATIONS PROCESS.**

3 Section 1017 of the Consumer Financial Protection
4 Act of 2010 (12 U.S.C. 5497) is amended—

5 (1) in subsection (a)—

6 (A) by amending the heading of such sub-
7 section to read as follows: “BUDGET, FINAN-
8 CIAL MANAGEMENT, AND AUDIT.—”;

9 (B) by striking paragraphs (1), (2), and
10 (3);

11 (C) by redesignating paragraphs (4) and
12 (5) as paragraphs (1) and (2), respectively; and

13 (D) by striking subparagraphs (E) and (F)
14 of paragraph (1), as so redesignated;

15 (2) by striking subsections (b) and (c);

16 (3) by redesignating subsections (d) and (e) as
17 subsections (b) and (c), respectively; and

18 (4) in subsection (c), as so redesignated—

19 (A) by striking paragraphs (1), (2), and
20 (3) and inserting the following:

21 “(1) AUTHORIZATION OF APPROPRIATIONS.—

22 There is authorized to be appropriated to the Com-
23 mission for fiscal year 2017 an amount equal to the
24 aggregate amount of funds transferred by the Board
25 of Governors to the Bureau of Consumer Financial
26 Protection during fiscal year 2015.”; and

1 (B) by redesignating paragraph (4) as
2 paragraph (2).

3 **SEC. 313. CONSUMER FINANCIAL OPPORTUNITY COMMIS-**
4 **SION INSPECTOR GENERAL REFORM.**

5 (a) APPOINTMENT OF INSPECTOR GENERAL.—The
6 Inspector General Act of 1978 (5 U.S.C. App.) is amend-
7 ed—

8 (1) in section 8G—

9 (A) in subsection (a)(2), by striking “and
10 the Bureau of Consumer Financial Protection”;

11 (B) in subsection (c), by striking “For
12 purposes of implementing this section” and all
13 that follows through the end of the subsection;
14 and

15 (C) in subsection (g)(3), by striking “and
16 the Bureau of Consumer Financial Protection”;
17 and

18 (2) in section 12—

19 (A) in paragraph (1), by inserting “the
20 Consumer Financial Opportunity Commission;”
21 after “the President of the Export-Import
22 Bank;” and

23 (B) in paragraph (2), by inserting “the
24 Consumer Financial Opportunity Commission,”
25 after “the Export-Import Bank,”.

1 (b) REQUIREMENTS FOR THE INSPECTOR GENERAL
2 FOR THE CONSUMER FINANCIAL OPPORTUNITY COMMIS-
3 SION.—

4 (1) ESTABLISHMENT.—Section 1011 of the
5 Consumer Financial Protection Act of 2010 (12
6 U.S.C. 5491), as amended by section 311, is further
7 amended—

8 (A) by adding at the end the following:

9 “(i) INSPECTOR GENERAL.—There is established the
10 position of the Inspector General of the Commission.”;
11 and

12 (B) in subsection (d), by striking “or Dep-
13 uty Director” each place such term appears and
14 inserting “, Deputy Director, or Inspector Gen-
15 eral”.

16 (2) HEARINGS.—Section 1016 of the Consumer
17 Financial Protection Act of 2010 (12 U.S.C. 5496)
18 is amended by inserting after subsection (c) the fol-
19 lowing:

20 “(d) ADDITIONAL REQUIREMENT FOR INSPECTOR
21 GENERAL.—On a separate occasion from that described
22 in subsection (a), the Inspector General of the Commission
23 shall appear, upon invitation, before the Committee on
24 Banking, Housing, and Urban Affairs of the Senate and
25 the Committee on Financial Services and the Committee

1 on Energy and Commerce of the House of Representatives
2 at semi-annual hearings regarding the reports required
3 under subsection (b) and the reports required under sec-
4 tion 5 of the Inspector General Act of 1978 (5 U.S.C.
5 App.).”.

6 (3) PARTICIPATION IN THE COUNCIL OF IN-
7 SPECTORS GENERAL ON FINANCIAL OVERSIGHT.—
8 Section 989E(a)(1) of the Dodd-Frank Wall Street
9 Reform and Consumer Protection Act is amended by
10 adding at the end the following:

11 “(J) The Consumer Financial Opportunity
12 Commission.”.

13 (4) DEADLINE FOR APPOINTMENT.—Not later
14 than 60 days after the date of the enactment of this
15 Act, the President shall appoint an Inspector Gen-
16 eral for the Consumer Financial Opportunity Com-
17 mission in accordance with section 3 of the Inspector
18 General Act of 1978 (5 U.S.C. App.).

19 (c) TRANSITION PERIOD.—The Inspector General of
20 the Board of Governors of the Federal Reserve System
21 and the Bureau of Consumer Financial Protection shall
22 serve in that position until the confirmation of an Inspec-
23 tor General for the Consumer Financial Opportunity Com-
24 mission. At that time, the Inspector General of the Board
25 of Governors of the Federal Reserve System and the Bu-

1 reau of Consumer Financial Protection shall become the
2 Inspector General of the Board of Governors of the Fed-
3 eral Reserve System.

4 **SEC. 314. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
5 **COMMISSION TO SEEK SANCTIONS BY FILING**
6 **CIVIL ACTIONS; ADJUDICATIONS DEEMED AC-**
7 **TIONS.**

8 Section 1053 of the Consumer Financial Protection
9 Act of 2010 (12 U.S.C. 5563) is amended by adding at
10 the end the following:

11 “(f) PRIVATE PARTIES AUTHORIZED TO COMPEL
12 THE COMMISSION TO SEEK SANCTIONS BY FILING CIVIL
13 ACTIONS.—

14 “(1) TERMINATION OF ADMINISTRATIVE PRO-
15 CEEDING.—In the case of any person who is a party
16 to a proceeding brought by the Commission under
17 this section, to which chapter 5 of title 5, United
18 States Code, applies, and against whom an order im-
19 posing a cease and desist order or a penalty may be
20 issued at the conclusion of the proceeding, that per-
21 son may, not later than 20 days after receiving no-
22 tice of such proceeding, and at that person’s discre-
23 tion, require the Commission to terminate the pro-
24 ceeding.

1 “(2) CIVIL ACTION AUTHORIZED.—If a person
2 requires the Commission to terminate a proceeding
3 pursuant to paragraph (1), the Commission may
4 bring a civil action against that person for the same
5 remedy that might be imposed.

6 “(g) ADJUDICATIONS DEEMED ACTIONS.—Any ad-
7 ministrative adjudication commenced under this section
8 shall be deemed an ‘action’ for purposes of section
9 1054(g).”.

10 **SEC. 315. CIVIL INVESTIGATIVE DEMANDS TO BE AP-**
11 **PEALED TO COURTS.**

12 Section 1052 of the Consumer Financial Protection
13 Act of 2010 (12 U.S.C. 5562) is amended—

14 (1) in subsection (c)—

15 (A) in paragraph (2), by inserting after
16 “shall state” the following: “with specificity”;
17 and

18 (B) by adding at the end the following:

19 “(14) MEETING REQUIREMENT.—The recipient
20 of a civil investigative demand shall meet and confer
21 with a Commission investigator within 30 calendar
22 days after receipt of the demand to discuss and at-
23 tempt to resolve all issues regarding compliance with
24 the civil investigative demand, unless the Commis-

1 sion grants an extension requested by such recipi-
2 ent.”;

3 (2) in subsection (f)—

4 (A) by amending paragraph (1) to read as
5 follows:

6 “(1) IN GENERAL.—Not later than 45 days
7 after the service of any civil investigative demand
8 upon any person under subsection (c), or at any
9 time before the return date specified in the demand,
10 whichever period is shorter, or within such period ex-
11 ceeding 45 days after service or in excess of such re-
12 turn date as may be prescribed in writing, subse-
13 quent to service, by any Commission investigator
14 named in the demand, such person may file, in the
15 district court of the United States for any judicial
16 district in which such person resides, is found, or
17 transacts business, a petition for an order modifying
18 or setting aside the demand.”; and

19 (B) in paragraph (2), by striking “at the
20 Bureau”; and

21 (3) in subsection (h)—

22 (A) by striking “(1) IN GENERAL.—” ; and

23 (B) by striking paragraph (2).

1 **SEC. 316. COMMISSION DUAL MANDATE AND ECONOMIC**
2 **ANALYSIS.**

3 (a) **PURPOSE.**—Section 1021(a) of the Consumer Fi-
4 nancial Protection Act of 2010 (12 U.S.C. 5511(a)) is
5 amended—

6 (1) by striking “fair, transparent, and competi-
7 tive” and inserting: “fair and transparent”; and

8 (2) by adding at the end the following: “In ad-
9 dition, the Commission shall seek to implement and,
10 where applicable, enforce Federal consumer financial
11 law consistently for the purpose of strengthening
12 participation in markets by covered persons, without
13 Government interference or subsidies, to increase
14 competition and enhance consumer choice.”; and

15 (b) **OFFICE OF ECONOMIC ANALYSIS.**—

16 (1) **IN GENERAL.**—Section 1013 of the Con-
17 sumer Financial Protection Act of 2010 (12 U.S.C.
18 5493) is amended by adding at the end the fol-
19 lowing:

20 “(h) **OFFICE OF ECONOMIC ANALYSIS.**—

21 “(1) **ESTABLISHMENT.**—The Chair shall estab-
22 lish an Office of Economic Analysis.

23 “(2) **REVIEW AND ASSESSMENT OF PROPOSED**
24 **RULES AND REGULATIONS.**—The Office of Economic
25 Analysis shall—

1 “(A) review all proposed rules and regula-
2 tions of the Commission;

3 “(B) assess the impact of such rules and
4 regulations on consumer choice, price, and ac-
5 cess to credit products; and

6 “(C) publish a report on such reviews and
7 assessments in the Federal Register.

8 “(3) MEASURING EXISTING RULES AND REGU-
9 LATIONS.—The Office of Economic Analysis shall—

10 “(A) review each rule and regulation
11 issued by the Commission after 1, 2, 5, and 10
12 years;

13 “(B) measure the rule or regulation’s suc-
14 cess in solving the problem that the rule or reg-
15 ulation was intended to solve when issued; and

16 “(C) publish a report on such review and
17 measurement in the Federal Register.”.

18 (2) CONSIDERATION OF REVIEW AND ASSESS-
19 MENT; RULEMAKING REQUIREMENTS.—Section
20 1022(b) of the Consumer Financial Protection Act
21 of 2010 (12 U.S.C. 5512(b)) is amended by adding
22 at the end the following:

23 “(5) CONSIDERATION OF REVIEW AND ASSESS-
24 MENT BY THE OFFICE OF ECONOMIC ANALYSIS.—

1 “(A) IN GENERAL.—Before issuing any
2 rule or regulation, the Chair shall consider the
3 review and assessment of such rule or regula-
4 tion carried out by the Office of Economic
5 Analysis.

6 “(B) NOTICE OF DISAGREEMENT.—If a
7 member of the Commission disagrees with any
8 part of a review and assessment described
9 under subparagraph (A) with respect to any
10 rule or regulation, the member shall accompany
11 any such rule or regulation with a statement
12 explaining why the member so disagrees.

13 “(6) IDENTIFICATION OF PROBLEMS AND
14 METRICS FOR JUDGING SUCCESS.—

15 “(A) IN GENERAL.—The Chair shall, in
16 each proposed rulemaking of the Commission—

17 “(i) identify the problem that the par-
18 ticular rule or regulations is seeking to
19 solve; and

20 “(ii) specify the metrics by which the
21 Commission will measure the success of
22 the rule or regulation in solving such prob-
23 lem.

24 “(B) REQUIRED METRICS.—The metrics
25 specified under subparagraph (A)(ii) shall in-

1 clude a measurement of changes to consumer
2 access to, and cost of, consumer financial prod-
3 ucts and services.”.

4 (c) AVOIDANCE OF DUPLICATIVE OR UNNECESSARY
5 ANALYSES.—The Commission may perform any of the
6 analyses required by this section in conjunction with, or
7 as part of, any other agenda or analysis required by any
8 other provision of law, if such other agenda or analysis
9 satisfies the provisions of this section.

10 **SEC. 317. NO DEFERENCE TO COMMISSION INTERPRETA-**
11 **TION.**

12 The Consumer Financial Protection Act of 2010 (12
13 U.S.C. 5481 et seq.) is amended—

14 (1) in section 1022(b)(4)—

15 (A) by striking “(A) IN GENERAL.—”; and

16 (B) by striking subparagraph (B); and

17 (2) in section 1061(b)(5)(E)—

18 (A) by striking “affords to the—” and all
19 that follows through “(i) Federal Trade Com-
20 mission” and inserting “affords to the Federal
21 Trade Commission”;

22 (B) by striking “; or” and inserting a pe-
23 riod; and

24 (C) by striking clause (ii).

1 **Subtitle B—Administrative**
2 **Enhancements**

3 **SEC. 321. COMMISSION ADVISORY BOARDS.**

4 (a) IN GENERAL.—The Consumer Financial Protec-
5 tion Act of 2010 is amended by inserting after section
6 1014 (12 U.S.C. 5494) the following new section:

7 **“SEC. 1014A. ADVISORY BOARDS.**

8 “(a) SMALL BUSINESS ADVISORY BOARD.—

9 “(1) ESTABLISHMENT.—The Commission shall
10 establish a Small Business Advisory Board—

11 “(A) to advise and consult with the Com-
12 mission in the exercise of the Commission’s
13 functions under the Federal consumer financial
14 laws applicable to eligible financial products or
15 services; and

16 “(B) to provide information on emerging
17 practices of small business concerns that pro-
18 vide eligible financial products or services, in-
19 cluding regional trends, concerns, and other rel-
20 evant information.

21 “(2) MEMBERSHIP.—

22 “(A) NUMBER.—The Commission shall ap-
23 point no fewer than 15 and no more than 20
24 members to the Small Business Advisory
25 Board.

1 “(B) QUALIFICATION.—Members ap-
2 pointed pursuant to subparagraph (A) shall be
3 representatives of small business concerns
4 that—

5 “(i) provide eligible financial products
6 or services;

7 “(ii) are service providers to covered
8 persons; and

9 “(iii) use consumer financial products
10 or services in financing the business activi-
11 ties of such concern.

12 “(3) MEETINGS.—The Small Business Advisory
13 Board—

14 “(A) shall meet from time to time at the
15 call of the Commission; and

16 “(B) shall meet at least twice each year.

17 “(b) CREDIT UNION ADVISORY COUNCIL.—

18 “(1) ESTABLISHMENT.—The Commission shall
19 establish a Credit Union Advisory Council to advise
20 and consult with the Commission on consumer fi-
21 nancial products or services that impact credit
22 unions.

23 “(2) MEMBERSHIP.—The Commission shall ap-
24 point no fewer than 15 and no more than 20 mem-
25 bers to the Credit Union Advisory Council.

1 “(3) MEETINGS.—The Credit Union Advisory
2 Council—

3 “(A) shall meet from time to time at the
4 call of the Commission; and

5 “(B) shall meet at least twice each year.

6 “(c) COMMUNITY BANK ADVISORY COUNCIL.—

7 “(1) ESTABLISHMENT.—The Commission shall
8 establish a Community Bank Advisory Council to
9 advise and consult with the Commission on con-
10 sumer financial products or services that impact
11 community banks.

12 “(2) MEMBERSHIP.—The Commission shall ap-
13 point no fewer than 15 and no more than 20 mem-
14 bers to the Community Bank Advisory Council.

15 “(3) MEETINGS.—The Community Bank Advi-
16 sory Council—

17 “(A) shall meet from time to time at the
18 call of the Commission; and

19 “(B) shall meet at least twice each year.

20 “(d) COMPENSATION AND TRAVEL EXPENSES.—

21 Members of the Small Business Advisory Board, the Cred-
22 it Union Advisory Council, or the Community Bank Advi-
23 sory Council who are not full-time employees of the United
24 States shall—

1 “(1) be entitled to receive compensation at a
2 rate fixed by the Commission while attending meet-
3 ings of the Small Business Advisory Board, the
4 Credit Union Advisory Council, or the Community
5 Bank Advisory Council, including travel time; and

6 “(2) be allowed travel expenses, including trans-
7 portation and subsistence, while away from their
8 homes or regular places of business.

9 “(e) DEFINITIONS.—In this section—

10 “(1) the term ‘eligible financial product or serv-
11 ice’ means a financial product or service that is of-
12 fered or provided for use by consumers primarily for
13 personal, family, or household purposes as described
14 in clause (i), (iii), (v), (vi), or (ix) of section
15 1002(15)(A); and

16 “(2) the term ‘small business concern’ has the
17 meaning given such term in section 3 of the Small
18 Business Act (15 U.S.C. 632).”.

19 (b) TABLE OF CONTENTS AMENDMENT.—The table
20 of contents in section 1 of the Dodd-Frank Wall Street
21 Reform and Consumer Protection Act (12 U.S.C. 5301
22 et seq.) is amended by inserting after the item relating
23 to section 1014 the following new item:

 “Sec. 1014A. Advisory Boards.”.

1 **SEC. 322. ADVISORY OPINIONS.**

2 Section 1022(b) of the Consumer Financial Protec-
3 tion Act of 2010 (12 U.S.C. 5512(b)), as amended by sec-
4 tion 316, is further amended by adding at the end the
5 following:

6 “(7) ADVISORY OPINIONS.—

7 “(A) ESTABLISHING PROCEDURES.—

8 “(i) IN GENERAL.—The Chair shall
9 establish a procedure and, as necessary,
10 promulgate rules to provide written opin-
11 ions in response to inquiries concerning the
12 conformance of specific conduct with Fed-
13 eral consumer financial law. In establishing
14 the procedure the Chair shall consult with
15 the prudential regulators and such other
16 Federal departments and agencies as the
17 Chair determines appropriate, and obtain
18 the views of all interested persons through
19 a public notice and comment period.

20 “(ii) SCOPE OF REQUEST.—A request
21 for an opinion under this paragraph must
22 relate to specific proposed or prospective
23 conduct by a covered person contemplating
24 the proposed or prospective conduct.

25 “(iii) SUBMISSION.—A request for an
26 opinion under this paragraph may be sub-

1 mitted to the Chair either by or on behalf
2 of a covered person.

3 “(iv) RIGHT TO WITHDRAW IN-
4 QUIRY.—Any inquiry under this paragraph
5 may be withdrawn at any time prior to the
6 Chair issuing an opinion in response to
7 such inquiry, and any opinion based on an
8 inquiry that has been withdrawn shall have
9 no force or effect.

10 “(B) ISSUANCE OF OPINIONS.—

11 “(i) IN GENERAL.—The Chair shall,
12 within 90 days of receiving the request for
13 an opinion under this paragraph, either—

14 “(I) issue an opinion stating
15 whether the described conduct would
16 violate Federal consumer financial
17 law;

18 “(II) if permissible under clause
19 (iii), deny the request; or

20 “(III) explain why it is not fea-
21 sible to issue an opinion.

22 “(ii) EXTENSION.—Notwithstanding
23 clause (i), if the Chair determines that the
24 Commission requires additional time to
25 issue an opinion, the Chair may make a

1 single extension of the deadline of 90 days
2 or less.

3 “(iii) DENIAL OF REQUESTS.—The
4 Chair shall not issue an opinion, and shall
5 so inform the requestor, if the request for
6 an opinion—

7 “(I) asks a general question of
8 interpretation;

9 “(II) asks about a hypothetical
10 situation;

11 “(III) asks about the conduct of
12 someone other than the covered per-
13 son on whose behalf the request is
14 made;

15 “(IV) asks about past conduct
16 that the covered person on whose be-
17 half the request is made does not plan
18 to continue in the future; or

19 “(V) fails to provide necessary
20 supporting information requested by
21 the Commission within a reasonable
22 time established by the Commission.

23 “(iv) AMENDMENT AND REVOCATION.—An advisory opinion issued under
24

1 this paragraph may be amended or revoked
2 at any time.

3 “(v) PUBLIC DISCLOSURE.—An opin-
4 ion rendered pursuant to this paragraph
5 shall be placed in the Commission’s public
6 record 90 days after the requesting party
7 has received the advice, subject to any lim-
8 itations on public disclosure arising from
9 statutory restrictions, Commission regula-
10 tions, or the public interest. The Commis-
11 sion shall redact any personal, confidential,
12 or identifying information about the cov-
13 ered person or any other persons men-
14 tioned in the advisory opinion, unless the
15 covered person consents to such disclosure.

16 “(vi) REPORT TO CONGRESS.—The
17 Commission shall, concurrent with the
18 semi-annual report required under section
19 1016(b), submit information regarding the
20 number of requests for an advisory opinion
21 received, the subject of each request, the
22 number of requests denied pursuant to
23 clause (iii), and the time needed to respond
24 to each request.

1 “(C) RELIANCE ON OPINION.—Any person
2 may rely on an opinion issued by the Chair pur-
3 suant to this paragraph that has not been
4 amended or withdrawn. No liability under Fed-
5 eral consumer financial law shall attach to con-
6 duct consistent with an advisory opinion that
7 had not been amended or withdrawn at the time
8 the conduct was undertaken.

9 “(D) CONFIDENTIALITY.—Any document
10 or other material that is received by the Com-
11 mission or any other Federal department or
12 agency in connection with an inquiry under this
13 paragraph shall be exempt from disclosure
14 under section 552 of title 5, United States Code
15 (commonly referred to as the ‘Freedom of In-
16 formation Act’) and may not, except with the
17 consent of the covered person making such in-
18 quiry, be made publicly available, regardless of
19 whether the Chair responds to such inquiry or
20 the covered person withdraws such inquiry be-
21 fore receiving an opinion.

22 “(E) ASSISTANCE FOR SMALL BUSI-
23 NESSES.—

24 “(i) IN GENERAL.—The Commission
25 shall assist, to the maximum extent prac-

1 ticable, small businesses in preparing in-
2 quires under this paragraph.

3 “(ii) SMALL BUSINESS DEFINED.—

4 For purposes of this subparagraph, the
5 term ‘small business’ has the meaning
6 given the term ‘small business concern’
7 under section 3 of the Small Business Act
8 (15 U.S.C. 632).

9 “(F) INQUIRY FEE.—

10 “(i) IN GENERAL.—The Chair shall
11 develop a system to charge a fee for each
12 inquiry made under this paragraph in an
13 amount sufficient, in the aggregate, to pay
14 for the cost of carrying out this paragraph.

15 “(ii) NOTICE AND COMMENT.—Not
16 later than 45 days after the date of the en-
17 actment of this paragraph, the Chair shall
18 publish a description of the fee system de-
19 scribed in clause (i) in the Federal Reg-
20 ister and shall solicit comments from the
21 public for a period of 60 days after publi-
22 cation.

23 “(iii) FINALIZATION.—The Chair shall
24 publish a final description of the fee sys-
25 tem and implement such fee system not

1 later than 30 days after the end of the
2 public comment period described in clause
3 (ii).”.

4 **SEC. 323. REFORM OF CONSUMER FINANCIAL CIVIL PEN-**
5 **ALTY FUND.**

6 (a) **SEGREGATED ACCOUNTS.**—Section 1017(b) of
7 the Consumer Financial Protection Act of 2010, as reded-
8 igned by section 312, is amended by redesignating para-
9 graph (2) as paragraph (3), and by inserting after para-
10 graph (1) the following new paragraph:

11 “(2) **SEGREGATED ACCOUNTS IN CIVIL PEN-**
12 **ALTY FUND.**—

13 “(A) **IN GENERAL.**—The Commission shall
14 establish and maintain a segregated account in
15 the Civil Penalty Fund each time the Commis-
16 sion obtains a civil penalty against any person
17 in any judicial or administrative action under
18 Federal consumer financial laws.

19 “(B) **DEPOSITS IN SEGREGATED AC-**
20 **COUNTS.**—The Commission shall deposit each
21 civil penalty collected into the segregated ac-
22 count established for such penalty under sub-
23 paragraph (A).”.

1 (b) PAYMENT TO VICTIMS.—Paragraph (3) of section
2 1017(b) of such Act, as redesignated by subsection (a),
3 is amended to read as follows:

4 “(3) PAYMENT TO VICTIMS.—

5 “(A) IN GENERAL.—

6 “(i) IDENTIFICATION OF CLASS.—Not
7 later than 60 days after the date of deposit
8 of amounts in a segregated account in the
9 Civil Penalty Fund, the Commission shall
10 identify the class of victims of the violation
11 of Federal consumer financial laws for
12 which such amounts were collected and de-
13 posited under paragraph (2).

14 “(ii) PAYMENTS.—The Commission,
15 within 2 years after the date on which
16 such class of victims is identified, shall lo-
17 cate and make payments from such
18 amounts to each victim.

19 “(B) FUNDS DEPOSITED IN TREASURY.—

20 “(i) IN GENERAL.—The Commission
21 shall deposit into the general fund of the
22 Treasury any amounts remaining in a seg-
23 regated account in the Civil Penalty Fund
24 at the end of the 2-year period for pay-
25 ments to victims under subparagraph (A).

1 “(ii) IMPOSSIBLE OR IMPRACTICAL
2 PAYMENTS.—If the Commission deter-
3 mines before the end of the 2-year period
4 for payments to victims under subpara-
5 graph (A) that such victims cannot be lo-
6 cated or payments to such victims are oth-
7 erwise not practicable, the Commission
8 shall deposit into the general fund of the
9 Treasury the amounts in the segregated
10 account in the Civil Penalty Fund.”.

11 (c) CONFORMING AMENDMENT.—Paragraph (1) of
12 such section 1017(b) of the Consumer Financial Protec-
13 tion Act of 2010 (12 U.S.C. 5497(d)(1)) is amended by
14 striking the last sentence.

15 (d) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall apply with respect to civil penalties
18 collected after the date of enactment of this Act.

19 (2) AMOUNTS IN CONSUMER FINANCIAL CIVIL
20 PENALTY FUND ON DATE OF ENACTMENT.—With
21 respect to amounts in the Consumer Financial Civil
22 Penalty Fund on the date of enactment of this Act
23 that were not allocated for consumer education and
24 financial literacy programs on or before September
25 30, 2015, the Consumer Financial Opportunity

1 Commission shall separate such amounts into seg-
2 regated accounts in accordance with, and for pur-
3 poses of, section 1017(d) of the Consumer Financial
4 Protection Act of 2010, as amended by this section.
5 The date of deposit of such amounts shall be deemed
6 to be the date of enactment of this Act.

7 **SEC. 324. COMMISSION RESEARCH PAPER TRANSPARENCY.**

8 Section 1013 of the Consumer Financial Protection
9 Act of 2010 (12 U.S.C. 5493), as amended by section 316,
10 is further amended by adding at the end the following:

11 “(i) RESEARCH PAPER TRANSPARENCY.—Any time
12 the Commission, either through the research unit estab-
13 lished by the Chair under subsection (b)(1) or otherwise,
14 issues a research paper that is available to the public, the
15 Commission shall accompany such paper with all studies,
16 data, and other analyses on which the paper was based.”.

17 **SEC. 325. COMMISSION PAY FAIRNESS.**

18 (a) IN GENERAL.—Section 1013(a)(2) of the Con-
19 sumer Financial Protection Act of 2010 (12 U.S.C.
20 5493(a)(2)) is amended to read as follows:

21 “(2) COMPENSATION.—The rates of basic pay
22 for all employees of the Commission shall be set and
23 adjusted by the Commission in accordance with the
24 General Schedule set forth in section 5332 of title
25 5, United States Code.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to service by an employee of the
3 Consumer Financial Opportunity Commission following
4 the 90-day period beginning on the date of enactment of
5 this Act.

6 **SEC. 326. SEPARATION OF MARKET MONITORING FUNC-**
7 **TIONS AND SUPERVISORY FUNCTIONS.**

8 The Consumer Financial Protection Act of 2010 (12
9 U.S.C. 5481 et seq.) is amended—

10 (1) in section 1022(c)—

11 (A) in paragraph (1), by striking “In order
12 to support its rulemaking and other functions,
13 the” and inserting “The”; and

14 (B) in paragraph (4)—

15 (i) in subparagraph (A), by inserting
16 after “gather information” the following:
17 “on a sampling basis”;

18 (ii) in subparagraph (B)—

19 (I) in clause (i), by striking “a
20 variety of sources, including examina-
21 tion reports concerning covered per-
22 sons or service providers”; and

23 (II) in clause (ii), by inserting
24 after “require” the following: “, on a
25 sampling basis,”; and

1 (iii) in subparagraph (C), by inserting
2 before the period the following: “or for
3 purposes of assessing such covered per-
4 sons’ or service providers’ compliance with
5 the requirements of Federal consumer fi-
6 nancial law”;

7 (2) in section 1024(b)(1)—

8 (A) in subparagraph (A), by adding “and”
9 at the end;

10 (B) in subparagraph (B), by striking “;
11 and” and inserting a period; and

12 (C) by striking subparagraph (C);

13 (3) in section 1025(b)(1)—

14 (A) in subparagraph (A), by adding “and”
15 at the end;

16 (B) in subparagraph (B), by striking “;
17 and” and inserting a period; and

18 (C) by striking subparagraph (C); and

19 (4) in section 1026(b), by striking “, and to as-
20 sess and detect risks to consumers and consumer fi-
21 nancial markets”.

1 **SEC. 327. REQUIREMENT TO VERIFY INFORMATION IN THE**
2 **COMPLAINT DATABASE BEFORE IT MAY BE**
3 **RELEASED TO THE GENERAL PUBLIC.**

4 Section 1013(b)(3)(A) of the Consumer Financial
5 Protection Act of 2010 (12 U.S.C. 5493(b)(3)(A)) is
6 amended by adding at the end the following: “The Chair
7 may not make any information about a consumer com-
8 plaint in such database available to the public without first
9 verifying the accuracy of all facts alleged in such com-
10 plaint.”.

11 **SEC. 328. COMMISSION SUPERVISION LIMITED TO BANKS,**
12 **THRIFTS, AND CREDIT UNIONS WITH GREAT-**
13 **ER THAN \$50 BILLION IN ASSETS.**

14 The Consumer Financial Protection Act of 2010 (12
15 U.S.C. 5481 et seq.) is amended—

16 (1) in section 1025(a), by striking
17 “\$10,000,000,000” each place such term appears
18 and inserting “\$50,000,000,000”; and

19 (2) in section 1026(a), by striking
20 “\$10,000,000,000” each place such term appears
21 and inserting “\$50,000,000,000”.

22 **SEC. 329. TRANSFER OF OLD OTS BUILDING FROM OCC TO**
23 **GSA.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Chair of the Board of Directors of the
26 Office of the Comptroller of the Currency shall transfer

1 administrative jurisdiction over the Federal property lo-
2 cated at 1700 G Street, Northwest, in the District of Co-
3 lumbia to the Administrator of General Services.

4 **Subtitle C—Policy Enhancements**

5 **SEC. 331. CONSUMER RIGHT TO FINANCIAL PRIVACY.**

6 (a) REQUIREMENT OF THE COMMISSION TO OBTAIN
7 PERMISSION BEFORE COLLECTING NONPUBLIC PER-
8 SONAL INFORMATION.—

9 (1) REQUIRED NOTIFICATION AND PERMIS-
10 SION.—Section 1022(c)(9)(A) of the Consumer Fi-
11 nancial Protection Act of 2010 (12 U.S.C.
12 5512(c)(9)(A)) is amended—

13 (A) by striking “may not obtain from a
14 covered person or service provider” and insert-
15 ing “may not request, obtain, access, collect,
16 use, retain, or disclose”;

17 (B) by striking “personally identifiable fi-
18 nancial” and inserting “nonpublic personal”;
19 and

20 (C) by striking “from the financial
21 records” and all that follows through the period
22 at the end and inserting “unless—

23 “(i) the Commission clearly and con-
24 spicuously discloses to the consumer, in
25 writing or in an electronic form, what in-

1 formation will be requested, obtained,
2 accessed, collected, used, retained, or dis-
3 closed; and

4 “(ii) before such information is re-
5 quested, obtained, accessed, collected, used,
6 retained, or disclosed, the consumer in-
7 forms the Commission that such informa-
8 tion may be requested, obtained, accessed,
9 collected, used, retained, or disclosed.”.

10 (2) APPLICATION OF REQUIREMENT TO CON-
11 TRACTORS OF THE COMMISSION.—Section
12 1022(c)(9)(B) of such Act (12 U.S.C.
13 5512(c)(9)(B)) is amended to read as follows:

14 “(B) APPLICATION OF REQUIREMENT TO
15 CONTRACTORS OF THE COMMISSION.—Subpara-
16 graph (A) shall apply to any person directed or
17 engaged by the Commission to collect informa-
18 tion to the extent such information is being col-
19 lected on behalf of the Commission.”.

20 (3) DEFINITION OF NONPUBLIC PERSONAL IN-
21 FORMATION.—Section 1022(c)(9) of such Act (12
22 U.S.C. 5512(c)(9)) is amended by adding at the end
23 the following:

24 “(C) DEFINITION OF NONPUBLIC PER-
25 SONAL INFORMATION.—In this paragraph, the

1 term ‘nonpublic personal information’ has the
2 meaning given the term in section 509 of the
3 Gramm-Leach-Bliley Act (15 U.S.C. 6809).”.

4 (b) REMOVAL OF EXEMPTION FOR THE COMMISSION
5 FROM THE RIGHT TO FINANCIAL PRIVACY ACT.—Section
6 1113 of the Right to Financial Privacy Act of 1978 (12
7 U.S.C. 3413) is amended by striking subsection (r).

8 **SEC. 332. REPEAL OF COUNCIL AUTHORITY TO SET ASIDE**
9 **BUREAU RULES AND REQUIREMENT OF SAFE-**
10 **TY AND SOUNDNESS CONSIDERATIONS WHEN**
11 **ISSUING RULES.**

12 (a) REPEAL OF AUTHORITY.—

13 (1) IN GENERAL.—Section 1023 of the Con-
14 sumer Financial Protection Act of 2010 (12 U.S.C.
15 5513) is hereby repealed.

16 (2) CONFORMING AMENDMENT.—Section
17 1022(b)(2)(C) of the Consumer Financial Protection
18 Act of 2010 (12 U.S.C. 5512(b)(2)(C)) is amended
19 by striking “, except that nothing in this clause shall
20 be construed as altering or limiting the procedures
21 under section 1023 that may apply to any rule pre-
22 scribed by the Bureau of Consumer Financial Pro-
23 tection”.

24 (3) CLERICAL AMENDMENT.—The table of con-
25 tents under section 1(b) of the Dodd-Frank Wall

1 Street Reform and Consumer Protection Act is
2 amended by striking the item relating to section
3 1023.

4 (b) SAFETY AND SOUNDNESS CHECK.—Section
5 1022(b)(2)(A) of the Consumer Financial Protection Act
6 of 2010 (12 U.S.C. 5512(b)(2)(A)) is amended—

7 (1) in clause (i), by striking “and” at the end;

8 (2) in clause (ii), by adding “and” at the end;

9 and

10 (3) by adding at the end the following:

11 “(iii) the impact of such rule on the
12 financial safety or soundness of an insured
13 depository institution;”.

14 **SEC. 333. STATE AND TRIBAL PAYDAY LOAN REGULATION 5-**
15 **YEAR EXEMPTION.**

16 Section 1022 of the Consumer Financial Protection
17 Act of 2010 (12 U.S.C. 5512) is amended by adding at
18 the end the following:

19 “(e) STATE AND TRIBAL PAYDAY LOAN REGULATION
20 5-YEAR EXEMPTION.—

21 “(1) IN GENERAL.—With respect to a final rule
22 or regulation issued by the Bureau of Consumer Fi-
23 nancial Protection to regulate payday loans, vehicle
24 title loans, or other similar loans, if a State or a fed-
25 erally recognized Indian tribe requests, in writing,

1 for the Commission to provide the State or tribe
2 with a waiver from such rule or regulation, the Com-
3 mission shall grant a 5-year waiver to such State or
4 tribe, during which such rule or regulation shall not
5 apply within such State or land held in trust for the
6 benefit of such federally recognized Indian tribe.

7 “(2) EXTENSION OF WAIVER.—A State or a
8 federally recognized Indian tribe receiving a waiver
9 under paragraph (1) shall have the right to an un-
10 limited number of 5-year extensions of such waiver,
11 which shall be granted upon the request, in writing,
12 for such waiver by the State or tribe.”.

13 **SEC. 334. REFORMING INDIRECT AUTO FINANCING GUID-**
14 **ANCE.**

15 (a) NULLIFICATION OF AUTO LENDING GUID-
16 ANCE.—Bulletin 2013–02 of the Bureau of Consumer Fi-
17 nancial Protection (published March 21, 2013) shall have
18 no force or effect.

19 (b) GUIDANCE REQUIREMENTS.—Section 1022(b) of
20 the Consumer Financial Protection Act of 2010 (12
21 U.S.C. 5512(b)), as amended by section 322, is further
22 amended by adding at the end the following:

23 “(8) GUIDANCE ON INDIRECT AUTO FINANC-
24 ING.—In proposing and issuing guidance primarily

1 related to indirect auto financing, the Commission
2 shall—

3 “(A) provide for a public notice and com-
4 ment period before issuing the guidance in final
5 form;

6 “(B) make available to the public, includ-
7 ing on the website of the Commission, all stud-
8 ies, data, methodologies, analyses, and other in-
9 formation relied on by the Commission in pre-
10 paring such guidance;

11 “(C) redact any information that is exempt
12 from disclosure under paragraph (3), (4), (6),
13 (7), or (8) of section 552(b) of title 5, United
14 States Code;

15 “(D) consult with the Board of Governors
16 of the Federal Reserve System, the Federal
17 Trade Commission, and the Department of Jus-
18 tice; and

19 “(E) conduct a study on the costs and im-
20 pacts of such guidance to consumers and
21 women-owned, minority-owned, veteran-owned,
22 and small businesses, including consumers and
23 small businesses in rural areas.”.

24 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
25 tion shall be construed to apply to guidance issued by the

1 Consumer Financial Opportunity Commission that is not
2 primarily related to indirect auto financing.

3 **SEC. 335. PROHIBITION OF GOVERNMENT PRICE CON-**
4 **TROLS FOR PAYMENT CARD TRANSACTIONS.**

5 (a) IN GENERAL.—Section 1075 of the Consumer Fi-
6 nancial Protection Act of 2010 is hereby repealed and the
7 provisions of law amended by such section are revived or
8 restored as if such section had not been enacted.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 under section 1(b) of the Dodd-Frank Wall Street Reform
11 and Consumer Protection Act is amended by striking the
12 item relating to section 1075.

13 **SEC. 336. ANNUAL STUDIES ON ENDING THE CON-**
14 **SERVATORSHIP OF FANNIE MAE, FREDDIE**
15 **MAC, AND REFORMING THE HOUSING FI-**
16 **NANCE SYSTEM.**

17 Section 1074 of the Consumer Financial Protection
18 Act of 2010 is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by inserting after
21 “Secretary of the Treasury shall” the following:

22 “, on an annual basis,”; and

23 (B) in paragraph (2), by striking “The
24 study” and inserting “Each study”;

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) **REPORT AND RECOMMENDATIONS.**—The Sec-
4 retary of the Treasury shall submit a report on each study
5 required under subsection (a), along with recommenda-
6 tions developed in such study, to the President, the Com-
7 mittee on Banking, Housing, and Urban Affairs of the
8 Senate, and the Committee on Financial Services of the
9 House of Representatives.”; and

10 (3) by adding at the end the following:

11 “(c) **APPEARANCES BEFORE CONGRESS.**—The Sec-
12 retary of the Treasury shall appear before the Committee
13 on Banking, Housing, and Urban Affairs of the Senate
14 and the Committee on Financial Services of the House of
15 Representatives at annual hearings regarding each report
16 required under subsection (b).”.

17 **SEC. 337. REMOVAL OF “ABUSIVE” AUTHORITY.**

18 The Consumer Financial Protection Act of 2010 (12
19 U.S.C. 5481 et seq.) is amended—

20 (1) in section 1013(g)—

21 (A) by striking “, deceptive, and abusive”
22 each place such term appears and inserting
23 “and deceptive”; and

1 (B) by striking “, deceptive, or abusive”
2 each place such term appears and inserting “or
3 deceptive”;

4 (2) in section 1021(b)(2), by striking “, decep-
5 tive, or abusive” and inserting “or deceptive”;

6 (3) in section 1031—

7 (A) in the heading of such section, by
8 striking “, **DECEPTIVE, OR ABUSIVE**” and in-
9 serting “**OR DECEPTIVE**”;

10 (B) by striking “, deceptive, or abusive”
11 each place such term appears and inserting “or
12 deceptive”;

13 (C) by striking subsection (d); and

14 (D) by redesignating subsections (e) and
15 (f) as subsections (d) and (e), respectively;

16 (4) in section 1036(a)(1)(B), by striking “, de-
17 ceptive, or abusive” and inserting “or deceptive”;
18 and

19 (5) in section 1076(b)(2)(A), by striking “, de-
20 ceptive, or abusive” and inserting “or deceptive”.

21 **SEC. 338. REPEAL OF AUTHORITY TO RESTRICT ARBITRA-**
22 **TION.**

23 (a) IN GENERAL.—Section 1028 of the Consumer Fi-
24 nancial Protection Act of 2010 (12 U.S.C. 5518) is hereby
25 repealed.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 under section 1(b) of the Dodd-Frank Wall Street Reform
3 and Consumer Protection Act is amended by striking the
4 item relating to section 1028.

5 **TITLE IV—CAPITAL MARKETS**
6 **IMPROVEMENTS**
7 **Subtitle A—SEC Reform,**
8 **Restructuring, and Accountability**

9 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 35 of the Securities Exchange Act of 1934
11 (15 U.S.C. 78kk) is amended by striking paragraphs (1)
12 through (5) and inserting the following:

13 “(1) for fiscal year 2017, \$1,555,000,000;
14 “(2) for fiscal year 2018, \$1,605,000,000;
15 “(3) for fiscal year 2019, \$1,655,000,000;
16 “(4) for fiscal year 2020, \$1,705,000,000; and
17 “(5) for fiscal year 2021, \$1,755,000,000.”.

18 **SEC. 402. REPORT ON UNOBLIGATED APPROPRIATIONS.**

19 Section 23 of the Securities Exchange Act of 1934
20 (15 U.S.C. 78w) is amended by adding at the end the fol-
21 lowing:

22 “(e) REPORT ON UNOBLIGATED APPROPRIATIONS.—
23 If, at the end of any fiscal year, there remain unobligated
24 any funds that were appropriated to the Commission for
25 such fiscal year, the Commission shall, not later than 30

1 days after the last day of such fiscal year, submit to the
2 Committee on Financial Services and the Committee on
3 Appropriations of the House of Representatives and the
4 Committee on Banking, Housing, and Urban Affairs and
5 the Committee on Appropriations of the Senate a report
6 stating the amount of such unobligated funds. If there is
7 any material change in the amount stated in the report,
8 the Commission shall, not later than 7 days after deter-
9 mining the amount of the change, submit to such commit-
10 tees a supplementary report stating the amount of and
11 reason for the change.”.

12 **SEC. 403. SEC RESERVE FUND ABOLISHED.**

13 Section 4 of the Securities Exchange Act of 1934 (15
14 U.S.C. 78d) is amended by striking subsection (i).

15 **SEC. 404. FEES TO OFFSET APPROPRIATIONS.**

16 (a) SECTION 31 OF THE SECURITIES EXCHANGE ACT
17 OF 1934.—Section 31 of the Securities Exchange Act of
18 1934 (15 U.S.C. 78ee) is amended—

19 (1) by striking subsection (a) and inserting the
20 following:

21 “(a) COLLECTION.—The Commission shall, in ac-
22 cordance with this section, collect transaction fees and as-
23 sessments.”;

24 (2) in subsection (i)—

1 (A) in paragraph (1)(A), by inserting “ex-
2 cept as provided in paragraph (2),” before
3 “shall”; and

4 (B) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) GENERAL REVENUE.—Any fees collected
7 for a fiscal year pursuant to this section, sections
8 13(e) and 14(g) of this title, and section 6(b) of the
9 Securities Act of 1933 in excess of the amount pro-
10 vided in appropriation Acts for collection for such
11 fiscal year pursuant to such sections shall be depos-
12 ited and credited as general revenue of the Treas-
13 ury.”;

14 (3) in subsection (j)—

15 (A) by striking “the regular appropriation
16 to the Commission by Congress for such fiscal
17 year” each place it appears and inserting “the
18 target offsetting collection amount for such fis-
19 cal year”; and

20 (B) in paragraph (2), by striking “sub-
21 section (l)” and inserting “subsection (l)(2)”;
22 and

23 (4) by striking subsection (l) and inserting the
24 following:

25 “(l) DEFINITIONS.—For purposes of this section:

1 “(1) TARGET OFFSETTING COLLECTION
2 AMOUNT.—The target offsetting collection amount
3 for a fiscal year is—

4 “(A) for fiscal year 2017, \$1,400,000,000;
5 and

6 “(B) for each succeeding fiscal year, the
7 target offsetting collection amount for the prior
8 fiscal year, adjusted by the rate of inflation.

9 “(2) BASELINE ESTIMATE OF THE AGGREGATE
10 DOLLAR AMOUNT OF SALES.—The baseline estimate
11 of the aggregate dollar amount of sales for any fiscal
12 year is the baseline estimate of the aggregate dollar
13 amount of sales of securities (other than bonds, de-
14 bentures, other evidences of indebtedness, security
15 futures products, and options on securities indexes
16 (excluding a narrow-based security index)) to be
17 transacted on each national securities exchange and
18 by or through any member of each national securi-
19 ties association (otherwise than on a national securi-
20 ties exchange) during such fiscal year as determined
21 by the Commission, after consultation with the Con-
22 gressional Budget Office and the Office of Manage-
23 ment and Budget, using the methodology required
24 for making projections pursuant to section 257 of

1 the Balanced Budget and Emergency Deficit Control
2 Act of 1985.”.

3 (b) SECTION 6(b) OF THE SECURITIES ACT OF
4 1933.—Section 6(b) of the Securities Act of 1933 (15
5 U.S.C. 77f(b)) is amended—

6 (1) by striking “target fee collection amount”
7 each place it appears and inserting “target offsetting
8 collection amount”;

9 (2) in paragraph (4), by striking the last sen-
10 tence and inserting the following: “Subject to para-
11 graphs (6)(B) and (7), an adjusted rate prescribed
12 under paragraph (2) shall take effect on the later
13 of—

14 “(A) the first day of the fiscal year to
15 which such rate applies; or

16 “(B) five days after the date on which a
17 regular appropriation to the Commission for
18 such fiscal year is enacted.”;

19 (3) in paragraph (5), by inserting “of the Secu-
20 rities Exchange Act of 1934” after “sections 13(e)
21 and 14(g)”;

22 (4) by redesignating paragraph (6) as para-
23 graph (8);

24 (5) by inserting after paragraph (5) the fol-
25 lowing:

1 “(6) OFFSETTING COLLECTIONS.—Fees col-
2 lected pursuant to this subsection for any fiscal
3 year—

4 “(A) except as provided in section 31(i)(2)
5 of the Securities Exchange Act of 1934, shall
6 be deposited and credited as offsetting collec-
7 tions to the account providing appropriations to
8 the Commission; and

9 “(B) except as provided in paragraph (7),
10 shall not be collected for any fiscal year except
11 to the extent provided in advance in appropria-
12 tion Acts.

13 “(7) LAPSE OF APPROPRIATION.—If on the
14 first day of a fiscal year a regular appropriation to
15 the Commission has not been enacted, the Commis-
16 sion shall continue to collect fees (as offsetting col-
17 lections) under this subsection at the rate in effect
18 during the preceding fiscal year, until 5 days after
19 the date such a regular appropriation is enacted.”;
20 and

21 (6) in paragraph (8) (as so redesignated), by
22 striking the heading of subparagraph (A) and insert-
23 ing “TARGET OFFSETTING COLLECTION AMOUNT.—
24 ”.

1 (c) SECTION 13(e) OF THE SECURITIES EXCHANGE
2 ACT OF 1934.—Section 13(e) of the Securities Exchange
3 Act of 1934 (15 U.S.C. 78m(e)) is amended—

4 (1) by striking paragraph (5) and inserting the
5 following:

6 “(5) OFFSETTING COLLECTIONS.—Fees col-
7 lected pursuant to this subsection for any fiscal
8 year—

9 “(A) except as provided in section 31(i)(2),
10 shall be deposited and credited as offsetting col-
11 lections to the account providing appropriations
12 to the Commission; and

13 “(B) except as provided in paragraph (8),
14 shall not be collected for any fiscal year except
15 to the extent provided in advance in appropria-
16 tions Acts.”; and

17 (2) by adding at the end the following:

18 “(8) LAPSE OF APPROPRIATION.—If on the
19 first day of a fiscal year a regular appropriation to
20 the Commission has not been enacted, the Commis-
21 sion shall continue to collect fees (as offsetting col-
22 lections) under this subsection at the rate in effect
23 during the preceding fiscal year, until 5 days after
24 the date such a regular appropriation is enacted.”.

1 (d) SECTION 14(g) OF THE SECURITIES EXCHANGE
2 ACT OF 1934.—Section 14(g) of the Securities Exchange
3 Act of 1934 (15 U.S.C. 78n(g)) is amended—

4 (1) by striking paragraph (5) and inserting the
5 following:

6 “(5) OFFSETTING COLLECTIONS.—Fees col-
7 lected pursuant to this subsection for any fiscal
8 year—

9 “(A) except as provided in section 31(i)(2),
10 shall be deposited and credited as offsetting col-
11 lections to the account providing appropriations
12 to the Commission; and

13 “(B) except as provided in paragraph (8),
14 shall not be collected for any fiscal year except
15 to the extent provided in advance in appropria-
16 tions Acts.”;

17 (2) by redesignating paragraph (8) as para-
18 graph (9); and

19 (3) by inserting after paragraph (7) the fol-
20 lowing:

21 “(8) LAPSE OF APPROPRIATION.—If on the
22 first day of a fiscal year a regular appropriation to
23 the Commission has not been enacted, the Commis-
24 sion shall continue to collect fees (as offsetting col-
25 lections) under this subsection at the rate in effect

1 during the preceding fiscal year, until 5 days after
2 the date such a regular appropriation is enacted.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section—

5 (1) shall apply beginning on October 1, 2016,
6 except that for fiscal year 2017, the Securities and
7 Exchange Commission shall publish—

8 (A) the rates established under section 31
9 of the Securities Exchange Act of 1934, as
10 amended by this section, not later than 30 days
11 after the date on which an Act making a reg-
12 ular appropriation to the Commission for fiscal
13 year 2017 is enacted; and

14 (B) the rate established under section 6(b)
15 of the Securities Act of 1933, as amended by
16 this section, not later than August 31, 2016;
17 and

18 (2) shall not apply with respect to fees for any
19 fiscal year before fiscal year 2017.

20 **SEC. 405. IMPLEMENTATION OF RECOMMENDATIONS.**

21 Section 967 of the Dodd-Frank Wall Street Reform
22 and Consumer Protection Act is amended by adding at
23 the end the following:

24 “(d) IMPLEMENTATION OF RECOMMENDATIONS.—
25 Not later than 6 months after the date of enactment of

1 this subsection, the Securities and Exchange Commission
2 shall complete an implementation of the recommendations
3 contained in the report of the independent consultant
4 issued under subsection (b) on March 10, 2011. To the
5 extent that implementation of certain recommendations
6 requires legislation, the Commission shall submit a report
7 to Congress containing a request for legislation granting
8 the Commission such authority it needs to fully implement
9 such recommendations.”.

10 **SEC. 406. OFFICE OF CREDIT RATINGS TO REPORT TO THE**
11 **DIVISION OF TRADING AND MARKETS.**

12 Section 15E(p)(1) of the Securities Exchange Act of
13 1934 (15 U.S.C. 78o-7(p)(1)) is amended—

14 (1) in subparagraph (A), by striking “within
15 the Commission” and inserting “within the Division
16 of Trading and Markets”; and

17 (2) in subparagraph (B), by striking “report to
18 the Chairman” and inserting “report to the head of
19 the Division of Trading and Markets”.

20 **SEC. 407. OFFICE OF MUNICIPAL SECURITIES TO REPORT**
21 **TO THE DIVISION OF TRADING AND MAR-**
22 **KETS.**

23 Section 979 of the Dodd-Frank Wall Street Reform
24 and Consumer Protection Act (15 U.S.C. 78o-4a) is
25 amended—

1 (1) in subsection (a), by inserting “, within the
2 Division of Trading and Markets,” after “There
3 shall be in the Commission”; and

4 (2) in subsection (b), by striking “report to the
5 Chairman” and inserting “report to the head of the
6 Division of Trading and Markets”.

7 **SEC. 408. INDEPENDENCE OF COMMISSION OMBUDSMAN.**

8 Section 4(g)(8) of the Securities Exchange Act of
9 1934 (15 U.S.C. 78d(g)(8)) is amended—

10 (1) in subparagraph (A), by striking “the In-
11 vestor Advocate shall appoint” and all that follows
12 through “Investor Advocate” and inserting “the
13 Chairman shall appoint an Ombudsman, who shall
14 report to the Commission”; and

15 (2) in subparagraph (D)—

16 (A) by striking “report to the Investor Ad-
17 vocate” and inserting “report to the Commis-
18 sion”; and

19 (B) by striking the last sentence.

20 **SEC. 409. COORDINATION WITH THE INVESTOR ADVISORY**
21 **COMMITTEE.**

22 Section 39 of the Securities Exchange Act of 1934
23 (15 U.S.C. 78pp) is amended—

24 (1) in subsection (a)(2)(B), by striking “sub-
25 mit” and inserting, “in consultation with the Small

1 Business Capital Formation Advisory Committee es-
2 tablished under section 40, submit”;

3 (2) in subsection (b)(1)—

4 (A) in subparagraph (C), by striking
5 “and”;

6 (B) in subparagraph (D)(iv), by striking
7 the period at the end and inserting “; and”;
8 and

9 (C) by adding at the end the following:

10 “(E) a member of the Small Business Cap-
11 ital Formation Advisory Committee who shall
12 be a nonvoting member.”; and

13 (3) by striking subsections (i) and (j).

14 **SEC. 410. DUTIES OF INVESTOR ADVOCATE.**

15 Section 4(g)(4) of the Securities Exchange Act of
16 1934 (15 U.S.C. 78d(g)(4)) is amended—

17 (1) in subparagraph (D)(ii), by striking “and”;

18 (2) in subparagraph (E), by striking the period
19 at the end and inserting a semicolon; and

20 (3) by adding at the end the following:

21 “(F) not take a position on any legislation
22 pending before Congress other than a legislative
23 change proposed by the Investor Advocate pur-
24 suant to subparagraph (E);

1 “(G) consult with the Advocate for Small
2 Business Capital Formation on proposed rec-
3 ommendations made under subparagraph (E);
4 and

5 “(H) advise the Advocate for Small Busi-
6 ness Capital Formation on issues related to
7 small business investors.”.

8 **SEC. 411. INTERNAL RISK CONTROLS.**

9 The Securities Exchange Act of 1934 (15 U.S.C. 78a
10 et seq.) is amended—

11 (1) by inserting after section 4G, as added by
12 this Act, the following:

13 **“SEC. 4H. INTERNAL RISK CONTROLS.**

14 “The Commission, in consultation with the Chief
15 Economist, shall develop comprehensive internal risk con-
16 trol mechanisms to safeguard and govern the storage of
17 all market data by the Commission, all market data shar-
18 ing agreements of the Commission, and all academic re-
19 search performed at the Commission using market data.”;
20 and

21 (2) in section 3(a), by adding at the end the
22 following:

23 “(81) CHIEF ECONOMIST.—The term ‘Chief
24 Economist’ means the Director of the Division of
25 Economic and Risk Analysis, or an employee of the

1 Commission with comparable authority, as deter-
2 mined by the Commission.”.

3 **SEC. 412. APPLICABILITY OF NOTICE AND COMMENT RE-**
4 **QUIREMENTS OF THE ADMINISTRATIVE PRO-**
5 **CEDURE ACT TO GUIDANCE VOTED ON BY**
6 **THE COMMISSION.**

7 The Securities Exchange Act of 1934 (15 U.S.C. 78a
8 et seq.) is amended by inserting after section 4H, as added
9 by this Act, the following:

10 **“SEC. 4I. APPLICABILITY OF NOTICE AND COMMENT RE-**
11 **QUIREMENTS OF THE ADMINISTRATIVE PRO-**
12 **CEDURE ACT TO GUIDANCE VOTED ON BY**
13 **THE COMMISSION.**

14 “The notice and comment requirements of section
15 553 of title 5, United States Code, shall also apply with
16 respect to any Commission statement or guidance, includ-
17 ing interpretive rules, general statements of policy, or
18 rules of Commission organization, procedure, or practice,
19 that has the effect of implementing, interpreting, or pre-
20 scribing law or policy and that is voted on by the Commis-
21 sion.”.

22 **SEC. 413. PROCESS FOR CLOSING INVESTIGATIONS.**

23 (a) IN GENERAL.—Not later than 180 days after the
24 date of the enactment of this Act, the Securities and Ex-
25 change Commission shall establish a process for closing

1 investigations (including preliminary or informal inves-
2 tigations) that is designed to ensure that the Commission,
3 in a timely manner—

4 (1) makes a determination of whether or not to
5 institute an administrative or judicial action in a
6 matter or refer the matter to the Attorney General
7 for potential criminal prosecution; and

8 (2) if the Commission determines not to insti-
9 tute such an action or refer the matter to the Attor-
10 ney General, informs the persons who are the sub-
11 ject of the investigation that the investigation is
12 closed.

13 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
14 tion shall be construed to affect the authority of the Com-
15 mission to re-open an investigation if the Commission ob-
16 tains new evidence after the investigation is closed, subject
17 to any applicable statute of limitations.

18 **SEC. 414. ENFORCEMENT OMBUDSMAN.**

19 (a) **IN GENERAL.**—Section 4 of the Securities Ex-
20 change Act of 1934 (15 U.S.C. 78d), as amended by this
21 Act, is further amended by adding at the end the fol-
22 lowing:

23 “(i) **ENFORCEMENT OMBUDSMAN.**—

1 “(1) ESTABLISHMENT.—The Commission shall
2 have an Enforcement Ombudsman, who shall be ap-
3 pointed by and report directly to the Commission.

4 “(2) DUTIES.—The Enforcement Ombudsman
5 shall—

6 “(A) act as a liaison between the Commis-
7 sion and any person who is the subject of an in-
8 vestigation (including a preliminary or informal
9 investigation) by the Commission or an admin-
10 istrative or judicial action brought by the Com-
11 mission in resolving problems that such persons
12 may have with the Commission or the conduct
13 of Commission staff; and

14 “(B) establish safeguards to maintain the
15 confidentiality of communications between the
16 persons described in subparagraph (A) and the
17 Enforcement Ombudsman.

18 “(3) LIMITATION.—In carrying out the duties
19 of the Enforcement Ombudsman under paragraph
20 (2), the Enforcement Ombudsman shall utilize per-
21 sonnel of the Commission to the extent practicable.
22 Nothing in this subsection shall be construed as re-
23 placing, altering, or diminishing the activities of any
24 ombudsman or similar office of any other agency.

1 “(4) **REPORT.**—The Enforcement Ombudsman
 2 shall submit to the Commission and to the Com-
 3 mittee on Financial Services of the House of Rep-
 4 resentatives and the Committee on Banking, Hous-
 5 ing, and Urban Affairs of the Senate an annual re-
 6 port that describes the activities and evaluates the
 7 effectiveness of the Enforcement Ombudsman during
 8 the preceding year.”.

9 **(b) DEADLINE FOR INITIAL APPOINTMENT.**—The
 10 Securities and Exchange Commission shall appoint the ini-
 11 tial Enforcement Ombudsman under subsection (i) of sec-
 12 tion 4 of the Securities Exchange Act of 1934, as added
 13 by subsection (a), not later than 180 days after the date
 14 of the enactment of this Act.

15 **SEC. 415. PROCESS TO ENSURE ENFORCEMENT ACTIONS**
 16 **ARE WITHIN AUTHORITY OF COMMISSION.**

17 Not later than 180 days after the date of the enact-
 18 ment of this Act, the Securities and Exchange Commission
 19 shall establish a process to ensure that administrative and
 20 judicial actions brought by the Commission under the se-
 21 curities laws (as defined in section 3(a) of the Securities
 22 Exchange Act of 1934 (15 U.S.C. 78c(a))) do not exceed
 23 the authority of the Commission under such laws and, in
 24 the case of administrative actions, are conducted consist-
 25 ently with subchapter II of chapter 5 of title 5, United

1 States Code (commonly referred to as the “Administrative
2 Procedure Act”).

3 **SEC. 416. PROCESS TO PERMIT RECIPIENT OF WELLS NOTI-**
4 **FICATION TO APPEAR BEFORE COMMISSION**
5 **STAFF IN-PERSON.**

6 (a) **IN GENERAL.**—Not later than 180 days after the
7 date of the enactment of this Act, the Securities and Ex-
8 change Commission shall establish a process under which,
9 in any instance in which the Commission staff provides
10 a written Wells notification to an individual informing the
11 individual that the Commission staff has made a prelimi-
12 nary determination to recommend that the Commission
13 bring an administrative or judicial action against the indi-
14 vidual, the individual shall have the right to make an in-
15 person presentation before the Commission staff con-
16 cerning such recommendation and to be represented by
17 counsel at such presentation, at the individual’s own ex-
18 pense.

19 (b) **ATTENDANCE BY COMMISSIONERS.**—Such proc-
20 ess shall provide that each Commissioner of the Commis-
21 sion, or a designee of the Commissioner, may attend any
22 such presentation.

23 (c) **REPORT BY COMMISSION STAFF.**—Such process
24 shall provide that, before any Commission vote on whether
25 to bring the administrative or judicial action against the

1 individual, the Commission staff shall provide to each
2 Commissioner a written report on any such presentation,
3 including any factual or legal arguments made by the indi-
4 vidual and any supporting documents provided by the indi-
5 vidual.

6 **SEC. 417. PUBLICATION OF ENFORCEMENT MANUAL.**

7 (a) IN GENERAL.—Not later than 1 year after the
8 date of the enactment of this Act, the Securities and Ex-
9 change Commission shall approve, by vote of the Commis-
10 sion, and publish an updated manual that sets forth the
11 policies and practices that the Commission will follow in
12 the enforcement of the securities laws (as defined in sec-
13 tion 3(a) of the Securities Exchange Act of 1934 (15
14 U.S.C. 78c(a))). Such manual shall include policies and
15 practices required by this Act, and by the amendments
16 made by this Act, and shall be developed so as to ensure
17 transparency in such enforcement and uniform application
18 of such laws by the Commission.

19 (b) ENFORCEMENT PLAN AND REPORT.—Beginning
20 on the date that is one year after the date of enactment
21 of this Act, and each year thereafter, and the Securities
22 and Exchange Commission shall transmit to Congress and
23 publish on its Internet website an annual enforcement
24 plan and report that shall—

1 (1) detail the priorities of the Commission with
2 regard to enforcement and examination activities for
3 the forthcoming year;

4 (2) report on the Commission's enforcement
5 and examination activities for the previous year, in-
6 cluding an assessment of how such activities com-
7 ported with the priorities identified for that year
8 pursuant to paragraph (1); and

9 (3) provide an opportunity and mechanism for
10 public comment.

11 **SEC. 418. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
12 **SECURITIES AND EXCHANGE COMMISSION TO**
13 **SEEK SANCTIONS BY FILING CIVIL ACTIONS.**

14 Title I of the Securities Exchange Act of 1934 (15
15 U.S.C. 78a et seq.) is amended by adding at the end the
16 following:

17 **“SEC. 41. PRIVATE PARTIES AUTHORIZED TO COMPEL THE**
18 **COMMISSION TO SEEK SANCTIONS BY FILING**
19 **CIVIL ACTIONS.**

20 “(a) **TERMINATION OF ADMINISTRATIVE PRO-**
21 **CEEDING.**—In the case of any person who is a party to
22 a proceeding brought by the Commission under a securi-
23 ties law, to which section 554 of title 5, United States
24 Code, applies, and against whom an order imposing a
25 cease and desist order and a penalty may be issued at

1 the conclusion of the proceeding, that person may, not
2 later than 20 days after receiving notice of such pro-
3 ceeding, and at that person's discretion, require the Com-
4 mission to terminate the proceeding.

5 “(b) CIVIL ACTION AUTHORIZED.—If a person re-
6 quires the Commission to terminate a proceeding pursuant
7 to subsection (a), the Commission may bring a civil action
8 against that person for the same remedy that might be
9 imposed.

10 “(c) STANDARD OF PROOF IN ADMINISTRATIVE PRO-
11 CEEDING.—Notwithstanding any other provision of law, in
12 the case of a proceeding brought by the Commission under
13 a securities law, to which section 554 of title 5, United
14 States Code, applies, a legal or equitable remedy may be
15 imposed on the person against whom the proceeding was
16 brought only on a showing by the Commission of clear and
17 convincing evidence that the person has violated the rel-
18 evant provision of law.”.

19 **SEC. 419. CERTAIN FINDINGS REQUIRED TO APPROVE**
20 **CIVIL MONEY PENALTIES AGAINST ISSUERS.**

21 The Securities Exchange Act of 1934 (15 U.S.C. 78a
22 et seq.) is amended by inserting after section 4E the fol-
23 lowing:

1 **“SEC. 4F. CERTAIN FINDINGS REQUIRED TO APPROVE**
2 **CIVIL MONEY PENALTIES AGAINST ISSUERS.**

3 “The Commission may not seek against or impose on
4 an issuer a civil money penalty for violation of the securi-
5 ties laws unless the publicly available text of the order ap-
6 proving the seeking or imposition of such penalty contains
7 findings, supported by an analysis by the Division of Eco-
8 nomic and Risk Analysis and certified by the Chief Econo-
9 mist, of whether—

10 “(1) the alleged violation resulted in direct eco-
11 nomic benefit to the issuer; and

12 “(2) the penalty will harm the shareholders of
13 the issuer.”.

14 **SEC. 420. REPEAL OF AUTHORITY OF THE COMMISSION TO**
15 **PROHIBIT PERSONS FROM SERVING AS OFFI-**
16 **CERS OR DIRECTORS.**

17 (a) UNDER SECURITIES ACT OF 1933.—Subsection
18 (f) of section 8A of the Securities Act of 1933 (15 U.S.C.
19 77h–1) is repealed.

20 (b) UNDER SECURITIES EXCHANGE ACT OF 1934.—
21 Subsection (f) of section 21C of the Securities Exchange
22 Act of 1934 (15 U.S.C. 78u–3) is repealed.

23 **SEC. 421. SUBPOENA DURATION AND RENEWAL.**

24 Section 21(b) of the Securities Exchange Act of 1934
25 (15 U.S.C. 78u(b)) is amended—

1 (1) by inserting “SUBPOENA.— ” after the enu-
2 merator;

3 (2) by striking “For the purpose of” and insert-
4 ing the following:

5 “(1) IN GENERAL.—For the purpose of”; and

6 (3) by adding at the end the following:

7 “(2) OMNIBUS ORDERS OF INVESTIGATION.—

8 “(A) DURATION AND RENEWAL.—An om-
9 nibus order of investigation shall not be for an
10 indefinite duration and may be renewed only by
11 Commission action.

12 “(B) DEFINITION.—In paragraph (A), the
13 term ‘omnibus order of investigation’ means an
14 order of the Commission authorizing 1 of more
15 members of the Commission or its staff to issue
16 subpoenas under paragraph (1) to multiple per-
17 sons in relation to a particular subject matter
18 area.”.

19 **SEC. 422. ELIMINATION OF AUTOMATIC DISQUALIFICA-**
20 **TIONS.**

21 The Securities Exchange Act of 1934 (15 U.S.C. 78a
22 et seq.), as amended by this Act, is further amended by
23 inserting after section 4F the following:

1 **“SEC. 4G. ELIMINATION OF AUTOMATIC DISQUALIFICA-**
2 **TIONS.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
4 vision of law, a non-natural person may not be disqualified
5 or otherwise made ineligible to use an exemption or reg-
6 istration provision, engage in an activity, or qualify for
7 any similar treatment under a provision of the securities
8 laws or the rules issued by the Commission under the se-
9 curities laws by reason of having, or a person described
10 in subsection (b) having, been convicted of any felony or
11 misdemeanor or made the subject of any judicial or admin-
12 istrative order, judgment, or decree arising out of a gov-
13 ernmental action (including an order, judgment, or decree
14 agreed to in a settlement), or having, or a person de-
15 scribed in subsection (b) having, been suspended or ex-
16 pelled from membership in, or suspended or barred from
17 association with a member of, a registered national securi-
18 ties exchange or a registered national or affiliated securi-
19 ties association for any act or omission to act constituting
20 conduct inconsistent with just and equitable principles of
21 trade, unless the Commission, by order, on the record
22 after notice and an opportunity for hearing, makes a de-
23 termination that such non-natural person should be so dis-
24 qualified or otherwise made ineligible for purposes of such
25 provision.

1 “(b) PERSON DESCRIBED.—A person is described in
2 this subsection if the person is—

3 “(1) a natural person who is a director, officer,
4 employee, partner, member, or shareholder of the
5 non-natural person referred to in subsection (a) or
6 is otherwise associated or affiliated with such non-
7 natural person in any way; or

8 “(2) a non-natural person who is associated or
9 affiliated with the non-natural person referred to in
10 subsection (a) in any way.

11 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to limit any authority of the Com-
13 mission, by order, on the record after notice and an oppor-
14 tunity for hearing, to prohibit a person from using an ex-
15 emption or registration provision, engaging in an activity,
16 or qualifying for any similar treatment under a provision
17 of the securities laws, or the rules issued by the Commis-
18 sion under the securities laws, by reason of a circumstance
19 referred to in subsection (a) or any similar circumstance.”.

20 **SEC. 423. CONFIDENTIALITY OF RECORDS OBTAINED FROM**
21 **FOREIGN SECURITIES AND LAW ENFORCE-**
22 **MENT AUTHORITIES.**

23 Section 24(d) of the Securities Exchange Act of 1934
24 (15 U.S.C. 78x(d)) is amended to read as follows:

1 “(d) RECORDS OBTAINED FROM FOREIGN SECURI-
2 TIES AND LAW ENFORCEMENT AUTHORITIES.—Except as
3 provided in subsection (g), the Commission shall not be
4 compelled to disclose records obtained from a foreign secu-
5 rities authority, or from a foreign law enforcement author-
6 ity as defined in subsection (f)(4), if—

7 “(1) the foreign securities authority or foreign
8 law enforcement authority has in good faith deter-
9 mined and represented to the Commission that the
10 records are confidential under the laws of the coun-
11 try of such authority; and

12 “(2) the Commission obtains such records pur-
13 suant to—

14 “(A) such procedure as the Commission
15 may authorize for use in connection with the
16 administration or enforcement of the securities
17 laws; or

18 “(B) a memorandum of understanding.

19 For purposes of section 552 of title 5, United States Code,
20 this subsection shall be considered a statute described in
21 subsection (b)(3)(B) of such section 552.”.

1 **SEC. 424. CLARIFICATION OF AUTHORITY TO IMPOSE SANC-**
2 **TIONS ON PERSONS ASSOCIATED WITH A**
3 **BROKER OR DEALER.**

4 Section 15(b)(6)(A)(i) of the Securities Exchange Act
5 of 1934 (15 U.S.C. 78o(b)(6)(A)(i)) is amended by strik-
6 ing “enumerated” and all that follows and inserting “enu-
7 merated in subparagraph (A), (D), (E), (G), or (H) of
8 paragraph (4) of this subsection;”.

9 **SEC. 425. CONGRESSIONAL ACCESS TO INFORMATION**
10 **HELD BY THE PUBLIC COMPANY ACCOUNT-**
11 **ING OVERSIGHT BOARD.**

12 Section 105(b)(5) of the Sarbanes-Oxley Act of 2002
13 (15 U.S.C. 7215(b)(5)) is amended—

14 (1) in subparagraph (A), by striking “subpara-
15 graphs (B) and (C)” and inserting “subparagraphs
16 (B), (C) and (D)”; and

17 (2) by adding at the end the following:

18 “(D) AVAILABILITY TO THE CONGRES-
19 SIONAL COMMITTEES.—The Board shall make
20 available to the Committees specified under sec-
21 tion 101(h)—

22 “(i) such information as the Commit-
23 tees shall request; and

24 “(ii) with respect to any confidential
25 or privileged information provided in re-
26 sponse to a request under clause (i), in-

1 cluding any information subject to section
2 104(g) and subparagraph (A), or any con-
3 fidential or privileged information provided
4 orally in response to such a request, such
5 information shall maintain the protections
6 provided in subparagraph (A), and shall
7 retain its confidential and privileged status
8 in the hands of the Board and the Com-
9 mittees.”.

10 **SEC. 426. REPEAL OF REQUIREMENT FOR PUBLIC COM-**
11 **PANY ACCOUNTING OVERSIGHT BOARD TO**
12 **USE CERTAIN FUNDS FOR MERIT SCHOLAR-**
13 **SHIP PROGRAM.**

14 (a) IN GENERAL.—Section 109(c) of the Sarbanes-
15 Oxley Act of 2002 (15 U.S.C. 7219(c)) is amended by
16 striking paragraph (2).

17 (b) CONFORMING AMENDMENTS.—Section 109 of the
18 Sarbanes-Oxley Act of 2002 (15 U.S.C. 7219) is amend-
19 ed—

20 (1) in subsection (c), by striking “USES OF
21 FUNDS” and all that follows through “The budget”
22 and inserting “USES OF FUNDS.—The budget”; and

23 (2) in subsection (f), by striking “subsection
24 (c)(1)” and inserting “subsection (c)”.

1 **SEC. 427. REALLOCATION OF FINES FOR VIOLATIONS OF**
2 **RULES OF MUNICIPAL SECURITIES RULE-**
3 **MAKING BOARD.**

4 (a) IN GENERAL.—Section 15B(c)(9) of the Securi-
5 ties Exchange Act of 1934 (15 U.S.C. 78o–4(c)(9)) is
6 amended to read as follows:

7 “(9) Fines collected for violations of the rules of the
8 Board shall be deposited and credited as general revenue
9 of the Treasury, except as otherwise provided in section
10 308 of the Sarbanes-Oxley Act of 2002 or section 21F
11 of this title.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to fines collected after the date
14 of enactment of this Act.

15 **Subtitle B—Eliminating Excessive**
16 **Government Intrusion in the**
17 **Capital Markets**

18 **SEC. 441. REPEAL OF DEPARTMENT OF LABOR FIDUCIARY**
19 **RULE AND REQUIREMENTS PRIOR TO RULE-**
20 **MAKING RELATING TO STANDARDS OF CON-**
21 **DUCT FOR BROKERS AND DEALERS.**

22 (a) REPEAL OF DEPARTMENT OF LABOR FIDUCIARY
23 RULE.—The final rule of the Department of Labor titled
24 “Definition of the Term ‘Fiduciary’; Conflict of Interest
25 Rule—Retirement Investment Advice” and related prohib-

1 ited transaction exemptions published April 8, 2016 (81
2 Fed. Reg. 20946) shall have no force or effect.

3 (b) STAY ON RULES DEFINING CERTAIN FIDU-
4 CIARIES.—After the date of enactment of this Act, the
5 Secretary of Labor shall not prescribe any regulation
6 under the Employee Retirement Income Security Act of
7 1974 (29 U.S.C. 1001 et seq.) defining the circumstances
8 under which an individual is considered a fiduciary until
9 the date that is 60 days after the Securities and Exchange
10 Commission issues a final rule relating to standards of
11 conduct for brokers and dealers pursuant to the second
12 subsection (k) of section 15 of the Securities Exchange
13 Act of 1934 (15 U.S.C. 78o(k))

14 (c) REQUIREMENTS PRIOR TO RULEMAKING RELAT-
15 ING TO STANDARDS OF CONDUCT FOR BROKERS AND
16 DEALERS.—The second subsection (k) of section 15 of the
17 Securities Exchange Act of 1934 (15 U.S.C. 78o(k)), as
18 added by section 913(g)(1) of the Dodd-Frank Wall Street
19 Reform and Consumer Protection Act (12 U.S.C. 5301
20 et seq.), is amended by adding at the end the following:

21 “(3) REQUIREMENTS PRIOR TO RULEMAKING.—
22 The Commission shall not promulgate a rule pursu-
23 ant to paragraph (1) before providing a report to the
24 Committee on Financial Services of the House of
25 Representatives and the Committee on Banking,

1 Housing, and Urban Affairs of the Senate describing
2 whether—

3 “(A) retail investors (and such other cus-
4 tomers as the Commission may provide) are
5 being harmed due to brokers or dealers oper-
6 ating under different standards of conduct than
7 those that apply to investment advisors under
8 section 211 of the Investment Advisers Act of
9 1940 (15 U.S.C. 80b–11);

10 “(B) alternative remedies will reduce any
11 confusion or harm to retail investors due to
12 brokers or dealers operating under different
13 standards of conduct than those standards that
14 apply to investment advisors under section 211
15 of the Investment Advisers Act of 1940 (15
16 U.S.C. 80b–11), including—

17 “(i) simplifying the titles used by bro-
18 kers, dealers, and investment advisers; and

19 “(ii) enhancing disclosure surrounding
20 the different standards of conduct cur-
21 rently applicable to brokers, dealers, and
22 investment advisers;

23 “(C) the adoption of a uniform fiduciary
24 standard of conduct for brokers, dealers, and
25 investment advisors would adversely impact the

1 commissions of brokers and dealers, the avail-
2 ability of proprietary products offered by bro-
3 kers and dealers, and the ability of brokers and
4 dealers to engage in principal transactions with
5 customers; and

6 “(D) the adoption of a uniform fiduciary
7 standard of conduct for brokers or dealers and
8 investment advisors would adversely impact re-
9 tail investor access to personalized and cost-ef-
10 fective investment advice, recommendations
11 about securities, or the availability of such ad-
12 vice and recommendations.

13 “(4) ECONOMIC ANALYSIS.—The Commission’s
14 conclusions contained in the report described in
15 paragraph (3) shall be supported by economic anal-
16 ysis.

17 “(5) REQUIREMENTS FOR PROMULGATING A
18 RULE.—The Commission shall publish in the Fed-
19 eral Register alongside the rule promulgated pursu-
20 ant to paragraph (1) formal findings that such rule
21 would reduce confusion or harm to retail customers
22 (and such other customers as the Commission may
23 by rule provide) due to different standards of con-
24 duct applicable to brokers, dealers, and investment
25 advisors.

1 “(6) REQUIREMENTS UNDER INVESTMENT AD-
2 VISERS ACT OF 1940.—In proposing rules under
3 paragraph (1) for brokers or dealers, the Commis-
4 sion shall consider the differences in the registration,
5 supervision, and examination requirements applica-
6 ble to brokers, dealers, and investment advisors.”.

7 **SEC. 442. EXEMPTION FROM RISK RETENTION REQUIRE-**
8 **MENTS FOR NONRESIDENTIAL MORTGAGE.**

9 (a) IN GENERAL.—Section 15G of the Securities Ex-
10 change Act of 1934 (15 U.S.C. 78o–11) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (3)(B), by striking “and”
13 at the end;

14 (B) in paragraph (4)(B), by striking the
15 period and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(5) the term ‘asset-backed security’ refers only
18 to an asset-backed security that is comprised wholly
19 of residential mortgages.”;

20 (2) in subsection (b)—

21 (A) by striking paragraph (1); and

22 (B) by striking “(2) RESIDENTIAL MORT-
23 GAGES”;

24 (3) by striking subsection (h) and redesignating
25 subsection (i) as subsection (h); and

1 (4) in subsection (h) (as so redesignated)—

2 (A) by striking “effective—” and all that
3 follows through “(1) with respect to” and in-
4 serting “effective with respect to”;

5 (B) in paragraph (1), by striking “; and”
6 and inserting a period; and

7 (C) by striking paragraph (2).

8 (b) CONFORMING AMENDMENT.—Section 941 of the
9 Dodd-Frank Wall Street Reform and Consumer Protec-
10 tion Act is amended by striking subsection (c).

11 **SEC. 443. FREQUENCY OF SHAREHOLDER APPROVAL OF**
12 **EXECUTIVE COMPENSATION.**

13 Section 14A(a) of the Securities Exchange Act of
14 1934 (15 U.S.C. 78n-1(a)) is amended—

15 (1) in paragraph (1), by striking “Not less fre-
16 quently than once every 3 years” and inserting
17 “Each year in which there has been a material
18 change to the compensation of executives of an
19 issuer from the previous year”; and

20 (2) by striking paragraph (2) and redesignating
21 paragraph (3) as paragraph (2).

1 **SEC. 444. REQUIREMENT FOR MUNICIPAL ADVISOR FOR**
2 **ISSUERS OF MUNICIPAL SECURITIES.**

3 Section 15B(d) of the Securities Exchange Act of
4 1934 (15 U.S.C. 78o-4(d)) is amended by adding at the
5 end the following:

6 “(3) An issuer of municipal securities shall not be
7 required to retain a municipal advisor prior to issuing any
8 such securities.”.

9 **SEC. 445. SMALL ISSUER EXEMPTION FROM INTERNAL**
10 **CONTROL EVALUATION.**

11 Section 404(c) of the Sarbanes-Oxley Act of 2002 (15
12 U.S.C. 7262(c)) is amended to read as follows:

13 “(c) EXEMPTION FOR SMALLER ISSUERS.—Sub-
14 section (b) shall not apply with respect to any audit report
15 prepared for an issuer that has total market capitalization
16 of less than \$250,000,000, nor to any issuer that is a de-
17 pository institution with assets of less than
18 \$1,000,000,000.”.

19 **SEC. 446. EXEMPTIVE AUTHORITY FOR CERTAIN PROVI-**
20 **SIONS RELATING TO REGISTRATION OF NA-**
21 **TIONALLY RECOGNIZED STATISTICAL RAT-**
22 **ING ORGANIZATIONS.**

23 Section 15E of the Securities Exchange Act of 1934
24 (15 U.S.C. 78o-7) is amended by adding at the end the
25 following:

1 “(w) COMMISSION EXEMPTIVE AUTHORITY.—The
2 Commission, by rules and regulations upon its own mo-
3 tion, or by order upon application, may conditionally or
4 unconditionally exempt any person from any provision or
5 provisions of this title or of any rule or regulation there-
6 under, if and to the extent it determines that such rule,
7 regulation, or requirement is creating a barrier to entry
8 into the market for nationally recognized statistical rating
9 organizations or impeding competition among such organi-
10 zations, or that such an exemption is necessary or appro-
11 priate in the public interest and is consistent with the pro-
12 tection of investors.”.

13 **SEC. 447. RESTRICTION ON RECOVERY OF ERRONEOUSLY**
14 **AWARDED COMPENSATION.**

15 Section 10D(b)(2) of the Securities Exchange Act of
16 1934 (15 U.S.C. 78j-4(b)(2)) is amended by inserting be-
17 fore the period the following: “, where such executive offi-
18 cer had control or authority over the financial reporting
19 that resulted in the accounting restatement”.

20 **SEC. 448. RISK-BASED EXAMINATIONS OF NATIONALLY**
21 **RECOGNIZED STATISTICAL RATING ORGANI-**
22 **ZATIONS.**

23 Section 15E(p)(3)(B) of the Securities Exchange Act
24 of 1934 (15 U.S.C. 78o-7(p)(3)(B)) is amended in the
25 matter preceding clause (i), by inserting “, as appro-

1 priate,” after “Each examination under subparagraph (A)
2 shall include”.

3 **SEC. 449. REPEALS.**

4 (a) REPEALS.—The following provisions of title IX
5 of the Dodd-Frank Wall Street Reform and Consumer
6 Protection Act are repealed, and the provisions of law
7 amended or repealed by such sections are restored or re-
8 vived as if such sections had not been enacted:

9 (1) Section 912.

10 (2) Section 914.

11 (3) Section 917.

12 (4) Section 918.

13 (5) Section 919A.

14 (6) Section 919B.

15 (7) Section 919C.

16 (8) Section 921.

17 (9) Section 929T.

18 (10) Section 929X.

19 (11) Section 929Y.

20 (12) Section 929Z.

21 (13) Section 931.

22 (14) Section 933.

23 (15) Section 937.

24 (16) Section 939B.

25 (17) Section 939C.

- 1 (18) Section 939D.
- 2 (19) Section 939E.
- 3 (20) Section 939F.
- 4 (21) Section 939G.
- 5 (22) Section 939H.
- 6 (23) Section 946.
- 7 (24) Subsection (b) of section 953.
- 8 (25) Section 955.
- 9 (26) Section 956.
- 10 (27) Section 964.
- 11 (28) Section 965.
- 12 (29) Section 968.
- 13 (30) Section 971.
- 14 (31) Section 972.
- 15 (32) Section 976.
- 16 (33) Section 977.
- 17 (34) Section 978.
- 18 (35) Section 984.
- 19 (36) Section 989.
- 20 (37) Section 989A.
- 21 (38) Section 989F.
- 22 (39) Subsection (b) of section 989G.
- 23 (40) Section 989I.

1 (b) CONFORMING AMENDMENTS.—The Dodd-Frank
2 Wall Street Reform and Consumer Protection Act (12
3 U.S.C. 5301) is amended—

4 (1) in the table of contents in section 1(b), by
5 striking the items relating to the sections described
6 under paragraphs (1) through (23), (25) through
7 (38), and (40) of subsection (a);

8 (2) in section 953, by striking “(a) DISCLO-
9 SURE OF PAY VERSUS PERFORMANCE.—”; and

10 (3) in section 989G, by striking “(a) EXEMP-
11 TION.—”.

12 **SEC. 450. EXEMPTION OF AND REPORTING BY PRIVATE EQ-**
13 **UITY FUND ADVISERS.**

14 Section 203 of the Investment Advisers Act of 1940
15 (15 U.S.C. 80b–3) is amended by adding at the end the
16 following:

17 “(o) EXEMPTION OF AND REPORTING BY PRIVATE
18 EQUITY FUND ADVISERS.—

19 “(1) IN GENERAL.—Except as provided in this
20 subsection, no investment adviser shall be subject to
21 the registration or reporting requirements of this
22 title with respect to the provision of investment ad-
23 vice relating to a private equity fund.

24 “(2) MAINTENANCE OF RECORDS AND ACCESS
25 BY COMMISSION.—Not later than 6 months after the

1 date of enactment of this subsection, the Commis-
2 sion shall issue final rules—

3 “(A) to require investment advisers de-
4 scribed in paragraph (1) to maintain such
5 records and provide to the Commission such an-
6 nual or other reports as the Commission, taking
7 into account fund size, governance, investment
8 strategy, risk, and other factors, determines
9 necessary and appropriate in the public interest
10 and for the protection of investors; and

11 “(B) to define the term ‘private equity
12 fund’ for purposes of this subsection.”.

13 **SEC. 451. RECORDS AND REPORTS OF PRIVATE FUNDS.**

14 The Investment Advisers Act of 1940 (15 U.S.C.
15 80b–1 et seq.) is amended—

16 (1) in section 204(b)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (A), by striking
19 “investors,” and all that follows and in-
20 sserting “investors.”;

21 (ii) by striking subparagraph (B); and

22 (iii) by striking “this title—” and all
23 that follows through “to maintain” and in-
24 sserting “this title to maintain”;

25 (B) in paragraph (3)(H)—

1 (i) by striking “, in consultation with
2 the Council,”; and

3 (ii) by striking “or for the assessment
4 of systemic risk”;

5 (C) in paragraph (4), by striking “, or for
6 the assessment of systemic risk”;

7 (D) in paragraph (5), by striking “or for
8 the assessment of systemic risk”;

9 (E) in paragraph (6)(A)(ii), by striking “,
10 or for the assessment of systemic risk”;

11 (F) by striking paragraph (7) and redesignating paragraphs (8) through (11) as paragraphs (7) through (10), respectively; and

14 (G) in paragraph (8) (as so redesignated),
15 by striking “paragraph (8)” and inserting
16 “paragraph (7)”;

17 (2) in section 211(e)—

18 (A) by striking “after consultation with the
19 Council but”;

20 (B) by striking “subsection 204(b)” and
21 inserting “section 204(b)”.

22 **SEC. 452. DEFINITION OF ACCREDITED INVESTOR.**

23 (a) IN GENERAL.—Section 2(a)(15) of the Securities
24 Act of 1933 (15 U.S.C. 77b(a)(15)) is amended—

1 (1) by redesignating clauses (i) and (ii) as sub-
2 paragraphs (A) and (F), respectively; and

3 (2) in subparagraph (A) (as so redesignated),
4 by striking “; or” and inserting a semicolon, and in-
5 serting after such subparagraph the following:

6 “(B) any natural person whose individual
7 net worth, or joint net worth with that person’s
8 spouse, exceeds \$1,000,000 (which amount,
9 along with the amounts set forth in subpara-
10 graph (C), shall be adjusted for inflation by the
11 Commission every 5 years to the nearest
12 \$10,000 to reflect the change in the Consumer
13 Price Index for All Urban Consumers published
14 by the Bureau of Labor Statistics) where, for
15 purposes of calculating net worth under this
16 subparagraph—

17 “(i) the person’s primary residence
18 shall not be included as an asset;

19 “(ii) indebtedness that is secured by
20 the person’s primary residence, up to the
21 estimated fair market value of the primary
22 residence at the time of the sale of securi-
23 ties, shall not be included as a liability (ex-
24 cept that if the amount of such indebted-
25 ness outstanding at the time of sale of se-

1 securities exceeds the amount outstanding 60
2 days before such time, other than as a re-
3 sult of the acquisition of the primary resi-
4 dence, the amount of such excess shall be
5 included as a liability); and

6 “(iii) indebtedness that is secured by
7 the person’s primary residence in excess of
8 the estimated fair market value of the pri-
9 mary residence at the time of the sale of
10 securities shall be included as a liability;

11 “(C) any natural person who had an indi-
12 vidual income in excess of \$200,000 in each of
13 the 2 most recent years or joint income with
14 that person’s spouse in excess of \$300,000 in
15 each of those years and has a reasonable expect-
16 ation of reaching the same income level in the
17 current year;

18 “(D) any natural person who is currently
19 licensed or registered as a broker or investment
20 adviser by the Commission, the Financial In-
21 dustry Regulatory Authority, or an equivalent
22 self-regulatory organization (as defined in sec-
23 tion 3(a)(26) of the Securities Exchange Act of
24 1934), or the securities division of a State or
25 the equivalent State division responsible for li-

1 censing or registration of individuals in connec-
2 tion with securities activities;

3 “(E) any natural person the Commission
4 determines, by regulation, to have demonstrable
5 education or job experience to qualify such per-
6 son as having professional knowledge of a sub-
7 ject related to a particular investment, and
8 whose education or job experience is verified by
9 the Financial Industry Regulatory Authority or
10 an equivalent self-regulatory organization (as
11 defined in section 3(a)(26) of the Securities Ex-
12 change Act of 1934); or”.

13 (b) REPEAL.—

14 (1) IN GENERAL.—Section 413 of the Dodd-
15 Frank Wall Street Reform and Consumer Protection
16 Act (Public Law 111–203) is hereby repealed.

17 (2) CLERICAL AMENDMENT.—The table of con-
18 tents in section 1(b) of the Dodd-Frank Wall Street
19 Reform and Consumer Protection Act is amended by
20 striking the items relating to section 413.

21 **SEC. 453. REPEAL OF CERTAIN PROVISIONS REQUIRING A**
22 **STUDY AND REPORT TO CONGRESS.**

23 (a) REPEAL.—The following provisions of the Dodd-
24 Frank Wall Street Reform and Consumer Protection Act
25 are repealed:

1 (1) Section 412.

2 (2) Section 415.

3 (3) Section 416.

4 (4) Section 417.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Dodd-Frank Wall Street Reform and
7 Consumer Protection Act is amended by striking the items
8 relating to sections 412, 415, 416, and 417.

9 **SEC. 454. TECHNICAL CORRECTION.**

10 Section 224 of the Investment Advisers Act of 1940
11 (15 U.S.C. 80b–18c) is amended by striking “**COMMOD-**
12 **ITIES**” and inserting “**COMMODITY**”.

13 **SEC. 455. REPEAL.**

14 (a) REPEAL.—The following sections of title XV of
15 the Dodd-Frank Wall Street Reform and Consumer Pro-
16 tection Act are repealed, and the provisions of law amend-
17 ed or repealed by such sections are restored or revived as
18 if such sections had not been enacted:

19 (1) Section 1502.

20 (2) Section 1503.

21 (3) Section 1504.

22 (4) Section 1505.

23 (5) Section 1506.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 in section 1(b) of the Dodd-Frank Wall Street Reform and

1 Consumer Protection Act is amended by striking the items
2 relating to sections 1502, 1503, 1504, 1505, and 1506.

3 **Subtitle C—Commodity Futures**
4 **Trading Commission Reforms**

5 **SEC. 461. DIVISION DIRECTORS.**

6 Section 2(a)(6)(C) of the Commodity Exchange Act
7 (7 U.S.C. 2(a)(6)(C)) is amended by inserting “, and the
8 heads of the units shall serve at the pleasure of the Com-
9 mission” before the period.

10 **SEC. 462. PROCEDURES GOVERNING ACTIONS TAKEN BY**
11 **COMMISSION STAFF.**

12 Section 2(a)(12) of the Commodity Exchange Act (7
13 U.S.C. 2(a)(12)) is amended—

14 (1) by striking “(12) The” and inserting the
15 following:

16 “(12) RULES AND REGULATIONS.—

17 “(A) IN GENERAL.—Subject to the other
18 provisions of this paragraph, the”; and

19 (2) by adding after and below the end the fol-
20 lowing new subparagraph:

21 “(B) NOTICE TO COMMISSIONERS.—The
22 Commission shall develop and publish internal
23 procedures governing the issuance by any divi-
24 sion or office of the Commission of any re-
25 sponse to a formal, written request or petition

1 from any member of the public for an exemp-
2 tive, a no-action, or an interpretive letter and
3 such procedures shall provide that the commis-
4 sioners be provided with the final version of the
5 matter to be issued with sufficient notice to re-
6 view the matter prior to its issuance.”.

7 **SEC. 463. STRATEGIC TECHNOLOGY PLAN.**

8 Section 2(a) of the Commodity Exchange Act (7
9 U.S.C. 2(a)), is amended by adding at the end the fol-
10 lowing:

11 “(16) STRATEGIC TECHNOLOGY PLAN.—

12 “(A) IN GENERAL.—Every 5 years, the
13 Commission shall develop and submit to the
14 Committee on Agriculture of the House of Rep-
15 resentatives and the Committee on Agriculture,
16 Nutrition, and Forestry of the Senate a detailed
17 plan focused on the acquisition and use of tech-
18 nology by the Commission.

19 “(B) CONTENTS.—The plan shall—

20 “(i) include for each related division
21 or office a detailed technology strategy fo-
22 cused on market surveillance and risk de-
23 tection, market data collection, aggrega-
24 tion, interpretation, standardization, har-
25 monization, normalization, validation,

1 streamlining or other data analytic proc-
2 esses, and internal management and pro-
3 tection of data collected by the Commis-
4 sion, including a detailed accounting of
5 how the funds provided for technology will
6 be used and the priorities that will apply in
7 the use of the funds;

8 “(ii) set forth annual goals to be ac-
9 complished and annual budgets needed to
10 accomplish the goals; and

11 “(iii) include a summary of any plan
12 of action and milestones to address any
13 known information security vulnerability,
14 as identified pursuant to a widely accepted
15 industry or Government standard, includ-
16 ing—

17 “(I) specific information about
18 the industry or Government standard
19 used to identify the known informa-
20 tion security vulnerability;

21 “(II) a detailed time line with
22 specific deadlines for addressing the
23 known information security vulner-
24 ability; and

1 “(III) an update of any such
2 time line and the rationale for any de-
3 viation from the time line.”.

4 **SEC. 464. INTERNAL RISK CONTROLS.**

5 (a) IN GENERAL.—Section 2(a)(12) of the Com-
6 modity Exchange Act (7 U.S.C. 2(a)(12)), as amended by
7 section 462, is further amended by adding at the end the
8 following:

9 “(C) INTERNAL RISK CONTROLS.—The
10 Commission, in consultation with the Chief
11 Economist, shall develop comprehensive internal
12 risk control mechanisms to safeguard and gov-
13 ern the storage of all market data by the Com-
14 mission, all market data sharing agreements of
15 the Commission, and all academic research per-
16 formed at the Commission using market data.”.

17 (b) DEFINITION OF CHIEF ECONOMIST.—Section 1a
18 of the Commodity Exchange Act (7 U.S.C. 1a) is amend-
19 ed—

20 (1) by redesignating paragraphs (8) through
21 (51) as paragraphs (9) through (52); and

22 (2) by inserting after paragraph (7) the fol-
23 lowing:

24 “(8) CHIEF ECONOMIST.—The term ‘Chief
25 Economist’ means the Chief Economist of the Com-

1 mission, or an employee of the Commission with
2 comparable authority, as determined by the Commis-
3 sion.”.

4 **SEC. 465. SUBPOENA DURATION AND RENEWAL.**

5 Section 6(c)(5) of the Commodity Exchange Act (7
6 U.S.C. 9(5)) is amended—

7 (1) by striking “For the purpose of securing”
8 and inserting the following:

9 “(A) IN GENERAL.—For the purpose of se-
10 curing”; and

11 (2) by adding after and below the end the fol-
12 lowing:

13 “(B) OMNIBUS ORDERS OF INVESTIGA-
14 TION.—

15 “(i) DURATION AND RENEWAL.—An
16 omnibus order of investigation shall not be
17 for an indefinite duration and may be re-
18 newed only by Commission action.

19 “(ii) DEFINITION.—In clause (i), the
20 term ‘omnibus order of investigation’
21 means an order of the Commission author-
22 izing 1 or more members of the Commis-
23 sion or its staff to issue subpoenas under
24 subparagraph (A) to multiple persons in

1 relation to a particular subject matter
2 area.”.

3 **SEC. 466. APPLICABILITY OF NOTICE AND COMMENT RE-**
4 **QUIREMENTS OF THE ADMINISTRATIVE PRO-**
5 **CEDURE ACT TO GUIDANCE VOTED ON BY**
6 **THE COMMISSION.**

7 Section 2(a)(12) of the Commodity Exchange Act (7
8 U.S.C. 2(a)(12)), as amended by section 464, is further
9 amended by adding at the end the following:

10 “(D) APPLICABILITY OF NOTICE AND COM-
11 MENT RULES TO GUIDANCE VOTED ON BY THE
12 COMMISSION.—The notice and comment re-
13 quirements of section 553 of title 5, United
14 States Code, shall also apply with respect to
15 any Commission statement or guidance, includ-
16 ing interpretive rules, general statements of pol-
17 icy, or rules of Commission organization, proce-
18 dure, or practice, that has the effect of imple-
19 menting, interpreting or prescribing law or pol-
20 icy and that is voted on by the Commission.”.

21 **SEC. 467. JUDICIAL REVIEW OF COMMISSION RULES.**

22 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
23 is amended by adding at the end the following:

1 **“SEC. 24. JUDICIAL REVIEW OF COMMISSION RULES.**

2 “(a) A person adversely affected by a rule of the
3 Commission promulgated under this Act may obtain re-
4 view of the rule in the United States Court of Appeals
5 for the District of Columbia Circuit or the United States
6 Court of Appeals for the circuit where the party resides
7 or has the principal place of business, by filing in the
8 court, within 60 days after publication in the Federal Reg-
9 ister of the entry of the rule, a written petition requesting
10 that the rule be set aside.

11 “(b) A copy of the petition shall be transmitted forth-
12 with by the clerk of the court to an officer designated by
13 the Commission for that purpose. Thereupon the Commis-
14 sion shall file in the court the record on which the rule
15 complained of is entered, as provided in section 2112 of
16 title 28, United States Code, and the Federal Rules of
17 Appellate Procedure.

18 “(c) On the filing of the petition, the court has juris-
19 diction, which becomes exclusive on the filing of the
20 record, to affirm and enforce or to set aside the rule in
21 whole or in part.

22 “(d) The court shall affirm and enforce the rule un-
23 less the Commission’s action in promulgating the rule is
24 found to be arbitrary, capricious, an abuse of discretion,
25 or otherwise not in accordance with law; contrary to con-
26 stitutional right, power, privilege, or immunity; in excess

1 of statutory jurisdiction, authority, or limitations, or short
2 of statutory right; or without observance of procedure re-
3 quired by law.”.

4 **SEC. 468. CROSS-BORDER REGULATION OF DERIVATIVES**
5 **TRANSACTIONS.**

6 (a) **RULEMAKING REQUIRED.**—Within 1 year after
7 the date of the enactment of this subtitle, the Commodity
8 Futures Trading Commission shall issue a rule that ad-
9 dresses—

10 (1) the nature of the connections to the United
11 States that require a non-United States person to
12 register as a swap dealer or a major swap partici-
13 pant under the Commodity Exchange Act and the
14 regulations issued under such Act;

15 (2) which of the United States swaps require-
16 ments apply to the swap activities of non-United
17 States persons and United States persons and their
18 branches, agencies, subsidiaries, and affiliates out-
19 side of the United States, and the extent to which
20 the requirements apply; and

21 (3) the circumstances under which a United
22 States person or non-United States person in com-
23 pliance with the swaps regulatory requirements of a
24 foreign jurisdiction shall be exempt from United
25 States swaps requirements.

1 (b) CONTENT OF THE RULE.—

2 (1) CRITERIA.—In the rule, the Commission
3 shall establish criteria for determining that 1 or
4 more categories of the swaps regulatory require-
5 ments of a foreign jurisdiction are comparable to
6 and as comprehensive as United States swaps re-
7 quirements. The criteria shall include—

8 (A) the scope and objectives of the swaps
9 regulatory requirements of the foreign jurisdic-
10 tion;

11 (B) the effectiveness of the supervisory
12 compliance program administered;

13 (C) the enforcement authority exercised by
14 the foreign jurisdiction; and

15 (D) such other factors as the Commission,
16 by rule, determines to be necessary or appro-
17 priate in the public interest.

18 (2) COMPARABILITY.—In the rule, the Commis-
19 sion shall—

20 (A) provide that any non-United States
21 person or any transaction between 2 non-United
22 States persons shall be exempt from United
23 States swaps requirements if the person or
24 transaction is in compliance with the swaps reg-
25 ulatory requirements of a foreign jurisdiction

1 which the Commission has determined to be
2 comparable to and as comprehensive as United
3 States swaps requirements; and

4 (B) set forth the circumstances in which a
5 United States person or a transaction between
6 a United States person and a non-United
7 States person shall be exempt from United
8 States swaps requirements if the person or
9 transaction is in compliance with the swaps reg-
10 ulatory requirements of a foreign jurisdiction
11 which the Commission has determined to be
12 comparable to and as comprehensive as United
13 States swaps requirements.

14 (3) OUTCOMES-BASED COMPARISON.—In devel-
15 oping and applying the criteria, the Commission
16 shall emphasize the results and outcomes of, rather
17 than the design and construction of, foreign swaps
18 regulatory requirements.

19 (4) RISK-BASED RULEMAKING.—In the rule, the
20 Commission shall not take into account, for the pur-
21 poses of determining the applicability of United
22 States swaps requirements, the location of personnel
23 that arrange, negotiate, or execute swaps.

24 (5) PRESERVATION OF ANTIFRAUD AND
25 ANTIMANIPULATION AUTHORITY.—No part of any

1 rulemaking under this section shall limit the Com-
2 mission's antifraud or antimanipulation authority.

3 (c) APPLICATION OF THE RULE.—

4 (1) ASSESSMENTS OF FOREIGN JURISDIC-
5 TIONS.—Beginning on the date on which a final rule
6 is issued under this section, the Commission shall
7 begin to assess the swaps regulatory requirements of
8 foreign jurisdictions, in the order the Commission
9 determines appropriate, in accordance with the cri-
10 teria established pursuant to subsection (b)(1). Fol-
11 lowing each assessment, the Commission shall deter-
12 mine, by rule or by order, whether the swaps regu-
13 latory requirements of the foreign jurisdiction are
14 comparable to and as comprehensive as United
15 States swaps requirements.

16 (2) SUBSTITUTED COMPLIANCE FOR
17 UNASSESSED MAJOR MARKETS.—Beginning 18
18 months after the date of enactment of this Act—

19 (A) the swaps regulatory requirements of
20 each of the 8 foreign jurisdictions with the larg-
21 est swaps markets, as calculated by notional
22 value during the 12-month period ending with
23 such date of enactment, except those with re-
24 spect to which a determination has been made
25 under paragraph (1), shall be considered to be

1 comparable to and as comprehensive as United
2 States swaps requirements; and

3 (B) a non-United States person or a trans-
4 action between 2 non-United States persons
5 shall be exempt from United States swaps re-
6 quirements if the person or transaction is in
7 compliance with the swaps regulatory require-
8 ments of any of such unexcepted foreign juris-
9 dictions.

10 (3) SUSPENSION OF SUBSTITUTED COMPLI-
11 ANCE.—If the Commission determines, by rule or by
12 order, that—

13 (A) the swaps regulatory requirements of a
14 foreign jurisdiction are not comparable to and
15 as comprehensive as United States swaps re-
16 quirements, using the categories and criteria es-
17 tablished under subsection (b)(1);

18 (B) the foreign jurisdiction does not ex-
19 empt from its swaps regulatory requirements
20 United States persons who are in compliance
21 with United States swaps requirements; or

22 (C) the foreign jurisdiction is not providing
23 equivalent recognition of, or substituted compli-
24 ance for, registered entities (as defined in sec-

1 tion 1a(41) of the Commodity Exchange Act)
2 domiciled in the United States,
3 the Commission may suspend, in whole or in part,
4 a determination made under paragraph (1) or a con-
5 sideration granted under paragraph (2).

6 (d) PETITION FOR REVIEW OF FOREIGN JURISDIC-
7 TION PRACTICES.—A registered entity, commercial mar-
8 ket participant (as defined in section 1a(7) of the Com-
9 modity Exchange Act), or Commission registrant (within
10 the meaning of such Act) who petitions the Commission
11 to make or change a determination under subsection
12 (c)(1) or (c)(3) of this section shall be entitled to expedited
13 consideration of the petition. A petition shall include any
14 evidence or other supporting materials to justify why the
15 petitioner believes the Commission should make or change
16 the determination. Petitions under this section shall be
17 considered by the Commission any time following the en-
18 actment of this Act. Within 180 days after receipt of a
19 petition for a rulemaking under this section, the Commis-
20 sion shall take final action on the petition. Within 90 days
21 after receipt of a petition to issue an order or change an
22 order issued under this section, the Commission shall take
23 final action on the petition.

24 (e) REPORT TO CONGRESS.—If the Commission
25 makes a determination described in this section through

1 an order, the Commission shall articulate the basis for the
2 determination in a written report published in the Federal
3 Register and transmitted to the Committee on Agriculture
4 of the House of Representatives and Committee on Agri-
5 culture, Nutrition, and Forestry of the Senate within 15
6 days of the determination. The determination shall not be
7 effective until 15 days after the committees receive the re-
8 port.

9 (f) DEFINITIONS.—As used in this section and for
10 purposes of the rules issued pursuant to this section, the
11 following definitions apply:

12 (1) UNITED STATES PERSON.—The term
13 “United States person”—

14 (A) means—

15 (i) any natural person resident in the
16 United States;

17 (ii) any partnership, corporation,
18 trust, or other legal person organized or
19 incorporated under the laws of the United
20 States or having its principal place of busi-
21 ness in the United States;

22 (iii) any account (whether discre-
23 tionary or non-discretionary) of a United
24 States person; and

1 (iv) any other person as the Commis-
2 sion may further define to more effectively
3 carry out the purposes of this section; and
4 (B) does not include the International
5 Monetary Fund, the International Bank for Re-
6 construction and Development, the Inter-Amer-
7 ican Development Bank, the Asian Development
8 Bank, the African Development Bank, the
9 United Nations, their agencies or pension plans,
10 or any other similar international organizations
11 or their agencies or pension plans.

12 (2) UNITED STATES SWAPS REQUIREMENTS.—
13 The term “United States swaps requirements”
14 means the provisions relating to swaps contained in
15 the Commodity Exchange Act (7 U.S.C. 1a et seq.)
16 that were added by title VII of the Dodd-Frank Wall
17 Street Reform and Consumer Protection Act (15
18 U.S.C. 8301 et seq.) and any rules or regulations
19 prescribed by the Commodity Futures Trading Com-
20 mission pursuant to such provisions.

21 (3) FOREIGN JURISDICTION.—The term “for-
22 eign jurisdiction” means any national or supra-
23 national political entity with common rules gov-
24 erning swaps transactions.

1 (4) SWAPS REGULATORY REQUIREMENTS.—The
2 term “swaps regulatory requirements” means any
3 provisions of law, and any rules or regulations pur-
4 suant to the provisions, governing swaps trans-
5 actions or the counterparties to swaps transactions.

6 (g) CONFORMING AMENDMENT.—Section 4(c)(1)(A)
7 of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)) is
8 amended by inserting “or except as necessary to effectuate
9 the purposes of the Commodity End-User Relief Act,”
10 after “to grant exemptions,”.

11 **Subtitle D—Harmonization of**
12 **Derivatives Rules**

13 **SEC. 471. AGENCY REVIEW AND HARMONIZATION OF RULES**
14 **RELATING TO THE REGULATION OF OVER-**
15 **THE-COUNTER SWAPS MARKETS.**

16 The Securities and Exchange Commission and the
17 Commodity Futures Trading Commission shall review
18 each rule, order, and interpretive guidance issued by either
19 such Commission pursuant to title VII of the Dodd-Frank
20 Wall Street Reform and Consumer Protection Act (15
21 U.S.C. 8301 et seq.) and, where the Commissions find in-
22 consistencies in any such rules, orders, or interpretive
23 guidance, shall jointly issue new rules, orders, or interpre-
24 tive guidance to resolve such inconsistencies.

1 **TITLE V—IMPROVING INSUR-**
2 **ANCE COORDINATION**
3 **THROUGH AN INDEPENDENT**
4 **ADVOCATE**

5 **SEC. 501. REPEAL OF THE FEDERAL INSURANCE OFFICE;**
6 **CREATION OF THE OFFICE OF THE INDE-**
7 **PENDENT INSURANCE ADVOCATE.**

8 (a) ESTABLISHMENT.—Section 313 of title 31,
9 United States Code, is amended to read as follows:

10 **“§ 313. Office of the Independent Insurance Advocate**

11 “(a) ESTABLISHMENT.—There is established in the
12 Department of the Treasury a bureau to be known as the
13 Office of the Independent Insurance Advocate (in this sec-
14 tion referred to as the ‘Office’).

15 “(b) INDEPENDENT INSURANCE ADVOCATE.—

16 “(1) ESTABLISHMENT OF POSITION.—The chief
17 officer of the Office of the Independent Insurance
18 Advocate shall be known as the Independent Insur-
19 ance Advocate. The Independent Insurance Advocate
20 shall perform the duties of such office under the
21 general direction of the Secretary of the Treasury.

22 “(2) APPOINTMENT.—The Independent Insur-
23 ance Advocate shall be appointed by the President,
24 by and with the advice and consent of the Senate,
25 from among persons having insurance expertise.

1 “(3) TERM.—

2 “(A) IN GENERAL.—The Independent In-
3 surance Advocate shall serve a term of 6 years,
4 unless sooner removed by the President upon
5 reasons which shall be communicated to the
6 Senate.

7 “(B) SERVICE AFTER EXPIRATION.—If a
8 successor is not nominated and confirmed by
9 the end of the term of service of the Inde-
10 pendent Insurance Advocate, the person serving
11 as Independent Insurance Advocate shall con-
12 tinue to serve until such time a successor is ap-
13 pointed and confirmed.

14 “(C) VACANCY.—An Independent Insur-
15 ance Advocate who is appointed to serve the re-
16 mainder of a predecessor’s uncompleted term
17 shall be eligible thereafter to be appointed to a
18 full 6 year term.

19 “(D) ACTING OFFICIAL ON FINANCIAL
20 STABILITY OVERSIGHT COUNCIL.—In the event
21 of a vacancy in the office of the Independent
22 Insurance Advocate, and pending the appoint-
23 ment and confirmation of a successor, or during
24 the absence or disability of the Independent In-
25 surance Advocate, the Independent Member

1 shall appoint a federal official appointed by the
2 President and confirmed by the Senate from a
3 member agency of the Financial Stability Over-
4 sight Council, not otherwise serving on the
5 Council, who shall serve as a member of the
6 Council and act in the place of the Independent
7 Insurance Advocate until such vacancy, ab-
8 sence, or disability concludes.

9 “(4) EMPLOYMENT.—The Independent Insur-
10 ance Advocate shall be an employee of the Federal
11 Government within the definition of employee under
12 section 2105 of title 5, United States Code.

13 “(c) INDEPENDENCE; OVERSIGHT.—

14 “(1) INDEPENDENCE.—The Secretary of the
15 Treasury may not delay or prevent the issuance of
16 any rule or the promulgation of any regulation by
17 the Independent Insurance Advocate, and may not
18 intervene in any matter or proceeding before the
19 Independent Insurance Advocate, unless otherwise
20 specifically provided by law.

21 “(2) OVERSIGHT BY INSPECTOR GENERAL.—
22 The Office of the Independent Insurance Advocate
23 shall be an office in the establishment of the Depart-
24 ment of the Treasury for purposes of the Inspector
25 General Act of 1978 (5 U.S.C. App.).

1 “(d) RETENTION OF EXISTING STATE REGULATORY
2 AUTHORITY.—Nothing in this section or section 314 shall
3 be construed to establish or provide the Office or the De-
4 partment of the Treasury with general supervisory or reg-
5 ulatory authority over the business of insurance.

6 “(e) BUDGET.—

7 “(1) ANNUAL TRANSMITTAL.—For each fiscal
8 year, the Independent Insurance Advocate shall
9 transmit a budget estimate and request to the Sec-
10 retary of the Treasury, which shall specify the ag-
11 gregate amount of funds requested for such fiscal
12 year for the operations of the Office of the Inde-
13 pendent Insurance Advocate.

14 “(2) INCLUSIONS.—In transmitting the pro-
15 posed budget to the President for approval, the Sec-
16 retary of the Treasury shall include—

17 “(A) an aggregate request for the Inde-
18 pendent Insurance Advocate; and

19 “(B) any comments of the Independent In-
20 surance Advocate with respect to the proposal.

21 “(3) PRESIDENT’S BUDGET.—The President
22 shall include in each budget of the United States
23 Government submitted to the Congress—

1 “(A) a separate statement of the budget
2 estimate prepared in accordance with paragraph
3 (1);

4 “(B) the amount requested by the Presi-
5 dent for the Independent Insurance Advocate;
6 and

7 “(C) any comments of the Independent In-
8 surance Advocate with respect to the proposal if
9 the Independent Insurance Advocate concludes
10 that the budget submitted by the President
11 would substantially inhibit the Independent In-
12 surance Advocate from performing the duties of
13 the office.

14 “(f) ASSISTANCE.—The Secretary of the Treasury
15 shall provide the Independent Insurance Advocate such
16 services, funds, facilities and other support services as the
17 Independent Insurance Advocate may request and as the
18 Secretary may approve.

19 “(g) PERSONNEL.—

20 “(1) EMPLOYEES.—The Independent Insurance
21 Advocate may fix the number of, and appoint and
22 direct, the employees of the Office, in accordance
23 with the applicable provisions of title 5, United
24 States Code. The Independent Insurance Advocate is
25 authorized to employ attorneys, analysts, economists,

1 and other employees as may be deemed necessary to
2 assist the Independent Insurance Advocate to carry
3 out the duties and functions of the Office. Unless
4 otherwise provided expressly by law, any individual
5 appointed under this paragraph shall be an employee
6 as defined in section 2105 of title 5, United States
7 Code, and subject to the provisions of such title and
8 other laws generally applicable to the employees of
9 the Executive Branch.

10 “(2) COMPENSATION.—Employees of the Office
11 shall be paid in accordance with the provisions of
12 chapter 51 and subchapter III of chapter 53 of title
13 5, United States Code, relating to classification and
14 General Schedule pay rates.

15 “(3) PROCUREMENT OF TEMPORARY AND
16 INTERMITTENT SERVICES.—The Independent Insur-
17 ance Advocate may procure temporary and intermit-
18 tent services under section 3109(b) of title 5, United
19 States Code, at rates for individuals which do not
20 exceed the daily equivalent of the annual rate of
21 basic pay prescribed for Level V of the Executive
22 Schedule under section 5316 of such title.

23 “(4) DETAILS.—Any employee of the Federal
24 Government may be detailed to the Office with or
25 without reimbursement, and such detail shall be

1 without interruption or loss of civil service status or
2 privilege. An employee of the Federal Government
3 detailed to the Office shall report to and be subject
4 to oversight by the Independent Insurance Advocate
5 during the assignment to the office, and may be
6 compensated by the branch, department, or agency
7 from which the employee was detailed.

8 “(5) INTERGOVERNMENTAL PERSONNEL.—The
9 Independent Insurance Advocate may enter into
10 agreements under subchapter VI of chapter 33 of
11 title 5, United States Code, with State and local
12 governments, institutions of higher education, Indian
13 tribal governments, and other eligible organizations
14 for the assignment of intermittent, part-time, and
15 full-time personnel, on a reimbursable or non-reim-
16 bursable basis.

17 “(h) ETHICS.—

18 “(1) DESIGNATED ETHICS OFFICIAL.—The
19 Legal Counsel of the Financial Stability Oversight
20 Council, or in the absence of a Legal Counsel of the
21 Council, the designated ethics official of any Council
22 member agency, as chosen by the Independent In-
23 surance Advocate, shall be the ethics official for the
24 Independent Insurance Advocate.

1 “(2) RESTRICTION ON REPRESENTATION.—In
2 addition to any restriction under section 205(c) of
3 title 18, United States Code, except as provided in
4 subsections (d) through (i) of section 205 of such
5 title, the Independent Insurance Advocate (except in
6 the proper discharge of official duties) shall not,
7 with or without compensation, represent anyone to
8 or before any officer or employee of—

9 “(A) the Financial Stability Oversight
10 Council on any matter; or

11 “(B) the Department of Justice with re-
12 spect to litigation involving a matter described
13 in subparagraph (A).

14 “(3) COMPENSATION FOR SERVICES PROVIDED
15 BY ANOTHER.—For purposes of section 203 of title
16 18, United States Code, and if a special government
17 employee—

18 “(A) the Independent Insurance Advocate
19 shall not be subject to the restrictions of sub-
20 section (a)(1) of section 203, of title 18, United
21 States Code, for sharing in compensation
22 earned by another for representations on mat-
23 ters covered by such section; and

24 “(B) a person shall not be subject to the
25 restrictions of subsection (a)(2) of such section

1 for sharing such compensation with the Inde-
2 pendent Insurance Advocate.

3 “(i) ADVISORY, TECHNICAL, AND PROFESSIONAL
4 COMMITTEES.—The Independent Insurance Advocate may
5 appoint such special advisory, technical, or professional
6 committees as may be useful in carrying out the functions
7 of the Office and the members of such committees may
8 be staff of the Office, or other persons, or both.

9 “(j) MISSION AND FUNCTIONS.—

10 “(1) MISSION.—In carrying out the functions
11 under this subsection, the mission of the Office shall
12 be to act as an independent advocate on behalf of
13 the interests of United States policyholders on pru-
14 dential aspects of insurance matters of importance,
15 and to provide perspective on protecting their inter-
16 ests, separate and apart from any other Federal
17 agency or State insurance regulator.

18 “(2) OFFICE.—The Office shall have the au-
19 thority—

20 “(A) to coordinate Federal efforts on pru-
21 dential aspects of international insurance mat-
22 ters, including representing the United States,
23 as appropriate, in the International Association
24 of Insurance Supervisors (or a successor entity)
25 and assisting the Secretary in negotiating cov-

1 ered agreements (as such term is defined in
2 subsection (q)) in coordination with States (in-
3 cluding State insurance commissioners) and the
4 United States Trade Representative;

5 “(B) to consult with the States (including
6 State insurance regulators) regarding insurance
7 matters of national importance and prudential
8 insurance matters of international importance;

9 “(C) to assist the Secretary in admin-
10 istering the Terrorism Insurance Program es-
11 tablished in the Department of the Treasury
12 under the Terrorism Risk Insurance Act of
13 2002 (15 U.S.C. 6701 note);

14 “(D) to observe all aspects of the insur-
15 ance industry, including identifying issues or
16 gaps in the regulation of insurers that could
17 contribute to a systemic crisis in the insurance
18 industry or the United States financial system;
19 and

20 “(E) to make determinations and exercise
21 the authority under subsection (m) with respect
22 to covered agreements and State insurance
23 measures.

24 “(3) MEMBERSHIP ON FINANCIAL STABILITY
25 OVERSIGHT COUNCIL.—

1 “(A) IN GENERAL.—The Independent In-
2 surance Advocate shall serve, pursuant to sec-
3 tion 111(b)(1)(J) of the Financial Stability Act
4 of 2010 (12 U.S.C. 5321(b)(1)(J)), as a mem-
5 ber on the Financial Stability Oversight Coun-
6 cil.

7 “(B) AUTHORITY.—To assist the Financial
8 Stability Oversight Council with its responsibil-
9 ities to monitor international insurance develop-
10 ments, advise the Congress, and make rec-
11 ommendations, the Independent Insurance Ad-
12 vocate shall have the authority—

13 “(i) to regularly consult with inter-
14 national insurance supervisors and inter-
15 national financial stability counterparts;

16 “(ii) to consult with the Board of
17 Governors of the Federal Reserve System
18 and the States with respect to representing
19 the United States, as appropriate, in the
20 International Association of Insurance Su-
21 pervisors (including to become a non-voting
22 member thereof), particularly on matters
23 of systemic risk;

24 “(iii) to participate at the Financial
25 Stability Board of The Group of Twenty

1 and to join with other members from the
2 United States including on matters related
3 to insurance; and

4 “(iv) to participate with the United
5 States delegation to the Organization for
6 Economic Cooperation and Development
7 and observe and participate at the Insur-
8 ance and Private Pensions Committee.

9 “(4) LIMITATIONS ON PARTICIPATION IN SU-
10 PERVISORY COLLEGES.—The Office may not engage
11 in any activities that it is not specifically authorized
12 to engage in under this section or any other provi-
13 sion of law, including participation in any super-
14 visory college or other meetings or fora for coopera-
15 tion and communication between the involved insur-
16 ance supervisors established for the fundamental
17 purpose of facilitating the effectiveness of super-
18 vision of entities which belong to an insurance
19 group.

20 “(k) SCOPE.—The authority of the Office as specified
21 and limited in this section shall extend to all lines of insur-
22 ance except—

23 “(1) health insurance, as determined by the
24 Secretary in coordination with the Secretary of
25 Health and Human Services based on section 2791

1 of the Public Health Service Act (42 U.S.C. 300gg-
2 91);

3 “(2) long-term care insurance, except long-term
4 care insurance that is included with life or annuity
5 insurance components, as determined by the Sec-
6 retary in coordination with the Secretary of Health
7 and Human Services, and in the case of long-term
8 care insurance that is included with such compo-
9 nents, the Secretary shall coordinate with the Sec-
10 retary of Health and Human Services in performing
11 the functions of the Office; and

12 “(3) crop insurance, as established by the Fed-
13 eral Crop Insurance Act (7 U.S.C. 1501 et seq.).

14 “(1) ACCESS TO INFORMATION.—In carrying out the
15 functions required under subsection (j), the Office may co-
16 ordinate with any relevant Federal agency and any State
17 insurance regulator (or other relevant Federal or State
18 regulatory agency, if any, in the case of an affiliate of an
19 insurer) and any publicly available sources for the provi-
20 sion to the Office of publicly available information. Not-
21 withstanding any other provision of law, each such rel-
22 evant Federal agency and State insurance regulator or
23 other Federal or State regulatory agency is authorized to
24 provide to the Office such data or information.

1 “(m) PREEMPTION PURSUANT TO COVERED AGREE-
2 MENTS.—

3 “(1) STANDARDS.—A State insurance measure
4 shall be preempted pursuant to this section or sec-
5 tion 314 if, and only to the extent that the Inde-
6 pendent Insurance Advocate determines, in accord-
7 ance with this subsection, that the measure—

8 “(A) results in less favorable treatment of
9 a non-United States insurer domiciled in a for-
10 eign jurisdiction that is subject to a covered
11 agreement than a United States insurer domi-
12 ciled, licensed, or otherwise admitted in that
13 State; and

14 “(B) is inconsistent with a covered agree-
15 ment.

16 “(2) DETERMINATION.—

17 “(A) NOTICE OF POTENTIAL INCONSIST-
18 ENCY.—Before making any determination
19 under paragraph (1), the Independent Insur-
20 ance Advocate shall—

21 “(i) notify and consult with the appro-
22 priate State regarding any potential incon-
23 sistency or preemption;

24 “(ii) notify and consult with the
25 United States Trade Representative re-

1 garding any potential inconsistency or pre-
2 emption;

3 “(iii) cause to be published in the
4 Federal Register notice of the issue re-
5 garding the potential inconsistency or pre-
6 emption, including a description of each
7 State insurance measure at issue and any
8 applicable covered agreement;

9 “(iv) provide interested parties a rea-
10 sonable opportunity to submit written com-
11 ments to the Office; and

12 “(v) consider any comments received.

13 “(B) SCOPE OF REVIEW.—For purposes of
14 this subsection, any determination of the Inde-
15 pendent Insurance Advocate regarding State in-
16 surance measures, and any preemption under
17 paragraph (1) as a result of such determina-
18 tion, shall be limited to the subject matter con-
19 tained within the covered agreement involved
20 and shall achieve a level of protection for insur-
21 ance or reinsurance consumers that is substan-
22 tially equivalent to the level of protection
23 achieved under State insurance or reinsurance
24 regulation.

1 “(C) NOTICE OF DETERMINATION OF IN-
2 CONSISTENCY.—Upon making any determina-
3 tion under paragraph (1), the Director shall—

4 “(i) notify the appropriate State of
5 the determination and the extent of the in-
6 consistency;

7 “(ii) establish a reasonable period of
8 time, which shall not be less than 30 days,
9 before the determination shall become ef-
10 fective; and

11 “(iii) notify the Committees on Finan-
12 cial Services and Ways and Means of the
13 House of Representatives and the Commit-
14 tees on Banking, Housing, and Urban Af-
15 fairs and Finance of the Senate.

16 “(3) NOTICE OF EFFECTIVENESS.—Upon the
17 conclusion of the period referred to in paragraph
18 (2)(C)(ii), if the basis for such determination still
19 exists, the determination shall become effective and
20 the Independent Insurance Advocate shall—

21 “(A) cause to be published a notice in the
22 Federal Register that the preemption has be-
23 come effective, as well as the effective date; and

24 “(B) notify the appropriate State.

1 “(4) LIMITATION.—No State may enforce a
2 State insurance measure to the extent that such
3 measure has been preempted under this subsection.

4 “(5) APPLICABILITY OF ADMINISTRATIVE PRO-
5 CEDURES ACT.—Determinations of inconsistency
6 made pursuant to paragraph (2) shall be subject to
7 the applicable provisions of subchapter II of chapter
8 5 of title 5, United States Code (relating to adminis-
9 trative procedure), and chapter 7 of such title (relat-
10 ing to judicial review), except that in any action for
11 judicial review of a determination of inconsistency,
12 the court shall determine the matter de novo.

13 “(n) CONSULTATION.—The Independent Insurance
14 Advocate shall consult with State insurance regulators, in-
15 dividually or collectively, to the extent the Independent In-
16 surance Advocate determines appropriate, in carrying out
17 the functions of the Office.

18 “(o) NOTICES AND REQUESTS FOR COMMENT.—In
19 addition to the other functions and duties specified in this
20 section, the Independent Insurance Advocate may pre-
21 scribe such notices and requests for comment in the Fed-
22 eral Register as are deemed necessary related to and gov-
23 erning the manner in which the duties and authorities of
24 the Independent Insurance Advocate are carried out;

1 “(p) SAVINGS PROVISIONS.—Nothing in this section
2 shall—

3 “(1) preempt—

4 “(A) any State insurance measure that
5 governs any insurer’s rates, premiums, under-
6 writing, or sales practices;

7 “(B) any State coverage requirements for
8 insurance;

9 “(C) the application of the antitrust laws
10 of any State to the business of insurance; or

11 “(D) any State insurance measure gov-
12 erning the capital or solvency of an insurer, ex-
13 cept to the extent that such State insurance
14 measure results in less favorable treatment of a
15 non-United State insurer than a United States
16 insurer; or

17 “(2) affect the preemption of any State insur-
18 ance measure otherwise inconsistent with and pre-
19 empted by Federal law.

20 “(q) RETENTION OF AUTHORITY OF FEDERAL FI-
21 NANCIAL REGULATORY AGENCIES.—Nothing in this sec-
22 tion or section 314 shall be construed to limit the author-
23 ity of any Federal financial regulatory agency, including
24 the authority to develop and coordinate policy, negotiate,
25 and enter into agreements with foreign governments, au-

1 thorities, regulators, and multinational regulatory commit-
2 tees and to preempt State measures to affect uniformity
3 with international regulatory agreements.

4 “(r) RETENTION OF AUTHORITY OF UNITED STATES
5 TRADE REPRESENTATIVE.—Nothing in this section or
6 section 314 shall be construed to affect the authority of
7 the Office of the United States Trade Representative pur-
8 suant to section 141 of the Trade Act of 1974 (19 U.S.C.
9 2171) or any other provision of law, including authority
10 over the development and coordination of United States
11 international trade policy and the administration of the
12 United States trade agreements program.

13 “(s) CONGRESSIONAL TESTIMONY.—The Inde-
14 pendent Insurance Advocate shall appear before the Com-
15 mittee on Financial Services of the House of Representa-
16 tives and the Committee on Banking, Housing, and Urban
17 Affairs at semi-annual hearings and shall provide testi-
18 mony, which shall include submitting written testimony in
19 advance of such appearances to such committees and to
20 the Committee on Ways and Means of the House of Rep-
21 resentatives and the Committee on Finance of the Senate,
22 on the following matters:

23 “(1) OFFICE ACTIVITIES.—The efforts, activi-
24 ties, objectives, and plans of the Office.

1 “(2) SECTION 313(L) ACTIONS.—Any actions
2 taken by the Office pursuant to subsection (l) (re-
3 garding preemption pursuant to covered agree-
4 ments).

5 “(3) INSURANCE INDUSTRY.—The state of, and
6 developments in, the insurance industry.

7 “(4) U.S. AND GLOBAL INSURANCE AND REIN-
8 SURANCE MARKETS.—The breadth and scope of the
9 global insurance and reinsurance markets and the
10 critical role such markets plays in supporting insur-
11 ance in the United States and the ongoing impacts
12 of part II of the Nonadmitted and Reinsurance Re-
13 form Act of 2010 on the ability of State regulators
14 to access reinsurance information for regulated com-
15 panies in their jurisdictions.

16 “(5) OTHER.—Any other matters as deemed
17 relevant by the Independent Insurance Advocate or
18 requested by such Committees.

19 “(t) REPORT UPON END OF TERM OF OFFICE.—Not
20 later than two months prior to the expiration of the term
21 of office, or discontinuation of service, of each individual
22 serving as the Independent Insurance Advocate, the Inde-
23 pendent Insurance Advocate shall submit a report to the
24 Committees on Financial Services and Ways and Means
25 of the House of Representatives and the Committees on

1 Banking, Housing, and Urban Affairs and Finance of the
2 Senate setting forth recommendations regarding the Fi-
3 nancial Stability Oversight Council and the role, duties,
4 and functions of the Independent Insurance Advocate.

5 “(u) DEFINITIONS.—In this section and section 314,
6 the following definitions shall apply:

7 “(1) AFFILIATE.—The term ‘affiliate’ means,
8 with respect to an insurer, any person who controls,
9 is controlled by, or is under common control with the
10 insurer.

11 “(2) COVERED AGREEMENT.—The term ‘cov-
12 ered agreement’ means a written bilateral or multi-
13 lateral agreement regarding prudential measures
14 with respect to the business of insurance or reinsur-
15 ance that—

16 “(A) is entered into between the United
17 States and one or more foreign governments,
18 authorities, or regulatory entities; and

19 “(B) relates to the recognition of pruden-
20 tial measures with respect to the business of in-
21 surance or reinsurance that achieves a level of
22 protection for insurance or reinsurance con-
23 sumers that is substantially equivalent to the
24 level of protection achieved under State insur-
25 ance or reinsurance regulation.

1 “(3) INSURER.—The term ‘insurer’ means any
2 person engaged in the business of insurance, includ-
3 ing reinsurance.

4 “(4) FEDERAL FINANCIAL REGULATORY AGEN-
5 CY.—The term ‘Federal financial regulatory agency’
6 means the Department of the Treasury, the Board
7 of Governors of the Federal Reserve System, the Of-
8 fice of the Comptroller of the Currency, the Office
9 of Thrift Supervision, the Securities and Exchange
10 Commission, the Commodity Futures Trading Com-
11 mission, the Federal Deposit Insurance Corporation,
12 the Federal Housing Finance Agency, or the Na-
13 tional Credit Union Administration.

14 “(5) FINANCIAL STABILITY OVERSIGHT COUN-
15 CIL.—The term ‘Financial Stability Oversight Coun-
16 cil ’ means the Financial Stability Oversight Council
17 established under section 111(a) of the Dodd-Frank
18 Wall Street Reform and Consumer Protection Act
19 (12 U.S.C. 5321(a)).

20 “(6) MEMBER AGENCY.—The term ‘member
21 agency’ has the meaning given such term in section
22 111(a) of the Dodd-Frank Wall Street Reform and
23 Consumer Protection Act (12 U.S.C. 5321(a)).

24 “(7) NON-UNITED STATES INSURER.—The term
25 ‘non-United States insurer’ means an insurer that is

1 organized under the laws of a jurisdiction other than
2 a State, but does not include any United States
3 branch of such an insurer.

4 “(8) OFFICE.—The term ‘Office’ means the Of-
5 fice of the Independent Insurance Advocate estab-
6 lished by this section.

7 “(9) STATE INSURANCE MEASURE.—The term
8 ‘State insurance measure’ means any State law, reg-
9 ulation, administrative ruling, bulletin, guideline, or
10 practice relating to or affecting prudential measures
11 applicable to insurance or reinsurance.

12 “(10) STATE INSURANCE REGULATOR.—The
13 term ‘State insurance regulator’ means any State
14 regulatory authority responsible for the supervision
15 of insurers.

16 “(11) SUBSTANTIALLY EQUIVALENT TO THE
17 LEVEL OF PROTECTION ACHIEVED.—The term ‘sub-
18 stantially equivalent to the level of protection
19 achieved’ means the prudential measures of a for-
20 eign government, authority, or regulatory entity
21 achieve a similar outcome in consumer protection as
22 the outcome achieved under State insurance or rein-
23 surance regulation.

24 “(12) UNITED STATES INSURER.—The term
25 ‘United States insurer’ means—

1 “(A) an insurer that is organized under
2 the laws of a State; or

3 “(B) a United States branch of a non-
4 United States insurer.”.

5 (b) PAY AT LEVEL III OF EXECUTIVE SCHEDULE.—
6 Section 5314 of title 5, United States Code, is amended
7 by adding at the end the following new item:

8 “Independent Insurance Advocate, Department
9 of the Treasury.”.

10 (c) VOTING MEMBER OF FSOC.—Paragraph (1) of
11 section 111(b) of the Dodd-Frank Wall Street Reform and
12 Consumer Protection Act (12 U.S.C. 5321(b)(1)) is
13 amended by striking subparagraph (J) and inserting the
14 following new subparagraph:

15 “(J) the Independent Insurance Advocate
16 appointed pursuant to section 313 of title 31,
17 United States Code.”.

18 (d) INDEPENDENCE.—Section 111 of Public Law 93–
19 495 (12 U.S.C. 250) is amended—

20 (1) by inserting “the Independent Insurance
21 Advocate of the Department of the Treasury,” after
22 “Federal Housing Finance Agency,”; and

23 (2) by inserting “or official” before “submitting
24 them”.

1 (e) TRANSFER OF EMPLOYEES.—All employees of the
2 Department of Treasury who are performing staff func-
3 tions for the independent member of the Financial Sta-
4 bility Oversight Council under section 111(b)(2)(J) of the
5 Dodd-Frank Wall Street Reform and Consumer Protec-
6 tion Act (12 U.S.C. 5321(b)(2)(J)) on a full-time equiva-
7 lent basis as of the date of enactment of this Act shall
8 be eligible for transfer to the Office of the Independent
9 Insurance Advocate established pursuant to the amend-
10 ment made by subsection (a) of this section for appoint-
11 ment as an employee and shall be transferred at the joint
12 discretion of the Independent Insurance Advocate and the
13 eligible employee. Any employee eligible for transfer that
14 is not appointed within 360 days from the date of enact-
15 ment of this Act shall be eligible for detail under section
16 313(f)(4) of title 31, United States Code.

17 (f) TEMPORARY SERVICE; TRANSITION.—Notwith-
18 standing the amendment made by subsection (a) of this
19 section, during the period beginning on the date of the
20 enactment of this Act and ending on the date on which
21 the Independent Insurance Advocate is appointed and con-
22 firmed pursuant to section 313(b)(2) of title 31, United
23 States Code, as amended by such amendment, the person
24 serving, on such date of enactment, as the independent
25 member of the Financial Stability Oversight Council pur-

1 suant to section 111(b)(1)(J) of the Dodd-Frank Wall
2 Street Reform and Consumer Protection Act (12 U.S.C.
3 5321(b)(1)(J)) shall act for all purposes as, and with the
4 full powers of, the Independent Insurance Advocate.

5 (g) COMPARABILITY IN COMPENSATION SCHED-
6 ULES.—Subsection (a) of section 1206 of the Financial
7 Institutions Reform, Recovery, and Enforcement Act of
8 1989 (12 U.S.C. 1833b(a)) is amended by inserting “and
9 the Office of the Independent Insurance Advocate of the
10 Department of the Treasury,” after “Farm Credit Admin-
11 istration,”.

12 (h) SENIOR EXECUTIVES.—Subparagraph (D) of sec-
13 tion 3132(a)(1) of title 5, United States Code, is amended
14 by inserting “the Office of the Independent Insurance Ad-
15 vocate of the Department of the Treasury,” after “Fi-
16 nance Agency,”.

17 **SEC. 502. TREATMENT OF COVERED AGREEMENTS.**

18 Subsection (c) of section 314 of title 31, United
19 States Code is amended—

20 (1) by designating paragraphs (1) and (2) as
21 paragraphs (2) and (3), respectively; and

22 (2) by inserting before paragraph (2), as so re-
23 designated, the following new paragraph:

24 “(1) the Secretary of the Treasury and the
25 United States Trade Representative have caused to

1 be published in the Federal Register, and made
 2 available for public comment for a period of not
 3 fewer than 30 days and not greater than 90 days
 4 (which period may run concurrently with the 90-day
 5 period for the covered agreement referred to in para-
 6 graph (3)), the proposed text of the covered agree-
 7 ment;”.

8 **TITLE VI—DEMANDING AC-**
 9 **COUNTABILITY FROM FINAN-**
 10 **CIAL REGULATORS AND DE-**
 11 **VOLVING POWER AWAY FROM**
 12 **WASHINGTON**

13 **Subtitle A—Cost-Benefit Analyses**

14 **SEC. 611. DEFINITIONS.**

15 As used in this subtitle—

16 (1) the term “agency” means the Board of Gov-
 17 ernors of the Federal Reserve System, the Consumer
 18 Financial Opportunity Commission, the Commodity
 19 Futures Trading Commission, the Federal Deposit
 20 Insurance Corporation, the Federal Housing Fi-
 21 nance Agency, the Office of the Comptroller of the
 22 Currency, the National Credit Union Administra-
 23 tion, and the Securities and Exchange Commission;

24 (2) the term “chief economist” means—

1 (A) with respect to the Board of Governors
2 of the Federal Reserve System, the Director of
3 the Division of Research and Statistics, or an
4 employee of the agency with comparable author-
5 ity;

6 (B) with respect to the Consumer Finan-
7 cial Opportunity Commission, the Head of the
8 Office of Economic Analysis, or an employee of
9 the agency with comparable authority;

10 (C) with respect to the Commodity Fu-
11 tures Trading Commission, the Chief Econo-
12 mist, or an employee of the agency with com-
13 parable authority;

14 (D) with respect to the Federal Deposit
15 Insurance Corporation, the Director of the Divi-
16 sion of Insurance and Research, or an employee
17 of the agency with comparable authority;

18 (E) with respect to the Federal Housing
19 Finance Agency, the Chief Economist, or an
20 employee of the agency with comparable author-
21 ity;

22 (F) with respect to the Office of the Comp-
23 troller of the Currency, the Director for Policy
24 Analysis, or an employee of the agency with
25 comparable authority;

1 (G) with respect to the National Credit
2 Union Administration, the Chief Economist, or
3 an employee of the agency with comparable au-
4 thority; and

5 (H) with respect to the Securities and Ex-
6 change Commission, the Director of the Divi-
7 sion of Economic and Risk Analysis, or an em-
8 ployee of the agency with comparable authority;

9 (3) the term “Council” means the Chief Econo-
10 mists Council established under section 618; and

11 (4) the term “regulation”—

12 (A) means an agency statement of general
13 applicability and future effect that is designed
14 to implement, interpret, or prescribe law or pol-
15 icy or to describe the procedure or practice re-
16 quirements of an agency, including rules, orders
17 of general applicability, interpretive releases,
18 and other statements of general applicability
19 that the agency intends to have the force and
20 effect of law; and

21 (B) does not include—

22 (i) a regulation issued in accordance
23 with the formal rulemaking provisions of
24 section 556 or 557 of title 5, United States
25 Code;

1 (ii) a regulation that is limited to
2 agency organization, management, or per-
3 sonnel matters;

4 (iii) a regulation promulgated pursu-
5 ant to statutory authority that expressly
6 prohibits compliance with this provision;

7 (iv) a regulation that is certified by
8 the agency to be an emergency action, if
9 such certification is published in the Fed-
10 eral Register;

11 (v) a regulation that is promulgated
12 by the Board of Governors of the Federal
13 Reserve System or the Federal Open Mar-
14 ket Committee under section 10A, 10B,
15 13, 13A, or 19 of the Federal Reserve Act,
16 or any of subsections (a) through (f) of
17 section 14 of that Act; or

18 (vi) a regulation filed with the Com-
19 mission by a self-regulatory organization—

20 (I) that meet the criteria for im-
21 mediate effectiveness under section
22 240.19b-4(f) of title 17, Code of Fed-
23 eral Regulations; and

24 (II) for which the self-regulatory
25 organization has itself conducted the

1 cost-benefit analysis and otherwise
2 complied with the requirements of sec-
3 tion 612.

4 **SEC. 612. REQUIRED REGULATORY ANALYSIS.**

5 (a) REQUIREMENTS FOR NOTICES OF PROPOSED
6 RULEMAKING.—An agency may not issue a notice of pro-
7 posed rulemaking unless the agency includes in the notice
8 of proposed rulemaking an analysis that contains, at a
9 minimum, with respect to each regulation that is being
10 proposed—

11 (1) an identification of the need for the regula-
12 tion and the regulatory objective, including identi-
13 fication of the nature and significance of the market
14 failure, regulatory failure, or other problem that ne-
15 cessitates the regulation;

16 (2) an explanation of why the private market or
17 State, local, or tribal authorities cannot adequately
18 address the identified market failure or other prob-
19 lem;

20 (3) an analysis of the adverse impacts to regu-
21 lated entities, other market participants, economic
22 activity, or agency effectiveness that are engendered
23 by the regulation and the magnitude of such adverse
24 impacts;

1 (4) a quantitative and qualitative assessment of
2 all anticipated direct and indirect costs and benefits
3 of the regulation (as compared to a benchmark that
4 assumes the absence of the regulation), including—

5 (A) compliance costs;

6 (B) effects on economic activity, net job
7 creation (excluding jobs related to ensuring
8 compliance with the regulation), efficiency, com-
9 petition, and capital formation;

10 (C) regulatory administrative costs; and

11 (D) costs imposed by the regulation on
12 State, local, or tribal governments or other reg-
13 ulatory authorities;

14 (5) if quantified benefits do not outweigh quan-
15 titative costs, a justification for the regulation;

16 (6) an identification and assessment of all avail-
17 able alternatives to the regulation, including modi-
18 fication of an existing regulation or statute, together
19 with—

20 (A) an explanation of why the regulation
21 meets the objectives of the regulation more ef-
22 fectively than the alternatives, and if the agency
23 is proposing multiple alternatives, an expla-
24 nation of why a notice of proposed rulemaking,

1 rather than an advanced notice of proposed
2 rulemaking, is appropriate; and

3 (B) if the regulation is not a pilot pro-
4 gram, an explanation of why a pilot program is
5 not appropriate;

6 (7) if the regulation specifies the behavior or
7 manner of compliance, an explanation of why the
8 agency did not instead specify performance objec-
9 tives;

10 (8) an assessment of how the burden imposed
11 by the regulation will be distributed among market
12 participants, including whether consumers, investors,
13 or small businesses will be disproportionately bur-
14 dened;

15 (9) an assessment of the extent to which the
16 regulation is inconsistent, incompatible, or duplica-
17 tive with the existing regulations of the agency or
18 those of other domestic and international regulatory
19 authorities with overlapping jurisdiction;

20 (10) a description of any studies, surveys, or
21 other data relied upon in preparing the analysis;

22 (11) an assessment of the degree to which the
23 key assumptions underlying the analysis are subject
24 to uncertainty; and

1 (12) an explanation of predicted changes in
2 market structure and infrastructure and in behavior
3 by market participants, including consumers and in-
4 vestors, assuming that they will pursue their eco-
5 nomic interests.

6 (b) REQUIREMENTS FOR NOTICES OF FINAL RULE-
7 MAKING.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, an agency may not issue a notice
10 of final rulemaking with respect to a regulation un-
11 less the agency—

12 (A) has issued a notice of proposed rule-
13 making for the relevant regulation;

14 (B) has conducted and includes in the no-
15 tice of final rulemaking an analysis that con-
16 tains, at a minimum, the elements required
17 under subsection (a); and

18 (C) includes in the notice of final rule-
19 making regulatory impact metrics selected by
20 the chief economist to be used in preparing the
21 report required pursuant to section 615.

22 (2) CONSIDERATION OF COMMENTS.—The
23 agency shall incorporate in the elements described in
24 paragraph (1)(B) the data and analyses provided to
25 the agency by commenters during the comment pe-

1 riod, or explain why the data or analyses are not
2 being incorporated.

3 (3) COMMENT PERIOD.—An agency shall not
4 publish a notice of final rulemaking with respect to
5 a regulation, unless the agency—

6 (A) has allowed at least 90 days from the
7 date of publication in the Federal Register of
8 the notice of proposed rulemaking for the sub-
9 mission of public comments; or

10 (B) includes in the notice of final rule-
11 making an explanation of why the agency was
12 not able to provide a 90-day comment period.

13 (4) PROHIBITED RULES.—

14 (A) IN GENERAL.—An agency may not
15 publish a notice of final rulemaking if the agen-
16 cy, in its analysis under paragraph (1)(B), de-
17 termines that the quantified costs are greater
18 than the quantified benefits under subsection
19 (a)(5).

20 (B) PUBLICATION OF ANALYSIS.—If the
21 agency is precluded by subparagraph (A) from
22 publishing a notice of final rulemaking, the
23 agency shall publish in the Federal Register
24 and on the public website of the agency its

1 analysis under paragraph (1)(B), and provide
2 the analysis to each House of Congress.

3 (C) CONGRESSIONAL WAIVER.—If the
4 agency is precluded by subparagraph (A) from
5 publishing a notice of final rulemaking, Con-
6 gress, by joint resolution pursuant to the proce-
7 dures set forth for joint resolutions in section
8 802 of title 5, United States Code, may direct
9 the agency to publish a notice of final rule-
10 making notwithstanding the prohibition con-
11 tained in subparagraph (A). In applying section
12 802 of title 5, United States Code, for purposes
13 of this paragraph, section 802(e)(2) shall not
14 apply and the terms—

15 (i) “joint resolution” or “joint resolu-
16 tion described in subsection (a)” means
17 only a joint resolution introduced during
18 the period beginning on the submission or
19 publication date and ending 60 days there-
20 after (excluding days either House of Con-
21 gress is adjourned for more than 3 days
22 during a session of Congress), the matter
23 after the resolving clause of which is as fol-
24 lows: “That Congress directs, notwith-
25 standing the prohibition contained in sec-

1 tion 612(b)(4)(A) of the Financial
2 CHOICE Act of 2016, the ____ to publish
3 the notice of final rulemaking for the regu-
4 lation or regulations that were the subject
5 of the analysis submitted by the ____ to
6 Congress on ____.” (The blank spaces
7 being appropriately filled in.); and

8 (ii) “submission or publication date”
9 means—

10 (I) the date on which the analysis
11 under paragraph (1)(B) is submitted
12 to Congress under paragraph (4)(B);
13 or

14 (II) if the analysis is submitted
15 to Congress less than 60 session days
16 or 60 legislative days before the date
17 on which the Congress adjourns a ses-
18 sion of Congress, the date on which
19 the same or succeeding Congress first
20 convenes its next session.

21 **SEC. 613. RULE OF CONSTRUCTION.**

22 For purposes of the Paperwork Reduction Act (44
23 U.S.C. 3501 et seq.), obtaining, causing to be obtained,
24 or soliciting information for purposes of complying with
25 section 612 with respect to a proposed rulemaking shall

1 not be construed to be a collection of information, provided
2 that the agency has first issued an advanced notice of pro-
3 posed rulemaking in connection with the regulation, iden-
4 tifies that advanced notice of proposed rulemaking in its
5 solicitation of information, and informs the person from
6 whom the information is obtained or solicited that the pro-
7 vision of information is voluntary.

8 **SEC. 614. PUBLIC AVAILABILITY OF DATA AND REGU-**
9 **LATORY ANALYSIS.**

10 (a) IN GENERAL.—At or before the commencement
11 of the public comment period with respect to a regulation,
12 the agency shall make available on its public website suffi-
13 cient information about the data, methodologies, and as-
14 sumptions underlying the analyses performed pursuant to
15 section 612 so that the analytical results of the agency
16 are capable of being substantially reproduced, subject to
17 an acceptable degree of imprecision or error.

18 (b) CONFIDENTIALITY.—The agency shall comply
19 with subsection (a) in a manner that preserves the con-
20 fidentiality of nonpublic information, including confiden-
21 tial trade secrets, confidential commercial or financial in-
22 formation, and confidential information about positions,
23 transactions, or business practices.

1 **SEC. 615. FIVE-YEAR REGULATORY IMPACT ANALYSIS.**

2 (a) IN GENERAL.—Not later than 5 years after the
3 date of publication in the Federal Register of a notice of
4 final rulemaking, the chief economist of the agency shall
5 issue a report that examines the economic impact of the
6 subject regulation, including the direct and indirect costs
7 and benefits of the regulation.

8 (b) REGULATORY IMPACT METRICS.—In preparing
9 the report required by subsection (a), the chief economist
10 shall employ the regulatory impact metrics included in the
11 notice of final rulemaking pursuant to section
12 612(b)(1)(C).

13 (c) REPRODUCIBILITY.—The report shall include the
14 data, methodologies, and assumptions underlying the eval-
15 uation so that the agency’s analytical results are capable
16 of being substantially reproduced, subject to an acceptable
17 degree of imprecision or error.

18 (d) CONFIDENTIALITY.—The agency shall comply
19 with subsection (c) in a manner that preserves the con-
20 fidentiality of nonpublic information, including confiden-
21 tial trade secrets, confidential commercial or financial in-
22 formation, and confidential information about positions,
23 transactions, or business practices.

24 (e) REPORT.—The agency shall submit the report re-
25 quired by subsection (a) to the Committee on Banking,
26 Housing, and Urban Affairs of the Senate and the Com-

1 mittee on Financial Services of the House of Representa-
2 tives and post it on the public website of the agency. The
3 Commodity Futures Trading Commission shall also sub-
4 mit its report to the Committee on Agriculture, Nutrition,
5 and Forestry of the Senate and the Committee on Agri-
6 culture of the House of Representatives.

7 **SEC. 616. RETROSPECTIVE REVIEW OF EXISTING RULES.**

8 (a) **REGULATORY IMPROVEMENT PLAN.**—Not later
9 than 1 year after the date of enactment of this Act and
10 every 5 years thereafter, each agency shall develop, submit
11 to the Committee on Banking, Housing, and Urban Af-
12 fairs of the Senate and the Committee on Financial Serv-
13 ices of the House of Representatives, and post on the pub-
14 lic website of the agency a plan, consistent with law and
15 its resources and regulatory priorities, under which the
16 agency will modify, streamline, expand, or repeal existing
17 regulations so as to make the regulatory program of the
18 agency more effective or less burdensome in achieving the
19 regulatory objectives. The Commodity Futures Trading
20 Commission shall also submit its plan to the Committee
21 on Agriculture, Nutrition, and Forestry of the Senate and
22 the Committee on Agriculture of the House of Representa-
23 tives.

24 (b) **IMPLEMENTATION PROGRESS REPORT.**—Two
25 years after the date of submission of each plan required

1 under subsection (a), each agency shall develop, submit
2 to the Committee on Banking, Housing, and Urban Af-
3 fairs of the Senate and the Committee on Financial Serv-
4 ices of the House of Representatives, and post on the pub-
5 lic website of the agency a report of the steps that it has
6 taken to implement the plan, steps that remain to be taken
7 to implement the plan, and, if any parts of the plan will
8 not be implemented, reasons for not implementing those
9 parts of the plan. The Commodity Futures Trading Com-
10 mission shall also submit its plan to the Committee on
11 Agriculture, Nutrition, and Forestry of the Senate and the
12 Committee on Agriculture of the House of Representa-
13 tives.

14 **SEC. 617. JUDICIAL REVIEW.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law, during the period beginning on the date on
17 which a notice of final rulemaking for a regulation is pub-
18 lished in the Federal Register and ending 1 year later,
19 a person that is adversely affected or aggrieved by the reg-
20 ulation is entitled to bring an action in the United States
21 Court of Appeals for the District of Columbia Circuit for
22 judicial review of agency compliance with the requirements
23 of section 612.

24 (b) STAY.—The court may stay the effective date of
25 the regulation or any provision thereof.

1 (c) RELIEF.—If the court finds that an agency has
2 not complied with the requirements of section 612, the
3 court shall vacate the subject regulation, unless the agency
4 shows by clear and convincing evidence that vacating the
5 regulation would result in irreparable harm. Nothing in
6 this section affects other limitations on judicial review or
7 the power or duty of the court to dismiss any action or
8 deny relief on any other appropriate legal or equitable
9 ground.

10 **SEC. 618. CHIEF ECONOMISTS COUNCIL.**

11 (a) ESTABLISHMENT.—There is established the Chief
12 Economists Council.

13 (b) MEMBERSHIP.—The Council shall consist of the
14 chief economist of each agency. The members of the Coun-
15 cil shall select the first chairperson of the Council. There-
16 after the position of Chairperson shall rotate annually
17 among the members of the Council.

18 (c) MEETINGS.—The Council shall meet at the call
19 of the Chairperson, but not less frequently than quarterly.

20 (d) REPORT.—One year after the effective date of
21 this Act and annually thereafter, the Council shall prepare
22 and submit to the Committee on Banking, Housing, and
23 Urban Affairs and the Committee on Agriculture, Nutri-
24 tion, and Forestry of the Senate and the Committee on

1 Financial Services and the Committee on Agriculture of
2 the House of Representatives a report on—

3 (1) the benefits and costs of regulations adopt-
4 ed by the agencies during the past 12 months;

5 (2) the regulatory actions planned by the agen-
6 cies for the upcoming 12 months;

7 (3) the cumulative effect of the existing regula-
8 tions of the agencies on economic activity, innova-
9 tion, international competitiveness of entities regu-
10 lated by the agencies, and net job creation (exclud-
11 ing jobs related to ensuring compliance with the reg-
12 ulation);

13 (4) the training and qualifications of the per-
14 sons who prepared the cost-benefit analyses of each
15 agency during the past 12 months;

16 (5) the sufficiency of the resources available to
17 the chief economists during the past 12 months for
18 the conduct of the activities required by this subtitle;
19 and

20 (6) recommendations for legislative or regu-
21 latory action to enhance the efficiency and effective-
22 ness of financial regulation in the United States.

23 **SEC. 619. CONFORMING AMENDMENTS.**

24 Section 15(a) of the Commodity Exchange Act (7
25 U.S.C. 19(a)) is amended—

1 (1) by striking paragraph (1);

2 (2) in paragraph (2), by striking “(2)” and all
3 that follows through “light of—” and inserting the
4 following:

5 “(1) CONSIDERATIONS.—Before promulgating a
6 regulation under this chapter or issuing an order
7 (except as provided in paragraph (2)), the Commis-
8 sion shall take into consideration—”;

9 (3) in paragraph (1), as so redesignated—

10 (A) in subparagraph (B), by striking “fu-
11 tures” and inserting “the relevant”;

12 (B) in subparagraph (C), by adding “and”
13 at the end;

14 (C) in subparagraph (D), by striking “;
15 and” and inserting a period; and

16 (D) by striking subparagraph (E); and

17 (4) by redesignating paragraph (3) as para-
18 graph (2).

19 **SEC. 620. OTHER REGULATORY ENTITIES.**

20 (a) **SECURITIES AND EXCHANGE COMMISSION.**—Not
21 later than 1 year after the date of enactment of this Act,
22 the Securities and Exchange Commission shall provide to
23 the Committee on Banking, Housing, and Urban Affairs
24 of the Senate and the Committee on Financial Services
25 of the House of Representatives a report setting forth a

1 plan for subjecting the Public Company Accounting Over-
2 sight Board, the Municipal Securities Rulemaking Board,
3 and any national securities association registered under
4 section 15A of the Securities Exchange Act of 1934 (15
5 U.S.C. 78o–4(a)) to the requirements of this subtitle,
6 other than direct representation on the Council.

7 (b) COMMODITY FUTURES TRADING COMMISSION.—
8 Not later than 1 year after the date of enactment of this
9 Act, the Commodity Futures Trading Commission shall
10 provide to the Committee on Banking, Housing, and
11 Urban Affairs of the Senate, the Committee on Financial
12 Services of the House of Representatives, the Committee
13 on Agriculture, Nutrition, and Forestry of the Senate, and
14 the Committee on Agriculture of the House of Representa-
15 tives a report setting forth a plan for subjecting any fu-
16 tures association registered under section 17 of the Com-
17 modity Exchange Act (7 U.S.C. 21) to the requirements
18 of this subtitle, other than direct representation on the
19 Council.

20 **SEC. 621. AVOIDANCE OF DUPLICATIVE OR UNNECESSARY**
21 **ANALYSES.**

22 An agency may perform the analyses required by this
23 subtitle in conjunction with, or as a part of, any other
24 agenda or analysis required by any other provision of law,

1 if such other analysis satisfies the provisions of this sub-
2 title.

3 **Subtitle B—Congressional Review**
4 **of Federal Financial Agency**
5 **Rulemaking**

6 **SEC. 631. CONGRESSIONAL REVIEW.**

7 (a)(1)(A) Before a rule may take effect, a Federal
8 financial agency shall publish in the Federal Register a
9 list of information on which the rule is based, including
10 data, scientific and economic studies, and cost-benefit
11 analyses, and identify how the public can access such in-
12 formation online, and shall submit to each House of the
13 Congress and to the Comptroller General a report con-
14 taining—

15 (i) a copy of the rule;

16 (ii) a concise general statement relating to the
17 rule;

18 (iii) a classification of the rule as a major or
19 nonmajor rule, including an explanation of the clas-
20 sification specifically addressing each criteria for a
21 major rule contained within subparagraphs (A)
22 through (C) of section 634(2);

23 (iv) a list of any other related regulatory ac-
24 tions intended to implement the same statutory pro-
25 vision or regulatory objective as well as the indi-

1 vidual and aggregate economic effects of those ac-
2 tions; and

3 (v) the proposed effective date of the rule.

4 (B) On the date of the submission of the report under
5 subparagraph (A), the Federal financial agency shall sub-
6 mit to the Comptroller General and make available to each
7 House of Congress—

8 (i) a complete copy of the cost-benefit analysis
9 of the rule, if any, including an analysis of any jobs
10 added or lost, differentiating between public and pri-
11 vate sector jobs;

12 (ii) the Federal financial agency's actions pur-
13 suant to sections 603, 604, 605, 607, and 609 of
14 title 5, United States Code;

15 (iii) the Federal financial agency's actions pur-
16 suant to sections 202, 203, 204, and 205 of the Un-
17 funded Mandates Reform Act of 1995; and

18 (iv) any other relevant information or require-
19 ments under any other Act and any relevant Execu-
20 tive orders.

21 (C) Upon receipt of a report submitted under sub-
22 paragraph (A), each House shall provide copies of the re-
23 port to the chairman and ranking member of each stand-
24 ing committee with jurisdiction under the rules of the
25 House of Representatives or the Senate to report a bill

1 to amend the provision of law under which the rule is
2 issued.

3 (2)(A) The Comptroller General shall provide a re-
4 port on each major rule to the committees of jurisdiction
5 by the end of 15 calendar days after the submission or
6 publication date. The report of the Comptroller General
7 shall include an assessment of the Federal financial agen-
8 cy's compliance with procedural steps required by para-
9 graph (1)(B) and an assessment of whether the major rule
10 imposes any new limits or mandates on private-sector ac-
11 tivity.

12 (B) Federal financial agencies shall cooperate with
13 the Comptroller General by providing information relevant
14 to the Comptroller General's report under subparagraph
15 (A).

16 (3) A major rule relating to a report submitted under
17 paragraph (1) shall take effect upon enactment of a joint
18 resolution of approval described in section 632 or as pro-
19 vided for in the rule following enactment of a joint resolu-
20 tion of approval described in section 632, whichever is
21 later.

22 (4) A nonmajor rule shall take effect as provided by
23 section 633 after submission to Congress under paragraph
24 (1).

1 (5) If a joint resolution of approval relating to a
2 major rule is not enacted within the period provided in
3 subsection (b)(2), then a joint resolution of approval relat-
4 ing to the same rule may not be considered under this
5 subtitle in the same Congress by either the House of Rep-
6 resentatives or the Senate.

7 (b)(1) A major rule shall not take effect unless the
8 Congress enacts a joint resolution of approval described
9 under section 632.

10 (2) If a joint resolution described in subsection (a)
11 is not enacted into law by the end of 70 session days or
12 legislative days, as applicable, beginning on the date on
13 which the report referred to in subsection (a)(1)(A) is re-
14 ceived by Congress (excluding days either House of Con-
15 gress is adjourned for more than 3 days during a session
16 of Congress), then the rule described in that resolution
17 shall be deemed not to be approved and such rule shall
18 not take effect.

19 (c)(1) Notwithstanding any other provision of this
20 section (except subject to paragraph (3)), a major rule
21 may take effect for one 90-calendar-day period if the
22 President makes a determination under paragraph (2) and
23 submits written notice of such determination to the Con-
24 gress.

1 (2) Paragraph (1) applies to a determination made
2 by the President by Executive order that the major rule
3 should take effect because such rule is—

4 (A) necessary because of an imminent threat to
5 health or safety or other emergency;

6 (B) necessary for the enforcement of criminal
7 laws;

8 (C) necessary for national security; or

9 (D) issued pursuant to any statute imple-
10 menting an international trade agreement.

11 (3) An exercise by the President of the authority
12 under this subsection shall have no effect on the proce-
13 dures under section 632.

14 (d)(1) In addition to the opportunity for review other-
15 wise provided under this subtitle, in the case of any rule
16 for which a report was submitted in accordance with sub-
17 section (a)(1)(A) during the period beginning on the date
18 occurring—

19 (A) in the case of the Senate, 60 session days;
20 or

21 (B) in the case of the House of Representatives,
22 60 legislative days,

23 before the date the Congress is scheduled to adjourn a
24 session of Congress through the date on which the same
25 or succeeding Congress first convenes its next session, sec-

1 tions 632 and 633 shall apply to such rule in the suc-
2 ceeding session of Congress.

3 (2)(A) In applying sections 632 and 633 for purposes
4 of such additional review, a rule described under para-
5 graph (1) shall be treated as though—

6 (i) such rule were published in the Federal Reg-
7 ister on—

8 (I) in the case of the Senate, the 15th ses-
9 sion day; or

10 (II) in the case of the House of Represent-
11 atives, the 15th legislative day,
12 after the succeeding session of Congress first con-
13 venes; and

14 (ii) a report on such rule were submitted to
15 Congress under subsection (a)(1) on such date.

16 (B) Nothing in this paragraph shall be construed to
17 affect the requirement under subsection (a)(1) that a re-
18 port shall be submitted to Congress before a rule can take
19 effect.

20 (3) A rule described under paragraph (1) shall take
21 effect as otherwise provided by law (including other sub-
22 sections of this section).

1 **SEC. 632. CONGRESSIONAL APPROVAL PROCEDURE FOR**
2 **MAJOR RULES.**

3 (a)(1) For purposes of this section, the term “joint
4 resolution” means only a joint resolution addressing a re-
5 port classifying a rule as major pursuant to section
6 631(a)(1)(A)(iii) that—

7 (A) bears no preamble;

8 (B) bears the following title (with blanks filled
9 as appropriate): “Approving the rule submitted by
10 _____ relating to _____.”;

11 (C) includes after its resolving clause only the
12 following (with blanks filled as appropriate): “That
13 Congress approves the rule submitted by _____ re-
14 lating to _____.”; and

15 (D) is introduced pursuant to paragraph (2).

16 (2) After a House of Congress receives a report
17 classifying a rule as major pursuant to section
18 631(a)(1)(A)(iii), the majority leader of that House (or
19 his or her respective designee) shall introduce (by request,
20 if appropriate) a joint resolution described in paragraph
21 (1)—

22 (A) in the case of the House of Representatives,
23 within 3 legislative days; and

24 (B) in the case of the Senate, within 3 session
25 days.

1 (3) A joint resolution described in paragraph (1) shall
2 not be subject to amendment at any stage of proceeding.

3 (b) A joint resolution described in subsection (a) shall
4 be referred in each House of Congress to the committees
5 having jurisdiction over the provision of law under which
6 the rule is issued.

7 (c) In the Senate, if the committee or committees to
8 which a joint resolution described in subsection (a) has
9 been referred have not reported it at the end of 15 session
10 days after its introduction, such committee or committees
11 shall be automatically discharged from further consider-
12 ation of the resolution and it shall be placed on the cal-
13 endar. A vote on final passage of the resolution shall be
14 taken on or before the close of the 15th session day after
15 the resolution is reported by the committee or committees
16 to which it was referred, or after such committee or com-
17 mittees have been discharged from further consideration
18 of the resolution.

19 (d)(1) In the Senate, when the committee or commit-
20 tees to which a joint resolution is referred have reported,
21 or when a committee or committees are discharged (under
22 subsection (c)) from further consideration of a joint reso-
23 lution described in subsection (a), it is at any time there-
24 after in order (even though a previous motion to the same
25 effect has been disagreed to) for a motion to proceed to

1 the consideration of the joint resolution, and all points of
2 order against the joint resolution (and against consider-
3 ation of the joint resolution) are waived. The motion is
4 not subject to amendment, or to a motion to postpone,
5 or to a motion to proceed to the consideration of other
6 business. A motion to reconsider the vote by which the
7 motion is agreed to or disagreed to shall not be in order.
8 If a motion to proceed to the consideration of the joint
9 resolution is agreed to, the joint resolution shall remain
10 the unfinished business of the Senate until disposed of.

11 (2) In the Senate, debate on the joint resolution, and
12 on all debatable motions and appeals in connection there-
13 with, shall be limited to not more than 2 hours, which
14 shall be divided equally between those favoring and those
15 opposing the joint resolution. A motion to further limit
16 debate is in order and not debatable. An amendment to,
17 or a motion to postpone, or a motion to proceed to the
18 consideration of other business, or a motion to recommit
19 the joint resolution is not in order.

20 (3) In the Senate, immediately following the conclu-
21 sion of the debate on a joint resolution described in sub-
22 section (a), and a single quorum call at the conclusion of
23 the debate if requested in accordance with the rules of the
24 Senate, the vote on final passage of the joint resolution
25 shall occur.

1 (4) Appeals from the decisions of the Chair relating
2 to the application of the rules of the Senate to the proce-
3 dure relating to a joint resolution described in subsection
4 (a) shall be decided without debate.

5 (e) In the House of Representatives, if any committee
6 to which a joint resolution described in subsection (a) has
7 been referred has not reported it to the House at the end
8 of 15 legislative days after its introduction, such com-
9 mittee shall be discharged from further consideration of
10 the joint resolution, and it shall be placed on the appro-
11 priate calendar. On the second and fourth Thursdays of
12 each month it shall be in order at any time for the Speaker
13 to recognize a Member who favors passage of a joint reso-
14 lution that has appeared on the calendar for at least 5
15 legislative days to call up that joint resolution for imme-
16 diate consideration in the House without intervention of
17 any point of order. When so called up a joint resolution
18 shall be considered as read and shall be debatable for 1
19 hour equally divided and controlled by the proponent and
20 an opponent, and the previous question shall be considered
21 as ordered to its passage without intervening motion. It
22 shall not be in order to reconsider the vote on passage.
23 If a vote on final passage of the joint resolution has not
24 been taken by the third Thursday on which the Speaker

1 may recognize a Member under this subsection, such vote
2 shall be taken on that day.

3 (f)(1) If, before passing a joint resolution described
4 in subsection (a), one House receives from the other a
5 joint resolution having the same text, then—

6 (A) the joint resolution of the other House shall
7 not be referred to a committee; and

8 (B) the procedure in the receiving House shall
9 be the same as if no joint resolution had been re-
10 ceived from the other House until the vote on pas-
11 sage, when the joint resolution received from the
12 other House shall supplant the joint resolution of
13 the receiving House.

14 (2) This subsection shall not apply to the House of
15 Representatives if the joint resolution received from the
16 Senate is a revenue measure.

17 (g) If either House has not taken a vote on final pas-
18 sage of the joint resolution by the last day of the period
19 described in section 631(b)(2), then such vote shall be
20 taken on that day.

21 (h) This section and section 633 are enacted by Con-
22 gress—

23 (1) as an exercise of the rulemaking power of
24 the Senate and House of Representatives, respec-
25 tively, and as such is deemed to be part of the rules

1 of each House, respectively, but applicable only with
2 respect to the procedure to be followed in that
3 House in the case of a joint resolution described in
4 subsection (a) and superseding other rules only
5 where explicitly so; and

6 (2) with full recognition of the Constitutional
7 right of either House to change the rules (so far as
8 they relate to the procedure of that House) at any
9 time, in the same manner and to the same extent as
10 in the case of any other rule of that House.

11 **SEC. 633. CONGRESSIONAL DISAPPROVAL PROCEDURE FOR**
12 **NONMAJOR RULES.**

13 (a) For purposes of this section, the term “joint reso-
14 lution” means only a joint resolution introduced in the pe-
15 riod beginning on the date on which the report referred
16 to in section 631(a)(1)(A) is received by Congress and
17 ending 60 days thereafter (excluding days either House
18 of Congress is adjourned for more than 3 days during a
19 session of Congress), the matter after the resolving clause
20 of which is as follows: “That Congress disapproves the
21 nonmajor rule submitted by the _____ relating to
22 _____, and such rule shall have no force or effect.” (The
23 blank spaces being appropriately filled in).

1 (b) A joint resolution described in subsection (a) shall
2 be referred to the committees in each House of Congress
3 with jurisdiction.

4 (c) In the Senate, if the committee to which is re-
5 ferred a joint resolution described in subsection (a) has
6 not reported such joint resolution (or an identical joint
7 resolution) at the end of 15 session days after the date
8 of introduction of the joint resolution, such committee may
9 be discharged from further consideration of such joint res-
10 olution upon a petition supported in writing by 30 Mem-
11 bers of the Senate, and such joint resolution shall be
12 placed on the calendar.

13 (d)(1) In the Senate, when the committee to which
14 a joint resolution is referred has reported, or when a com-
15 mittee is discharged (under subsection (c)) from further
16 consideration of a joint resolution described in subsection
17 (a), it is at any time thereafter in order (even though a
18 previous motion to the same effect has been disagreed to)
19 for a motion to proceed to the consideration of the joint
20 resolution, and all points of order against the joint resolu-
21 tion (and against consideration of the joint resolution) are
22 waived. The motion is not subject to amendment, or to
23 a motion to postpone, or to a motion to proceed to the
24 consideration of other business. A motion to reconsider the
25 vote by which the motion is agreed to or disagreed to shall

1 not be in order. If a motion to proceed to the consideration
2 of the joint resolution is agreed to, the joint resolution
3 shall remain the unfinished business of the Senate until
4 disposed of.

5 (2) In the Senate, debate on the joint resolution, and
6 on all debatable motions and appeals in connection there-
7 with, shall be limited to not more than 10 hours, which
8 shall be divided equally between those favoring and those
9 opposing the joint resolution. A motion to further limit
10 debate is in order and not debatable. An amendment to,
11 or a motion to postpone, or a motion to proceed to the
12 consideration of other business, or a motion to recommit
13 the joint resolution is not in order.

14 (3) In the Senate, immediately following the conclu-
15 sion of the debate on a joint resolution described in sub-
16 section (a), and a single quorum call at the conclusion of
17 the debate if requested in accordance with the rules of the
18 Senate, the vote on final passage of the joint resolution
19 shall occur.

20 (4) Appeals from the decisions of the Chair relating
21 to the application of the rules of the Senate to the proce-
22 dure relating to a joint resolution described in subsection
23 (a) shall be decided without debate.

1 (e) In the Senate, the procedure specified in sub-
2 section (e) or (d) shall not apply to the consideration of
3 a joint resolution respecting a nonmajor rule—

4 (1) after the expiration of the 60 session days
5 beginning with the applicable submission or publica-
6 tion date; or

7 (2) if the report under section 631(a)(1)(A) was
8 submitted during the period referred to in section
9 631(d)(1), after the expiration of the 60 session
10 days beginning on the 15th session day after the
11 succeeding session of Congress first convenes.

12 (f) If, before the passage by one House of a joint res-
13 olution of that House described in subsection (a), that
14 House receives from the other House a joint resolution
15 described in subsection (a), then the following procedures
16 shall apply:

17 (1) The joint resolution of the other House
18 shall not be referred to a committee.

19 (2) With respect to a joint resolution described
20 in subsection (a) of the House receiving the joint
21 resolution—

22 (A) the procedure in that House shall be
23 the same as if no joint resolution had been re-
24 ceived from the other House; but

1 (B) the vote on final passage shall be on
2 the joint resolution of the other House.

3 **SEC. 634. DEFINITIONS.**

4 For purposes of this subtitle:

5 (1) The term “Federal financial agency” means
6 the Consumer Financial Opportunity Commission,
7 Board of Governors of the Federal Reserve System,
8 the Commodity Futures Trading Commission, the
9 Federal Deposit Insurance Corporation, the Federal
10 Housing Finance Agency, the Office of the Comp-
11 troller of the Currency, the National Credit Union
12 Administration, and the Securities and Exchange
13 Commission.

14 (2) The term “major rule” means any rule, in-
15 cluding an interim final rule, that the Administrator
16 of the Office of Information and Regulatory Affairs
17 of the Office of Management and Budget finds has
18 resulted in or is likely to result in—

19 (A) an annual effect on the economy of
20 \$100 million or more;

21 (B) a major increase in costs or prices for
22 consumers, individual industries, Federal,
23 State, or local government agencies, or geo-
24 graphic regions; or

1 (C) significant adverse effects on competi-
2 tion, employment, investment, productivity, in-
3 novation, or on the ability of United States-
4 based enterprises to compete with foreign-based
5 enterprises in domestic and export markets.

6 (3) The term “nonmajor rule” means any rule
7 that is not a major rule.

8 (4) The term “rule” has the meaning given
9 such term in section 551 of title 5, United States
10 Code, except that such term does not include—

11 (A) any rule of particular applicability, in-
12 cluding a rule that approves or prescribes for
13 the future rates, wages, prices, services, or al-
14 lowances therefore, corporate or financial struc-
15 tures, reorganizations, mergers, or acquisitions
16 thereof, or accounting practices or disclosures
17 bearing on any of the foregoing;

18 (B) any rule relating to agency manage-
19 ment or personnel; or

20 (C) any rule of agency organization, proce-
21 dure, or practice that does not substantially af-
22 fect the rights or obligations of non-agency par-
23 ties.

1 (5) The term “submission date or publication
2 date”, except as otherwise provided in this subtitle,
3 means—

4 (A) in the case of a major rule, the date
5 on which the Congress receives the report sub-
6 mitted under section 631(a)(1)(A); and

7 (B) in the case of a nonmajor rule, the
8 later of—

9 (i) the date on which the Congress re-
10 ceives the report submitted under section
11 631(a)(1)(A); and

12 (ii) the date on which the nonmajor
13 rule is published in the Federal Register, if
14 so published.

15 **SEC. 635. JUDICIAL REVIEW.**

16 (a) No determination, finding, action, or omission
17 under this subtitle shall be subject to judicial review.

18 (b) Notwithstanding subsection (a), a court may de-
19 termine whether a Federal financial agency has completed
20 the necessary requirements under this subtitle for a rule
21 to take effect.

22 (c) The enactment of a joint resolution of approval
23 under section 632 shall not be interpreted to serve as a
24 grant or modification of statutory authority by Congress
25 for the promulgation of a rule, shall not extinguish or af-

1 fect any claim, whether substantive or procedural, against
2 any alleged defect in a rule, and shall not form part of
3 the record before the court in any judicial proceeding con-
4 cerning a rule except for purposes of determining whether
5 or not the rule is in effect.

6 **SEC. 636. EFFECTIVE DATE OF CERTAIN RULES.**

7 Notwithstanding section 631—

8 (1) any rule that establishes, modifies, opens,
9 closes, or conducts a regulatory program for a com-
10 mercial, recreational, or subsistence activity related
11 to hunting, fishing, or camping; or

12 (2) any rule other than a major rule which the
13 Federal financial agency for good cause finds (and
14 incorporates the finding and a brief statement of
15 reasons therefore in the rule issued) that notice and
16 public procedure thereon are impracticable, unneces-
17 sary, or contrary to the public interest,

18 shall take effect at such time as the Federal financial
19 agency promulgating the rule determines.

20 **SEC. 637. BUDGETARY EFFECTS OF RULES SUBJECT TO**
21 **SECTION 632 OF THE FINANCIAL CHOICE ACT**
22 **OF 2016.**

23 Section 257(b)(2) of the Balanced Budget and Emer-
24 gency Deficit Control Act of 1985 is amended by adding
25 at the end the following new subparagraph:

1 “(E) BUDGETARY EFFECTS OF RULES SUBJECT
2 TO SECTION 632 OF THE FINANCIAL CHOICE ACT OF
3 2016.—Any rules subject to the congressional ap-
4 proval procedure set forth in section 632 of the Fi-
5 nancial CHOICE Act of 2016 affecting budget au-
6 thority, outlays, or receipts shall be assumed to be
7 effective unless it is not approved in accordance with
8 such section.”.

9 **Subtitle C—Judicial Review of**
10 **Agency Actions**

11 **SEC. 641. SCOPE OF JUDICIAL REVIEW OF AGENCY AC-**
12 **TIONS.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, in any judicial review of an agency action pur-
15 suant to chapter 7 of title 5, United States Code, to the
16 extent necessary to decision and when presented, the re-
17 viewing court shall determine the meaning or applicability
18 of the terms of an agency action and decide de novo all
19 relevant questions of law, including the interpretation of
20 constitutional and statutory provisions, and rules made by
21 an agency. Notwithstanding any other provision of law,
22 this section shall apply in any action for judicial review
23 of agency action authorized under any provision of law.
24 No law may exempt any such civil action from the applica-

1 tion of this section except by specific reference to this sec-
2 tion.

3 (b) AGENCY DEFINED.—For purposes of this section,
4 the term “agency” means the Consumer Financial Oppor-
5 tunity Commission, the Board of Governors of the Federal
6 Reserve System, the Commodity Futures Trading Com-
7 mission, the Federal Deposit Insurance Corporation, the
8 Federal Housing Finance Agency, the Office of the Comp-
9 troller of the Currency, the National Credit Union Admin-
10 istration, and the Securities and Exchange Commission.

11 **Subtitle D—Leadership of** 12 **Financial Regulators**

13 **SEC. 651. FEDERAL DEPOSIT INSURANCE CORPORATION.**

14 Section 2 of the Federal Deposit Insurance Act (12
15 U.S.C. 1812) is amended—

16 (1) in subsection (a)(1), by striking “5 mem-
17 bers” and all that follows through “3 of whom” and
18 inserting the following: “5 members, who”;

19 (2) by amending subsection (d) to read as fol-
20 lows:

21 “(d) VACANCY.—Any vacancy on the Board of Direc-
22 tors shall be filled in the manner in which the original
23 appointment was made.”; and

24 (3) in subsection (f)—

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

1 (B) by redesignating paragraph (3) as
2 paragraph (2).

3 **SEC. 652. FEDERAL HOUSING FINANCE AGENCY.**

4 (a) ESTABLISHMENT OF BOARD.—Section 1312 of
5 the Federal Housing Enterprises Financial Safety and
6 Soundness Act of 1992 (12 U.S.C. 4512) is amended—

7 (1) in the heading of such section, by striking
8 “**DIRECTOR**” and inserting “**BOARD OF DIREC-**
9 **TORS**”; and

10 (2) by striking subsections (a) and (b) and in-
11 serting the following:

12 “(a) ESTABLISHMENT.—There is established the
13 Board of Directors of the Agency, which shall serve as
14 the head of the Agency.

15 “(b) BOARD OF DIRECTORS.—

16 “(1) COMPOSITION OF THE BOARD.—

17 “(A) IN GENERAL.—The Board shall be
18 composed of 5 members who shall be appointed
19 by the President, by and with the advice and
20 consent of the Senate, from among individuals
21 who—

22 “(i) are citizens of the United States;
23 and

24 “(ii) have a demonstrated under-
25 standing of financial management or over-

1 sight, and have a demonstrated under-
2 standing of capital markets, including the
3 mortgage securities markets and housing
4 finance.

5 “(B) STAGGERING.—The members of the
6 Board shall serve staggered terms, which ini-
7 tially shall be established by the President for
8 terms of 1, 2, 3, 4, and 5 years, respectively.

9 “(C) TERMS.—

10 “(i) IN GENERAL.—Each member of
11 the Board, including the Chair, shall serve
12 for a term of 5 years.

13 “(ii) REMOVAL.—The President may
14 remove any member of the Board for inef-
15 ficiency, neglect of duty, or malfeasance in
16 office.

17 “(iii) VACANCIES.—Any member of
18 the Board appointed to fill a vacancy oc-
19 curring before the expiration of the term to
20 which that member’s predecessor was ap-
21 pointed (including the Chair) shall be ap-
22 pointed only for the remainder of the term.

23 “(iv) CONTINUATION OF SERVICE.—
24 Each member of the Board may continue
25 to serve after the expiration of the term of

1 office to which that member was appointed
2 until a successor has been appointed by the
3 President and confirmed by the Senate, ex-
4 cept that a member may not continue to
5 serve more than 1 year after the date on
6 which that member's term would otherwise
7 expire.

8 “(v) OTHER EMPLOYMENT PROHIB-
9 ITED.—No member of the Board shall en-
10 gage in any other business, vocation, or
11 employment.

12 “(2) AFFILIATION.—Not more than 3 members
13 of the Board shall be members of any one political
14 party.

15 “(3) CHAIR OF THE BOARD.—

16 “(A) APPOINTMENT.—The Chair of the
17 Board shall be appointed by the President.

18 “(B) AUTHORITY.—The Chair shall be the
19 principal executive officer of the Agency, and
20 shall exercise all of the executive and adminis-
21 trative functions of the Agency, including with
22 respect to—

23 “(i) the appointment and supervision
24 of personnel employed under the Agency
25 (other than personnel employed regularly

1 and full time in the immediate offices of
2 members of the Board other than the
3 Chair);

4 “(ii) the distribution of business
5 among personnel appointed and supervised
6 by the Chair and among administrative
7 units of the Agency; and

8 “(iii) the use and expenditure of
9 funds.

10 “(C) LIMITATION.—In carrying out any of
11 the Chair’s functions under the provisions of
12 this paragraph the Chair shall be governed by
13 general policies of the Agency and by such reg-
14 ulatory decisions, findings, and determinations
15 as the Agency may by law be authorized to
16 make.

17 “(4) NO IMPAIRMENT BY REASON OF VACAN-
18 CIES.—No vacancy in the members of the Board
19 shall impair the right of the remaining members of
20 the Board to exercise all the powers of the Board.
21 Three members of the Board shall constitute a
22 quorum for the transaction of business, except that
23 if there are only 3 members serving on the Board
24 because of vacancies in the Board, 2 members of the
25 Board shall constitute a quorum for the transaction

1 of business. If there are only 2 members serving on
2 the Board because of vacancies in the Board, 2
3 members shall constitute a quorum for the 6-month
4 period beginning on the date of the vacancy which
5 caused the number of Board members to decline to
6 2.

7 “(5) COMPENSATION.—

8 “(A) CHAIR.—The Chair shall receive com-
9 pensation at the rate prescribed for level I of
10 the Executive Schedule under section 5313 of
11 title 5, United States Code.

12 “(B) OTHER MEMBERS OF THE BOARD.—
13 The 4 other members of the Board shall each
14 receive compensation at the rate prescribed for
15 level II of the Executive Schedule under section
16 5314 of title 5, United States Code.

17 “(6) INITIAL QUORUM ESTABLISHED.—During
18 any time period prior to the confirmation of at least
19 two members of the Board, one member of the
20 Board shall constitute a quorum for the transaction
21 of business. Following the confirmation of at least 2
22 additional members of the Board, the quorum re-
23 quirements of paragraph (4) shall apply.”.

1 (b) CONFORMING AMENDMENT.—Section 5313 of
2 title 5, United States Code, is amended by striking “Direc-
3 tor of the Federal Housing Finance Agency.”.

4 (c) DEEMING.—Any reference in a law, regulation,
5 document, paper, or other record of the United States to
6 the position of the Director of the Federal Housing Fi-
7 nance Agency shall be deemed a reference to the Board
8 of Directors of the Federal Housing Finance Agency.

9 **SEC. 653. NATIONAL CREDIT UNION ADMINISTRATION.**

10 Section 102 of the Federal Credit Union Act (12
11 U.S.C. 1752a) is amended—

12 (1) in subsection (b)(1)—

13 (A) by striking “three” and inserting
14 “five”; and

15 (B) by striking “two” and inserting
16 “three”; and

17 (2) by amending subsection (c) to read as fol-
18 lows:

19 “(c) TERMS.—The term of office of each member of
20 the Board shall be five years, and the members shall serve
21 staggered terms. Board members shall not be appointed
22 to succeed themselves. Any Board member may continue
23 to serve as such after the expiration of said member’s term
24 until a successor has qualified.”.

1 **SEC. 654. OFFICE OF THE COMPTROLLER OF THE CUR-**
2 **RENCY.**

3 (a) ESTABLISHMENT OF BOARD.—Subsection (b) of
4 section 324 of the Revised Statutes of the United States
5 (12 U.S.C. 1) is amended to read as follows:

6 “(b) BOARD OF DIRECTORS.—

7 “(1) ESTABLISHMENT.—There is established
8 the Board of Directors of the Office of the Comp-
9 troller of the Currency (hereinafter referred to as
10 the ‘Board’), which shall serve as the head of the
11 Office.

12 “(2) COMPOSITION OF THE BOARD.—

13 “(A) IN GENERAL.—The Board shall be
14 composed of 5 members who shall be appointed
15 by the President, by and with the advice and
16 consent of the Senate, from among individuals
17 who—

18 “(i) are citizens of the United States;
19 and

20 “(ii) have strong competencies and ex-
21 periences related to the banking industry.

22 “(B) STAGGERING.—The members of the
23 Board shall serve staggered terms, which ini-
24 tially shall be established by the President for
25 terms of 1, 2, 3, 4, and 5 years, respectively.

26 “(C) TERMS.—

1 “(i) IN GENERAL.—Each member of
2 the Board, including the Chair, shall serve
3 for a term of 5 years.

4 “(ii) REMOVAL.—The President may
5 remove any member of the Board for inef-
6 ficiency, neglect of duty, or malfeasance in
7 office.

8 “(iii) VACANCIES.—Any member of
9 the Board appointed to fill a vacancy oc-
10 curring before the expiration of the term to
11 which that member’s predecessor was ap-
12 pointed (including the Chair) shall be ap-
13 pointed only for the remainder of the term.

14 “(iv) CONTINUATION OF SERVICE.—
15 Each member of the Board may continue
16 to serve after the expiration of the term of
17 office to which that member was appointed
18 until a successor has been appointed by the
19 President and confirmed by the Senate, ex-
20 cept that a member may not continue to
21 serve more than 1 year after the date on
22 which that member’s term would otherwise
23 expire.

24 “(v) OTHER EMPLOYMENT PROHIB-
25 ITED.—No member of the Board shall en-

1 gage in any other business, vocation, or
2 employment.

3 “(3) AFFILIATION.—Not more than 3 members
4 of the Board shall be members of any one political
5 party.

6 “(4) CHAIR OF THE BOARD.—

7 “(A) APPOINTMENT.—The Chair of the
8 Board shall be appointed by the President.

9 “(B) AUTHORITY.—The Chair shall be the
10 principal executive officer of the Office, and
11 shall exercise all of the executive and adminis-
12 trative functions of the Office, including with
13 respect to—

14 “(i) the appointment and supervision
15 of personnel employed under the Office
16 (other than personnel employed regularly
17 and full time in the immediate offices of
18 members of the Board other than the
19 Chair);

20 “(ii) the distribution of business
21 among personnel appointed and supervised
22 by the Chair and among administrative
23 units of the Office; and

24 “(iii) the use and expenditure of
25 funds.

1 “(C) LIMITATION.—In carrying out any of
2 the Chair’s functions under the provisions of
3 this paragraph the Chair shall be governed by
4 general policies of the Office and by such regu-
5 latory decisions, findings, and determinations as
6 the Office may by law be authorized to make.

7 “(5) NO IMPAIRMENT BY REASON OF VACAN-
8 CIES.—No vacancy in the members of the Board
9 shall impair the right of the remaining members of
10 the Board to exercise all the powers of the Board.
11 Three members of the Board shall constitute a
12 quorum for the transaction of business, except that
13 if there are only 3 members serving on the Board
14 because of vacancies in the Board, 2 members of the
15 Board shall constitute a quorum for the transaction
16 of business. If there are only 2 members serving on
17 the Board because of vacancies in the Board, 2
18 members shall constitute a quorum for the 6-month
19 period beginning on the date of the vacancy which
20 caused the number of Board members to decline to
21 2.

22 “(6) COMPENSATION.—

23 “(A) CHAIR.—The Chair shall receive com-
24 pensation at the rate prescribed for level I of

1 the Executive Schedule under section 5313 of
2 title 5, United States Code.

3 “(B) OTHER MEMBERS OF THE BOARD.—
4 The 4 other members of the Board shall each
5 receive compensation at the rate prescribed for
6 level II of the Executive Schedule under section
7 5314 of title 5, United States Code.

8 “(7) INITIAL QUORUM ESTABLISHED.—During
9 any time period prior to the confirmation of at least
10 two members of the Board, one member of the
11 Board shall constitute a quorum for the transaction
12 of business. Following the confirmation of at least 2
13 additional members of the Board, the quorum re-
14 quirements of paragraph (5) shall apply.”.

15 (b) CONFORMING AMENDMENT.—Section 5314 of
16 title 5, United States Code, is amended by striking
17 “Comptroller of the Currency.”.

18 (c) DEEMING.—Any reference in a law, regulation,
19 document, paper, or other record of the United States to
20 the position of the Comptroller of the Currency shall be
21 deemed a reference to the Board of Directors of the Office
22 of the Comptroller of the Currency.

1 **Subtitle E—Congressional**
2 **Oversight of Appropriations**

3 **SEC. 661. BRINGING THE FEDERAL DEPOSIT INSURANCE**
4 **CORPORATION INTO THE REGULAR APPRO-**
5 **PRIATIONS PROCESS.**

6 (a) IN GENERAL.—Section 10 of the Federal Deposit
7 Insurance Act (12 U.S.C. 1820) is amended—

8 (1) in subsection (a)—

9 (A) by striking “(a) The” and inserting
10 the following:

11 “(a) POWERS.—

12 “(1) IN GENERAL.—The”;

13 (B) by inserting “, subject to paragraph
14 (2) and subsection (l),” after “The Board of
15 Directors of the Corporation”; and

16 (C) by adding at the end the following new
17 paragraph:

18 “(2) APPROPRIATIONS REQUIREMENT.—The
19 Corporation may only incur obligations or allow and
20 pay expenses pursuant to an appropriations Act,
21 other than with respect to obligations or expenses
22 paid for with funds from the Deposit Insurance
23 Fund or incurred, allowed, or paid for the purpose
24 of carrying out the insurance function of the Cor-
25 poration.”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(1) **NON-INSURANCE FEES AS OFFSETTING COLLEC-**
4 **TIONS.**—Any fees collected by the Corporation, except pur-
5 suant to section 5(d), shall be deposited and credited as
6 offsetting collections to the account providing appropria-
7 tions to the Corporation.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
9 this section shall apply with respect to expenses paid and
10 fees collected on or after the date that is 90 days after
11 the date of the enactment of the first appropriation Act
12 that provides for appropriations to the Federal Deposit
13 Insurance Corporation and that is enacted after the date
14 of the enactment of this Act.

15 **SEC. 662. BRINGING THE FEDERAL HOUSING FINANCE**
16 **AGENCY INTO THE REGULAR APPROPRIA-**
17 **TIONS PROCESS.**

18 (a) **IN GENERAL.**—Section 1316(f) of the Housing
19 and Community Development Act of 1992 (12 U.S.C.
20 4516(f)) is amended to read as follows:

21 “(f) **APPROPRIATIONS REQUIREMENT; ASSESSMENTS**
22 **DEPOSITED AS OFFSETTING COLLECTIONS.**—

23 “(1) **APPROPRIATIONS REQUIREMENT.**—The
24 Agency may only incur obligations or allow and pay
25 expenses pursuant to an appropriations Act.

1 “(2) OFFSETTING COLLECTIONS.—Any assess-
2 ments or other fees collected by the Agency shall be
3 deposited and credited as offsetting collections to the
4 account providing appropriations to the Agency.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to expenses paid and
7 fees collected on or after the date that is 90 days after
8 the date of the enactment of the first appropriation Act
9 that provides for appropriations to the Federal Housing
10 Finance Agency and that is enacted after the date of the
11 enactment of this Act.

12 **SEC. 663. BRINGING THE NATIONAL CREDIT UNION ADMIN-**
13 **ISTRATION INTO THE REGULAR APPROPRIA-**
14 **TIONS PROCESS.**

15 (a) IN GENERAL.—Section 105 of the Federal Credit
16 Union Act (12 U.S.C. 1755) is amended by striking sub-
17 sections (d) and (e) and inserting the following:

18 “(d) APPROPRIATIONS REQUIREMENT.—The Admin-
19 istration may only incur obligations or allow and pay ex-
20 penses pursuant to an appropriations Act, other than with
21 respect to obligations or expenses paid for with funds from
22 the National Credit Union Share Insurance Fund or in-
23 curred, allowed, or paid for the purpose of carrying out
24 the insurance function of the Administration.

1 “(e) NON-INSURANCE FEES AS OFFSETTING COL-
 2 LECTIONS.—Any fees collected by the Administration, ex-
 3 cept for insurance fees collected under title II, shall be
 4 deposited and credited as offsetting collections to the ac-
 5 count providing appropriations to the Administration.”.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply with respect to expenses paid and
 8 fees collected on or after the date that is 90 days after
 9 the date of the enactment of the first appropriation Act
 10 that provides for appropriations to the National Credit
 11 Union Administration and that is enacted after the date
 12 of the enactment of this Act.

13 **SEC. 664. BRINGING THE OFFICE OF THE COMPTROLLER**
 14 **OF THE CURRENCY INTO THE REGULAR AP-**
 15 **PROPRIATIONS PROCESS.**

16 (a) IN GENERAL.—Section 5240A of the Revised
 17 Statutes of the United States is amended—

18 (1) by striking “Sec. 5240A. The Comptroller
 19 of the Currency may” and inserting the following:

20 **“SEC. 5240A. APPROPRIATIONS REQUIREMENT; ASSESS-**
 21 **MENTS DEPOSITED AS OFFSETTING COLLEC-**
 22 **TIONS.**

23 “(a) IN GENERAL.—The Board of Directors of the
 24 Office of the Comptroller of the Currency may”;

1 (2) by striking “Funds derived” and all that
2 follows through the end of the section; and

3 (3) by adding at the end the following:

4 “(b) APPROPRIATIONS REQUIREMENT.—The Chair
5 of the Board of Directors of the Office of the Comptroller
6 of the Currency may only incur obligations or allow and
7 pay expenses pursuant to an appropriations Act.

8 “(c) OFFSETTING COLLECTIONS.—Any assessments
9 or other fees collected by the Chair shall be deposited and
10 credited as offsetting collections to the account providing
11 appropriations to the Board of Directors of the Office of
12 the Comptroller of the Currency.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to expenses paid and
15 fees collected on or after the date that is 90 days after
16 the date of the enactment of the first appropriation Act
17 that provides for appropriations to the Board of Directors
18 of the Office of the Comptroller of the Currency and that
19 is enacted after the date of the enactment of this Act.

20 **SEC. 665. BRINGING THE NON-MONETARY POLICY RELATED**
21 **FUNCTIONS OF THE BOARD OF GOVERNORS**
22 **OF THE FEDERAL RESERVE SYSTEM INTO**
23 **THE REGULAR APPROPRIATIONS PROCESS.**

24 The Federal Reserve Act is amended by inserting
25 after section 11B the following:

1 **“SEC. 11C. APPROPRIATIONS REQUIREMENT FOR NON-**
2 **MONETARY POLICY RELATED ADMINISTRA-**
3 **TIVE COSTS.**

4 “(a) APPROPRIATIONS REQUIREMENT.—The Board
5 of Governors of the Federal Reserve System and the Fed-
6 eral reserve banks may only incur obligations or allow and
7 pay expenses with respect to non-monetary policy related
8 administrative costs pursuant to an appropriations Act.

9 “(b) EARNINGS AND ASSESSMENTS USED TO RE-
10 COVER THE COST OF APPROPRIATIONS.—

11 “(1) IN GENERAL.—Except as provided under
12 paragraph (2) and notwithstanding any other provi-
13 sion of law, all earnings of the Board of Governors
14 of the Federal Reserve System and the Federal re-
15 serve banks and all amounts collected pursuant to
16 section 11(t) that would, absent this section, be used
17 to fund the non-monetary policy related administra-
18 tive costs of the Board of Governors of the Federal
19 Reserve System and each of the Federal reserve
20 banks shall be deposited into the general fund of the
21 Treasury and credited as offsetting collections for
22 the amounts appropriated to fund such non-mone-
23 tary policy related administrative costs.

24 “(2) NO DEPOSITS IN EXCESS OF APPROPRIA-
25 TIONS.—The amount deposited pursuant to para-
26 graph (1) with respect to a fiscal year shall not ex-

1 ceed the amount appropriated to fund the non-mone-
2 tary policy related administrative costs of the Board
3 of Governors of the Federal Reserve System and
4 each of the Federal reserve banks for such fiscal
5 year.

6 “(c) DEFINITIONS.—For purposes of this section:

7 “(1) MONETARY POLICY.—The term ‘monetary
8 policy’ means a strategy for producing a generally
9 acceptable exchange medium that supports the pro-
10 ductive employment of economic resources by reli-
11 ably serving as both a unit of account and store of
12 value.

13 “(2) NON-MONETARY POLICY RELATED ADMIN-
14 ISTRATIVE COSTS.—The term ‘non-monetary policy
15 related administrative costs’ means administrative
16 costs not related to the conduct of monetary policy,
17 and include—

18 “(A) direct operating expenses for super-
19 vising and regulating entities supervised and
20 regulated by the Board of Governors of the
21 Federal Reserve System, including conducting
22 examinations, conducting stress tests, commu-
23 nicating with the entities regarding supervisory
24 matters and laws, and regulations;

1 “(B) operating expenses for activities inte-
 2 gral to carrying out supervisory and regulatory
 3 responsibilities, such as training staff in the su-
 4 pervisory function, research and analysis func-
 5 tions including library subscription services, and
 6 collecting and processing regulatory reports
 7 filed by supervised institutions; and

8 “(C) support, overhead, and pension ex-
 9 penses related to the items described under sub-
 10 paragraphs (A) and (B).”.

11 **Subtitle F—International Processes**

12 **SEC. 671. REQUIREMENTS FOR INTERNATIONAL PROC-** 13 **ESSES.**

14 (a) BOARD OF GOVERNORS REQUIREMENTS.—Sec-
 15 tion 11 of the Federal Reserve Act (12 U.S.C. 248), as
 16 amended by section 706, is further amended by adding
 17 at the end the following new subsection:

18 “(w) INTERNATIONAL PROCESSES.—

19 “(1) NOTICE OF PROCESS; CONSULTATION.—At
 20 least 30 calendar days before any member or em-
 21 ployee of the Board of Governors of the Federal Re-
 22 serve System participates in a process of setting fi-
 23 nancial standards as a part of any foreign or multi-
 24 national entity, the Board of Governors shall—

1 “(A) issue a notice of the process, includ-
2 ing the subject matter, scope, and goals of the
3 process, to the Committee on Financial Services
4 of the House of Representatives and the Com-
5 mittee on Banking, Housing, and Urban Affairs
6 of the Senate;

7 “(B) make such notice available to the
8 public, including on the website of the Board of
9 Governors; and

10 “(C) solicit public comment, and consult
11 with the committees described under subpara-
12 graph (A), with respect to the subject matter,
13 scope, and goals of the process.

14 “(2) PUBLIC REPORTS ON PROCESS.—After the
15 end of any process described under paragraph (1),
16 the Board of Governors shall issue a public report
17 on the topics that were discussed during the process
18 and any new or revised rulemakings or policy
19 changes that the Board of Governors believes should
20 be implemented as a result of the process.

21 “(3) NOTICE OF AGREEMENTS; CONSULTA-
22 TION.—At least 90 calendar days before any mem-
23 ber or employee of the Board of Governors of the
24 Federal Reserve System participates in a process of
25 setting financial standards as a part of any foreign

1 or multinational entity, the Board of Governors
2 shall—

3 “(A) issue a notice of agreement to the
4 Committee on Financial Services of the House
5 of Representatives and the Committee on Bank-
6 ing, Housing, and Urban Affairs of the Senate;

7 “(B) make such notice available to the
8 public, including on the website of the Board of
9 Governors; and

10 “(C) consult with the committees described
11 under subparagraph (A) with respect to the na-
12 ture of the agreement and any anticipated ef-
13 fects such agreement will have on the economy.

14 “(4) DEFINITION.—For purposes of this sub-
15 section, the term ‘process’ shall include any official
16 proceeding or meeting on financial regulation of a
17 recognized international organization with authority
18 to set financial standards on a global or regional
19 level, including the Financial Stability Board, the
20 Basel Committee on Banking Supervision (or a simi-
21 lar organization), and the International Association
22 of Insurance Supervisors (or a similar organiza-
23 tion).”.

1 (b) FDIC REQUIREMENTS.—The Federal Deposit
2 Insurance Act (12 U.S.C. 1811 et seq.) is amended by
3 adding at the end the following new section:

4 **“SEC. 51. INTERNATIONAL PROCESSES.**

5 “(a) NOTICE OF PROCESS; CONSULTATION.—At least
6 30 calendar days before the Board of Directors partici-
7 pates in a process of setting financial standards as a part
8 of any foreign or multinational entity, the Board of Direc-
9 tors shall—

10 “(1) issue a notice of the process, including the
11 subject matter, scope, and goals of the process, to
12 the Committee on Financial Services of the House of
13 Representatives and the Committee on Banking,
14 Housing, and Urban Affairs of the Senate;

15 “(2) make such notice available to the public,
16 including on the website of the Corporation; and

17 “(3) solicit public comment, and consult with
18 the committees described under paragraph (1), with
19 respect to the subject matter, scope, and goals of the
20 process.

21 “(b) PUBLIC REPORTS ON PROCESS.—After the end
22 of any process described under subsection (a), the Board
23 of Directors shall issue a public report on the topics that
24 were discussed at the process and any new or revised

1 rulemakings or policy changes that the Board of Directors
2 believes should be implemented as a result of the process.

3 “(c) NOTICE OF AGREEMENTS; CONSULTATION.—At
4 least 90 calendar days before the Board of Directors par-
5 ticipates in a process of setting financial standards as a
6 part of any foreign or multinational entity, the Board of
7 Directors shall—

8 “(1) issue a notice of agreement to the Com-
9 mittee on Financial Services of the House of Rep-
10 resentatives and the Committee on Banking, Hous-
11 ing, and Urban Affairs of the Senate;

12 “(2) make such notice available to the public,
13 including on the website of the Corporation; and

14 “(3) consult with the committees described
15 under paragraph (1) with respect to the nature of
16 the agreement and any anticipated effects such
17 agreement will have on the economy.

18 “(d) DEFINITION.—For purposes of this section, the
19 term ‘process’ shall include any official proceeding or
20 meeting on financial regulation of a recognized inter-
21 national organization with authority to set financial stand-
22 ards on a global or regional level, including the Financial
23 Stability Board, the Basel Committee on Banking Super-
24 vision (or a similar organization), and the International

1 Association of Insurance Supervisors (or a similar organi-
2 zation).”.

3 (c) TREASURY REQUIREMENTS.—Section 325 of title
4 31, United States Code, is amended by adding at the end
5 the following new subsection:

6 “(d) INTERNATIONAL PROCESSES.—

7 “(1) NOTICE OF PROCESS; CONSULTATION.—At
8 least 30 calendar days before the Secretary partici-
9 pates in a process of setting financial standards as
10 a part of any foreign or multinational entity, the
11 Secretary shall—

12 “(A) issue a notice of the process, includ-
13 ing the subject matter, scope, and goals of the
14 process, to the Committee on Financial Services
15 of the House of Representatives and the Com-
16 mittee on Banking, Housing, and Urban Affairs
17 of the Senate;

18 “(B) make such notice available to the
19 public, including on the website of the Depart-
20 ment of the Treasury; and

21 “(C) solicit public comment, and consult
22 with the committees described under subpara-
23 graph (A), with respect to the subject matter,
24 scope, and goals of the process.

1 “(2) PUBLIC REPORTS ON PROCESS.—After the
2 end of any process described under paragraph (1),
3 the Secretary shall issue a public report on the top-
4 ics that were discussed at the process and any new
5 or revised rulemakings or policy changes that the
6 Secretary believes should be implemented as a result
7 of the process.

8 “(3) NOTICE OF AGREEMENTS; CONSULTA-
9 TION.—At least 90 calendar days before the Sec-
10 retary participates in a process of setting financial
11 standards as a part of any foreign or multinational
12 entity, the Secretary shall—

13 “(A) issue a notice of agreement to the
14 Committee on Financial Services of the House
15 of Representatives and the Committee on Bank-
16 ing, Housing, and Urban Affairs of the Senate;

17 “(B) make such notice available to the
18 public, including on the website of the Depart-
19 ment of the Treasury; and

20 “(C) consult with the committees described
21 under subparagraph (A) with respect to the na-
22 ture of the agreement and any anticipated ef-
23 fects such agreement will have on the economy.

24 “(4) DEFINITION.—For purposes of this sub-
25 section, the term ‘process’ shall include any official

1 proceeding or meeting on financial regulation of a
2 recognized international organization with authority
3 to set financial standards on a global or regional
4 level, including the Financial Stability Board, the
5 Basel Committee on Banking Supervision (or a simi-
6 lar organization), and the International Association
7 of Insurance Supervisors (or a similar organiza-
8 tion).”.

9 (d) OCC REQUIREMENTS.—Chapter one of title LXII
10 of the Revised Statutes of the United States (12 U.S.C.
11 21 et seq.) is amended—

12 (1) by adding at the end the following new sec-
13 tion:

14 **“SEC. 5156B. INTERNATIONAL PROCESSES.**

15 “(a) NOTICE OF PROCESS; CONSULTATION.—At least
16 30 calendar days before the Board of Directors of the Of-
17 fice of the Comptroller of the Currency participates in a
18 process of setting financial standards as a part of any for-
19 eign or multinational entity, the Board of Directors
20 shall—

21 “(1) issue a notice of the process, including the
22 subject matter, scope, and goals of the process, to
23 the Committee on Financial Services of the House of
24 Representatives and the Committee on Banking,
25 Housing, and Urban Affairs of the Senate;

1 “(2) make such notice available to the public,
2 including on the website of the Office of the Comp-
3 troller of the Currency; and

4 “(3) solicit public comment, and consult with
5 the committees described under paragraph (1), with
6 respect to the subject matter, scope, and goals of the
7 process.

8 “(b) PUBLIC REPORTS ON PROCESS.—After the end
9 of any process described under subsection (a), the Board
10 of Directors shall issue a public report on the topics that
11 were discussed at the process and any new or revised
12 rulemakings or policy changes that the Board of Directors
13 believes should be implemented as a result of the process.

14 “(c) NOTICE OF AGREEMENTS; CONSULTATION.—At
15 least 90 calendar days before the Board of Directors par-
16 ticipates in a process of setting financial standards as a
17 part of any foreign or multinational entity, the Board of
18 Directors shall—

19 “(1) issue a notice of agreement to the Com-
20 mittee on Financial Services of the House of Rep-
21 resentatives and the Committee on Banking, Hous-
22 ing, and Urban Affairs of the Senate;

23 “(2) make such notice available to the public,
24 including on the website of the Office of the Comp-
25 troller of the Currency; and

1 “(3) consult with the committees described
2 under paragraph (1) with respect to the nature of
3 the agreement and any anticipated effects such
4 agreement will have on the economy.

5 “(d) DEFINITION.—For purposes of this section, the
6 term ‘process’ shall include any official proceeding or
7 meeting on financial regulation of a recognized inter-
8 national organization with authority to set financial stand-
9 ards on a global or regional level, including the Financial
10 Stability Board, the Basel Committee on Banking Super-
11 vision (or a similar organization), and the International
12 Association of Insurance Supervisors (or a similar organi-
13 zation).”; and

14 (2) in the table of contents for such chapter, by
15 adding at the end the following new item:

“5156B. International processes.”.

16 (e) SECURITIES AND EXCHANGE COMMISSION RE-
17 QUIREMENTS.—Section 4 of the Securities Exchange Act
18 of 1934 (15 U.S.C. 78d) is amended by adding at the end
19 the following new subsection:

20 “(j) INTERNATIONAL PROCESSES.—

21 “(1) NOTICE OF PROCESS; CONSULTATION.—At
22 least 30 calendar days before the Commission par-
23 ticipates in a process of setting financial standards
24 as a part of any foreign or multinational entity, the
25 Commission shall—

1 “(A) issue a notice of the process, includ-
2 ing the subject matter, scope, and goals of the
3 process, to the Committee on Financial Services
4 of the House of Representatives and the Com-
5 mittee on Banking, Housing, and Urban Affairs
6 of the Senate;

7 “(B) make such notice available to the
8 public, including on the website of the Commis-
9 sion; and

10 “(C) solicit public comment, and consult
11 with the committees described under subpara-
12 graph (A), with respect to the subject matter,
13 scope, and goals of the process.

14 “(2) PUBLIC REPORTS ON PROCESS.—After the
15 end of any process described under paragraph (1),
16 the Commission shall issue a public report on the
17 topics that were discussed at the process and any
18 new or revised rulemakings or policy changes that
19 the Commission believes should be implemented as a
20 result of the process.

21 “(3) NOTICE OF AGREEMENTS; CONSULTA-
22 TION.—At least 90 calendar days before the Com-
23 mission participates in a process of setting financial
24 standards as a part of any foreign or multinational
25 entity, the Commission shall—

1 “(A) issue a notice of agreement to the
2 Committee on Financial Services of the House
3 of Representatives and the Committee on Bank-
4 ing, Housing, and Urban Affairs of the Senate;

5 “(B) make such notice available to the
6 public, including on the website of the Commis-
7 sion; and

8 “(C) consult with the committees described
9 under subparagraph (A) with respect to the na-
10 ture of the agreement and any anticipated ef-
11 fects such agreement will have on the economy.

12 “(4) DEFINITION.—For purposes of this sub-
13 section, the term ‘process’ shall include any official
14 proceeding or meeting on financial regulation of a
15 recognized international organization with authority
16 to set financial standards on a global or regional
17 level, including the Financial Stability Board, the
18 Basel Committee on Banking Supervision (or a simi-
19 lar organization), and the International Association
20 of Insurance Supervisors (or a similar organiza-
21 tion).”.

22 (f) COMMODITY FUTURES TRADING COMMISSION RE-
23 QUIREMENTS.—Section 2 of the Commodity Exchange Act
24 (7 U.S.C. 2) is amended by adding at the end the fol-
25 lowing:

1 “(k) INTERNATIONAL PROCESSES.—

2 “(1) NOTICE OF PROCESS; CONSULTATION.—At
3 least 30 calendar days before the Commission par-
4 ticipates in a process of setting financial standards
5 as a part of any foreign or multinational entity, the
6 Commission shall—

7 “(A) issue a notice of the process, includ-
8 ing the subject matter, scope, and goals of the
9 process, to—

10 “(i) the Committees on Financial
11 Services and Agriculture of the House of
12 Representatives; and

13 “(ii) the Committees on Banking,
14 Housing, and Urban Affairs and Agri-
15 culture, Nutrition, and Forestry of the
16 Senate;

17 “(B) make such notice available to the
18 public, including on the website of the Commis-
19 sion; and

20 “(C) solicit public comment, and consult
21 with the committees described under subpara-
22 graph (A), with respect to the subject matter,
23 scope, and goals of the process.

24 “(2) PUBLIC REPORTS ON PROCESS.—After the
25 end of any process described under paragraph (1),

1 the Commission shall issue a public report on the
2 topics that were discussed during the process and
3 any new or revised rulemakings or policy changes
4 that the Commission believes should be implemented
5 as a result of the process.

6 “(3) NOTICE OF AGREEMENTS; CONSULTA-
7 TION.—At least 90 calendar days before the Com-
8 mission participates in a process of setting financial
9 standards as a part of any foreign or multinational
10 entity, the Commission shall—

11 “(A) issue a notice of agreement to—

12 “(i) the Committees on Financial
13 Services and Agriculture of the House of
14 Representatives; and

15 “(ii) the Committees on Banking,
16 Housing, and Urban Affairs and Agri-
17 culture, Nutrition, and Forestry of the
18 Senate;

19 “(B) make such notice available to the
20 public, including on the website of the Commis-
21 sion; and

22 “(C) consult with the committees described
23 under subparagraph (A) with respect to the na-
24 ture of the agreement and any anticipated ef-
25 fects such agreement will have on the economy.

1 “(4) DEFINITION.—For purposes of this sub-
 2 section, the term ‘process’ shall include any official
 3 proceeding or meeting on financial regulation of a
 4 recognized international organization with authority
 5 to set financial standards on a global or regional
 6 level, including the Financial Stability Board, the
 7 Basel Committee on Banking Supervision (or a simi-
 8 lar organization), and the International Association
 9 of Insurance Supervisors (or a similar organiza-
 10 tion).”.

11 **TITLE VII—FED OVERSIGHT**
 12 **REFORM AND MODERNIZATION**

13 **SEC. 701. REQUIREMENTS FOR POLICY RULES OF THE FED-**
 14 **ERAL OPEN MARKET COMMITTEE.**

15 The Federal Reserve Act (12 U.S.C. 221 et seq.) is
 16 amended by inserting after section 2B the following new
 17 section:

18 **“SEC. 2C. DIRECTIVE POLICY RULES OF THE FEDERAL**
 19 **OPEN MARKET COMMITTEE.**

20 “(a) DEFINITIONS.—In this section the following
 21 definitions shall apply:

22 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
 23 TEES.—The term ‘appropriate congressional com-
 24 mittees’ means the Committee on Financial Services
 25 of the House of Representatives and the Committee

1 on Banking, Housing, and Urban Affairs of the Sen-
2 ate.

3 “(2) DIRECTIVE POLICY RULE.—The term ‘Di-
4 rective Policy Rule’ means a policy rule developed by
5 the Federal Open Market Committee that meets the
6 requirements of subsection (c) and that provides the
7 basis for the Open Market Operations Directive.

8 “(3) GDP.—The term ‘GDP’ means the gross
9 domestic product of the United States as computed
10 and published by the Department of Commerce.

11 “(4) INTERMEDIATE POLICY INPUT.—The term
12 ‘Intermediate Policy Input’—

13 “(A) may include any variable determined
14 by the Federal Open Market Committee as a
15 necessary input to guide open-market oper-
16 ations;

17 “(B) shall include an estimate of, and the
18 method of calculation for, the current rate of
19 inflation or current inflation expectations; and

20 “(C) shall include, specifying whether the
21 variable or estimate is historical, current, or a
22 forecast and the method of calculation, at least
23 one of—

24 “(i) an estimate of real GDP, nominal
25 GDP, or potential GDP;

1 “(ii) an estimate of the monetary ag-
2 gregate compiled by the Board of Gov-
3 ernors of the Federal Reserve System and
4 Federal reserve banks; or

5 “(iii) an interactive variable or a net
6 estimate composed of the estimates de-
7 scribed in clauses (i) and (ii).

8 “(5) LEGISLATIVE DAY.—The term ‘legislative
9 day’ means a day on which either House of Congress
10 is in session.

11 “(6) OPEN MARKET OPERATIONS DIRECTIVE.—
12 The term ‘Open Market Operations Directive’ means
13 an order to achieve a specified Policy Instrument
14 Target provided to the Federal Reserve Bank of
15 New York by the Federal Open Market Committee
16 pursuant to powers authorized under section 14 of
17 this Act that guide open-market operations.

18 “(7) POLICY INSTRUMENT.—The term ‘Policy
19 Instrument’ means—

20 “(A) the nominal Federal funds rate;

21 “(B) the nominal rate of interest paid on
22 nonborrowed reserves; or

23 “(C) the discount window primary credit
24 interest rate most recently published on the
25 Federal Reserve Statistical Release on selected

1 interest rates (daily or weekly), commonly re-
2 ferred to as the H.15 release.

3 “(8) POLICY INSTRUMENT TARGET.—The term
4 ‘Policy Instrument Target’ means the target for the
5 Policy Instrument specified in the Open Market Op-
6 erations Directive.

7 “(9) REFERENCE POLICY RULE.—The term
8 ‘Reference Policy Rule’ means a calculation of the
9 nominal Federal funds rate as equal to the sum of
10 the following:

11 “(A) The rate of inflation over the pre-
12 vious four quarters.

13 “(B) One-half of the percentage deviation
14 of the real GDP from an estimate of potential
15 GDP.

16 “(C) One-half of the difference between the
17 rate of inflation over the previous four quarters
18 and two percent.

19 “(D) Two percent.

20 “(b) SUBMITTING A DIRECTIVE POLICY RULE.—Not
21 later than 48 hours after the end of a meeting of the Fed-
22 eral Open Market Committee, the Chairman of the Fed-
23 eral Open Market Committee shall submit to the appro-
24 priate congressional committees and the Comptroller Gen-
25 eral of the United States a Directive Policy Rule and a

1 statement that identifies the members of the Federal Open
2 Market Committee who voted in favor of the Rule.

3 “(c) REQUIREMENTS FOR A DIRECTIVE POLICY
4 RULE.—A Directive Policy Rule shall—

5 “(1) identify the Policy Instrument the Direc-
6 tive Policy Rule is designed to target;

7 “(2) describe the strategy or rule of the Federal
8 Open Market Committee for the systematic quan-
9 titative adjustment of the Policy Instrument Target
10 to respond to a change in the Intermediate Policy
11 Inputs;

12 “(3) include a function that comprehensively
13 models the interactive relationship between the In-
14 termediate Policy Inputs;

15 “(4) include the coefficients of the Directive
16 Policy Rule that generate the current Policy Instru-
17 ment Target and a range of predicted future values
18 for the Policy Instrument Target if changes occur in
19 any Intermediate Policy Input;

20 “(5) describe the procedure for adjusting the
21 supply of bank reserves to achieve the Policy Instru-
22 ment Target;

23 “(6) include a statement as to whether the Di-
24 rective Policy Rule substantially conforms to the
25 Reference Policy Rule and, if applicable—

1 “(A) an explanation of the extent to which
2 it departs from the Reference Policy Rule;

3 “(B) a detailed justification for that depar-
4 ture; and

5 “(C) a description of the circumstances
6 under which the Directive Policy Rule may be
7 amended in the future;

8 “(7) include a certification that such Rule is ex-
9 pected to support the economy in achieving stable
10 prices and maximum natural employment over the
11 long term;

12 “(8) include a calculation that describes with
13 mathematical precision the expected annual inflation
14 rate over a 5-year period; and

15 “(9) include a plan to use the most accurate
16 data, subject to all historical revisions, for inputs
17 into the Directive Policy Rule and the Reference
18 Policy Rule.

19 “(d) GAO REPORT.—The Comptroller General of the
20 United States shall compare the Directive Policy Rule sub-
21 mitted under subsection (b) with the rule that was most
22 recently submitted to determine whether the Directive Pol-
23 icy Rule has materially changed. If the Directive Policy
24 Rule has materially changed, the Comptroller General
25 shall, not later than 7 days after each meeting of the Fed-

1 eral Open Market Committee, prepare and submit a com-
2 pliance report to the appropriate congressional committees
3 specifying whether the Directive Policy Rule submitted
4 after that meeting and the Federal Open Market Com-
5 mittee are in compliance with this section.

6 “(e) CHANGING MARKET CONDITIONS.—

7 “(1) RULE OF CONSTRUCTION.—Nothing in
8 this Act shall be construed to require that the plans
9 with respect to the systematic quantitative adjust-
10 ment of the Policy Instrument Target described
11 under subsection (c)(2) be implemented if the Fed-
12 eral Open Market Committee determines that such
13 plans cannot or should not be achieved due to
14 changing market conditions.

15 “(2) GAO APPROVAL OF UPDATE.—Upon deter-
16 mining that plans described in paragraph (1) cannot
17 or should not be achieved, the Federal Open Market
18 Committee shall submit an explanation for that de-
19 termination and an updated version of the Directive
20 Policy Rule to the Comptroller General of the
21 United States and the appropriate congressional
22 committees not later than 48 hours after making the
23 determination. The Comptroller General shall, not
24 later than 48 hours after receiving such updated
25 version, prepare and submit to the appropriate con-

1 gressional committees a compliance report deter-
2 mining whether such updated version and the Fed-
3 eral Open Market Committee are in compliance with
4 this section.

5 “(f) DIRECTIVE POLICY RULE AND FEDERAL OPEN
6 MARKET COMMITTEE NOT IN COMPLIANCE.—

7 “(1) IN GENERAL.—If the Comptroller General
8 of the United States determines that the Directive
9 Policy Rule and the Federal Open Market Com-
10 mittee are not in compliance with this section in the
11 report submitted pursuant to subsection (d), or that
12 the updated version of the Directive Policy Rule and
13 the Federal Open Market Committee are not in com-
14 pliance with this section in the report submitted pur-
15 suant to subsection (e)(2), the Chairman of the
16 Board of Governors of the Federal Reserve System
17 shall, if requested by the chairman of either of the
18 appropriate congressional committees, not later than
19 7 legislative days after such request, testify before
20 such committee as to why the Directive Policy Rule,
21 the updated version, or the Federal Open Market
22 Committee is not in compliance.

23 “(2) GAO AUDIT.—Notwithstanding subsection
24 (b) of section 714 of title 31, United States Code,
25 upon submitting a report of noncompliance pursuant

1 to subsection (d) or subsection (e)(2) and after the
2 period of 7 legislative days described in paragraph
3 (1), the Comptroller General shall audit the conduct
4 of monetary policy by the Board of Governors of the
5 Federal Reserve System and the Federal Open Mar-
6 ket Committee upon request of the appropriate con-
7 gressional committee. Such committee may specify
8 the parameters of such audit.

9 “(g) CONGRESSIONAL HEARINGS.—The Chairman of
10 the Board of Governors of the Federal Reserve System
11 shall, if requested by the chairman of either of the appro-
12 priate congressional committees and not later than 7 legis-
13 lative days after such request, appear before such com-
14 mittee to explain any change to the Directive Policy
15 Rule.”.

16 **SEC. 702. FEDERAL OPEN MARKET COMMITTEE BLACKOUT**
17 **PERIOD.**

18 Section 12A of the Federal Reserve Act (12 U.S.C.
19 263) is amended by adding at the end the following new
20 subsection:

21 “(d) BLACKOUT PERIOD.—

22 “(1) IN GENERAL.—During a blackout period,
23 the only public communications that may be made
24 by members and staff of the Committee with respect
25 to macroeconomic or financial developments or about

1 current or prospective monetary policy issues are the
2 following:

3 “(A) The dissemination of published data,
4 surveys, and reports that have been cleared for
5 publication by the Board of Governors of the
6 Federal Reserve System.

7 “(B) Answers to technical questions spe-
8 cific to a data release.

9 “(C) Communications with respect to the
10 prudential or supervisory functions of the
11 Board of Governors.

12 “(2) BLACKOUT PERIOD DEFINED.—For pur-
13 poses of this subsection, and with respect to a meet-
14 ing of the Committee described under subsection (a),
15 the term ‘blackout period’ means the time period
16 that—

17 “(A) begins immediately after midnight on
18 the day that is one week prior to the date on
19 which such meeting takes place; and

20 “(B) ends at midnight on the day after the
21 date on which such meeting takes place.

22 “(3) EXEMPTION FOR CHAIRMAN OF THE
23 BOARD OF GOVERNORS.—Nothing in this section
24 shall prohibit the Chairman of the Board of Gov-

1 errors of the Federal Reserve System from partici-
2 pating in or issuing public communications.”.

3 **SEC. 703. MEMBERSHIP OF FEDERAL OPEN MARKET COM-**
4 **MITTEE.**

5 Section 12A(a) of the Federal Reserve Act (12
6 U.S.C. 263(a)) is amended—

7 (1) in the first sentence, by striking “five” and
8 inserting “six”;

9 (2) in the second sentence, by striking “One by
10 the board of directors” and all that follows through
11 the period at the end and inserting the following:
12 “One by the boards of directors of the Federal Re-
13 serve Banks of New York and Boston; one by the
14 boards of directors of the Federal Reserve Banks of
15 Philadelphia and Cleveland; one by the boards of di-
16 rectors of the Federal Reserve Banks of Richmond
17 and Atlanta; one by the boards of directors of the
18 Federal Reserve Banks of Chicago and St. Louis;
19 one by the boards of directors of the Federal Re-
20 serve Banks of Minneapolis and Kansas City; and
21 one by the boards of directors of the Federal Re-
22 serve Banks of Dallas and San Francisco.”; and

23 (3) by inserting after the second sentence the
24 following: “In odd numbered calendar years, one
25 representative shall be elected from each of the Fed-

1 eral Reserve Banks of Boston, Philadelphia, Rich-
2 mond, Chicago, Minneapolis, and Dallas. In even-
3 numbered calendar years, one representative shall be
4 elected from each of the Federal Reserve Banks of
5 New York, Cleveland, Atlanta, St. Louis, Kansas
6 City, and San Francisco.”.

7 **SEC. 704. FREQUENCY OF TESTIMONY OF THE CHAIRMAN**
8 **OF THE BOARD OF GOVERNORS OF THE FED-**
9 **ERAL RESERVE SYSTEM TO CONGRESS.**

10 (a) IN GENERAL.—Section 2B of the Federal Reserve
11 Act (12 U.S.C. 225b) is amended—

12 (1) by striking “semi-annual” each place it ap-
13 pears and inserting “quarterly”; and

14 (2) in subsection (a)(2)—

15 (A) by inserting “and October 20” after
16 “July 20” each place it appears; and

17 (B) by inserting “and May 20” after
18 “February 20” each place it appears.

19 (b) CONFORMING AMENDMENT.—Paragraph (12) of
20 section 10 of the Federal Reserve Act (12 U.S.C.
21 247b(12)) is amended by striking “semi-annual” and in-
22 serting “quarterly”.

1 **SEC. 705. VICE CHAIRMAN FOR SUPERVISION REPORT RE-**
2 **QUIREMENT.**

3 Paragraph (12) of section 10 of the Federal Reserve
4 Act (12 U.S.C. 247(b)) is amended—

5 (1) by redesignating such paragraph as para-
6 graph (11); and

7 (2) in such paragraph, by adding at the end the
8 following: “In each such appearance, the Vice Chair-
9 man for Supervision shall provide written testimony
10 that includes the status of all pending and antici-
11 pated rulemakings that are being made by the
12 Board of Governors of the Federal Reserve System.
13 If, at the time of any appearance described in this
14 paragraph, the position of Vice Chairman for Super-
15 vision is vacant, the Vice Chairman for the Board of
16 Governors of the Federal Reserve System (who has
17 the responsibility to serve in the absence of the
18 Chairman) shall appear instead and provide the re-
19 quired written testimony. If, at the time of any ap-
20 pearance described in this paragraph, both Vice
21 Chairman positions are vacant, the Chairman of the
22 Board of Governors of the Federal Reserve System
23 shall appear instead and provide the required writ-
24 ten testimony.”.

1 **SEC. 706. SALARIES, FINANCIAL DISCLOSURES, AND OF-**
2 ****OFFICE STAFF OF THE BOARD OF GOVERNORS****
3 ****OF THE FEDERAL RESERVE SYSTEM.****

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

6 (1) by redesignating the second subsection (s)
7 (relating to “Assessments, Fees, and Other Charges
8 for Certain Companies”) as subsection (t); and

9 (2) by adding at the end the following new sub-
10 sections:

11 “(u) **ETHICS STANDARDS FOR MEMBERS AND EM-**
12 **PLOYEES.**—

13 “(1) **PROHIBITED AND RESTRICTED FINANCIAL**
14 **INTERESTS AND TRANSACTIONS.**—The members and
15 employees of the Board of Governors of the Federal
16 Reserve System shall be subject to the provisions
17 under section 4401.102 of title 5, Code of Federal
18 Regulations, to the same extent as such provisions
19 apply to an employee of the Securities and Exchange
20 Commission.

21 “(2) **TREATMENT OF BROKERAGE ACCOUNTS**
22 **AND AVAILABILITY OF ACCOUNT STATEMENTS.**—The
23 members and employees of the Board of Governors
24 of the Federal Reserve System shall—

25 “(A) disclose all brokerage accounts that
26 they maintain, as well as those in which they

1 control trading or have a financial interest (in-
2 cluding managed accounts, trust accounts, in-
3 vestment club accounts, and the accounts of
4 spouses or minor children who live with the
5 member or employee); and

6 “(B) with respect to any securities account
7 that the member or employee is required to dis-
8 close to the Board of Governors, authorize their
9 brokers and dealers to send duplicate account
10 statements directly to Board of Governors.

11 “(3) PROHIBITIONS RELATED TO OUTSIDE EM-
12 PLOYMENT AND ACTIVITIES.—The members and em-
13 ployees of the Board of Governors of the Federal
14 Reserve System shall be subject to the prohibitions
15 related to outside employment and activities de-
16 scribed under section 4401.103(c) of title 5, Code of
17 Federal Regulations, to the same extent as such pro-
18 hibitions apply to an employee of the Securities and
19 Exchange Commission.

20 “(4) ADDITIONAL ETHICS STANDARDS.—The
21 members and employees of the Board of Governors
22 of the Federal Reserve System shall be subject to—

23 “(A) the employee responsibilities and con-
24 duct regulations of the Office of Personnel

1 Management under part 735 of title 5, Code of
2 Federal Regulations;

3 “(B) the canons of ethics contained in sub-
4 part C of part 200 of title 17, Code of Federal
5 Regulations, to the same extent as such subpart
6 applies to the employees of the Securities and
7 Exchange Commission; and

8 “(C) the regulations concerning the con-
9 duct of members and employees and former
10 members and employees contained in subpart M
11 of part 200 of title 17, Code of Federal Regula-
12 tions, to the same extent as such subpart ap-
13 plies to the employees of the Securities and Ex-
14 change Commission.

15 “(v) DISCLOSURE OF STAFF SALARIES AND FINAN-
16 CIAL INFORMATION.—The Board of Governors of the Fed-
17 eral Reserve System shall make publicly available, on the
18 website of the Board of Governors, a searchable database
19 that contains the names of all members, officers, and em-
20 ployees of the Board of Governors who receive an annual
21 salary in excess of the annual rate of basic pay for GS-
22 15 of the General Schedule, and—

23 “(1) the yearly salary information for such indi-
24 viduals, along with any nonsalary compensation re-
25 ceived by such individuals; and

1 “(2) any financial disclosures required to be
2 made by such individuals.”.

3 (b) OFFICE STAFF FOR EACH MEMBER OF THE
4 BOARD OF GOVERNORS.—Subsection (l) of section 11 of
5 the Federal Reserve Act (12 U.S.C. 248) is amended by
6 adding at the end the following: “Each member of the
7 Board of Governors of the Federal Reserve System may
8 employ, at a minimum, 2 individuals, with such individuals
9 selected by such member and the salaries of such individ-
10 uals set by such member. A member may employ addi-
11 tional individuals as determined necessary by the Board
12 of Governors.”.

13 **SEC. 707. AMENDMENTS TO POWERS OF THE BOARD OF**
14 **GOVERNORS OF THE FEDERAL RESERVE SYS-**
15 **TEM.**

16 (a) IN GENERAL.—Section 13(3) of the Federal Re-
17 serve Act (12 U.S.C. 343(3)), as amended by section 221,
18 is further amended—

19 (1) in subparagraph (A)—

20 (A) by inserting “that pose a threat to the
21 financial stability of the United States” after
22 “unusual and exigent circumstances”; and

23 (B) by inserting “and by the affirmative
24 vote of not less than nine presidents of the Fed-
25 eral reserve banks” after “five members”;

1 (2) in subparagraph (B)—

2 (A) in clause (i), by inserting at the end
3 the following: “Federal reserve banks may not
4 accept equity securities issued by the recipient
5 of any loan or other financial assistance under
6 this paragraph as collateral. Not later than 6
7 months after the date of enactment of this sen-
8 tence, the Board shall, by rule, establish—

9 “(I) a method for determining
10 the sufficiency of the collateral re-
11 quired under this paragraph;

12 “(II) acceptable classes of collat-
13 eral;

14 “(III) the amount of any dis-
15 count of such value that the Federal
16 reserve banks will apply for purposes
17 of calculating the sufficiency of collat-
18 eral under this paragraph; and

19 “(IV) a method for obtaining
20 independent appraisals of the value of
21 collateral the Federal reserve banks
22 receive.”; and

23 (B) in clause (ii)—

24 (i) by striking the second sentence;
25 and

1 (ii) by inserting after the first sen-
2 tence the following: “A borrower shall not
3 be eligible to borrow from any emergency
4 lending program or facility unless the
5 Board and all federal banking regulators
6 with jurisdiction over the borrower certify
7 that, at the time the borrower initially bor-
8 rows under the program or facility, the
9 borrower is not insolvent.”;

10 (3) by inserting “financial institution” before
11 “participant” each place such term appears;

12 (4) in subparagraph (D)(i), by inserting “finan-
13 cial institution” before “participants”; and

14 (5) by adding at the end the following new sub-
15 paragraphs:

16 “(E) PENALTY RATE.—

17 “(i) IN GENERAL.—Not later than 6
18 months after the date of enactment of this
19 subparagraph, the Board shall, with re-
20 spect to a recipient of any loan or other fi-
21 nancial assistance under this paragraph,
22 establish by rule a minimum interest rate
23 on the principal amount of any loan or
24 other financial assistance.

1 “(ii) MINIMUM INTEREST RATE DE-
2 FINED.—In this subparagraph, the term
3 ‘minimum interest rate’ shall mean the
4 sum of—

5 “(I) the average of the secondary
6 discount rate of all Federal Reserve
7 banks over the most recent 90-day pe-
8 riod; and

9 “(II) the average of the dif-
10 ference between a distressed corporate
11 bond yield index (as defined by rule of
12 the Board) and a bond yield index of
13 debt issued by the United States (as
14 defined by rule of the Board) over the
15 most recent 90-day period.

16 “(F) FINANCIAL INSTITUTION PARTICI-
17 PANT DEFINED.—For purposes of this para-
18 graph, the term ‘financial institution partici-
19 pant’—

20 “(i) means a company that is pre-
21 dominantly engaged in financial activities
22 (as defined in section 102(a) of the Dodd-
23 Frank Wall Street Reform and Consumer
24 Protection Act (12 U.S.C. 5311(a))); and

1 “(ii) does not include an agency de-
2 scribed in subparagraph (W) of section
3 5312(a)(2) of title 31, United States Code,
4 or an entity controlled or sponsored by
5 such an agency.”.

6 (b) CONFORMING AMENDMENT.—Section
7 11(r)(2)(A) of such Act is amended—

8 (1) in clause (ii)(IV), by striking “; and” and
9 inserting a semicolon;

10 (2) in clause (iii), by striking the period at the
11 end and inserting “; and”; and

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

14 “(iv) the available members secure the affirma-
15 tive vote of not less than nine presidents of the Fed-
16 eral reserve banks.”.

17 **SEC. 708. INTEREST RATES ON BALANCES MAINTAINED AT**
18 **A FEDERAL RESERVE BANK BY DEPOSITORY**
19 **INSTITUTIONS ESTABLISHED BY FEDERAL**
20 **OPEN MARKET COMMITTEE.**

21 Subparagraph (A) of section 19(b)(12) of the Federal
22 Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by in-
23 serting “established by the Federal Open Market Com-
24 mittee” after “rate or rates”.

1 **SEC. 709. AUDIT REFORM AND TRANSPARENCY FOR THE**
2 **BOARD OF GOVERNORS OF THE FEDERAL RE-**
3 **SERVE SYSTEM.**

4 (a) IN GENERAL.—Notwithstanding section 714 of
5 title 31, United States Code, or any other provision of law,
6 the Comptroller General of the United States shall annu-
7 ally complete an audit of the Board of Governors of the
8 Federal Reserve System and the Federal reserve banks
9 under subsection (b) of such section 714 within 12 months
10 after the date of the enactment of this Act.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 90 days after
13 each audit required pursuant to subsection (a) is
14 completed, the Comptroller General—

15 (A) shall submit to Congress a report on
16 such audit; and

17 (B) shall make such report available to the
18 Speaker of the House, the majority and minor-
19 ity leaders of the House of Representatives, the
20 majority and minority leaders of the Senate, the
21 Chairman and Ranking Member of the com-
22 mittee and each subcommittee of jurisdiction in
23 the House of Representatives and the Senate,
24 and any other Member of Congress who re-
25 quests the report.

1 (2) CONTENTS.—The report under paragraph
2 (1) shall include a detailed description of the find-
3 ings and conclusion of the Comptroller General with
4 respect to the audit that is the subject of the report,
5 together with such recommendations for legislative
6 or administrative action as the Comptroller General
7 may determine to be appropriate.

8 (c) REPEAL OF CERTAIN LIMITATIONS.—Subsection
9 (b) of section 714 of title 31, United States Code, is
10 amended by striking the second sentence.

11 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

12 (1) IN GENERAL.—Section 714 of title 31,
13 United States Code, is amended—

14 (A) in subsection (d)(3), by striking “or
15 (f)” each place such term appears;

16 (B) in subsection (e), by striking “the
17 third undesignated paragraph of section 13”
18 and inserting “section 13(3)”; and

19 (C) by striking subsection (f).

20 (2) FEDERAL RESERVE ACT.—Subsection (s)
21 (relating to “Federal Reserve Transparency and Re-
22 lease of Information”) of section 11 of the Federal
23 Reserve Act (12 U.S.C. 248) is amended—

24 (A) in paragraph (4)(A), by striking “has
25 the same meaning as in section 714(f)(1)(A) of

1 title 31, United States Code” and inserting
2 “means a program or facility, including any
3 special purpose vehicle or other entity estab-
4 lished by or on behalf of the Board of Gov-
5 ernors of the Federal Reserve System or a Fed-
6 eral reserve bank, authorized by the Board of
7 Governors under section 13(3), that is not sub-
8 ject to audit under section 714(e) of title 31,
9 United States Code”;

10 (B) in paragraph (6), by striking “or in
11 section 714(f)(3)(C) of title 31, United States
12 Code, the information described in paragraph
13 (1) and information concerning the transactions
14 described in section 714(f) of such title,” and
15 inserting “the information described in para-
16 graph (1)”;

17 (C) in paragraph (7), by striking “and sec-
18 tion 13(3)(C), section 714(f)(3)(C) of title 31,
19 United States Code, and” and inserting “, sec-
20 tion 13(3)(C), and”.

21 **SEC. 710. ESTABLISHMENT OF A CENTENNIAL MONETARY**
22 **COMMISSION.**

23 (a) FINDINGS.—Congress finds the following:

24 (1) The Constitution endows Congress with the
25 power “to coin money, regulate the value thereof”.

1 (2) Following the financial crisis known as the
2 Panic of 1907, Congress established the National
3 Monetary Commission to provide recommendations
4 for the reform of the financial and monetary systems
5 of the United States.

6 (3) Incorporating several of the recommenda-
7 tions of the National Monetary Commission, Con-
8 gress created the Federal Reserve System in 1913.
9 As currently organized, the Federal Reserve System
10 consists of the Board of Governors in Washington,
11 District of Columbia, and the Federal Reserve
12 Banks organized into 12 districts around the United
13 States. The stockholders of the 12 Federal Reserve
14 Banks include national and certain State-chartered
15 commercial banks, which operate on a fractional re-
16 serve basis.

17 (4) Originally, Congress gave the Federal Re-
18 serve System a monetary mandate to provide an
19 elastic currency, within the context of a gold stand-
20 ard, in response to seasonal fluctuations in the de-
21 mand for currency.

22 (5) Congress also gave the Federal Reserve
23 System a financial stability mandate to serve as the
24 lender of last resort to solvent but illiquid banks
25 during a financial crisis.

1 (6) In 1977, Congress changed the monetary
2 mandate of the Federal Reserve System to a dual
3 mandate for maximum employment and stable
4 prices.

5 (7) Empirical studies and historical evidence,
6 both within the United States and in other coun-
7 tries, demonstrate that price stability is desirable be-
8 cause both inflation and deflation damage the econ-
9 omy.

10 (8) The economic challenge of recent years—
11 most notably the bursting of the housing bubble, the
12 financial crisis of 2008, and the ensuing anemic re-
13 covery—have occurred at great cost in terms of lost
14 jobs and output.

15 (9) Policymakers are reexamining the structure
16 and functioning of financial institutions and markets
17 to determine what, if any, changes need to be made
18 to place the financial system on a stronger, more
19 sustainable path going forward.

20 (10) The Federal Reserve System has taken ex-
21 traordinary actions in response to the recent eco-
22 nomic challenges.

23 (11) The Federal Open Market Committee has
24 engaged in multiple rounds of quantitative easing,
25 providing unprecedented liquidity to financial mar-

1 kets, while committing to holding short-term interest
2 rates low for a seemingly indefinite period, and pur-
3 suing a policy of credit allocation by purchasing
4 Federal agency debt and mortgage-backed securities.

5 (12) In the wake of the recent extraordinary ac-
6 tions of the Federal Reserve System, Congress—con-
7 sistent with its constitutional responsibilities and as
8 it has done periodically throughout the history of the
9 United States—has once again renewed its examina-
10 tion of monetary policy.

11 (13) Central in such examination has been a re-
12 newed look at what is the most proper mandate for
13 the Federal Reserve System to conduct monetary
14 policy in the 21st century.

15 (b) ESTABLISHMENT OF A CENTENNIAL MONETARY
16 COMMISSION.—There is established a commission to be
17 known as the “Centennial Monetary Commission” (in this
18 section referred to as the “Commission”).

19 (c) STUDY AND REPORT ON MONETARY POLICY.—

20 (1) STUDY.—The Commission shall—

21 (A) examine how United States monetary
22 policy since the creation of the Board of Gov-
23 ernors of the Federal Reserve System in 1913
24 has affected the performance of the United

1 States economy in terms of output, employ-
2 ment, prices, and financial stability over time;

3 (B) evaluate various operational regimes
4 under which the Board of Governors of the
5 Federal Reserve System and the Federal Open
6 Market Committee may conduct monetary pol-
7 icy in terms achieving the maximum sustainable
8 level of output and employment and price sta-
9 bility over the long term, including—

10 (i) discretion in determining monetary
11 policy without an operational regime;

12 (ii) price level targeting;

13 (iii) inflation rate targeting;

14 (iv) nominal gross domestic product
15 targeting (both level and growth rate);

16 (v) the use of monetary policy rules;

17 and

18 (vi) the gold standard;

19 (C) evaluate the use of macro-prudential
20 supervision and regulation as a tool of mone-
21 tary policy in terms of achieving the maximum
22 sustainable level of output and employment and
23 price stability over the long term;

24 (D) evaluate the use of the lender-of-last-
25 resort function of the Board of Governors of

1 the Federal Reserve System as a tool of mone-
2 tary policy in terms of achieving the maximum
3 sustainable level of output and employment and
4 price stability over the long term;

5 (E) recommend a course for United States
6 monetary policy going forward, including—

7 (i) the legislative mandate;

8 (ii) the operational regime;

9 (iii) the securities used in open mar-
10 ket operations; and

11 (iv) transparency issues; and

12 (F) consider the effects of the GDP output
13 and employment targets of the “dual mandate”
14 (both from the creation of the dual mandate in
15 1977 until the present time and estimates of
16 the future effect of the dual mandate) on—

17 (i) United States economic activity;

18 (ii) Federal Reserve actions; and

19 (iii) Federal debt.

20 (2) REPORT.—Not later than December 1,
21 2017, the Commission shall submit to Congress and
22 make publicly available a report containing a state-
23 ment of the findings and conclusions of the Commis-
24 sion in carrying out the study under paragraph (1),
25 together with the recommendations the Commission

1 considers appropriate. In making such report, the
2 Commission shall specifically report on the consider-
3 ations required under paragraph (1)(F).

4 (d) MEMBERSHIP.—

5 (1) NUMBER AND APPOINTMENT.—

6 (A) APPOINTED VOTING MEMBERS.—The
7 Commission shall contain 12 voting members as
8 follows:

9 (i) Six members appointed by the
10 Speaker of the House of Representatives,
11 with four members from the majority party
12 and two members from the minority party.

13 (ii) Six members appointed by the
14 President Pro Tempore of the Senate, with
15 four members from the majority party and
16 two members from the minority party.

17 (B) CHAIRMAN.—The Speaker of the
18 House of Representatives and the majority
19 leader of the Senate shall jointly designate one
20 of the members of the Commission as Chair-
21 man.

22 (C) NON-VOTING MEMBERS.—The Com-
23 mission shall contain 2 non-voting members as
24 follows:

1 (i) One member appointed by the Sec-
2 retary of the Treasury.

3 (ii) One member who is the president
4 of a district Federal reserve bank ap-
5 pointed by the Chair of the Board of Gov-
6 ernors of the Federal Reserve System.

7 (2) PERIOD OF APPOINTMENT.—Each member
8 shall be appointed for the life of the Commission.

9 (3) TIMING OF APPOINTMENT.—All members of
10 the Commission shall be appointed not later than 30
11 days after the date of the enactment of this section.

12 (4) VACANCIES.—A vacancy in the Commission
13 shall not affect its powers, and shall be filled in the
14 manner in which the original appointment was
15 made.

16 (5) MEETINGS.—

17 (A) INITIAL MEETING.—The Commission
18 shall hold its initial meeting and begin the oper-
19 ations of the Commission as soon as is prac-
20 ticable.

21 (B) FURTHER MEETINGS.—The Commis-
22 sion shall meet upon the call of the Chair or a
23 majority of its members.

1 (6) QUORUM.—Seven voting members of the
2 Commission shall constitute a quorum but a lesser
3 number may hold hearings.

4 (7) MEMBER OF CONGRESS DEFINED.—In this
5 subsection, the term “Member of Congress” means
6 a Senator or a Representative in, or Delegate or
7 Resident Commissioner to, the Congress.

8 (e) POWERS.—

9 (1) HEARINGS AND SESSIONS.—The Commis-
10 sion or, on the authority of the Commission, any
11 subcommittee or member thereof, may, for the pur-
12 pose of carrying out this section, hold hearings, sit
13 and act at times and places, take testimony, receive
14 evidence, or administer oaths as the Commission or
15 such subcommittee or member thereof considers ap-
16 propriate.

17 (2) CONTRACT AUTHORITY.—To the extent or
18 in the amounts provided in advance in appropriation
19 Acts, the Commission may contract with and com-
20 pensate government and private agencies or persons
21 to enable the Commission to discharge its duties
22 under this section, without regard to section 3709 of
23 the Revised Statutes (41 U.S.C. 5).

24 (3) OBTAINING OFFICIAL DATA.—

1 (A) IN GENERAL.—The Commission is au-
2 thorized to secure directly from any executive
3 department, bureau, agency, board, commission,
4 office, independent establishment, or instrumen-
5 tality of the Government, any information, in-
6 cluding suggestions, estimates, or statistics, for
7 the purposes of this section.

8 (B) REQUESTING OFFICIAL DATA.—The
9 head of such department, bureau, agency,
10 board, commission, office, independent estab-
11 lishment, or instrumentality of the government
12 shall, to the extent authorized by law, furnish
13 such information upon request made by—

14 (i) the Chair;

15 (ii) the Chair of any subcommittee
16 created by a majority of the Commission;
17 or

18 (iii) any member of the Commission
19 designated by a majority of the commission
20 to request such information.

21 (4) ASSISTANCE FROM FEDERAL AGENCIES.—

22 (A) GENERAL SERVICES ADMINISTRA-
23 TION.—The Administrator of General Services
24 shall provide to the Commission on a reimburs-
25 able basis administrative support and other

1 services for the performance of the functions of
2 the Commission.

3 (B) OTHER DEPARTMENTS AND AGEN-
4 CIES.—In addition to the assistance prescribed
5 in subparagraph (A), at the request of the
6 Commission, departments and agencies of the
7 United States shall provide such services, funds,
8 facilities, staff, and other support services as
9 may be authorized by law.

10 (5) POSTAL SERVICE.—The Commission may
11 use the United States mails in the same manner and
12 under the same conditions as other departments and
13 agencies of the United States.

14 (f) COMMISSION PERSONNEL.—

15 (1) APPOINTMENT AND COMPENSATION OF
16 STAFF.—

17 (A) IN GENERAL.—Subject to rules pre-
18 scribed by the Commission, the Chair may ap-
19 point and fix the pay of the executive director
20 and other personnel as the Chair considers ap-
21 propriate.

22 (B) APPLICABILITY OF CIVIL SERVICE
23 LAWS.—The staff of the Commission may be
24 appointed without regard to the provisions of
25 title 5, United States Code, governing appoint-

1 ments in the competitive service, and may be
2 paid without regard to the provisions of chapter
3 51 and subchapter III of chapter 53 of that
4 title relating to classification and General
5 Schedule pay rates, except that an individual so
6 appointed may not receive pay in excess of level
7 V of the Executive Schedule.

8 (2) CONSULTANTS.—The Commission may pro-
9 cure temporary and intermittent services under sec-
10 tion 3109(b) of title 5, United States Code, but at
11 rates for individuals not to exceed the daily equiva-
12 lent of the rate of pay for a person occupying a posi-
13 tion at level IV of the Executive Schedule.

14 (3) STAFF OF FEDERAL AGENCIES.—Upon re-
15 quest of the Commission, the head of any Federal
16 department or agency may detail, on a reimbursable
17 basis, any of the personnel of such department or
18 agency to the Commission to assist it in carrying out
19 its duties under this section.

20 (g) TERMINATION OF COMMISSION.—

21 (1) IN GENERAL.—The Commission shall termi-
22 nate on June 1, 2017.

23 (2) ADMINISTRATIVE ACTIVITIES BEFORE TER-
24 MINATION.—The Commission may use the period be-
25 tween the submission of its report and its termi-

1 nation for the purpose of concluding its activities,
 2 including providing testimony to the committee of
 3 Congress concerning its report.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
 5 authorized to be appropriated to carry out this section
 6 \$1,000,000, which shall remain available until the date on
 7 which the Commission terminates.

8 **SEC. 711. PUBLIC TRANSCRIPTS OF FOMC MEETINGS.**

9 Section 12A of the Federal Reserve Act (12 U.S.C.
 10 263), as amended by this Act, is further amended by add-
 11 ing at the end the following:

12 “(e) PUBLIC TRANSCRIPTS OF MEETINGS.—The
 13 Committee shall—

14 “(1) record all meetings of the Committee; and

15 “(2) make the full transcript of such meetings
 16 available to the public.”.

17 **TITLE VIII—DEMANDING AC-**
 18 **COUNTABILITY FROM WALL**
 19 **STREET**

20 **Subtitle A—SEC Penalties**
 21 **Modernization**

22 **SEC. 801. ENHANCEMENT OF CIVIL PENALTIES FOR SECUR-**
 23 **RITIES LAWS VIOLATIONS.**

24 (a) UPDATED CIVIL MONEY PENALTIES.—

25 (1) SECURITIES ACT OF 1933.—

1 (A) MONEY PENALTIES IN ADMINISTRA-
2 TIVE ACTIONS.—Section 8A(g)(2) of the Securi-
3 ties Act of 1933 (15 U.S.C. 77h–1(g)(2)) is
4 amended—

5 (i) in subparagraph (A)—

6 (I) by striking “\$7,500” and in-
7 serting “\$10,000”; and

8 (II) by striking “\$75,000” and
9 inserting “\$100,000”;

10 (ii) in subparagraph (B)—

11 (I) by striking “\$75,000” and in-
12 serting “\$100,000”; and

13 (II) by striking “\$375,000” and
14 inserting “\$500,000”; and

15 (iii) by striking subparagraph (C) and
16 inserting the following:

17 “(C) THIRD TIER.—

18 “(i) IN GENERAL.—Notwithstanding
19 subparagraphs (A) and (B), the amount of
20 penalty for each such act or omission shall
21 not exceed the amount specified in clause
22 (ii) if—

23 “(I) the act or omission described
24 in paragraph (1) involved fraud, de-
25 ceit, manipulation, or deliberate or

1 reckless disregard of a regulatory re-
2 quirement; and

3 “(II) such act or omission di-
4 rectly or indirectly resulted in—

5 “(aa) substantial losses or
6 created a significant risk of sub-
7 stantial losses to other persons;
8 or

9 “(bb) substantial pecuniary
10 gain to the person who com-
11 mitted the act or omission.

12 “(ii) MAXIMUM AMOUNT OF PEN-
13 ALTY.—The amount referred to in clause
14 (i) is the greatest of—

15 “(I) \$300,000 for a natural per-
16 son or \$1,450,000 for any other per-
17 son;

18 “(II) 3 times the gross amount of
19 pecuniary gain to the person who
20 committed the act or omission; or

21 “(III) the amount of losses in-
22 curred by victims as a result of the
23 act or omission.”.

1 (B) MONEY PENALTIES IN CIVIL AC-
2 TIONS.—Section 20(d)(2) of the Securities Act
3 of 1933 (15 U.S.C. 77t(d)(2)) is amended—

4 (i) in subparagraph (A)—

5 (I) by striking “\$5,000” and in-
6 serting “\$10,000”; and

7 (II) by striking “\$50,000” and
8 inserting “\$100,000”;

9 (ii) in subparagraph (B)—

10 (I) by striking “\$50,000” and in-
11 serting “\$100,000”; and

12 (II) by striking “\$250,000” and
13 inserting “\$500,000”; and

14 (iii) by striking subparagraph (C) and
15 inserting the following:

16 “(C) THIRD TIER.—

17 “(i) IN GENERAL.—Notwithstanding
18 subparagraphs (A) and (B), the amount of
19 penalty for each such violation shall not
20 exceed the amount specified in clause (ii)
21 if—

22 “(I) the violation described in
23 paragraph (1) involved fraud, deceit,
24 manipulation, or deliberate or reckless

1 disregard of a regulatory requirement;

2 and

3 “(II) such violation directly or in-
4 directly resulted in substantial losses
5 or created a significant risk of sub-
6 stantial losses to other persons.

7 “(ii) MAXIMUM AMOUNT OF PEN-
8 ALTY.—The amount referred to in clause
9 (i) is the greatest of—

10 “(I) \$300,000 for a natural per-
11 son or \$1,450,000 for any other per-
12 son;

13 “(II) 3 times the gross amount of
14 pecuniary gain to such defendant as a
15 result of the violation; or

16 “(III) the amount of losses in-
17 curred by victims as a result of the
18 violation.”.

19 (2) SECURITIES EXCHANGE ACT OF 1934.—

20 (A) MONEY PENALTIES IN CIVIL AC-
21 TIONS.—Section 21(d)(3)(B) of the Securities
22 Exchange Act of 1934 (15 U.S.C.
23 78u(d)(3)(B)) is amended—

24 (i) in clause (i)—

1 (I) by striking “\$5,000” and in-
2 serting “\$10,000”; and

3 (II) by striking “\$50,000” and
4 inserting “\$100,000”;

5 (ii) in clause (ii)—

6 (I) by striking “\$50,000” and in-
7 serting “\$100,000”; and

8 (II) by striking “\$250,000” and
9 inserting “\$500,000”; and

10 (iii) by striking clause (iii) and insert-
11 ing the following:

12 “(iii) THIRD TIER.—

13 “(I) IN GENERAL.—Notwithstanding
14 clauses (i) and (ii), the amount of penalty
15 for each such violation shall not exceed the
16 amount specified in subclause (II) if—

17 “(aa) the violation described in
18 subparagraph (A) involved fraud, de-
19 ceit, manipulation, or deliberate or
20 reckless disregard of a regulatory re-
21 quirement; and

22 “(bb) such violation directly or
23 indirectly resulted in substantial
24 losses or created a significant risk of
25 substantial losses to other persons.

1 “(II) MAXIMUM AMOUNT OF PEN-
2 ALTY.—The amount referred to in sub-
3 clause (I) is the greatest of—

4 “(aa) \$300,000 for a natural
5 person or \$1,450,000 for any other
6 person;

7 “(bb) 3 times the gross amount
8 of pecuniary gain to such defendant
9 as a result of the violation; or

10 “(cc) the amount of losses in-
11 curred by victims as a result of the
12 violation.”.

13 (B) MONEY PENALTIES IN ADMINISTRA-
14 TIVE ACTIONS.—Section 21B(b) of the Securi-
15 ties Exchange Act of 1934 (15 U.S.C. 78u-
16 2(b)) is amended—

17 (i) in paragraph (1)—

18 (I) by striking “\$5,000” and in-
19 serting “\$10,000”; and

20 (II) by striking “\$50,000” and
21 inserting “\$100,000”;

22 (ii) in paragraph (2)—

23 (I) by striking “\$50,000” and in-
24 serting “\$100,000”; and

1 (II) by striking “\$250,000” and
2 inserting “\$500,000”; and

3 (iii) by striking paragraph (3) and in-
4 serting the following:

5 “(3) THIRD TIER.—

6 “(A) IN GENERAL.—Notwithstanding
7 paragraphs (1) and (2), the amount of penalty
8 for each such act or omission shall not exceed
9 the amount specified in subparagraph (B) if—

10 “(i) the act or omission described in
11 subsection (a) involved fraud, deceit, ma-
12 nipulation, or deliberate or reckless dis-
13 regard of a regulatory requirement; and

14 “(ii) such act or omission directly or
15 indirectly resulted in substantial losses or
16 created a significant risk of substantial
17 losses to other persons or resulted in sub-
18 stantial pecuniary gain to the person who
19 committed the act or omission.

20 “(B) MAXIMUM AMOUNT OF PENALTY.—

21 The amount referred to in subparagraph (A) is
22 the greatest of—

23 “(i) \$300,000 for a natural person or
24 \$1,450,000 for any other person;

1 “(ii) 3 times the gross amount of pe-
2 cuniary gain to the person who committed
3 the act or omission; or

4 “(iii) the amount of losses incurred by
5 victims as a result of the act or omission.”.

6 (3) INVESTMENT COMPANY ACT OF 1940.—

7 (A) MONEY PENALTIES IN ADMINISTRA-
8 TIVE ACTIONS.—Section 9(d)(2) of the Invest-
9 ment Company Act of 1940 (15 U.S.C. 80a-
10 9(d)(2)) is amended—

11 (i) in subparagraph (A)—

12 (I) by striking “\$5,000” and in-
13 serting “\$10,000”; and

14 (II) by striking “\$50,000” and
15 inserting “\$100,000”;

16 (ii) in subparagraph (B)—

17 (I) by striking “\$50,000” and in-
18 serting “\$100,000”; and

19 (II) by striking “\$250,000” and
20 inserting “\$500,000”; and

21 (iii) by striking subparagraph (C) and
22 inserting the following:

23 “(C) THIRD TIER.—

24 “(i) IN GENERAL.—Notwithstanding
25 subparagraphs (A) and (B), the amount of

1 penalty for each such act or omission shall
2 not exceed the amount specified in clause
3 (ii) if—

4 “(I) the act or omission described
5 in paragraph (1) involved fraud, de-
6 ceit, manipulation, or deliberate or
7 reckless disregard of a regulatory re-
8 quirement; and

9 “(II) such act or omission di-
10 rectly or indirectly resulted in sub-
11 stantial losses or created a significant
12 risk of substantial losses to other per-
13 sons or resulted in substantial pecu-
14 niary gain to the person who com-
15 mitted the act or omission.

16 “(ii) MAXIMUM AMOUNT OF PEN-
17 ALTY.—The amount referred to in clause
18 (i) is the greatest of—

19 “(I) \$300,000 for a natural per-
20 son or \$1,450,000 for any other per-
21 son;

22 “(II) 3 times the gross amount of
23 pecuniary gain to the person who
24 committed the act or omission; or

1 “(III) the amount of losses in-
2 curred by victims as a result of the
3 act or omission.”.

4 (B) MONEY PENALTIES IN CIVIL AC-
5 TIONS.—Section 42(e)(2) of the Investment
6 Company Act of 1940 (15 U.S.C. 80a-
7 41(e)(2)) is amended—

8 (i) in subparagraph (A)—

9 (I) by striking “\$5,000” and in-
10 serting “\$10,000”; and

11 (II) by striking “\$50,000” and
12 inserting “\$100,000”;

13 (ii) in subparagraph (B)—

14 (I) by striking “\$50,000” and in-
15 serting “\$100,000”; and

16 (II) by striking “\$250,000” and
17 inserting “\$500,000”; and

18 (iii) by striking subparagraph (C) and
19 inserting the following:

20 “(C) THIRD TIER.—

21 “(i) IN GENERAL.—Notwithstanding
22 subparagraphs (A) and (B), the amount of
23 penalty for each such violation shall not
24 exceed the amount specified in clause (ii)
25 if—

1 “(I) the violation described in
2 paragraph (1) involved fraud, deceit,
3 manipulation, or deliberate or reckless
4 disregard of a regulatory requirement;
5 and

6 “(II) such violation directly or in-
7 directly resulted in substantial losses
8 or created a significant risk of sub-
9 stantial losses to other persons.

10 “(ii) MAXIMUM AMOUNT OF PEN-
11 ALTY.—The amount referred to in clause
12 (i) is the greatest of—

13 “(I) \$300,000 for a natural per-
14 son or \$1,450,000 for any other per-
15 son;

16 “(II) 3 times the gross amount of
17 pecuniary gain to such defendant as a
18 result of the violation; or

19 “(III) the amount of losses in-
20 curred by victims as a result of the
21 violation.”.

22 (4) INVESTMENT ADVISERS ACT OF 1940.—

23 (A) MONEY PENALTIES IN ADMINISTRA-
24 TIVE ACTIONS.—Section 203(i)(2) of the Invest-

1 ment Advisers Act of 1940 (15 U.S.C. 80b-
2 3(i)(2)) is amended—

3 (i) in subparagraph (A)—

4 (I) by striking “\$5,000” and in-
5 serting “\$10,000”; and

6 (II) by striking “\$50,000” and
7 inserting “\$100,000”;

8 (ii) in subparagraph (B)—

9 (I) by striking “\$50,000” and in-
10 serting “\$100,000”; and

11 (II) by striking “\$250,000” and
12 inserting “\$500,000”; and

13 (iii) by striking subparagraph (C) and
14 inserting the following:

15 “(C) THIRD TIER.—

16 “(i) IN GENERAL.—Notwithstanding
17 subparagraphs (A) and (B), the amount of
18 penalty for each such act or omission shall
19 not exceed the amount specified in clause
20 (ii) if—

21 “(I) the act or omission described
22 in paragraph (1) involved fraud, de-
23 ceit, manipulation, or deliberate or
24 reckless disregard of a regulatory re-
25 quirement; and

1 “(II) such act or omission di-
2 rectly or indirectly resulted in sub-
3 stantial losses or created a significant
4 risk of substantial losses to other per-
5 sons or resulted in substantial pecu-
6 niary gain to the person who com-
7 mitted the act or omission.

8 “(ii) MAXIMUM AMOUNT OF PEN-
9 ALTY.—The amount referred to in clause
10 (i) is the greatest of—

11 “(I) \$300,000 for a natural per-
12 son or \$1,450,000 for any other per-
13 son;

14 “(II) 3 times the gross amount of
15 pecuniary gain to the person who
16 committed the act or omission; or

17 “(III) the amount of losses in-
18 curred by victims as a result of the
19 act or omission.”.

20 (B) MONEY PENALTIES IN CIVIL AC-
21 TIONS.—Section 209(e)(2) of the Investment
22 Advisers Act of 1940 (15 U.S.C. 80b-9(e)(2))
23 is amended—

24 (i) in subparagraph (A)—

1 (I) by striking “\$5,000” and in-
2 serting “\$10,000”; and

3 (II) by striking “\$50,000” and
4 inserting “\$100,000”;

5 (ii) in subparagraph (B)—

6 (I) by striking “\$50,000” and in-
7 serting “\$100,000”; and

8 (II) by striking “\$250,000” and
9 inserting “\$500,000”; and

10 (iii) by striking subparagraph (C) and
11 inserting the following:

12 “(C) THIRD TIER.—

13 “(i) IN GENERAL.—Notwithstanding
14 subparagraphs (A) and (B), the amount of
15 penalty for each such violation shall not
16 exceed the amount specified in clause (ii)
17 if—

18 “(I) the violation described in
19 paragraph (1) involved fraud, deceit,
20 manipulation, or deliberate or reckless
21 disregard of a regulatory requirement;
22 and

23 “(II) such violation directly or in-
24 directly resulted in substantial losses

1 or created a significant risk of sub-
2 stantial losses to other persons.

3 “(ii) MAXIMUM AMOUNT OF PEN-
4 ALTY.—The amount referred to in clause
5 (i) is the greatest of—

6 “(I) \$300,000 for a natural per-
7 son or \$1,450,000 for any other per-
8 son;

9 “(II) 3 times the gross amount of
10 pecuniary gain to such defendant as a
11 result of the violation; or

12 “(III) the amount of losses in-
13 curred by victims as a result of the
14 violation.”.

15 (b) PENALTIES FOR RECIDIVISTS.—

16 (1) SECURITIES ACT OF 1933.—

17 (A) MONEY PENALTIES IN ADMINISTRA-
18 TIVE ACTIONS.—Section 8A(g)(2) of the Securi-
19 ties Act of 1933 (15 U.S.C. 77h–1(g)(2)) is
20 amended by adding at the end the following:

21 “(D) FOURTH TIER.—Notwithstanding
22 subparagraphs (A), (B), and (C), the maximum
23 amount of penalty for each such act or omission
24 shall be 3 times the otherwise applicable
25 amount in such subparagraphs if, within the 5-

1 year period preceding such act or omission, the
2 person who committed the act or omission was
3 criminally convicted for securities fraud or be-
4 came subject to a judgment or order imposing
5 monetary, equitable, or administrative relief in
6 any Commission action alleging fraud by that
7 person.”.

8 (B) MONEY PENALTIES IN CIVIL AC-
9 TIONS.—Section 20(d)(2) of the Securities Act
10 of 1933 (15 U.S.C. 77t(d)(2)) is amended by
11 adding at the end the following:

12 “(D) FOURTH TIER.—Notwithstanding
13 subparagraphs (A), (B), and (C), the maximum
14 amount of penalty for each such violation shall
15 be 3 times the otherwise applicable amount in
16 such subparagraphs if, within the 5-year period
17 preceding such violation, the defendant was
18 criminally convicted for securities fraud or be-
19 came subject to a judgment or order imposing
20 monetary, equitable, or administrative relief in
21 any Commission action alleging fraud by that
22 defendant.”.

23 (2) SECURITIES EXCHANGE ACT OF 1934.—

24 (A) MONEY PENALTIES IN CIVIL AC-
25 TIONS.—Section 21(d)(3)(B) of the Securities

1 Exchange Act of 1934 (15 U.S.C.
2 78u(d)(3)(B)) is amended by adding at the end
3 the following:

4 “(iv) FOURTH TIER.—Notwith-
5 standing clauses (i), (ii), and (iii), the
6 maximum amount of penalty for each such
7 violation shall be 3 times the otherwise ap-
8 plicable amount in such clauses if, within
9 the 5-year period preceding such violation,
10 the defendant was criminally convicted for
11 securities fraud or became subject to a
12 judgment or order imposing monetary, eq-
13 uitable, or administrative relief in any
14 Commission action alleging fraud by that
15 defendant.”.

16 (B) MONEY PENALTIES IN ADMINISTRA-
17 TIVE ACTIONS.—Section 21B(b) of the Securi-
18 ties Exchange Act of 1934 (15 U.S.C. 78u-
19 2(b)) is amended by adding at the end the fol-
20 lowing:

21 “(4) FOURTH TIER.—Notwithstanding para-
22 graphs (1), (2), and (3), the maximum amount of
23 penalty for each such act or omission shall be 3
24 times the otherwise applicable amount in such para-
25 graphs if, within the 5-year period preceding such

1 act or omission, the person who committed the act
2 or omission was criminally convicted for securities
3 fraud or became subject to a judgment or order im-
4 posing monetary, equitable, or administrative relief
5 in any Commission action alleging fraud by that per-
6 son.”.

7 (3) INVESTMENT COMPANY ACT OF 1940.—

8 (A) MONEY PENALTIES IN ADMINISTRA-
9 TIVE ACTIONS.—Section 9(d)(2) of the Invest-
10 ment Company Act of 1940 (15 U.S.C. 80a-
11 9(d)(2)) is amended by adding at the end the
12 following:

13 “(D) FOURTH TIER.—Notwithstanding
14 subparagraphs (A), (B), and (C), the maximum
15 amount of penalty for each such act or omission
16 shall be 3 times the otherwise applicable
17 amount in such subparagraphs if, within the 5-
18 year period preceding such act or omission, the
19 person who committed the act or omission was
20 criminally convicted for securities fraud or be-
21 came subject to a judgment or order imposing
22 monetary, equitable, or administrative relief in
23 any Commission action alleging fraud by that
24 person.”.

1 (B) MONEY PENALTIES IN CIVIL AC-
2 TIONS.—Section 42(e)(2) of the Investment
3 Company Act of 1940 (15 U.S.C. 80a-
4 41(e)(2)) is amended by adding at the end the
5 following:

6 “(D) FOURTH TIER.—Notwithstanding
7 subparagraphs (A), (B), and (C), the maximum
8 amount of penalty for each such violation shall
9 be 3 times the otherwise applicable amount in
10 such subparagraphs if, within the 5-year period
11 preceding such violation, the defendant was
12 criminally convicted for securities fraud or be-
13 came subject to a judgment or order imposing
14 monetary, equitable, or administrative relief in
15 any Commission action alleging fraud by that
16 defendant.”.

17 (4) INVESTMENT ADVISERS ACT OF 1940.—

18 (A) MONEY PENALTIES IN ADMINISTRA-
19 TIVE ACTIONS.—Section 203(i)(2) of the Invest-
20 ment Advisers Act of 1940 (15 U.S.C. 80b-
21 3(i)(2)) is amended by adding at the end the
22 following:

23 “(D) FOURTH TIER.—Notwithstanding
24 subparagraphs (A), (B), and (C), the maximum
25 amount of penalty for each such act or omission

1 shall be 3 times the otherwise applicable
2 amount in such subparagraphs if, within the 5-
3 year period preceding such act or omission, the
4 person who committed the act or omission was
5 criminally convicted for securities fraud or be-
6 came subject to a judgment or order imposing
7 monetary, equitable, or administrative relief in
8 any Commission action alleging fraud by that
9 person.”.

10 (B) MONEY PENALTIES IN CIVIL AC-
11 TIONS.—Section 209(e)(2) of the Investment
12 Advisers Act of 1940 (15 U.S.C. 80b–9(e)(2))
13 is amended by adding at the end the following:

14 “(D) FOURTH TIER.—Notwithstanding
15 subparagraphs (A), (B), and (C), the maximum
16 amount of penalty for each such violation shall
17 be 3 times the otherwise applicable amount in
18 such subparagraphs if, within the 5-year period
19 preceding such violation, the defendant was
20 criminally convicted for securities fraud or be-
21 came subject to a judgment or order imposing
22 monetary, equitable, or administrative relief in
23 any Commission action alleging fraud by that
24 defendant.”.

25 (c) VIOLATIONS OF INJUNCTIONS AND BARS.—

1 (1) SECURITIES ACT OF 1933.—Section 20(d) of
2 the Securities Act of 1933 (15 U.S.C. 77t(d)) is
3 amended—

4 (A) in paragraph (1), by inserting after
5 “the rules or regulations thereunder,” the fol-
6 lowing: “a Federal court injunction or a bar ob-
7 tained or entered by the Commission under this
8 title,”; and

9 (B) by striking paragraph (4) and insert-
10 ing the following:

11 “(4) SPECIAL PROVISIONS RELATING TO A VIO-
12 LATION OF AN INJUNCTION OR CERTAIN ORDERS.—

13 “(A) IN GENERAL.—Each separate viola-
14 tion of an injunction or order described in sub-
15 paragraph (B) shall be a separate offense, ex-
16 cept that in the case of a violation through a
17 continuing failure to comply with such injunc-
18 tion or order, each day of the failure to comply
19 with the injunction or order shall be deemed a
20 separate offense.

21 “(B) INJUNCTIONS AND ORDERS.—Sub-
22 paragraph (A) shall apply with respect to any
23 action to enforce—

24 “(i) a Federal court injunction ob-
25 tained pursuant to this title;

1 “(ii) an order entered or obtained by
2 the Commission pursuant to this title that
3 bars, suspends, places limitations on the
4 activities or functions of, or prohibits the
5 activities of, a person; or

6 “(iii) a cease-and-desist order entered
7 by the Commission pursuant to section
8 8A.”.

9 (2) SECURITIES EXCHANGE ACT OF 1934.—Sec-
10 tion 21(d)(3) of the Securities Exchange Act of
11 1934 (15 U.S.C. 78u(d)(3)) is amended—

12 (A) in subparagraph (A), by inserting after
13 “the rules or regulations thereunder,” the fol-
14 lowing: “a Federal court injunction or a bar ob-
15 tained or entered by the Commission under this
16 title,”; and

17 (B) by striking subparagraph (D) and in-
18 serting the following:

19 “(D) SPECIAL PROVISIONS RELATING TO A VIO-
20 LATION OF AN INJUNCTION OR CERTAIN ORDERS.—

21 “(i) IN GENERAL.—Each separate violation
22 of an injunction or order described in clause (ii)
23 shall be a separate offense, except that in the
24 case of a violation through a continuing failure
25 to comply with such injunction or order, each

1 day of the failure to comply with the injunction
2 or order shall be deemed a separate offense.

3 “(ii) INJUNCTIONS AND ORDERS.—Clause
4 (i) shall apply with respect to an action to en-
5 force—

6 “(I) a Federal court injunction ob-
7 tained pursuant to this title;

8 “(II) an order entered or obtained by
9 the Commission pursuant to this title that
10 bars, suspends, places limitations on the
11 activities or functions of, or prohibits the
12 activities of, a person; or

13 “(III) a cease-and-desist order entered
14 by the Commission pursuant to section
15 21C.”.

16 (3) INVESTMENT COMPANY ACT OF 1940.—Sec-
17 tion 42(e) of the Investment Company Act of 1940
18 (15 U.S.C. 80a–41(e)) is amended—

19 (A) in paragraph (1), by inserting after
20 “the rules or regulations thereunder,” the fol-
21 lowing: “a Federal court injunction or a bar ob-
22 tained or entered by the Commission under this
23 title,”; and

24 (B) by striking paragraph (4) and insert-
25 ing the following:

1 “(4) SPECIAL PROVISIONS RELATING TO A VIO-
2 LATION OF AN INJUNCTION OR CERTAIN ORDERS.—

3 “(A) IN GENERAL.—Each separate viola-
4 tion of an injunction or order described in sub-
5 paragraph (B) shall be a separate offense, ex-
6 cept that in the case of a violation through a
7 continuing failure to comply with such injunc-
8 tion or order, each day of the failure to comply
9 with the injunction or order shall be deemed a
10 separate offense.

11 “(B) INJUNCTIONS AND ORDERS.—Sub-
12 paragraph (A) shall apply with respect to any
13 action to enforce—

14 “(i) a Federal court injunction ob-
15 tained pursuant to this title;

16 “(ii) an order entered or obtained by
17 the Commission pursuant to this title that
18 bars, suspends, places limitations on the
19 activities or functions of, or prohibits the
20 activities of, a person; or

21 “(iii) a cease-and-desist order entered
22 by the Commission pursuant to section
23 9(f).”.

1 (4) INVESTMENT ADVISERS ACT OF 1940.—Sec-
2 tion 209(e) of the Investment Advisers Act of 1940
3 (15 U.S.C. 80b–9(e)) is amended—

4 (A) in paragraph (1), by inserting after
5 “the rules or regulations thereunder,” the fol-
6 lowing: “a Federal court injunction or a bar ob-
7 tained or entered by the Commission under this
8 title,”; and

9 (B) by striking paragraph (4) and insert-
10 ing the following:

11 “(4) SPECIAL PROVISIONS RELATING TO A VIO-
12 LATION OF AN INJUNCTION OR CERTAIN ORDERS.—

13 “(A) IN GENERAL.—Each separate viola-
14 tion of an injunction or order described in sub-
15 paragraph (B) shall be a separate offense, ex-
16 cept that in the case of a violation through a
17 continuing failure to comply with such injunc-
18 tion or order, each day of the failure to comply
19 with the injunction or order shall be deemed a
20 separate offense.

21 “(B) INJUNCTIONS AND ORDERS.—Sub-
22 paragraph (A) shall apply with respect to any
23 action to enforce—

24 “(i) a Federal court injunction ob-
25 tained pursuant to this title;

1 “(ii) an order entered or obtained by
2 the Commission pursuant to this title that
3 bars, suspends, places limitations on the
4 activities or functions of, or prohibits the
5 activities of, a person; or

6 “(iii) a cease-and-desist order entered
7 by the Commission pursuant to section
8 203(k).”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to conduct that occurs
11 after the date of the enactment of this Act.

12 **SEC. 802. UPDATED CIVIL MONEY PENALTIES OF PUBLIC**
13 **COMPANY ACCOUNTING OVERSIGHT BOARD.**

14 (a) IN GENERAL.—Section 105(c)(4)(D) of the Sar-
15 banes-Oxley Act of 2002 (15 U.S.C. 7215(c)(4)(D)) is
16 amended—

17 (1) in clause (i)—

18 (A) by striking “\$100,000” and inserting
19 “\$200,000”; and

20 (B) by striking “\$2,000,000” and insert-
21 ing “\$4,000,000”; and

22 (2) in clause (ii)—

23 (A) by striking “\$750,000” and inserting
24 “\$1,000,000”; and

1 (B) by striking “\$15,000,000” and insert-
2 ing “\$20,000,000”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to conduct that occurs
5 after the date of the enactment of this Act.

6 **SEC. 803. UPDATED CIVIL MONEY PENALTY FOR CONTROL-**
7 **LING PERSONS IN CONNECTION WITH IN-**
8 **SIDER TRADING.**

9 (a) IN GENERAL.—Section 21A(a)(3) of the Securi-
10 ties Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is
11 amended by striking “\$1,000,000” and inserting
12 “\$2,000,000”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply with respect to conduct that occurs
15 after the date of the enactment of this Act.

16 **SEC. 804. UPDATE OF CERTAIN OTHER PENALTIES.**

17 (a) IN GENERAL.—Section 32 of the Securities Ex-
18 change Act of 1934 (15 U.S.C. 78ff) is amended—

19 (1) in subsection (a), by striking “\$5,000,000”
20 and inserting “\$7,000,000”; and

21 (2) in subsection (c)—

22 (A) in paragraph (1)—

23 (i) in subparagraph (A), by striking
24 “\$2,000,000” and inserting “\$4,000,000”;

25 and

1 (ii) in subparagraph (B), by striking
2 “\$10,000” and inserting “\$50,000”; and
3 (B) in paragraph (2)—

4 (i) in subparagraph (A), by striking
5 “\$100,000” and inserting “\$250,000”;
6 and

7 (ii) in subparagraph (B), by striking
8 “\$10,000” and inserting “\$50,000”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to conduct that occurs
11 after the date of the enactment of this Act.

12 **SEC. 805. MONETARY SANCTIONS TO BE USED FOR THE RE-**
13 **LIEF OF VICTIMS.**

14 (a) IN GENERAL.—Section 308(a) of the Sarbanes-
15 Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended to read
16 as follows:

17 “(a) MONETARY SANCTIONS TO BE USED FOR THE
18 RELIEF OF VICTIMS.—If, in any judicial or administrative
19 action brought by the Commission under the securities
20 laws, the Commission obtains a monetary sanction (as de-
21 fined in section 21F(a) of the Securities Exchange Act of
22 1934) against any person for a violation of such laws, or
23 such person agrees, in settlement of any such action, to
24 such monetary sanction, the amount of such monetary
25 sanction shall, on the motion or at the direction of the

1 Commission, be added to and become part of a
2 disgorgement fund or other fund established for the ben-
3 efit of the victims of such violation.”.

4 (b) MONETARY SANCTION DEFINED.—Section
5 21F(a)(4)(A) of the Securities Exchange Act of 1934 (15
6 U.S.C. 78u–6(a)(4)(A)) is amended by striking “ordered”
7 and inserting “required”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section apply with respect to any monetary sanction
10 ordered or required to be paid before or after the date
11 of enactment of this Act.

12 **SEC. 806. GAO REPORT ON USE OF CIVIL MONEY PENALTY**
13 **AUTHORITY BY COMMISSION.**

14 (a) IN GENERAL.—Not later than 2 years after the
15 date of the enactment of this Act, the Comptroller General
16 of the United States shall submit to the Committee on
17 Financial Services of the House of Representatives and
18 the Committee on Banking, Housing, and Urban Affairs
19 of the Senate a report on the use by the Commission of
20 the authority to impose or obtain civil money penalties for
21 violations of the securities laws during the period begin-
22 ning on June 1, 2010, and ending on the date of the en-
23 actment of this Act.

1 (b) MATTERS REQUIRED TO BE INCLUDED.—The
2 matters covered by the report required by subsection (a)
3 shall include the following:

4 (1) The types of violations for which civil
5 money penalties were imposed or obtained.

6 (2) The types of persons on whom civil money
7 penalties were imposed or from whom such penalties
8 were obtained.

9 (3) The number and dollar amount of civil
10 money penalties imposed or obtained, disaggregated
11 as follows:

12 (A) Penalties imposed in administrative ac-
13 tions and penalties obtained in judicial actions.

14 (B) Penalties imposed on or obtained from
15 issuers (individual and aggregate filers) and
16 penalties imposed on or obtained from other
17 persons.

18 (C) Penalties permitted to be retained for
19 use by the Commission and penalties deposited
20 in the general fund of the Treasury of the
21 United States.

22 (4) For penalties imposed on or obtained from
23 issuers:

24 (A) Whether the violations involved re-
25 sulted in direct economic benefit to the issuers.

1 (B) The impact of the penalties on the
2 shareholders of the issuers.

3 (c) DEFINITIONS.—In this section, the terms “Com-
4 mission”, “issuer”, and “securities laws” have the mean-
5 ings given such terms in section 3(a) of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 78c(a)).

7 **Subtitle B—FIRREA Penalties** 8 **Modernization**

9 **SEC. 811. INCREASE OF CIVIL AND CRIMINAL PENALTIES** 10 **ORIGINALLY ESTABLISHED IN THE FINAN-** 11 **CIAL INSTITUTIONS REFORM, RECOVERY,** 12 **AND ENFORCEMENT ACT OF 1989.**

13 (a) AMENDMENTS TO FIRREA.—Section 951(b) of
14 the Financial Institutions Reform, Recovery, and Enforce-
15 ment Act of 1989 (12 U.S.C. 1833a(b)) is amended—

16 (1) in paragraph (1), by striking “\$1,000,000”
17 and inserting “\$1,500,000”; and

18 (2) in paragraph (2), by striking “\$1,000,000
19 per day or \$5,000,000” and inserting “\$1,500,000
20 per day or \$7,500,000”.

21 (b) AMENDMENTS TO THE HOME OWNERS’ LOAN
22 ACT.—The Home Owners’ Loan Act (12 U.S.C. 1461 et
23 seq.) is amended—

24 (1) in section 5(v)(6), by striking “\$1,000,000”
25 and inserting “\$1,500,000”; and

1 (2) in section 10—

2 (A) in subsection (r)(3), by striking
3 “\$1,000,000” and inserting “\$1,500,000”; and

4 (B) in subsection (i)(1)(B), by striking
5 “\$1,000,000” and inserting “\$1,500,000”.

6 (c) AMENDMENTS TO THE FEDERAL DEPOSIT IN-
7 SURANCE ACT.—The Federal Deposit Insurance Act (12
8 U.S.C. 1811 et seq.) is amended—

9 (1) in section 7—

10 (A) in subsection (a)(1), by striking
11 “\$1,000,000” and inserting “\$1,500,000”; and

12 (B) in subsection (j)(16)(D), by striking
13 “\$1,000,000” each place such term appears
14 and inserting “\$1,500,000”;

15 (2) in section 8—

16 (A) in subsection (i)(2)(D), by striking
17 “\$1,000,000” each place such term appears
18 and inserting “\$1,500,000”; and

19 (B) in subsection (j), by striking
20 “\$1,000,000” and inserting “\$1,500,000”; and

21 (3) in section 19(b), by striking “\$1,000,000”
22 and inserting “\$1,500,000”.

23 (d) AMENDMENTS TO THE FEDERAL CREDIT UNION
24 ACT.—The Federal Credit Union Act (12 U.S.C. 1751 et
25 seq.) is amended—

1 (1) in section 202(a)(3), by striking
2 “\$1,000,000” and inserting “\$1,500,000”;

3 (2) in section 205(d)(3), by striking
4 “\$1,000,000” and inserting “\$1,500,000”; and

5 (3) in section 206—

6 (A) in subsection (k)(2)(D), by striking
7 “\$1,000,000” each place such term appears
8 and inserting “\$1,500,000”; and

9 (B) in subsection (l), by striking
10 “\$1,000,000” and inserting “\$1,500,000”.

11 (e) AMENDMENTS TO THE REVISED STATUTES OF
12 THE UNITED STATES.—Title LXII of the Revised Stat-
13 utes of the United States is amended—

14 (1) in section 5213(c), by striking
15 “\$1,000,000” and inserting “\$1,500,000”; and

16 (2) in section 5239(b)(4), by striking
17 “\$1,000,000” each place such term appears and in-
18 serting “\$1,500,000”.

19 (f) AMENDMENTS TO THE FEDERAL RESERVE
20 ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.)
21 is amended—

22 (1) in the 6th undesignated paragraph of sec-
23 tion 9, by striking “\$1,000,000” and inserting
24 “\$1,500,000”;

1 (2) in section 19(l)(4), by striking
2 “\$1,000,000” each place such term appears and in-
3 serting “\$1,500,000”; and

4 (3) in section 29(d), by striking “\$1,000,000”
5 each place such term appears and inserting
6 “\$1,500,000”.

7 (g) AMENDMENTS TO THE BANK HOLDING COMPANY
8 ACT AMENDMENTS OF 1970.—Section 106(b)(2)(F)(iv) of
9 the Bank Holding Company Act Amendments of 1970 (12
10 U.S.C. 1978(b)(2)(F)(iv)) is amended by striking
11 “\$1,000,000” each place such term appears and inserting
12 “\$1,500,000”.

13 (h) AMENDMENTS TO THE BANK HOLDING COMPANY
14 ACT OF 1956.—Section 8 of the Bank Holding Company
15 Act of 1956 (12 U.S.C. 1847) is amended—

16 (1) in subsection (a)(2), by striking
17 “\$1,000,000” and inserting “\$1,500,000”; and

18 (2) in subsection (d)(3), by striking
19 “\$1,000,000” and inserting “\$1,500,000”.

20 (i) AMENDMENTS TO TITLE 18, UNITED STATES
21 CODE.—Title 18, United States Code, is amended—

22 (1) in section 215(a) of chapter 11, by striking
23 “\$1,000,000” and inserting “\$1,500,000”;

24 (2) in chapter 31—

1 (A) in section 656, by striking
2 “\$1,000,000” and inserting “\$1,500,000”; and

3 (B) in section 657, by striking
4 “\$1,000,000” and inserting “\$1,500,000”;

5 (3) in chapter 47—

6 (A) in section 1005, by striking
7 “\$1,000,000” and inserting “\$1,500,000”;

8 (B) in section 1006, by striking
9 “\$1,000,000” and inserting “\$1,500,000”;

10 (C) in section 1007, by striking
11 “\$1,000,000” and inserting “\$1,500,000”; and

12 (D) in section 1014, by striking
13 “\$1,000,000” and inserting “\$1,500,000”; and

14 (4) in chapter 63—

15 (A) in section 1341, by striking
16 “\$1,000,000” and inserting “\$1,500,000”;

17 (B) in section 1343, by striking
18 “\$1,000,000” and inserting “\$1,500,000”; and

19 (C) in section 1344, by striking
20 “\$1,000,000” and inserting “\$1,500,000”.

1 **TITLE IX—REPEAL OF THE**
2 **VOLCKER RULE AND OTHER**
3 **PROVISIONS**

4 **SEC. 901. REPEALS.**

5 (a) IN GENERAL.—The following sections of title VI
6 of the Dodd-Frank Wall Street Reform and Consumer
7 Protection Act are repealed, and the provisions of law
8 amended or repealed by such sections are restored or re-
9 vived as if such sections had not been enacted:

10 (1) Section 603.

11 (2) Section 618.

12 (3) Section 619.

13 (4) Section 620.

14 (5) Section 621.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 under section 1(b) of the Dodd-Frank Wall Street Reform
17 and Consumer Protection Act is amended by striking the
18 items relating to sections 603, 618, 619, 620, and 621.

1 **TITLE X—UNLEASHING OPPOR-**
2 **TUNITIES FOR SMALL BUSI-**
3 **NESSES, INNOVATORS, AND**
4 **JOB CREATORS BY FACILI-**
5 **TATING CAPITAL FORMATION**
6 **Subtitle A—Small Business Merg-**
7 **ers, Acquisitions, Sales, and**
8 **Brokerage Simplification**

9 **SEC. 1001. REGISTRATION EXEMPTION FOR MERGER AND**
10 **ACQUISITION BROKERS.**

11 Section 15(b) of the Securities Exchange Act of 1934
12 (15 U.S.C. 78o(b)) is amended by adding at the end the
13 following:

14 “(13) REGISTRATION EXEMPTION FOR MERGER
15 AND ACQUISITION BROKERS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), an M&A broker shall be ex-
18 empt from registration under this section.

19 “(B) EXCLUDED ACTIVITIES.—An M&A
20 broker is not exempt from registration under
21 this paragraph if such broker does any of the
22 following:

23 “(i) Directly or indirectly, in connec-
24 tion with the transfer of ownership of an
25 eligible privately held company, receives,

1 holds, transmits, or has custody of the
2 funds or securities to be exchanged by the
3 parties to the transaction.

4 “(ii) Engages on behalf of an issuer in
5 a public offering of any class of securities
6 that is registered, or is required to be reg-
7 istered, with the Commission under section
8 12 or with respect to which the issuer files,
9 or is required to file, periodic information,
10 documents, and reports under subsection
11 (d).

12 “(iii) Engages on behalf of any party
13 in a transaction involving a public shell
14 company.

15 “(C) DISQUALIFICATIONS.—An M&A
16 broker is not exempt from registration under
17 this paragraph if such broker is subject to—

18 “(i) suspension or revocation of reg-
19 istration under paragraph (4);

20 “(ii) a statutory disqualification de-
21 scribed in section 3(a)(39);

22 “(iii) a disqualification under the
23 rules adopted by the Commission under
24 section 926 of the Investor Protection and

1 Securities Reform Act of 2010 (15 U.S.C.
2 77d note); or

3 “(iv) a final order described in para-
4 graph (4)(H).

5 “(D) RULE OF CONSTRUCTION.—Nothing
6 in this paragraph shall be construed to limit
7 any other authority of the Commission to ex-
8 empt any person, or any class of persons, from
9 any provision of this title, or from any provision
10 of any rule or regulation thereunder.

11 “(E) DEFINITIONS.—In this paragraph:

12 “(i) CONTROL.—The term ‘control’
13 means the power, directly or indirectly, to
14 direct the management or policies of a
15 company, whether through ownership of
16 securities, by contract, or otherwise. There
17 is a presumption of control for any person
18 who—

19 “(I) is a director, general part-
20 ner, member or manager of a limited
21 liability company, or officer exercising
22 executive responsibility (or has similar
23 status or functions);

24 “(II) has the right to vote 20
25 percent or more of a class of voting

1 securities or the power to sell or direct
2 the sale of 20 percent or more of a
3 class of voting securities; or

4 “(III) in the case of a partner-
5 ship or limited liability company, has
6 the right to receive upon dissolution,
7 or has contributed, 20 percent or
8 more of the capital.

9 “(ii) ELIGIBLE PRIVATELY HELD
10 COMPANY.—The term ‘eligible privately
11 held company’ means a privately held com-
12 pany that meets both of the following con-
13 ditions:

14 “(I) The company does not have
15 any class of securities registered, or
16 required to be registered, with the
17 Commission under section 12 or with
18 respect to which the company files, or
19 is required to file, periodic informa-
20 tion, documents, and reports under
21 subsection (d).

22 “(II) In the fiscal year ending
23 immediately before the fiscal year in
24 which the services of the M&A broker
25 are initially engaged with respect to

1 the securities transaction, the com-
2 pany meets either or both of the fol-
3 lowing conditions (determined in ac-
4 cordance with the historical financial
5 accounting records of the company):

6 “(aa) The earnings of the
7 company before interest, taxes,
8 depreciation, and amortization
9 are less than \$25,000,000.

10 “(bb) The gross revenues of
11 the company are less than
12 \$250,000,000.

13 “(iii) M&A BROKER.—The term ‘M&A
14 broker’ means a broker, and any person
15 associated with a broker, engaged in the
16 business of effecting securities transactions
17 solely in connection with the transfer of
18 ownership of an eligible privately held com-
19 pany, regardless of whether the broker acts
20 on behalf of a seller or buyer, through the
21 purchase, sale, exchange, issuance, repur-
22 chase, or redemption of, or a business com-
23 bination involving, securities or assets of
24 the eligible privately held company, if the
25 broker reasonably believes that—

1 “(I) upon consummation of the
2 transaction, any person acquiring se-
3 curities or assets of the eligible pri-
4 vately held company, acting alone or
5 in concert, will control and, directly or
6 indirectly, will be active in the man-
7 agement of the eligible privately held
8 company or the business conducted
9 with the assets of the eligible privately
10 held company; and

11 “(II) if any person is offered se-
12 curities in exchange for securities or
13 assets of the eligible privately held
14 company, such person will, prior to
15 becoming legally bound to consum-
16 mate the transaction, receive or have
17 reasonable access to the most recent
18 fiscal year-end financial statements of
19 the issuer of the securities as custom-
20 arily prepared by the management of
21 the issuer in the normal course of op-
22 erations and, if the financial state-
23 ments of the issuer are audited, re-
24 viewed, or compiled, any related state-
25 ment by the independent accountant,

1 a balance sheet dated not more than
2 120 days before the date of the offer,
3 and information pertaining to the
4 management, business, results of op-
5 erations for the period covered by the
6 foregoing financial statements, and
7 material loss contingencies of the
8 issuer.

9 “(iv) PUBLIC SHELL COMPANY.—The
10 term ‘public shell company’ is a company
11 that at the time of a transaction with an
12 eligible privately held company—

13 “(I) has any class of securities
14 registered, or required to be reg-
15 istered, with the Commission under
16 section 12 or that is required to file
17 reports pursuant to subsection (d);

18 “(II) has no or nominal oper-
19 ations; and

20 “(III) has—

21 “(aa) no or nominal assets;

22 “(bb) assets consisting solely
23 of cash and cash equivalents; or

24 “(cc) assets consisting of
25 any amount of cash and cash

1 equivalents and nominal other as-
2 sets.

3 “(F) INFLATION ADJUSTMENT.—

4 “ (i) IN GENERAL.—On the date that
5 is 5 years after the date of the enactment
6 of this paragraph, and every 5 years there-
7 after, each dollar amount in subparagraph
8 (E)(ii)(II) shall be adjusted by—

9 “ (I) dividing the annual value of
10 the Employment Cost Index For
11 Wages and Salaries, Private Industry
12 Workers (or any successor index), as
13 published by the Bureau of Labor
14 Statistics, for the calendar year pre-
15 ceding the calendar year in which the
16 adjustment is being made by the an-
17 nual value of such index (or suc-
18 cessor) for the calendar year ending
19 December 31, 2012; and

20 “ (II) multiplying such dollar
21 amount by the quotient obtained
22 under subclause (I).

23 “ (ii) ROUNDING.—Each dollar
24 amount determined under clause (i) shall

1 be rounded to the nearest multiple of
2 \$100,000.”.

3 **SEC. 1002. EFFECTIVE DATE.**

4 This subtitle and any amendment made by this sub-
5 title shall take effect on the date that is 90 days after
6 the date of the enactment of this Act.

7 **Subtitle B—Encouraging Employee**
8 **Ownership**

9 **SEC. 1006. INCREASED THRESHOLD FOR DISCLOSURES RE-**
10 **LATING TO COMPENSATORY BENEFIT PLANS.**

11 Not later than 60 days after the date of the enact-
12 ment of this Act, the Securities and Exchange Commission
13 shall revise section 230.701(e) of title 17, Code of Federal
14 Regulations, so as to increase from \$5,000,000 to
15 \$10,000,000 the aggregate sales price or amount of secu-
16 rities sold during any consecutive 12-month period in ex-
17 cess of which the issuer is required under such section to
18 deliver an additional disclosure to investors. The Commis-
19 sion shall index for inflation such aggregate sales price
20 or amount every 5 years to reflect the change in the Con-
21 sumer Price Index for All Urban Consumers published by
22 the Bureau of Labor Statistics, rounding to the nearest
23 \$1,000,000.

1 **Subtitle C—Small Company**
2 **Disclosure Simplification**

3 **SEC. 1011. EXEMPTION FROM XBRL REQUIREMENTS FOR**
4 **EMERGING GROWTH COMPANIES AND OTHER**
5 **SMALLER COMPANIES.**

6 (a) EXEMPTION FOR EMERGING GROWTH COMPA-
7 NIES.—Emerging growth companies are exempted from
8 the requirements to use Extensible Business Reporting
9 Language (XBRL) for financial statements and other
10 periodic reporting required to be filed with the Commis-
11 sion under the securities laws. Such companies may elect
12 to use XBRL for such reporting.

13 (b) EXEMPTION FOR OTHER SMALLER COMPA-
14 NIES.—Issuers with total annual gross revenues of less
15 than \$250,000,000 are exempt from the requirements to
16 use XBRL for financial statements and other periodic re-
17 porting required to be filed with the Commission under
18 the securities laws. Such issuers may elect to use XBRL
19 for such reporting. An exemption under this subsection
20 shall continue in effect until—

21 (1) the date that is five years after the date of
22 enactment of this Act; or

23 (2) the date that is two years after a deter-
24 mination by the Commission, by order after con-
25 ducting the analysis required by section 3, that the

1 benefits of such requirements to such issuers out-
2 weigh the costs, but no earlier than three years after
3 enactment of this Act.

4 (c) MODIFICATIONS TO REGULATIONS.—Not later
5 than 60 days after the date of enactment of this Act, the
6 Commission shall revise its regulations under parts 229,
7 230, 232, 239, 240, and 249 of title 17, Code of Federal
8 Regulations, to reflect the exemptions set forth in sub-
9 sections (a) and (b).

10 **SEC. 1012. ANALYSIS BY THE SEC.**

11 The Commission shall conduct an analysis of the
12 costs and benefits to issuers described in section 1011(b)
13 of the requirements to use XBRL for financial statements
14 and other periodic reporting required to be filed with the
15 Commission under the securities laws. Such analysis shall
16 include an assessment of—

17 (1) how such costs and benefits may differ from
18 the costs and benefits identified by the Commission
19 in the order relating to interactive data to improve
20 financial reporting (dated January 30, 2009; 74
21 Fed. Reg. 6776) because of the size of such issuers;

22 (2) the effects on efficiency, competition, capital
23 formation, and financing and on analyst coverage of
24 such issuers (including any such effects resulting
25 from use of XBRL by investors);

1 (3) the costs to such issuers of—

2 (A) submitting data to the Commission in
3 XBRL;

4 (B) posting data on the website of the
5 issuer in XBRL;

6 (C) software necessary to prepare, submit,
7 or post data in XBRL; and

8 (D) any additional consulting services or
9 filing agent services;

10 (4) the benefits to the Commission in terms of
11 improved ability to monitor securities markets, as-
12 sess the potential outcomes of regulatory alter-
13 natives, and enhance investor participation in cor-
14 porate governance and promote capital formation;
15 and

16 (5) the effectiveness of standards in the United
17 States for interactive filing data relative to the
18 standards of international counterparts.

19 **SEC. 1013. REPORT TO CONGRESS.**

20 Not later than one year after the date of enactment
21 of this Act, the Commission shall provide the Committee
22 on Financial Services of the House of Representatives and
23 the Committee on Banking, Housing, and Urban Affairs
24 of the Senate a report regarding—

- 1 (1) the progress in implementing XBRL report-
2 ing within the Commission;
- 3 (2) the use of XBRL data by Commission offi-
4 cials;
- 5 (3) the use of XBRL data by investors;
- 6 (4) the results of the analysis required by sec-
7 tion 1012; and
- 8 (5) any additional information the Commission
9 considers relevant for increasing transparency, de-
10 creasing costs, and increasing efficiency of regu-
11 latory filings with the Commission.

12 **SEC. 1014. DEFINITIONS.**

13 As used in this subtitle, the terms “Commission”,
14 “emerging growth company”, “issuer”, and “securities
15 laws” have the meanings given such terms in section 3
16 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

17 **Subtitle D—Securities and Ex-**
18 **change Commission Overpay-**
19 **ment Credit**

20 **SEC. 1016. REFUNDING OR CREDITING OVERPAYMENT OF**
21 **SECTION 31 FEES.**

22 (a) IN GENERAL.—Section 31 of the Securities Ex-
23 change Act of 1934 (15 U.S.C. 78ee) is amended by add-
24 ing at the end the following:

1 “(n) OVERPAYMENT.—If a national securities ex-
2 change or national securities association pays to the Com-
3 mission an amount in excess of fees and assessments due
4 under this section and informs the Commission of such
5 amount paid in excess within 10 years of the date of the
6 payment, the Commission shall offset future fees and as-
7 sessments due by such exchange or association in an
8 amount equal to such excess amount.”.

9 (b) APPLICABILITY.—The amendment made by this
10 section shall apply to any fees and assessments paid be-
11 fore, on, or after the date of enactment of this section.

12 **Subtitle E—Fair Access to** 13 **Investment Research**

14 **SEC. 1021. SAFE HARBOR FOR INVESTMENT FUND RE-** 15 **SEARCH.**

16 (a) EXPANSION OF THE SAFE HARBOR.—Not later
17 than the end of the 45-day period beginning on the date
18 of enactment of this Act, the Securities and Exchange
19 Commission shall propose, and not later than the end of
20 the 180-day period beginning on such date, the Commis-
21 sion shall adopt, upon such terms, conditions, or require-
22 ments as the Commission may determine necessary or ap-
23 propriate in the public interest, for the protection of inves-
24 tors, and for the promotion of capital formation, revisions
25 to section 230.139 of title 17, Code of Federal Regula-

1 tions, to provide that a covered investment fund research
2 report that is published or distributed by a broker or deal-
3 er—

4 (1) shall be deemed, for purposes of sections
5 2(a)(10) and 5(c) of the Securities Act of 1933 (15
6 U.S.C. 77b(a)(10), 77e(c)), not to constitute an
7 offer for sale or an offer to sell a security that is the
8 subject of an offering pursuant to a registration
9 statement that is effective, even if the broker or
10 dealer is participating or will participate in the reg-
11 istered offering of the covered investment fund’s se-
12 curities; and

13 (2) shall be deemed to satisfy the conditions of
14 subsection (a)(1) or (a)(2) of section 230.139 of title
15 17, Code of Federal Regulations, or any successor
16 provisions, for purposes of the Commission’s rules
17 and regulations under the Federal securities laws
18 and the rules of any self-regulatory organization.

19 (b) IMPLEMENTATION OF SAFE HARBOR.—In imple-
20 menting the safe harbor pursuant to subsection (a), the
21 Commission shall—

22 (1) not, in the case of a covered investment
23 fund with a class of securities in substantially con-
24 tinuous distribution, condition the safe harbor on
25 whether the broker’s or dealer’s publication or dis-

1 tribution of a covered investment fund research re-
2 port constitutes such broker's or dealer's initiation
3 or reinitiation of research coverage on such covered
4 investment fund or its securities;

5 (2) not—

6 (A) require the covered investment fund to
7 have been registered as an investment company
8 under the Investment Company Act of 1940
9 (15 U.S.C. 80a–1 et seq.) or subject to the re-
10 porting requirements of section 13 or 15(d) of
11 the Securities Exchange Act of 1934 (15
12 U.S.C. 78m, 78o(d)) for any period exceeding
13 the period of time referenced under paragraph
14 (a)(1)(i)(A)(1) of section 230.139 of title 17,
15 Code of Federal Regulations; or

16 (B) impose a minimum float provision ex-
17 ceeding that referenced in paragraph
18 (a)(1)(i)(A)(1)(i) of section 230.139 of title 17,
19 Code of Federal Regulations;

20 (3) provide that a self-regulatory organization
21 may not maintain or enforce any rule that would—

22 (A) prohibit the ability of a member to
23 publish or distribute a covered investment fund
24 research report solely because the member is
25 also participating in a registered offering or

1 other distribution of any securities of such cov-
2 ered investment fund; or

3 (B) prohibit the ability of a member to
4 participate in a registered offering or other dis-
5 tribution of securities of a covered investment
6 fund solely because the member has published
7 or distributed a covered investment fund re-
8 search report about such covered investment
9 fund or its securities; and

10 (4) provide that a covered investment fund re-
11 search report shall not be subject to section 24(b) of
12 the Investment Company Act of 1940 (15 U.S.C.
13 80a–24(b)) or the rules and regulations thereunder,
14 except that such report may still be subject to such
15 section and the rules and regulations thereunder to
16 the extent that it is otherwise not subject to the con-
17 tent standards in the rules of any self-regulatory or-
18 ganization related to research reports, including
19 those contained in the rules governing communica-
20 tions with the public regarding investment compa-
21 nies or substantially similar standards.

22 (c) RULES OF CONSTRUCTION.—Nothing in this Act
23 shall be construed as in any way limiting—

24 (1) the applicability of the antifraud or
25 antimanipulation provisions of the Federal securities

1 laws and rules adopted thereunder to a covered in-
2 vestment fund research report, including section 17
3 of the Securities Act of 1933 (15 U.S.C. 77q), sec-
4 tion 34(b) of the Investment Company Act of 1940
5 (15 U.S.C. 80a-33), and sections 9 and 10 of the
6 Securities Exchange Act of 1934 (15 U.S.C. 78i,
7 78j); or

8 (2) the authority of any self-regulatory organi-
9 zation to examine or supervise a member's practices
10 in connection with such member's publication or dis-
11 tribution of a covered investment fund research re-
12 port for compliance with applicable provisions of the
13 Federal securities laws or self-regulatory organiza-
14 tion rules related to research reports, including those
15 contained in rules governing communications with
16 the public.

17 (d) INTERIM EFFECTIVENESS OF SAFE HARBOR.—

18 (1) IN GENERAL.—From and after the 180-day
19 period beginning on the date of enactment of this
20 Act, if the Commission has not adopted revisions to
21 section 230.139 of title 17, Code of Federal Regula-
22 tions, as required by subsection (a), and until such
23 time as the Commission has done so, a broker or
24 dealer distributing or publishing a covered invest-
25 ment fund research report after such date shall be

1 able to rely on the provisions of section 230.139 of
2 title 17, Code of Federal Regulations, and the
3 broker or dealer's publication of such report shall be
4 deemed to satisfy the conditions of subsection (a)(1)
5 or (a)(2) of section 230.139 of title 17, Code of Fed-
6 eral Regulations, if the covered investment fund that
7 is the subject of such report satisfies the reporting
8 history requirements (without regard to Form S-3
9 or Form F-3 eligibility) and minimum float provi-
10 sions of such subsections for purposes of the Com-
11 mission's rules and regulations under the Federal
12 securities laws and the rules of any self-regulatory
13 organization, as if revised and implemented in ac-
14 cordance with subsections (a) and (b).

15 (2) STATUS OF COVERED INVESTMENT FUND.—
16 After such period and until the Commission has
17 adopted revisions to section 230.139 and FINRA
18 has revised rule 2210, for purposes of subsection
19 (c)(7)(O) of such rule, a covered investment fund
20 shall be deemed to be a security that is listed on a
21 national securities exchange and that is not subject
22 to section 24(b) of the Investment Company Act of
23 1940 (15 U.S.C. 80a-24(b)). Communications con-
24 cerning only covered investment funds that fall with-

1 in the scope of such section shall not be required to
2 be filed with FINRA.

3 (e) DEFINITIONS.—For purposes of this section:

4 (1) The term “covered investment fund re-
5 search report” means a research report published or
6 distributed by a broker or dealer about a covered in-
7 vestment fund or any securities issued by the cov-
8 ered investment fund, but not including a research
9 report to the extent that it is published or distrib-
10 uted by the covered investment fund or any affiliate
11 of the covered investment fund.

12 (2) The term “covered investment fund”
13 means—

14 (A) an investment company registered
15 under, or that has filed an election to be treated
16 as a business development company under, the
17 Investment Company Act of 1940 and that has
18 filed a registration statement under the Securi-
19 ties Act of 1933 for the public offering of a
20 class of its securities, which registration state-
21 ment has been declared effective by the Com-
22 mission; and

23 (B) a trust or other person—

24 (i) issuing securities in an offering
25 registered under the Securities Act of 1933

1 and which class of securities is listed for
2 trading on a national securities exchange;

3 (ii) the assets of which consist pri-
4 marily of commodities, currencies, or deriv-
5 ative instruments that reference commod-
6 ities or currencies, or interests in the fore-
7 going; and

8 (iii) that provides in its registration
9 statement under the Securities Act of 1933
10 that a class of its securities are purchased
11 or redeemed, subject to conditions or limi-
12 tations, for a ratable share of its assets.

13 (3) The term “FINRA” means the Financial
14 Industry Regulatory Authority.

15 (4) The term “research report” has the mean-
16 ing given that term under section 2(a)(3) of the Se-
17 curities Act of 1933 (15 U.S.C. 77b(a)(3)), except
18 that such term shall not include an oral communica-
19 tion.

20 (5) The term “self-regulatory organization” has
21 the meaning given to that term under section
22 3(a)(26) of the Securities Exchange Act of 1934 (15
23 U.S.C. 78c(a)(26)).

1 **Subtitle F—Accelerating Access to**
2 **Capital**

3 **SEC. 1026. EXPANDED ELIGIBILITY FOR USE OF FORM S-3.**

4 Not later than 45 days after the date of the enact-
5 ment of this Act, the Securities and Exchange Commission
6 shall revise Form S-3—

7 (1) so as to permit securities to be registered
8 pursuant to General Instruction I.B.1. of such form
9 provided that either—

10 (A) the aggregate market value of the vot-
11 ing and non-voting common equity held by non-
12 affiliates of the registrant is \$75,000,000 or
13 more; or

14 (B) the registrant has at least one class of
15 common equity securities listed and registered
16 on a national securities exchange; and

17 (2) so as to remove the requirement of para-
18 graph (c) from General Instruction I.B.6. of such
19 form.

1 **Subtitle G—SEC Small Business**
2 **Advocate**

3 **SEC. 1031. ESTABLISHMENT OF OFFICE OF THE ADVOCATE**
4 **FOR SMALL BUSINESS CAPITAL FORMATION**
5 **AND SMALL BUSINESS CAPITAL FORMATION**
6 **ADVISORY COMMITTEE.**

7 (a) OFFICE OF THE ADVOCATE FOR SMALL BUSI-
8 NESS CAPITAL FORMATION.—Section 4 of the Securities
9 Exchange Act of 1934 (15 U.S.C. 78d), as amended by
10 title VI, is further amended by adding at the end the fol-
11 lowing:

12 “(k) OFFICE OF THE ADVOCATE FOR SMALL BUSI-
13 NESS CAPITAL FORMATION.—

14 “(1) OFFICE ESTABLISHED.—There is estab-
15 lished within the Commission the Office of the Advo-
16 cate for Small Business Capital Formation (here-
17 after in this subsection referred to as the ‘Office’).

18 “(2) ADVOCATE FOR SMALL BUSINESS CAPITAL
19 FORMATION.—

20 “(A) IN GENERAL.—The head of the Of-
21 fice shall be the Advocate for Small Business
22 Capital Formation, who shall—

23 “(i) report directly to the Commission;

24 and

1 “(ii) be appointed by the Commission,
2 from among individuals having experience
3 in advocating for the interests of small
4 businesses and encouraging small business
5 capital formation.

6 “(B) COMPENSATION.—The annual rate of
7 pay for the Advocate for Small Business Cap-
8 ital Formation shall be equal to the highest rate
9 of annual pay for other senior executives who
10 report directly to the Commission.

11 “(C) NO CURRENT EMPLOYEE OF THE
12 COMMISSION.—An individual may not be ap-
13 pointed as the Advocate for Small Business
14 Capital Formation if the individual is currently
15 employed by the Commission.

16 “(3) STAFF OF OFFICE.—The Advocate for
17 Small Business Capital Formation, after consulta-
18 tion with the Commission, may retain or employ
19 independent counsel, research staff, and service
20 staff, as the Advocate for Small Business Capital
21 Formation determines to be necessary to carry out
22 the functions of the Office.

23 “(4) FUNCTIONS OF THE ADVOCATE FOR
24 SMALL BUSINESS CAPITAL FORMATION.—The Advo-
25 cate for Small Business Capital Formation shall—

1 “(A) assist small businesses and small
2 business investors in resolving significant prob-
3 lems such businesses and investors may have
4 with the Commission or with self-regulatory or-
5 ganizations;

6 “(B) identify areas in which small busi-
7 nesses and small business investors would ben-
8 efit from changes in the regulations of the
9 Commission or the rules of self-regulatory orga-
10 nizations;

11 “(C) identify problems that small busi-
12 nesses have with securing access to capital, in-
13 cluding any unique challenges to minority-
14 owned and women-owned small businesses;

15 “(D) analyze the potential impact on small
16 businesses and small business investors of—

17 “(i) proposed regulations of the Com-
18 mission that are likely to have a significant
19 economic impact on small businesses and
20 small business capital formation; and

21 “(ii) proposed rules that are likely to
22 have a significant economic impact on
23 small businesses and small business capital
24 formation of self-regulatory organizations
25 registered under this title;

1 “(E) conduct outreach to small businesses
2 and small business investors, including through
3 regional roundtables, in order to solicit views on
4 relevant capital formation issues;

5 “(F) to the extent practicable, propose to
6 the Commission changes in the regulations or
7 orders of the Commission and to Congress any
8 legislative, administrative, or personnel changes
9 that may be appropriate to mitigate problems
10 identified under this paragraph and to promote
11 the interests of small businesses and small busi-
12 ness investors;

13 “(G) consult with the Investor Advocate on
14 proposed recommendations made under sub-
15 paragraph (F); and

16 “(H) advise the Investor Advocate on
17 issues related to small businesses and small
18 business investors.

19 “(5) ACCESS TO DOCUMENTS.—The Commis-
20 sion shall ensure that the Advocate for Small Busi-
21 ness Capital Formation has full access to the docu-
22 ments and information of the Commission and any
23 self-regulatory organization, as necessary to carry
24 out the functions of the Office.

25 “(6) ANNUAL REPORT ON ACTIVITIES.—

1 “(A) IN GENERAL.—Not later than De-
2 cember 31 of each year after 2015, the Advo-
3 cate for Small Business Capital Formation shall
4 submit to the Committee on Banking, Housing,
5 and Urban Affairs of the Senate and the Com-
6 mittee on Financial Services of the House of
7 Representatives a report on the activities of the
8 Advocate for Small Business Capital Formation
9 during the immediately preceding fiscal year.

10 “(B) CONTENTS.—Each report required
11 under subparagraph (A) shall include—

12 “(i) appropriate statistical information
13 and full and substantive analysis;

14 “(ii) information on steps that the
15 Advocate for Small Business Capital For-
16 mation has taken during the reporting pe-
17 riod to improve small business services and
18 the responsiveness of the Commission and
19 self-regulatory organizations to small busi-
20 ness and small business investor concerns;

21 “(iii) a summary of the most serious
22 issues encountered by small businesses and
23 small business investors, including any
24 unique issues encountered by minority-
25 owned and women-owned small businesses

1 and their investors, during the reporting
2 period;

3 “(iv) an inventory of the items sum-
4 marized under clause (iii) (including items
5 summarized under such clause for any
6 prior reporting period on which no action
7 has been taken or that have not been re-
8 solved to the satisfaction of the Advocate
9 for Small Business Capital Formation as
10 of the beginning of the reporting period
11 covered by the report) that includes—

12 “(I) identification of any action
13 taken by the Commission or the self-
14 regulatory organization and the result
15 of such action;

16 “(II) the length of time that each
17 item has remained on such inventory;
18 and

19 “(III) for items on which no ac-
20 tion has been taken, the reasons for
21 inaction, and an identification of any
22 official who is responsible for such ac-
23 tion;

24 “(v) recommendations for such
25 changes to the regulations, guidance and

1 orders of the Commission and such legisla-
2 tive actions as may be appropriate to re-
3 solve problems with the Commission and
4 self-regulatory organizations encountered
5 by small businesses and small business in-
6 vestors and to encourage small business
7 capital formation; and

8 “(vi) any other information, as deter-
9 mined appropriate by the Advocate for
10 Small Business Capital Formation.

11 “(C) CONFIDENTIALITY.—No report re-
12 quired by subparagraph (A) may contain con-
13 fidential information.

14 “(D) INDEPENDENCE.—Each report re-
15 quired under subparagraph (A) shall be pro-
16 vided directly to the committees of Congress
17 listed in such subparagraph without any prior
18 review or comment from the Commission, any
19 commissioner, any other officer or employee of
20 the Commission, or the Office of Management
21 and Budget.

22 “(7) REGULATIONS.—The Commission shall es-
23 tablish procedures requiring a formal response to all
24 recommendations submitted to the Commission by
25 the Advocate for Small Business Capital Formation,

1 not later than 3 months after the date of such sub-
2 mission.

3 “(8) GOVERNMENT-BUSINESS FORUM ON SMALL
4 BUSINESS CAPITAL FORMATION.—The Advocate for
5 Small Business Capital Formation shall be respon-
6 sible for planning, organizing, and executing the an-
7 nual Government-Business Forum on Small Busi-
8 ness Capital Formation described in section 503 of
9 the Small Business Investment Incentive Act of
10 1980 (15 U.S.C. 80c–1).

11 “(9) RULE OF CONSTRUCTION.—Nothing in
12 this subsection may be construed as replacing or re-
13 ducing the responsibilities of the Investor Advocate
14 with respect to small business investors.”.

15 (b) SMALL BUSINESS CAPITAL FORMATION ADVI-
16 SORY COMMITTEE.—The Securities Exchange Act of 1934
17 (15 U.S.C. 78a et seq.) is amended by inserting after sec-
18 tion 39 the following:

19 **“SEC. 40. SMALL BUSINESS CAPITAL FORMATION ADVISORY**
20 **COMMITTEE.**

21 “(a) ESTABLISHMENT AND PURPOSE.—

22 “(1) ESTABLISHMENT.—There is established
23 within the Commission the Small Business Capital
24 Formation Advisory Committee (hereafter in this
25 section referred to as the ‘Committee’).

1 “(2) FUNCTIONS.—

2 “(A) IN GENERAL.—The Committee shall
3 provide the Commission with advice on the
4 Commission’s rules, regulations, and policies
5 with regard to the Commission’s mission of pro-
6 tecting investors, maintaining fair, orderly, and
7 efficient markets, and facilitating capital forma-
8 tion, as such rules, regulations, and policies re-
9 late to—

10 “(i) capital raising by emerging, pri-
11 vately held small businesses (‘emerging
12 companies’) and publicly traded companies
13 with less than \$250,000,000 in public mar-
14 ket capitalization (‘smaller public compa-
15 nies’) through securities offerings, includ-
16 ing private and limited offerings and initial
17 and other public offerings;

18 “(ii) trading in the securities of
19 emerging companies and smaller public
20 companies; and

21 “(iii) public reporting and corporate
22 governance requirements of emerging com-
23 panies and smaller public companies.

24 “(B) LIMITATION.—The Committee shall
25 not provide any advice with respect to any poli-

1 cies, practices, actions, or decisions concerning
2 the Commission’s enforcement program.

3 “(b) MEMBERSHIP.—

4 “(1) IN GENERAL.—The members of the Com-
5 mittee shall be—

6 “(A) the Advocate for Small Business Cap-
7 ital Formation;

8 “(B) not fewer than 10, and not more than
9 20, members appointed by the Commission,
10 from among individuals—

11 “(i) who represent—

12 “(I) emerging companies engag-
13 ing in private and limited securities
14 offerings or considering initial public
15 offerings (‘IPO’) (including the com-
16 panies’ officers and directors);

17 “(II) the professional advisors of
18 such companies (including attorneys,
19 accountants, investment bankers, and
20 financial advisors); and

21 “(III) the investors in such com-
22 panies (including angel investors, ven-
23 ture capital funds, and family offices);

1 “(ii) who are officers or directors of
2 minority-owned small businesses and
3 women-owned small businesses;

4 “(iii) who represent—

5 “(I) smaller public companies
6 (including the companies’ officers and
7 directors);

8 “(II) the professional advisors of
9 such companies (including attorneys,
10 auditors, underwriters, and financial
11 advisors); and

12 “(III) the pre-IPO and post-IPO
13 investors in such companies (both in-
14 stitutional, such as venture capital
15 funds, and individual, such as angel
16 investors); and

17 “(iv) who represent participants in the
18 marketplace for the securities of emerging
19 companies and smaller public companies,
20 such as securities exchanges, alternative
21 trading systems, analysts, information
22 processors, and transfer agents; and

23 “(C) 3 non-voting members—

24 “(i) 1 of whom shall be appointed by
25 the Investor Advocate;

1 “(ii) 1 of whom shall be appointed by
2 the North American Securities Administra-
3 tors Association; and

4 “(iii) 1 of whom shall be appointed by
5 the Administrator of the Small Business
6 Administration.

7 “(2) TERM.—Each member of the Committee
8 appointed under subparagraph (B), (C)(ii), or
9 (C)(iii) of paragraph (1) shall serve for a term of 4
10 years.

11 “(3) MEMBERS NOT COMMISSION EMPLOY-
12 EES.—Members appointed under subparagraph (B),
13 (C)(ii), or (C)(iii) of paragraph (1) shall not be
14 treated as employees or agents of the Commission
15 solely because of membership on the Committee.

16 “(c) CHAIRMAN; VICE CHAIRMAN; SECRETARY; AS-
17 SISTANT SECRETARY.—

18 “(1) IN GENERAL.—The members of the Com-
19 mittee shall elect, from among the members of the
20 Committee—

21 “(A) a chairman;

22 “(B) a vice chairman;

23 “(C) a secretary; and

24 “(D) an assistant secretary.

1 “(2) TERM.—Each member elected under para-
2 graph (1) shall serve for a term of 3 years in the
3 capacity for which the member was elected under
4 paragraph (1).

5 “(d) MEETINGS.—

6 “(1) FREQUENCY OF MEETINGS.—The Com-
7 mittee shall meet—

8 “(A) not less frequently than four times
9 annually, at the call of the chairman of the
10 Committee; and

11 “(B) from time to time, at the call of the
12 Commission.

13 “(2) NOTICE.—The chairman of the Committee
14 shall give the members of the Committee written no-
15 tice of each meeting, not later than 2 weeks before
16 the date of the meeting.

17 “(e) COMPENSATION AND TRAVEL EXPENSES.—

18 Each member of the Committee who is not a full-time em-
19 ployee of the United States shall—

20 “(1) be entitled to receive compensation at a
21 rate not to exceed the daily equivalent of the annual
22 rate of basic pay in effect for a position at level V
23 of the Executive Schedule under section 5316 of title
24 5, United States Code, for each day during which

1 the member is engaged in the actual performance of
2 the duties of the Committee; and

3 “(2) while away from the home or regular place
4 of business of the member in the performance of
5 services for the Committee, be allowed travel ex-
6 penses, including per diem in lieu of subsistence, in
7 the same manner as persons employed intermittently
8 in the Government service are allowed expenses
9 under section 5703 of title 5, United States Code.

10 “(f) STAFF.—The Commission shall make available
11 to the Committee such staff as the chairman of the Com-
12 mittee determines are necessary to carry out this section.

13 “(g) REVIEW BY COMMISSION.—The Commission
14 shall—

15 “(1) review the findings and recommendations
16 of the Committee; and

17 “(2) each time the Committee submits a finding
18 or recommendation to the Commission, promptly
19 issue a public statement—

20 “(A) assessing the finding or recommenda-
21 tion of the Committee; and

22 “(B) disclosing the action, if any, the Com-
23 mission intends to take with respect to the find-
24 ing or recommendation.”.

1 (c) ANNUAL GOVERNMENT-BUSINESS FORUM ON
2 SMALL BUSINESS CAPITAL FORMATION.—Section 503(a)
3 of the Small Business Investment Incentive Act of 1980
4 (15 U.S.C. 80c–1(a)) is amended by inserting “(acting
5 through the Office of the Advocate for Small Business
6 Capital Formation and in consultation with the Small
7 Business Capital Formation Advisory Committee)” after
8 “Securities and Exchange Commission”.

9 **Subtitle H—Small Business Credit**
10 **Availability**

11 **SEC. 1036. BUSINESS DEVELOPMENT COMPANY OWNER-**
12 **SHIP OF SECURITIES OF INVESTMENT ADVIS-**
13 **ERS AND CERTAIN FINANCIAL COMPANIES.**

14 (a) IN GENERAL.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the Securities and
17 Exchange Commission shall promulgate regulations
18 to codify the order in Investment Company Act Re-
19 lease No. 30024, dated March 30, 2012. If the Com-
20 mission fails to complete the regulations as required
21 by this subsection, a business development company
22 shall be entitled to treat such regulations as having
23 been completed in accordance with the actions re-
24 quired to be taken by the Commission until such

1 time as such regulations are completed by the Com-
2 mission.

3 (2) RULE OF CONSTRUCTION.—Nothing in this
4 subsection shall prevent the Commission from
5 issuing rules to address potential conflicts of interest
6 between business development companies and invest-
7 ment advisers.

8 (b) PERMISSIBLE ASSETS OF AN ELIGIBLE PORT-
9 FOLIO COMPANY.—Section 55 of the Investment Company
10 Act of 1940 (15 U.S.C. 80a–54) is amended by adding
11 at the end the following:

12 “(c) SECURITIES DEEMED TO BE PERMISSIBLE AS-
13 SETS.—Notwithstanding subsection (a), securities that
14 would be described in paragraphs (1) through (6) of such
15 subsection except that the issuer is a company described
16 in paragraph (2), (3), (4), (5), (6), or (9) of section 3(c)
17 may be deemed to be assets described in paragraphs (1)
18 through (6) of subsection (a) to the extent necessary for
19 the sum of the assets to equal 70 percent of the value
20 of a business development company’s total assets (other
21 than assets described in paragraph (7) of subsection (a)),
22 provided that the aggregate value of such securities count-
23 ing toward such 70 percent shall not exceed 20 percent
24 of the value of the business development company’s total
25 assets.”.

1 **SEC. 1037. EXPANDING ACCESS TO CAPITAL FOR BUSINESS**
2 **DEVELOPMENT COMPANIES.**

3 (a) IN GENERAL.—Section 61(a) of the Investment
4 Company Act of 1940 (15 U.S.C. 80a–60(a)) is amend-
5 ed—

6 (1) by redesignating paragraphs (2) through
7 (4) as paragraphs (3) through (5), respectively;

8 (2) by striking paragraph (1) and inserting the
9 following:

10 “(1) Except as provided in paragraph (2), the
11 asset coverage requirements of subparagraphs (A)
12 and (B) of section 18(a)(1) (and any related rule
13 promulgated under this Act) applicable to business
14 development companies shall be 200 percent.

15 “(2) The asset coverage requirements of sub-
16 subparagraphs (A) and (B) of section 18(a)(1) and of
17 subparagraphs (A) and (B) of section 18(a)(2) (and
18 any related rule promulgated under this Act) appli-
19 cable to a business development company shall be
20 150 percent if—

21 “(A) within five business days of the ap-
22 proval of the adoption of the asset coverage re-
23 quirements described in clause (ii), the business
24 development company discloses such approval
25 and the date of its effectiveness in a Form 8–
26 K filed with the Commission and in a notice on

1 its website and discloses in its periodic filings
2 made under section 13 of the Securities Ex-
3 change Act of 1934 (15 U.S.C. 78m)—

4 “(i) the aggregate value of the senior
5 securities issued by such company and the
6 asset coverage percentage as of the date of
7 such company’s most recent financial
8 statements; and

9 “(ii) that such company has adopted
10 the asset coverage requirements of this
11 subparagraph and the effective date of
12 such requirements;

13 “(B) with respect to a business develop-
14 ment company that issues equity securities that
15 are registered on a national securities exchange,
16 the periodic filings of the company under sec-
17 tion 13(a) of the Securities Exchange Act of
18 1934 (15 U.S.C. 78m) include disclosures rea-
19 sonably designed to ensure that shareholders
20 are informed of—

21 “(i) the amount of indebtedness and
22 asset coverage ratio of the company, deter-
23 mined as of the date of the financial state-
24 ments of the company dated on or most re-
25 cently before the date of such filing; and

1 “(ii) the principal risk factors associ-
2 ated with such indebtedness, to the extent
3 such risk is incurred by the company; and
4 “(C)(i) the application of this paragraph to
5 the company is approved by the required major-
6 ity (as defined in section 57(o)) of the directors
7 of or general partners of such company who are
8 not interested persons of the business develop-
9 ment company, which application shall become
10 effective on the date that is 1 year after the
11 date of the approval, and, with respect to a
12 business development company that issues eq-
13 uity securities that are not registered on a na-
14 tional securities exchange, the company extends,
15 to each person who is a shareholder as of the
16 date of the approval, an offer to repurchase the
17 equity securities held by such person as of such
18 approval date, with 25 percent of such securi-
19 ties to be repurchased in each of the four quar-
20 ters following such approval date; or
21 “(ii) the company obtains, at a special or
22 annual meeting of shareholders or partners at
23 which a quorum is present, the approval of
24 more than 50 percent of the votes cast of the
25 application of this paragraph to the company,

1 which application shall become effective on the
2 date immediately after the date of the ap-
3 proval.”;

4 (3) in paragraph (3) (as redesignated), by in-
5 serting “or which is a stock, provided that all such
6 stock is issued in accordance with paragraph (6)”
7 after “indebtedness”;

8 (4) in subparagraph (A) of paragraph (4) (as
9 redesignated)—

10 (A) in the matter preceding clause (i), by
11 striking “voting”; and

12 (B) by amending clause (iii) to read as fol-
13 lows:

14 “(iii) the exercise or conversion price
15 at the date of issuance of such warrants,
16 options, or rights is not less than—

17 “(I) the market value of the se-
18 curities issuable upon the exercise of
19 such warrants, options, or rights at
20 the date of issuance of such warrants,
21 options, or rights; or

22 “(II) if no such market value ex-
23 ists, the net asset value of the securi-
24 ties issuable upon the exercise of such
25 warrants, options, or rights at the

1 date of issuance of such warrants, op-
2 tions, or rights; and”;

3 (5) by adding at the end the following:

4 “(6)(A) QUALIFIED INSTITUTIONAL BUYER.—
5 Except as provided in subparagraph (B), the fol-
6 lowing shall not apply to a senior security which is
7 a stock and which is issued to and held by a quali-
8 fied institutional buyer (as defined in section
9 3(a)(64) of the Securities Exchange Act of 1934):

10 “(i) Subparagraphs (C) and (D) of section
11 18(a)(2).

12 “(ii) Subparagraph (E) of section 18(a)(2),
13 to the extent such subparagraph requires any
14 priority over any other class of stock as to dis-
15 tribution of assets upon liquidation.

16 “(iii) With respect to a senior security
17 which is a stock, subsections (c) and (i) of sec-
18 tion 18.

19 “(B) INDIVIDUAL INVESTORS WHO ARE NOT
20 QUALIFIED INSTITUTIONAL BUYERS.—Subparagraph
21 (A) shall not apply with respect to a senior security
22 which is a stock and which is issued to a person who
23 is not known by the business development company
24 to be a qualified institutional buyer (as defined in

1 section 3(a) of the Securities Exchange Act of
2 1934).

3 “(7) RULE OF CONSTRUCTION.—Notwith-
4 standing any other provision of law, any additional
5 class of stock issued pursuant to this section must
6 be issued in accordance with all investor protections
7 contained in all applicable federal securities laws ad-
8 ministered by the Commission.”.

9 (b) CONFORMING AMENDMENTS.—The Investment
10 Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amend-
11 ed—

12 (1) in section 57—

13 (A) in subsection (j)(1), by striking “sec-
14 tion 61(a)(3)(B)” and inserting “section
15 61(a)(4)(B)”; and

16 (B) in subsection (n)(2), by striking “sec-
17 tion 61(a)(3)(B)” and inserting “section
18 61(a)(4)(B)”; and

19 (2) in section 63(3), by striking “section
20 61(a)(3)” and inserting “section 61(a)(4)”.

21 **SEC. 1038. PARITY FOR BUSINESS DEVELOPMENT COMPA-**
22 **NIES REGARDING OFFERING AND PROXY**
23 **RULES.**

24 (a) REVISION TO RULES.—Not later than 1 year
25 after the date of enactment of this Act, the Securities and

1 Exchange Commission shall revise any rules to the extent
2 necessary to allow a business development company that
3 has filed an election pursuant to section 54 of the Invest-
4 ment Company Act of 1940 (15 U.S.C. 80a–53) to use
5 the securities offering and proxy rules that are available
6 to other issuers that are required to file reports under sec-
7 tion 13 or section 15(d) of the Securities Exchange Act
8 of 1934 (15 U.S.C. 78m; 78o(d)). Any action that the
9 Commission takes pursuant to this subsection shall in-
10 clude the following:

11 (1) The Commission shall revise rule 405 under
12 the Securities Act of 1933 (17 C.F.R. 230.405)—

13 (A) to remove the exclusion of a business
14 development company from the definition of a
15 well-known seasoned issuer provided by that
16 rule; and

17 (B) to add registration statements filed on
18 Form N–2 to the definition of automatic shelf
19 registration statement provided by that rule.

20 (2) The Commission shall revise rules 168 and
21 169 under the Securities Act of 1933 (17 C.F.R.
22 230.168 and 230.169) to remove the exclusion of a
23 business development company from an issuer that
24 can use the exemptions provided by those rules.

1 (3) The Commission shall revise rules 163 and
2 163A under the Securities Act of 1933 (17 C.F.R.
3 230.163 and 230.163A) to remove a business devel-
4 opment company from the list of issuers that are in-
5 eligible to use the exemptions provided by those
6 rules.

7 (4) The Commission shall revise rule 134 under
8 the Securities Act of 1933 (17 C.F.R. 230.134) to
9 remove the exclusion of a business development com-
10 pany from that rule.

11 (5) The Commission shall revise rules 138 and
12 139 under the Securities Act of 1933 (17 C.F.R.
13 230.138 and 230.139) to specifically include a busi-
14 ness development company as an issuer to which
15 those rules apply.

16 (6) The Commission shall revise rule 164 under
17 the Securities Act of 1933 (17 C.F.R. 230.164) to
18 remove a business development company from the
19 list of issuers that are excluded from that rule.

20 (7) The Commission shall revise rule 433 under
21 the Securities Act of 1933 (17 C.F.R. 230.433) to
22 specifically include a business development company
23 that is a well-known seasoned issuer as an issuer to
24 which that rule applies.

1 (8) The Commission shall revise rule 415 under
2 the Securities Act of 1933 (17 C.F.R. 230.415)—

3 (A) to state that the registration for secu-
4 rities provided by that rule includes securities
5 registered by a business development company
6 on Form N-2; and

7 (B) to provide an exception for a business
8 development company from the requirement
9 that a Form N-2 registrant must furnish the
10 undertakings required by item 34.4 of Form N-
11 2.

12 (9) The Commission shall revise rule 497 under
13 the Securities Act of 1933 (17 C.F.R. 230.497) to
14 include a process for a business development com-
15 pany to file a form of prospectus that is parallel to
16 the process for filing a form of prospectus under
17 rule 424(b).

18 (10) The Commission shall revise rules 172 and
19 173 under the Securities Act of 1933 (17 C.F.R.
20 230.172 and 230.173) to remove the exclusion of an
21 offering of a business development company from
22 those rules.

23 (11) The Commission shall revise rule 418
24 under the Securities Act of 1933 (17 C.F.R.
25 230.418) to provide that a business development

1 company that would otherwise meet the eligibility re-
2 quirements of General Instruction I.A of Form S-3
3 shall be exempt from paragraph (a)(3) of that rule.

4 (12) The Commission shall revise rule 14a-101
5 under the Securities Exchange Act of 1934 (17
6 C.F.R. 240.14a-101) to provide that a business de-
7 velopment company that would otherwise meet the
8 requirements of General Instruction I.A of Form S-
9 3 shall be deemed to meet the requirements of Form
10 S-3 for purposes of Schedule 14A.

11 (13) The Commission shall revise rule 103
12 under Regulation FD (17 C.F.R. 243.103) to pro-
13 vide that paragraph (a) of that rule applies for pur-
14 poses of Form N-2.

15 (b) REVISION TO FORM N-2.—Not later than 1 year
16 after the date of enactment of this Act, the Commission
17 shall revise Form N-2—

18 (1) to include an item or instruction that is
19 similar to item 12 on Form S-3 to provide that a
20 business development company that would otherwise
21 meet the requirements of Form S-3 shall incor-
22 porate by reference its reports and documents filed
23 under the Securities Exchange Act of 1934 into its
24 registration statement filed on Form N-2; and

1 (2) to include an item or instruction that is
 2 similar to the instruction regarding automatic shelf
 3 offerings by well-known seasoned issuers on Form
 4 S-3 to provide that a business development company
 5 that is a well-known seasoned issuer may file auto-
 6 matic shelf offerings on Form N-2.

7 (c) TREATMENT IF REVISIONS NOT COMPLETED IN
 8 TIMELY MANNER.—If the Commission fails to complete
 9 the revisions required by subsections (a) and (b) by the
 10 time required by such subsections, a business development
 11 company shall be entitled to treat such revisions as having
 12 been completed in accordance with the actions required to
 13 be taken by the Commission by such subsections until such
 14 time as such revisions are completed by the Commission.

15 (d) RULE OF CONSTRUCTION.—Any reference in this
 16 section to a rule or form means such rule or form or any
 17 successor rule or form.

18 **Subtitle I—Fostering Innovation**

19 **SEC. 1041. TEMPORARY EXEMPTION FOR LOW-REVENUE** 20 **ISSUERS.**

21 Section 404 of the Sarbanes-Oxley Act of 2002 (15
 22 U.S.C. 7262) is amended by adding at the end the fol-
 23 lowing:

24 “(d) TEMPORARY EXEMPTION FOR LOW-REVENUE
 25 ISSUERS.—

1 “(1) LOW-REVENUE EXEMPTION.—Subsection
2 (b) shall not apply with respect to an audit report
3 prepared for an issuer that—

4 “(A) ceased to be an emerging growth
5 company on the last day of the fiscal year of
6 the issuer following the fifth anniversary of the
7 date of the first sale of common equity securi-
8 ties of the issuer pursuant to an effective reg-
9 istration statement under the Securities Act of
10 1933;

11 “(B) had average annual gross revenues of
12 less than \$50,000,000 as of its most recently
13 completed fiscal year; and

14 “(C) is not a large accelerated filer.

15 “(2) EXPIRATION OF TEMPORARY EXEMP-
16 TION.—An issuer ceases to be eligible for the exemp-
17 tion described under paragraph (1) at the earliest
18 of—

19 “(A) the last day of the fiscal year of the
20 issuer following the tenth anniversary of the
21 date of the first sale of common equity securi-
22 ties of the issuer pursuant to an effective reg-
23 istration statement under the Securities Act of
24 1933;

1 “(B) the last day of the fiscal year of the
2 issuer during which the average annual gross
3 revenues of the issuer exceed \$50,000,000; or

4 “(C) the date on which the issuer becomes
5 a large accelerated filer.

6 “(3) DEFINITIONS.—For purposes of this sub-
7 section:

8 “(A) AVERAGE ANNUAL GROSS REVE-
9 NUES.—The term ‘average annual gross reve-
10 nues’ means the total gross revenues of an
11 issuer over its most recently completed three
12 fiscal years divided by three.

13 “(B) EMERGING GROWTH COMPANY.—The
14 term ‘emerging growth company’ has the mean-
15 ing given such term under section 3 of the Se-
16 curities Exchange Act of 1934 (15 U.S.C. 78c).

17 “(C) LARGE ACCELERATED FILER.—The
18 term ‘large accelerated filer’ has the meaning
19 given that term under section 240.12b–2 of title
20 17, Code of Federal Regulations, or any suc-
21 cessor thereto.”.

1 **Subtitle J—Small Business Capital**
2 **Formation Enhancement**

3 **SEC. 1046. ANNUAL REVIEW OF GOVERNMENT-BUSINESS**
4 **FORUM ON CAPITAL FORMATION.**

5 Section 503 of the Small Business Investment Incen-
6 tive Act of 1980 (15 U.S.C. 80c–1) is amended by adding
7 at the end the following:

8 “(e) The Commission shall—

9 “(1) review the findings and recommendations
10 of the forum; and

11 “(2) each time the forum submits a finding or
12 recommendation to the Commission, promptly issue
13 a public statement—

14 “(A) assessing the finding or recommenda-
15 tion of the forum; and

16 “(B) disclosing the action, if any, the Com-
17 mission intends to take with respect to the find-
18 ing or recommendation.”.

19 **Subtitle K—Helping Angels Lead**
20 **Our Startups**

21 **SEC. 1051. DEFINITION OF ANGEL INVESTOR GROUP.**

22 As used in this subtitle, the term “angel investor
23 group” means any group that—

1 (1) is composed of accredited investors inter-
2 ested in investing personal capital in early-stage
3 companies;

4 (2) holds regular meetings and has defined
5 processes and procedures for making investment de-
6 cisions, either individually or among the membership
7 of the group as a whole; and

8 (3) is neither associated nor affiliated with bro-
9 kers, dealers, or investment advisers.

10 **SEC. 1052. CLARIFICATION OF GENERAL SOLICITATION.**

11 (a) IN GENERAL.—Not later than 6 months after the
12 date of enactment of this Act, the Securities and Ex-
13 change Commission shall revise Regulation D of its rules
14 (17 C.F.R. 230.500 et seq.) to require that in carrying
15 out the prohibition against general solicitation or general
16 advertising contained in section 230.502(c) of title 17,
17 Code of Federal Regulations, the prohibition shall not
18 apply to a presentation or other communication made by
19 or on behalf of an issuer which is made at an event—

20 (1) sponsored by—

21 (A) the United States or any territory
22 thereof, by the District of Columbia, by any
23 State, by a political subdivision of any State or
24 territory, or by any agency or public instrumen-
25 tality of any of the foregoing;

1 (B) a college, university, or other institu-
2 tion of higher education;

3 (C) a nonprofit organization;

4 (D) an angel investor group;

5 (E) a venture forum, venture capital asso-
6 ciation, or trade association; or

7 (F) any other group, person or entity as
8 the Securities and Exchange Commission may
9 determine by rule;

10 (2) where any advertising for the event does not
11 reference any specific offering of securities by the
12 issuer;

13 (3) the sponsor of which—

14 (A) does not make investment rec-
15 ommendations or provide investment advice to
16 event attendees;

17 (B) does not engage in an active role in
18 any investment negotiations between the issuer
19 and investors attending the event;

20 (C) does not charge event attendees any
21 fees other than administrative fees; and

22 (D) does not receive any compensation
23 with respect to such event that would require
24 registration of the sponsor as a broker or a
25 dealer under the Securities Exchange Act of

1 1934, or as an investment advisor under the In-
2 vestment Advisers Act of 1940; and

3 (4) where no specific information regarding an
4 offering of securities by the issuer is communicated
5 or distributed by or on behalf of the issuer, other
6 than—

7 (A) that the issuer is in the process of of-
8 fering securities or planning to offer securities;

9 (B) the type and amount of securities
10 being offered;

11 (C) the amount of securities being offered
12 that have already been subscribed for; and

13 (D) the intended use of proceeds of the of-
14 fering.

15 (b) **RULE OF CONSTRUCTION.**—Subsection (a) may
16 only be construed as requiring the Securities and Ex-
17 change Commission to amend the requirements of Regula-
18 tion D with respect to presentations and communications,
19 and not with respect to purchases or sales.

20 **Subtitle L—Main Street Growth**

21 **SEC. 1056. VENTURE EXCHANGES.**

22 (a) **SECURITIES EXCHANGE ACT OF 1934.**—Section
23 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f)
24 is amended by adding at the end the following:

25 “(m) **VENTURE EXCHANGE.**—

1 “(1) REGISTRATION.—

2 “(A) IN GENERAL.—A national securities
3 exchange may elect to be treated (or for a list-
4 ing tier of such exchange to be treated) as a
5 venture exchange by notifying the Commission
6 of such election, either at the time the exchange
7 applies to be registered as a national securities
8 exchange or after registering as a national secu-
9 rities exchange.

10 “(B) DETERMINATION TIME PERIOD.—
11 With respect to a securities exchange electing to
12 be treated (or for a listing tier of such exchange
13 to be treated) as a venture exchange—

14 “(i) at the time the exchange applies
15 to be registered as a national securities ex-
16 change, such application and election shall
17 be deemed to have been approved by the
18 Commission unless the Commission denies
19 such application before the end of the 6-
20 month period beginning on the date the
21 Commission received such application; and

22 “(ii) after registering as a national se-
23 curities exchange, such election shall be
24 deemed to have been approved by the Com-
25 mission unless the Commission denies such

1 approval before the end of the 6-month pe-
2 riod beginning on the date the Commission
3 received notification of such election.

4 “(2) POWERS AND RESTRICTIONS.—A venture
5 exchange—

6 “(A) may only constitute, maintain, or pro-
7 vide a market place or facilities for bringing to-
8 gether purchasers and sellers of venture securi-
9 ties;

10 “(B) may determine the increment to be
11 used for quoting and trading venture securities
12 on the exchange;

13 “(C) shall disseminate last sale and
14 quotation information on terms that are fair
15 and reasonable and not unreasonably discrimi-
16 natory;

17 “(D) may choose to carry out periodic auc-
18 tions for the sale of a venture security instead
19 of providing continuous trading of the venture
20 security; and

21 “(E) may not extend unlisted trading
22 privileges to any venture security.

23 “(3) EXEMPTIONS FROM CERTAIN NATIONAL
24 SECURITY EXCHANGE REGULATIONS.—A venture ex-
25 change shall not be required to—

1 “(A) comply with any of sections 242.600
2 through 242.612 of title 17, Code of Federal
3 Regulations;

4 “(B) comply with any of sections 242.300
5 through 242.303 of title 17, Code of Federal
6 Regulations;

7 “(C) submit any data to a securities infor-
8 mation processor; or

9 “(D) use decimal pricing.

10 “(4) TREATMENT OF CERTAIN EXEMPTED SE-
11 CURITIES.—A security that is exempt from registra-
12 tion pursuant to section 3(b) of the Securities Act
13 of 1933 shall be exempt from section 12(a) of this
14 title with respect to the trading of such security on
15 a venture exchange, if the issuer of such security is
16 in compliance with all disclosure obligations of such
17 section 3(b) and the regulations issued under such
18 section.

19 “(5) DEFINITIONS.—For purposes of this sub-
20 section:

21 “(A) EARLY-STAGE, GROWTH COMPANY.—

22 “(i) IN GENERAL.—The term ‘early-
23 stage, growth company’ means an issuer—

1 “(I) that has not made an initial
2 public offering of any securities of the
3 issuer; and

4 “(II) with a market capitalization
5 of \$1,000,000,000 (as such amount is
6 indexed for inflation every 5 years by
7 the Commission to reflect the change
8 in the Consumer Price Index for All
9 Urban Consumers published by the
10 Bureau of Labor Statistics, setting
11 the threshold to the nearest
12 \$1,000,000) or less.

13 “(ii) TREATMENT WHEN MARKET
14 CAPITALIZATION EXCEEDS THRESHOLD.—

15 “(I) IN GENERAL.—In the case
16 of an issuer that is an early-stage,
17 growth company the securities of
18 which are traded on a venture ex-
19 change, such issuer shall not cease to
20 be an early-stage, growth company by
21 reason of the market capitalization of
22 such issuer exceeding the threshold
23 specified in clause (i)(II) until the end
24 of the period of 24 consecutive
25 months during which the market cap-

1 italization of such issuer exceeds
2 \$2,000,000,000 (as such amount is
3 indexed for inflation every 5 years by
4 the Commission to reflect the change
5 in the Consumer Price Index for All
6 Urban Consumers published by the
7 Bureau of Labor Statistics, setting
8 the threshold to the nearest
9 \$1,000,000).

10 “(II) EXEMPTIONS.—If an issuer
11 would cease to be an early-stage,
12 growth company under subclause (I),
13 the venture exchange may, at the re-
14 quest of the issuer, exempt the issuer
15 from the market capitalization re-
16 quirements of this subparagraph for
17 the 1-year period that begins on the
18 day after the end of the 24-month pe-
19 riod described in such subclause. The
20 venture exchange may, at the request
21 of the issuer, extend the exemption for
22 1 additional year.

23 “(B) VENTURE SECURITY.—The term
24 ‘venture security’ means—

1 “(i) securities of an early-stage,
2 growth company that are exempt from reg-
3 istration pursuant to section 3(b) of the
4 Securities Act of 1933; and

5 “(ii) securities of an emerging growth
6 company.”.

7 (b) SECURITIES ACT OF 1933.—Section 18(b)(1) of
8 the Securities Act of 1933 (15 U.S.C. 77r(b)(1)) is
9 amended—

10 (1) in subparagraph (B), by striking “or” at
11 the end;

12 (2) in subparagraph (C), by striking the period
13 and inserting “; or”; and

14 (3) by adding at the end the following:

15 “(D) a venture security, as defined under
16 section 6(m)(5) of the Securities Exchange Act
17 of 1934.”.

18 (c) SENSE OF CONGRESS.—It is the sense of the Con-
19 gress that the Securities and Exchange Commission
20 should—

21 (1) when necessary or appropriate in the public
22 interest and consistent with the protection of inves-
23 tors, make use of the Commission’s general exemp-
24 tive authority under section 36 of the Securities Ex-

1 change Act of 1934 (15 U.S.C. 78mm) with respect
2 to the provisions added by this section; and

3 (2) if the Commission determines appropriate,
4 create an Office of Venture Exchanges within the
5 Commission's Division of Trading and Markets.

6 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion or the amendments made by this section shall be con-
8 strued to impair or limit the construction of the antifraud
9 provisions of the securities laws (as defined in section 3(a)
10 of the Securities Exchange Act of 1934 (15 U.S.C.
11 78c(a))) or the authority of the Securities and Exchange
12 Commission under those provisions.

13 (e) EFFECTIVE DATE FOR TIERS OF EXISTING NA-
14 TIONAL SECURITIES EXCHANGES.—In the case of a secu-
15 rities exchange that is registered as a national securities
16 exchange under section 6 of the Securities Exchange Act
17 of 1934 (15 U.S.C. 78f) on the date of the enactment of
18 this Act, any election for a listing tier of such exchange
19 to be treated as a venture exchange under subsection (m)
20 of such section shall not take effect before the date that
21 is 180 days after such date of enactment.

1 **Subtitle M—Micro Offering Safe**
2 **Harbor**

3 **SEC. 1061. EXEMPTIONS FOR MICRO-OFFERINGS.**

4 (a) IN GENERAL.—Section 4 of the Securities Act of
5 1933 (15 U.S.C. 77d) is amended—

6 (1) in subsection (a), by adding at the end the
7 following:

8 “(8) transactions meeting the requirements of
9 subsection (f).”; and

10 (2) by adding at the end the following:

11 “(f) CERTAIN MICRO-OFFERINGS.—The transactions
12 referred to in subsection (a)(8) are transactions involving
13 the sale of securities by an issuer (including all entities
14 controlled by or under common control with the issuer)
15 that meet all of the following requirements:

16 “(1) PRE-EXISTING RELATIONSHIP.—Each pur-
17 chaser has a substantive pre-existing relationship
18 with an officer of the issuer, a director of the issuer,
19 or a shareholder holding 10 percent or more of the
20 shares of the issuer.

21 “(2) 35 OR FEWER PURCHASERS.—There are
22 no more than, or the issuer reasonably believes that
23 there are no more than, 35 purchasers of securities
24 from the issuer that are sold in reliance on the ex-

1 exemption provided under subsection (a)(8) during the
2 12-month period preceding such transaction.

3 “(3) SMALL OFFERING AMOUNT.—The aggre-
4 gate amount of all securities sold by the issuer, in-
5 cluding any amount sold in reliance on the exemp-
6 tion provided under subsection (a)(8), during the 12-
7 month period preceding such transaction, does not
8 exceed \$500,000.”.

9 (b) EXEMPTION UNDER STATE REGULATIONS.—Sec-
10 tion 18(b)(4) of the Securities Act of 1933 (15 U.S.C.
11 77r(b)(4)) is amended—

12 (1) in subparagraph (F), by striking “or” at
13 the end;

14 (2) in subparagraph (G), by striking the period
15 and inserting “; or”; and

16 (3) by adding at the end the following:

17 “(H) section 4(a)(8).”.

18 **Subtitle N—Private Placement** 19 **Improvement**

20 **SEC. 1066. REVISIONS TO SEC REGULATION D.**

21 Not later than 45 days following the date of the en-
22 actment of this Act, the Securities and Exchange Commis-
23 sion shall revise Regulation D (17 C.F.R. 501 et seq.) in
24 accordance with the following:

1 (1) The Commission shall revise Form D filing
2 requirements to require an issuer offering or selling
3 securities in reliance on an exemption provided
4 under Rule 506 of Regulation D to file with the
5 Commission a single notice of sales containing the
6 information required by Form D for each new offer-
7 ing of securities no earlier than 15 days after the
8 date of the first sale of securities in the offering.
9 The Commission shall not require such an issuer to
10 file any notice of sales containing the information re-
11 quired by Form D except for the single notice de-
12 scribed in the previous sentence.

13 (2) The Commission shall make the information
14 contained in each Form D filing available to the se-
15 curities commission (or any agency or office per-
16 forming like functions) of each State and territory of
17 the United States and the District of Columbia.

18 (3) The Commission shall not condition the
19 availability of any exemption for an issuer under
20 Rule 506 of Regulation D (17 C.F.R. 230.506) on
21 the issuer's or any other person's filing with the
22 Commission of a Form D or any similar report.

23 (4) The Commission shall not require issuers to
24 submit written general solicitation materials to the
25 Commission in connection with a Rule 506(c) offer-

1 ing, except when the Commission requests such ma-
2 terials pursuant to the Commission’s authority
3 under section 8A or section 20 of the Securities Act
4 of 1933 (15 U.S.C. 77h–1 or 77t) or section 9,
5 10(b), 21A, 21B, or 21C of the Securities Exchange
6 Act of 1934 (15 U.S.C. 78i, 78j(b), 78u–1, 78u–2,
7 or 78u–3).

8 (5) The Commission shall not extend the re-
9 quirements contained in Rule 156 to private funds.

10 (6) The Commission shall revise Rule 501(a) of
11 Regulation D to provide that a person who is a
12 “knowledgeable employee” of a private fund or the
13 fund’s investment adviser, as defined in Rule 3c–
14 5(a)(4) (17 C.F.R. 270.3c–5(a)(4)), shall be an ac-
15 credited investor for purposes of a Rule 506 offering
16 of a private fund with respect to which the person
17 is a knowledgeable employee.

18 **Subtitle O—Supporting America’s** 19 **Innovators**

20 **SEC. 1071. INVESTOR LIMITATION FOR QUALIFYING VEN-** 21 **TURE CAPITAL FUNDS.**

22 Section 3(c)(1) of the Investment Company Act of
23 1940 (15 U.S.C. 80a–3(c)(1)) is amended—

1 (1) by inserting after “one hundred persons”
2 the following: “(or, with respect to a qualifying ven-
3 ture capital fund, 250 persons)”; and

4 (2) by adding at the end the following:

5 “(C) The term ‘qualifying venture capital
6 fund’ means any venture capital fund (as de-
7 fined pursuant to section 203(l)(1) of the In-
8 vestment Advisers Act of 1940 (15 U.S.C. 80b-
9 3(l)(1)) with no more than \$10,000,000 in in-
10 vested capital, as such dollar amount is annu-
11 ally adjusted by the Commission to reflect the
12 change in the Consumer Price Index for All
13 Urban Consumers published by the Bureau of
14 Labor Statistics of the Department of Labor.”.

15 **Subtitle P—Fix Crowdfunding**

16 **SEC. 1076. CROWDFUNDING VEHICLES.**

17 (a) AMENDMENTS TO THE SECURITIES ACT OF
18 1933.—The Securities Act of 1933 (15 U.S.C. 77a et
19 seq.) is amended—

20 (1) in section 4A(f)(3), by inserting “by any of
21 paragraphs (1) through (14) of” before “section
22 3(c)”; and

23 (2) in section 4(a)(6)(B), by inserting after
24 “any investor” the following: “, other than a

1 crowdfunding vehicle (as defined in section 2(a) of
2 the Investment Company Act of 1940),”.

3 (b) AMENDMENTS TO THE INVESTMENT COMPANY
4 ACT OF 1940.—The Investment Company Act of 1940 (15
5 U.S.C. 80a-1 et seq.) is amended—

6 (1) in section 2(a), by adding at the end the
7 following:

8 “(55) The term ‘crowdfunding vehicle’ means a
9 company—

10 “(A) whose purpose (as set forth in its or-
11 ganizational documents) is limited to acquiring,
12 holding, and disposing securities issued by a
13 single company in one or more transactions and
14 made pursuant to section 4(a)(6) of the Securi-
15 ties Act of 1933;

16 “(B) which issues only one class of securi-
17 ties;

18 “(C) which receives no compensation in
19 connection with such acquisition, holding, or
20 disposition of securities;

21 “(D) no associated person of which re-
22 ceives any compensation in connection with
23 such acquisition, holding or disposition of secu-
24 rities unless such person is acting as or on be-

1 half of an investment adviser registered under
2 the Investment Advisers Act of 1940;

3 “(E) the securities of which have been
4 issued in a transaction made pursuant to sec-
5 tion 4(a)(6) of the Securities Act of 1933,
6 where both the crowdfunding vehicle and the
7 company whose securities it holds are co-
8 issuers;

9 “(F) which is current in its ongoing disclo-
10 sure obligations under Rule 202 of Regulation
11 Crowdfunding (17 C.F.R. 227.202);

12 “(G) the company whose securities it holds
13 is current in its ongoing disclosure obligations
14 under Rule 202 of Regulation Crowdfunding
15 (17 C.F.R. 227.202); and

16 “(H) is advised by an investment adviser
17 registered under the Investment Advisers Act of
18 1940.”; and

19 (2) in section 3(c), by adding at the end the fol-
20 lowing:

21 “(15) Any crowdfunding vehicle.”.

22 **SEC. 1077. CROWDFUNDING EXEMPTION FROM REGISTRA-**
23 **TION.**

24 Section 12(g)(6) of the Securities Exchange Act of
25 1934 (15 U.S.C. 78l(g)(6) is amended—

1 (1) by striking “The Commission” and insert-
2 ing the following:

3 “(A) IN GENERAL.—The Commission”;

4 (2) by striking “section 4(6)” and inserting
5 “section 4(a)(6)”; and

6 (3) by adding at the end the following:

7 “(B) TREATMENT OF SECURITIES ISSUED
8 BY CERTAIN ISSUERS.—An exemption under
9 subparagraph (A) shall be unconditional for se-
10 curities offered by an issuer that had a public
11 float of less than \$75,000,000 as of the last
12 business day of the issuer’s most recently com-
13 pleted semiannual period, computed by multi-
14 plying the aggregate worldwide number of
15 shares of the issuer’s common equity securities
16 held by non-affiliates by the price at which such
17 securities were last sold (or the average bid and
18 asked prices of such securities) in the principal
19 market for such securities or, in the event the
20 result of such public float calculation is zero,
21 had annual revenues of less than \$50,000,000
22 as of the issuer’s most recently completed fiscal
23 year.”.

1 **Subtitle Q—Corporate Governance**
2 **Reform and Transparency**

3 **SEC. 1081. DEFINITIONS.**

4 (a) SECURITIES EXCHANGE ACT OF 1934.—Section
5 3(a) of the Securities Exchange Act of 1934 (15 U.S.C.
6 78c(a)) is amended by adding at the end the following new
7 paragraphs:

8 “(81) PROXY ADVISORY FIRM.—The term
9 ‘proxy advisory firm’ means any person who is pri-
10 marily engaged in the business of providing proxy
11 voting research, analysis, or recommendations to cli-
12 ents, which conduct constitutes a solicitation within
13 the meaning of section 14 and the Commission’s
14 rules and regulations thereunder, except to the ex-
15 tent that the person is exempted by such rules and
16 regulations from requirements otherwise applicable
17 to persons engaged in a solicitation.

18 “(82) PERSON ASSOCIATED WITH A PROXY AD-
19 VISORY FIRM.—The term ‘person associated with’ a
20 proxy advisory firm means any partner, officer, or
21 director of a proxy advisory firm (or any person oc-
22 cupying a similar status or performing similar func-
23 tions), any person directly or indirectly controlling,
24 controlled by, or under common control with a proxy
25 advisory firm, or any employee of a proxy advisory

1 firm, except that persons associated with a proxy ad-
2 visory firm whose functions are clerical or ministe-
3 rial shall not be included in the meaning of such
4 term. The Commission may by rules and regulations
5 classify, for purposes or any portion or portions of
6 this Act, persons, including employees controlled by
7 a proxy advisory firm.”.

8 (b) APPLICABLE DEFINITIONS.—As used in this sub-
9 title—

10 (1) the term “Commission” means the Securi-
11 ties and Exchange Commission; and

12 (2) the term “proxy advisory firm” has the
13 same meaning as in section 3(a)(81) of the Securi-
14 ties Exchange Act of 1934, as added by this subtitle.

15 **SEC. 1082. REGISTRATION OF PROXY ADVISORY FIRMS.**

16 (a) AMENDMENT.—The Securities Exchange Act of
17 1934 is amended by inserting after section 15G the fol-
18 lowing new section:

19 **“SEC. 15H. REGISTRATION OF PROXY ADVISORY FIRMS.**

20 “(a) CONDUCT PROHIBITED.—It shall be unlawful
21 for a proxy advisory firm to make use of the mails or any
22 means or instrumentality of interstate commerce to pro-
23 vide proxy voting research, analysis, or recommendations
24 to any client, unless such proxy advisory firm is registered
25 under this section.

1 “(b) REGISTRATION PROCEDURES.—

2 “(1) APPLICATION FOR REGISTRATION.—

3 “(A) IN GENERAL.—A proxy advisory firm
4 must file with the Commission an application
5 for registration, in such form as the Commis-
6 sion shall require, by rule or regulation, and
7 containing the information described in sub-
8 paragraph (B).

9 “(B) REQUIRED INFORMATION.—An appli-
10 cation for registration under this section shall
11 contain information regarding—

12 “(i) a certification that the applicant
13 has adequate financial and managerial re-
14 sources to consistently provide proxy advice
15 based on accurate information;

16 “(ii) the procedures and methodolo-
17 gies that the applicant uses in developing
18 proxy voting recommendations, including
19 whether and how the applicant considers
20 the size of a company when making proxy
21 voting recommendations;

22 “(iii) the organizational structure of
23 the applicant;

1 “(iv) whether or not the applicant has
2 in effect a code of ethics, and if not, the
3 reasons therefor;

4 “(v) any potential or actual conflict of
5 interest relating to the ownership structure
6 of the applicant or the provision of proxy
7 advisory services by the applicant, includ-
8 ing whether the proxy advisory firm en-
9 gages in services ancillary to the provision
10 of proxy advisory services such as con-
11 sulting services for corporate issuers, and
12 if so the revenues derived therefrom;

13 “(vi) the policies and procedures in
14 place to manage conflicts of interest under
15 subsection (f); and

16 “(vii) any other information and docu-
17 ments concerning the applicant and any
18 person associated with such applicant as
19 the Commission, by rule, may prescribe as
20 necessary or appropriate in the public in-
21 terest or for the protection of investors.

22 “(2) REVIEW OF APPLICATION.—

23 “(A) INITIAL DETERMINATION.—Not later
24 than 90 days after the date on which the appli-
25 cation for registration is filed with the Commis-

1 sion under paragraph (1) (or within such longer
2 period as to which the applicant consents) the
3 Commission shall—

4 “(i) by order, grant registration; or

5 “(ii) institute proceedings to deter-
6 mine whether registration should be de-
7 nied.

8 “(B) CONDUCT OF PROCEEDINGS.—

9 “(i) CONTENT.—Proceedings referred
10 to in subparagraph (A)(ii) shall—

11 “(I) include notice of the grounds
12 for denial under consideration and an
13 opportunity for hearing; and

14 “(II) be concluded not later than
15 120 days after the date on which the
16 application for registration is filed
17 with the Commission under paragraph
18 (1).

19 “(ii) DETERMINATION.—At the con-
20 clusion of such proceedings, the Commis-
21 sion, by order, shall grant or deny such ap-
22 plication for registration.

23 “(iii) EXTENSION AUTHORIZED.—The
24 Commission may extend the time for con-
25 clusion of such proceedings for not longer

1 than 90 days, if it finds good cause for
2 such extension and publishes its reasons
3 for so finding, or for such longer period as
4 to which the applicant consents.

5 “(C) GROUNDS FOR DECISION.—The Com-
6 mission shall grant registration under this sub-
7 section—

8 “(i) if the Commission finds that the
9 requirements of this section are satisfied;
10 and

11 “(ii) unless the Commission finds (in
12 which case the Commission shall deny such
13 registration) that—

14 “(I) the applicant has failed to
15 certify to the Commission’s satisfac-
16 tion that it has adequate financial and
17 managerial resources to consistently
18 provide proxy advice based on accu-
19 rate information and to materially
20 comply with the procedures and meth-
21 odologies disclosed under paragraph
22 (1)(B) and with subsections (f) and
23 (g); or

24 “(II) if the applicant were so reg-
25 istered, its registration would be sub-

1 ject to suspension or revocation under
2 subsection (e).

3 “(3) PUBLIC AVAILABILITY OF INFORMATION.—
4 Subject to section 24, the Commission shall make
5 the information and documents submitted to the
6 Commission by a proxy advisory firm in its com-
7 pleted application for registration, or in any amend-
8 ment submitted under paragraph (1) or (2) of sub-
9 section (e), publicly available on the Commission’s
10 website, or through another comparable, readily ac-
11 cessible means.

12 “(c) UPDATE OF REGISTRATION.—

13 “(1) UPDATE.—Each registered proxy advisory
14 firm shall promptly amend and update its applica-
15 tion for registration under this section if any infor-
16 mation or document provided therein becomes mate-
17 rially inaccurate, except that a registered proxy advi-
18 sory firm is not required to amend the information
19 required to be filed under subsection (b)(1)(B)(i) by
20 filing information under this paragraph, but shall
21 amend such information in the annual submission of
22 the organization under paragraph (2) of this sub-
23 section.

24 “(2) CERTIFICATION.—Not later than 90 cal-
25 endar days after the end of each calendar year, each

1 registered proxy advisory firm shall file with the
2 Commission an amendment to its registration, in
3 such form as the Commission, by rule, may prescribe
4 as necessary or appropriate in the public interest or
5 for the protection of investors—

6 “(A) certifying that the information and
7 documents in the application for registration of
8 such registered proxy advisory firm continue to
9 be accurate in all material respects; and

10 “(B) listing any material change that oc-
11 curred to such information or documents during
12 the previous calendar year.

13 “(d) CENSURE, DENIAL, OR SUSPENSION OF REG-
14 ISTRATION; NOTICE AND HEARING.—The Commission, by
15 order, shall censure, place limitations on the activities,
16 functions, or operations of, suspend for a period not ex-
17 ceeding 12 months, or revoke the registration of any reg-
18 istered proxy advisory firm if the Commission finds, on
19 the record after notice and opportunity for hearing, that
20 such censure, placing of limitations, suspension, or revoca-
21 tion is necessary for the protection of investors and in the
22 public interest and that such registered proxy advisory
23 firm, or any person associated with such an organization,
24 whether prior to or subsequent to becoming so associ-
25 ated—

1 “(1) has committed or omitted any act, or is
2 subject to an order or finding, enumerated in sub-
3 paragraph (A), (D), (E), (H), or (G) of section
4 15(b)(4), has been convicted of any offense specified
5 in section 15(b)(4)(B), or is enjoined from any ac-
6 tion, conduct, or practice specified in subparagraph
7 (C) of section 15(b)(4), during the 10-year period
8 preceding the date of commencement of the pro-
9 ceedings under this subsection, or at any time there-
10 after;

11 “(2) has been convicted during the 10-year pe-
12 riod preceding the date on which an application for
13 registration is filed with the Commission under this
14 section, or at any time thereafter, of—

15 “(A) any crime that is punishable by im-
16 prisonment for one or more years, and that is
17 not described in section 15(b)(4)(B); or

18 “(B) a substantially equivalent crime by a
19 foreign court of competent jurisdiction;

20 “(3) is subject to any order of the Commission
21 barring or suspending the right of the person to be
22 associated with a registered proxy advisory firm;

23 “(4) fails to furnish the certifications required
24 under subsections (b)(2)(C)(ii)(I) and (c)(2);

1 “(5) has engaged in one or more prohibited acts
2 enumerated in paragraph (1); or

3 “(6) fails to maintain adequate financial and
4 managerial resources to consistently offer advisory
5 services with integrity, including by failing to comply
6 with subsections (f) or (g).

7 “(e) TERMINATION OF REGISTRATION.—

8 “(1) VOLUNTARY WITHDRAWAL.—A registered
9 proxy advisory firm may, upon such terms and con-
10 ditions as the Commission may establish as nec-
11 essary in the public interest or for the protection of
12 investors, which terms and conditions shall include
13 at a minimum that the registered proxy advisory
14 firm will no longer conduct such activities as to
15 bring it within the definition of proxy advisory firm
16 in section 3(a)(81) of the Securities Exchange Act
17 of 1934, withdraw from registration by filing a writ-
18 ten notice of withdrawal to the Commission.

19 “(2) COMMISSION AUTHORITY.—In addition to
20 any other authority of the Commission under this
21 title, if the Commission finds that a registered proxy
22 advisory firm is no longer in existence or has ceased
23 to do business as a proxy advisory firm, the Com-
24 mission, by order, shall cancel the registration under
25 this section of such registered proxy advisory firm.

1 “(f) MANAGEMENT OF CONFLICTS OF INTEREST.—

2 “(1) ORGANIZATION POLICIES AND PROCE-
3 DURES.—Each registered proxy advisory firm shall
4 establish, maintain, and enforce written policies and
5 procedures reasonably designed, taking into consid-
6 eration the nature of the business of such registered
7 proxy advisory firm and associated persons, to ad-
8 dress and manage any conflicts of interest that can
9 arise from such business.

10 “(2) COMMISSION AUTHORITY.—The Commis-
11 sion shall issue final rules to prohibit, or require the
12 management and disclosure of, any conflicts of inter-
13 est relating to the offering of proxy advisory services
14 by a registered proxy advisory firm, including, with-
15 out limitation, conflicts of interest relating to—

16 “(A) the manner in which a registered
17 proxy advisory firm is compensated by the cli-
18 ent, or any affiliate of the client, for providing
19 proxy advisory services;

20 “(B) the provision of consulting, advisory,
21 or other services by a registered proxy advisory
22 firm, or any person associated with such reg-
23 istered proxy advisory firm, to the client;

24 “(C) business relationships, ownership in-
25 terests, or any other financial or personal inter-

1 ests between a registered proxy advisory firm,
2 or any person associated with such registered
3 proxy advisory firm, and any client, or any af-
4 filiate of such client;

5 “(D) transparency around the formulation
6 of proxy voting policies;

7 “(E) the execution of proxy votes if such
8 votes are based upon recommendations made by
9 the proxy advisory firm in which someone other
10 than the issuer is a proponent;

11 “(F) issuing recommendations where proxy
12 advisory firms provide advisory services to a
13 company; and

14 “(G) any other potential conflict of inter-
15 est, as the Commission deems necessary or ap-
16 propriate in the public interest or for the pro-
17 tection of investors.

18 “(g) RELIABILITY OF PROXY ADVISORY FIRM SERV-
19 ICES.—

20 “(1) IN GENERAL.—Each registered proxy advi-
21 sory firm shall have staff sufficient to produce proxy
22 voting recommendations that are based on accurate
23 and current information. Each registered proxy advi-
24 sory firm shall detail procedures sufficient to permit
25 companies receiving proxy advisory firm rec-

1 ommendations access in a reasonable time to the
2 draft recommendations, with an opportunity to pro-
3 vide meaningful comment thereon, including the op-
4 portunity to present details to the person responsible
5 for developing the recommendation in person or tele-
6 phonically. Each registered proxy advisory firm shall
7 employ an ombudsman to receive complaints about
8 the accuracy of voting information used in making
9 recommendations from the subjects of the proxy ad-
10 visory firm’s voting recommendations, and shall re-
11 solve those complaints in a timely fashion and in any
12 event prior to voting on the matter to which the rec-
13 ommendation relates.

14 “(2) DRAFT RECOMMENDATIONS DEFINED.—
15 For purposes of this subsection, the term ‘draft rec-
16 ommendations’—

17 “(A) means the overall conclusions of
18 proxy voting recommendations prepared for the
19 clients of a proxy advisory firm, including any
20 public data cited therein, any company informa-
21 tion or substantive analysis impacting the rec-
22 ommendation, and the specific voting rec-
23 ommendations on individual proxy ballot issues;
24 and

1 “(B) does not include the entirety of the
2 proxy advisory firm’s final report to its clients.

3 “(h) DESIGNATION OF COMPLIANCE OFFICER.—

4 Each registered proxy advisory firm shall designate an in-
5 dividual responsible for administering the policies and pro-
6 cedures that are required to be established pursuant to
7 subsections (f) and (g), and for ensuring compliance with
8 the securities laws and the rules and regulations there-
9 under, including those promulgated by the Commission
10 pursuant to this section.

11 “(i) PROHIBITED CONDUCT.—

12 “(1) PROHIBITED ACTS AND PRACTICES.—The
13 Commission shall issue final rules to prohibit any
14 act or practice relating to the offering of proxy advi-
15 sory services by a registered proxy advisory firm
16 that the Commission determines to be unfair or co-
17 ercive, including any act or practice relating to—

18 “(A) conditioning a voting recommendation
19 or other proxy advisory firm recommendation
20 on the purchase by an issuer or an affiliate
21 thereof of other services or products, of the reg-
22 istered proxy advisory firm or any person asso-
23 ciated with such registered proxy advisory firm;
24 and

1 “(B) modifying a voting recommendation
2 or otherwise departing from its adopted system-
3 atic procedures and methodologies in the provi-
4 sion of proxy advisory services, based on wheth-
5 er an issuer, or affiliate thereof, subscribes or
6 will subscribe to other services or product of the
7 registered proxy advisory firm or any person as-
8 sociated with such organization.

9 “(2) RULE OF CONSTRUCTION.—Nothing in
10 paragraph (1), or in any rules or regulations adopt-
11 ed thereunder, may be construed to modify, impair,
12 or supersede the operation of any of the antitrust
13 laws (as defined in the first section of the Clayton
14 Act, except that such term includes section 5 of the
15 Federal Trade Commission Act, to the extent that
16 such section 5 applies to unfair methods of competi-
17 tion).

18 “(j) STATEMENTS OF FINANCIAL CONDITION.—Each
19 registered proxy advisory firm shall, on a confidential
20 basis, file with the Commission, at intervals determined
21 by the Commission, such financial statements, certified (if
22 required by the rules or regulations of the Commission)
23 by an independent public auditor, and information con-
24 cerning its financial condition, as the Commission, by rule,

1 may prescribe as necessary or appropriate in the public
2 interest or for the protection of investors.

3 “(k) ANNUAL REPORT.—Each registered proxy advi-
4 sory firm shall, at the beginning of each fiscal year of such
5 firm, report to the Commission on the number of share-
6 holder proposals its staff reviewed in the prior fiscal year,
7 the number of recommendations made in the prior fiscal
8 year, the number of staff who reviewed and made rec-
9 ommendations on such proposals in the prior fiscal year,
10 and the number of recommendations made in the prior
11 fiscal year where the proponent of such recommendation
12 was a client of or received services from the proxy advisory
13 firm.

14 “(l) TRANSPARENT POLICIES.—Each registered
15 proxy advisory firm shall file with the Commission and
16 make publicly available its methodology for the formula-
17 tion of proxy voting policies and voting recommendations.

18 “(m) RULES OF CONSTRUCTION.—

19 “(1) NO WAIVER OF RIGHTS, PRIVILEGES, OR
20 DEFENSES.—Registration under and compliance
21 with this section does not constitute a waiver of, or
22 otherwise diminish, any right, privilege, or defense
23 that a registered proxy advisory firm may otherwise
24 have under any provision of State or Federal law,
25 including any rule, regulation, or order thereunder.

1 “(2) NO PRIVATE RIGHT OF ACTION.—Nothing
2 in this section may be construed as creating any pri-
3 vate right of action, and no report filed by a reg-
4 istered proxy advisory firm in accordance with this
5 section or section 17 shall create a private right of
6 action under section 18 or any other provision of
7 law.

8 “(n) REGULATIONS.—

9 “(1) NEW PROVISIONS.—Such rules and regula-
10 tions as are required by this section or are otherwise
11 necessary to carry out this section, including the ap-
12 plication form required under subsection (a)—

13 “(A) shall be issued by the Commission,
14 not later than 180 days after the date of enact-
15 ment of this section; and

16 “(B) shall become effective not later than
17 1 year after the date of enactment of this sec-
18 tion.

19 “(2) REVIEW OF EXISTING REGULATIONS.—Not
20 later than 270 days after the date of enactment of
21 this section, the Commission shall—

22 “(A) review its existing rules and regula-
23 tions which affect the operations of proxy advi-
24 sory firms;

1 “(B) amend or revise such rules and regu-
2 lations in accordance with the purposes of this
3 section, and issue such guidance, as the Com-
4 mission may prescribe as necessary or appro-
5 priate in the public interest or for the protec-
6 tion of investors; and

7 “(C) direct Commission staff to withdraw
8 the Egan Jones Proxy Services (May 27, 2004)
9 and Institutional Shareholder Services, Inc.
10 (September 15, 2004) no-action letters.

11 “(o) APPLICABILITY.—This section, other than sub-
12 section (n), which shall apply on the date of enactment
13 of this section, shall apply on the earlier of—

14 “(1) the date on which regulations are issued in
15 final form under subsection (n)(1); or

16 “(2) 270 days after the date of enactment of
17 this section.”.

18 (b) CONFORMING AMENDMENT.—Section 17(a)(1) of
19 the Securities Exchange Act of 1934 (15 U.S.C.
20 78q(a)(1)) is amended by inserting “proxy advisory firm,”
21 after “nationally recognized statistical rating organiza-
22 tion,”.

23 **SEC. 1083. COMMISSION ANNUAL REPORT.**

24 The Commission shall make an annual report publicly
25 available on the Commission’s Internet website. Such re-

1 port shall, with respect to the year to which the report
2 relates—

3 (1) identify applicants for registration under
4 section 15H of the Securities Exchange Act of 1934,
5 as added by this subtitle;

6 (2) specify the number of and actions taken on
7 such applications;

8 (3) specify the views of the Commission on the
9 state of competition, transparency, policies and
10 methodologies, and conflicts of interest among proxy
11 advisory firms;

12 (4) include the determination of the Commis-
13 sion with regard to—

14 (A) the quality of proxy advisory services
15 issued by proxy advisory firms;

16 (B) the financial markets;

17 (C) competition among proxy advisory
18 firms;

19 (D) the incidence of undisclosed conflicts
20 of interest by proxy advisory firms;

21 (E) the process for registering as a proxy
22 advisory firm; and

23 (F) such other matters relevant to the im-
24 plementation of this subtitle and the amend-
25 ments made by this subtitle, as the Commission

1 determines necessary to bring to the attention
2 of the Congress;

3 (5) identify problems, if any, that have resulted
4 from the implementation of this subtitle and the
5 amendments made by this subtitle; and

6 (6) recommend solutions, including any legisla-
7 tive or regulatory solutions, to any problems identi-
8 fied under paragraphs (4) and (5).

9 **Subtitle R—Senior Safe**

10 **SEC. 1091. IMMUNITY.**

11 (a) DEFINITIONS.—In this subtitle—

12 (1) the term “Bank Secrecy Act Officer” means
13 an individual responsible for ensuring compliance
14 with the requirements mandated by subchapter II of
15 chapter 53 of title 31, United States Code;

16 (2) the term “broker-dealer” means a broker or
17 dealer, as those terms are defined, respectively, in
18 section 3(a) of the Securities Exchange Act of 1934
19 (15 U.S.C. 78c(a));

20 (3) the term “covered agency” means—

21 (A) a State financial regulatory agency, in-
22 cluding a State securities or law enforcement
23 authority and a State insurance regulator;

24 (B) each of the Federal financial institu-
25 tions regulatory agencies;

1 (C) the Securities and Exchange Commis-
2 sion;

3 (D) a law enforcement agency;

4 (E) and State or local agency responsible
5 for administering adult protective service laws;
6 and

7 (F) a State attorney general.

8 (4) the term “covered financial institution”
9 means—

10 (A) a credit union;

11 (B) a depository institution;

12 (C) an investment advisor;

13 (D) a broker-dealer;

14 (E) an insurance company; and

15 (F) a State attorney general.

16 (5) the term “credit union” means a Federal
17 credit union, State credit union, or State-chartered
18 credit union, as those terms are defined in section
19 101 of the Federal Credit Union Act (12 U.S.C.
20 1752);

21 (6) the term “depository institution” has the
22 meaning given the term in section 3(c) of the Fed-
23 eral Deposit Insurance Act (12 U.S.C. 1813(e));

24 (7) the term “exploitation” means the fraudu-
25 lent or otherwise illegal, unauthorized, or improper

1 act or process of an individual, including a caregiver
2 or fiduciary, that—

3 (A) uses the resources of a senior citizen
4 for monetary personal benefit, profit, or gain;
5 or

6 (B) results in depriving a senior citizen of
7 rightful access to or use of benefits, resources,
8 belongings or assets;

9 (8) the term “Federal financial institutions reg-
10 ulatory agencies” has the meaning given the term in
11 section 1003 of the Federal Financial Institutions
12 Examination Council Act of 1978 (12 U.S.C. 3302);

13 (9) the term “investment adviser” has the
14 meaning given the term in section 202 of the Invest-
15 ment Advisers Act of 1940 (15 U.S.C. 80b–2);

16 (10) the term “insurance company” has the
17 meaning given the term in section 2(a) of the Invest-
18 ment Company Act of 1940 (15 U.S.C. 80a–2(a));

19 (11) the term “registered representative”
20 means an individual who represents a broker-dealer
21 in effecting or attempting to affect a purchase or
22 sale of securities;

23 (12) the term “senior citizen” means an indi-
24 vidual who is not less than 65 years of age;

1 (13) the term “State insurance regulator” has
2 the meaning given such term in section 315 of the
3 Gramm-Leach-Bliley Act (15 U.S.C. 6735); and

4 (14) the term “State securities or law enforce-
5 ment authority” has the meaning given the term in
6 section 24(f)(4) of the Securities Exchange Act of
7 1934 (15 U.S.C. 78x(f)(4)).

8 (b) IMMUNITY FROM SUIT.—

9 (1) IMMUNITY FOR INDIVIDUALS.—An indi-
10 vidual who has received the training described in
11 section 1092 shall not be liable, including in any
12 civil or administrative proceeding, for disclosing the
13 possible exploitation of a senior citizen to a covered
14 agency if the individual, at the time of the disclo-
15 sure—

16 (A) served as a supervisor, compliance offi-
17 cer (including a Bank Secrecy Act Officer), or
18 registered representative for a covered financial
19 institution; and

20 (B) made the disclosure with reasonable
21 care including reasonable efforts to avoid disclo-
22 sure other than to a covered agency.

23 (2) IMMUNITY FOR COVERED FINANCIAL INSTI-
24 TUTIONS.—A covered financial institution shall not
25 be liable, including in any civil or administrative pro-

1 ceeding, for a disclosure made by an individual de-
2 scribed in paragraph (1) if—

3 (A) the individual was employed by, or, in
4 the case of a registered representative, affiliated
5 or associated with, the covered financial institu-
6 tion at the time of the disclosure; and

7 (B) before the time of the disclosure, the
8 covered financial institution provided the train-
9 ing described in section 1092 to each individual
10 described in section 1092(a).

11 **SEC. 1092. TRAINING REQUIRED.**

12 (a) IN GENERAL.—A covered financial institution
13 may provide training described in subsection (b)(1) to
14 each officer or employee of, or registered representative
15 affiliated or associated with, the covered financial institu-
16 tion who—

17 (1) is described in section 1091(b)(1)(A);

18 (2) may come into contact with a senior citizen
19 as a regular part of the duties of the officer, em-
20 ployee, or registered representative; or

21 (3) may review or approve the financial docu-
22 ments, records, or transactions of a senior citizen in
23 connection with providing financial services to a sen-
24 ior citizen.

25 (b) TRAINING.—

1 (1) IN GENERAL.—The training described in
2 this paragraph shall—

3 (A) instruct any individual attending the
4 training on how to identify and report the sus-
5 pected exploitation of a senior citizen;

6 (B) discuss the need to protect the privacy
7 and respect the integrity of each individual cus-
8 tomer of a covered financial institution; and

9 (C) be appropriate to the job responsibil-
10 ities of the individual attending the training.

11 (2) TIMING.—The training required under sub-
12 section (a) shall be provided as soon as reasonably
13 practicable but not later than 1 year after the date
14 on which an officer, employee, or registered rep-
15 resentative begins employment with or becomes af-
16 filiated or associated with the covered financial insti-
17 tution.

18 (3) BANK SECRECY ACT OFFICER.—An indi-
19 vidual who is designated as a compliance officer
20 under an anti-money laundering program established
21 pursuant to section 5318(h) of title 31, United
22 States Code, shall be deemed to have received the
23 training described under this subsection.

1 **SEC. 1093. RELATIONSHIP TO STATE LAW.**

2 Nothing in this Act shall be construed to preempt or
3 limit any provision of State law, except only to the extent
4 that section 1091 provides a greater level of protection
5 against liability to an individual described in section
6 1091(b)(1) or to a covered financial institution described
7 in section 1091(b)(2) than is provided under State law.

8 **Subtitle S—National Securities**
9 **Exchange Regulatory Parity**

10 **SEC. 1096. APPLICATION OF EXEMPTION.**

11 Section 18(b)(1) of the Securities Act of 1933 (15
12 U.S.C. 77r(b)(1)) is amended—

13 (1) by striking subparagraph (A);

14 (2) in subparagraph (B), by striking “that the
15 Commission determines by rule (on its own initiative
16 or on the basis of a petition) are substantially simi-
17 lar to the listing standards applicable to securities
18 described in subparagraph (A)” and inserting “that
19 have been approved by the Commission”;

20 (3) in subparagraph (C), by striking “or (B)”;

21 and

22 (4) by redesignating subparagraphs (B) and
23 (C) as subparagraphs (A) and (B), respectively.

1 **TITLE XI—REGULATORY RELIEF**
2 **FOR MAIN STREET AND COM-**
3 **MUNITY FINANCIAL INSTITU-**
4 **TIONS**

5 **Subtitle A—Preserving Access to**
6 **Manufactured Housing**

7 **SEC. 1101. MORTGAGE ORIGINATOR DEFINITION.**

8 Section 103 of the Truth in Lending Act (15 U.S.C.
9 1602) is amended—

10 (1) by redesignating the second subsection (cc)
11 and subsection (dd) as subsections (dd) and (ee), re-
12 spectively; and

13 (2) in paragraph (2)(C) of subsection (dd), as
14 so redesignated, by striking “an employee of a re-
15 tailer of manufactured homes who is not described
16 in clause (i) or (iii) of subparagraph (A) and who
17 does not advise a consumer on loan terms (including
18 rates, fees, and other costs)” and inserting “a re-
19 tailer of manufactured or modular homes or its em-
20 ployees unless such retailer or its employees receive
21 compensation or gain for engaging in activities de-
22 scribed in subparagraph (A) that is in excess of any
23 compensation or gain received in a comparable cash
24 transaction”.

1 **SEC. 1102. HIGH-COST MORTGAGE DEFINITION.**

2 Section 103 of the Truth in Lending Act (15 U.S.C.
3 1602), as amended by section 1101, is further amended—

4 (1) by redesignating subsection (aa) (relating to
5 disclosure of greater amount or percentage), as so
6 designated by section 1100A of the Consumer Fi-
7 nancial Protection Act of 2010, as subsection (bb);

8 (2) by redesignating subsection (bb) (relating to
9 high cost mortgages), as so designated by section
10 1100A of the Consumer Financial Protection Act of
11 2010, as subsection (aa), and moving such sub-
12 section to immediately follow subsection (z); and

13 (3) in subsection (aa)(1)(A), as so redesign-
14 nated—

15 (A) in clause (i)(I), by striking “(8.5 per-
16 centage points, if the dwelling is personal prop-
17 erty and the transaction is for less than
18 \$50,000)” and inserting “(10 percentage points
19 if the dwelling is personal property or is a
20 transaction that does not include the purchase
21 of real property on which a dwelling is to be
22 placed, and the transaction is for less than
23 \$75,000 (as such amount is adjusted by the
24 Consumer Financial Opportunity Commission
25 to reflect the change in the Consumer Price
26 Index))”; and

1 (B) in clause (ii)—

2 (i) in subclause (I), by striking “or”
3 at the end; and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(III) in the case of a trans-
7 action for less than \$75,000 (as such
8 amount is adjusted by the Consumer
9 Financial Opportunity Commission to
10 reflect the change in the Consumer
11 Price Index) in which the dwelling is
12 personal property (or is a consumer
13 credit transaction that does not in-
14 clude the purchase of real property on
15 which a dwelling is to be placed) the
16 greater of 5 percent of the total trans-
17 action amount or \$3,000 (as such
18 amount is adjusted by the Consumer
19 Financial Opportunity Commission to
20 reflect the change in the Consumer
21 Price Index); or”.

1 **Subtitle B—Mortgage Choice**

2 **SEC. 1106. DEFINITION OF POINTS AND FEES.**

3 (a) AMENDMENT TO SECTION 103 OF TILA.—Para-
4 graph (4) of section 103(aa) of the Truth in Lending Act,
5 as redesignated by section 1102, is amended—

6 (1) by striking “paragraph (1)(B)” and insert-
7 ing “paragraph (1)(A) and section 129C”;

8 (2) in subparagraph (C)—

9 (A) by inserting “and insurance” after
10 “taxes”;

11 (B) in clause (ii), by inserting “, except as
12 retained by a creditor or its affiliate as a result
13 of their participation in an affiliated business
14 arrangement (as defined in section 3(7) of the
15 Real Estate Settlement Procedures Act of 1974
16 (12 U.S.C. 2602(7))” after “compensation”;
17 and

18 (C) by striking clause (iii) and inserting
19 the following:

20 “(iii) the charge is—

21 “(I) a bona fide third-party charge
22 not retained by the mortgage originator,
23 creditor, or an affiliate of the creditor or
24 mortgage originator; or

1 “(II) a charge set forth in section
2 106(e)(1);” and
3 (3) in subparagraph (D)—
4 (A) by striking “accident,”; and
5 (B) by striking “or any payments” and in-
6 serting “and any payments”.

7 (b) AMENDMENT TO SECTION 129C OF TILA.—Sec-
8 tion 129C of the Truth in Lending Act (15 U.S.C. 1639c)
9 is amended—

10 (1) in subsection (a)(5)(C), by striking “103”
11 and all that follows through “or mortgage origi-
12 nator” and inserting “103(aa)(4)”; and

13 (2) in subsection (b)(2)(C)(i), by striking “103”
14 and all that follows through “or mortgage origi-
15 nator)” and inserting “103(aa)(4)”.

16 **Subtitle C—Financial Institution** 17 **Customer Protection**

18 **SEC. 1111. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-** 19 **NATION REQUESTS AND ORDERS.**

20 (a) TERMINATION REQUESTS OR ORDERS MUST BE
21 MATERIAL.—

22 (1) IN GENERAL.—An appropriate Federal
23 banking agency may not formally or informally re-
24 quest or order a depository institution to terminate
25 a specific customer account or group of customer ac-

1 counts or to otherwise restrict or discourage a de-
2 pository institution from entering into or maintain-
3 ing a banking relationship with a specific customer
4 or group of customers unless—

5 (A) the agency has a material reason for
6 such request or order; and

7 (B) such reason is not based solely on rep-
8 utation risk.

9 (2) TREATMENT OF NATIONAL SECURITY
10 THREATS.—If an appropriate Federal banking agen-
11 cy believes a specific customer or group of customers
12 is, or is acting as a conduit for, an entity which—

13 (A) poses a threat to national security;

14 (B) is involved in terrorist financing;

15 (C) is an agency of the government of
16 Iran, North Korea, Syria, or any country listed
17 from time to time on the State Sponsors of
18 Terrorism list;

19 (D) is located in, or is subject to the juris-
20 diction of, any country specified in subpara-
21 graph (C); or

22 (E) does business with any entity described
23 in subparagraph (C) or (D), unless the appro-
24 priate Federal banking agency determines that
25 the customer or group of customers has used

1 due diligence to avoid doing business with any
2 entity described in subparagraph (C) or (D),
3 such belief shall satisfy the requirement under para-
4 graph (1).

5 (b) NOTICE REQUIREMENT.—

6 (1) IN GENERAL.—If an appropriate Federal
7 banking agency formally or informally requests or
8 orders a depository institution to terminate a spe-
9 cific customer account or a group of customer ac-
10 counts, the agency shall—

11 (A) provide such request or order to the
12 institution in writing; and

13 (B) accompany such request or order with
14 a written justification for why such termination
15 is needed, including any specific laws or regula-
16 tions the agency believes are being violated by
17 the customer or group of customers, if any.

18 (2) JUSTIFICATION REQUIREMENT.—A jus-
19 tification described under paragraph (1)(B) may not
20 be based solely on the reputation risk to the deposi-
21 tory institution.

22 (c) CUSTOMER NOTICE.—

23 (1) NOTICE REQUIRED.—Except as provided
24 under paragraph (2), if an appropriate Federal
25 banking agency orders a depository institution to

1 terminate a specific customer account or a group of
2 customer accounts, the depository institution shall
3 inform the customer or customers of the justification
4 for the customer's account termination described
5 under subsection (b).

6 (2) NOTICE PROHIBITED IN CASES OF NA-
7 TIONAL SECURITY.—If an appropriate Federal bank-
8 ing agency requests or orders a depository institu-
9 tion to terminate a specific customer account or a
10 group of customer accounts based on a belief that
11 the customer or customers pose a threat to national
12 security, or are otherwise described under subsection
13 (a)(2), neither the depository institution nor the ap-
14 propriate Federal banking agency may inform the
15 customer or customers of the justification for the
16 customer's account termination.

17 (d) REPORTING REQUIREMENT.—Each appropriate
18 Federal banking agency shall issue an annual report to
19 the Congress stating—

20 (1) the aggregate number of specific customer
21 accounts that the agency requested or ordered a de-
22 pository institution to terminate during the previous
23 year; and

24 (2) the legal authority on which the agency re-
25 lied in making such requests and orders and the fre-

1 quency on which the agency relied on each such au-
2 thority.

3 (e) DEFINITIONS.—For purposes of this section:

4 (1) APPROPRIATE FEDERAL BANKING AGEN-
5 CY.—The term “appropriate Federal banking agen-
6 cy” means—

7 (A) the appropriate Federal banking agen-
8 cy, as defined under section 3 of the Federal
9 Deposit Insurance Act (12 U.S.C. 1813); and

10 (B) the National Credit Union Administra-
11 tion, in the case of an insured credit union.

12 (2) DEPOSITORY INSTITUTION.—The term “de-
13 pository institution” means—

14 (A) a depository institution, as defined
15 under section 3 of the Federal Deposit Insur-
16 ance Act (12 U.S.C. 1813); and

17 (B) an insured credit union.

18 **SEC. 1112. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**
19 **REFORM, RECOVERY, AND ENFORCEMENT**
20 **ACT OF 1989.**

21 Section 951 of the Financial Institutions Reform, Re-
22 covery, and Enforcement Act of 1989 (12 U.S.C. 1833a)
23 is amended—

24 (1) in subsection (c)(2), by striking “affecting
25 a federally insured financial institution” and insert-

1 ing “against a federally insured financial institution
2 or by a federally insured financial institution against
3 an unaffiliated third person”; and

4 (2) in subsection (g)—

5 (A) in the header, by striking “SUB-
6 POENAS” and inserting “INVESTIGATIONS”; and

7 (B) by amending paragraph (1)(C) to read
8 as follows:

9 “(C) summon witnesses and require the
10 production of any books, papers, correspond-
11 ence, memoranda, or other records which the
12 Attorney General deems relevant or material to
13 the inquiry, if the Attorney General—

14 “(i) requests a court order from a
15 court of competent jurisdiction for such ac-
16 tions and offers specific and articulable
17 facts showing that there are reasonable
18 grounds to believe that the information or
19 testimony sought is relevant and material
20 for conducting an investigation under this
21 section; or

22 “(ii) either personally or through dele-
23 gation no lower than the Deputy Attorney
24 General, issues and signs a subpoena for
25 such actions and such subpoena is sup-

1 ported by specific and articulable facts
2 showing that there are reasonable grounds
3 to believe that the information or testi-
4 mony sought is relevant for conducting an
5 investigation under this section.”.

6 **Subtitle D—Portfolio Lending and**
7 **Mortgage Access**

8 **SEC. 1116. SAFE HARBOR FOR CERTAIN LOANS HELD ON**
9 **PORTFOLIO.**

10 (a) IN GENERAL.—Section 129C of the Truth in
11 Lending Act (15 U.S.C. 1639c) is amended by adding at
12 the end the following:

13 “(j) SAFE HARBOR FOR CERTAIN LOANS HELD ON
14 PORTFOLIO.—

15 “(1) SAFE HARBOR FOR CREDITORS THAT ARE
16 DEPOSITORY INSTITUTIONS.—

17 “(A) IN GENERAL.—A creditor that is a
18 depository institution shall not be subject to
19 suit for failure to comply with subsection (a),
20 (c)(1), or (f)(2) of this section or section 129H
21 with respect to a residential mortgage loan, and
22 the banking regulators shall treat such loan as
23 a qualified mortgage, if—

1 “(i) the creditor has, since the origi-
2 nation of the loan, held the loan on the
3 balance sheet of the creditor; and

4 “(ii) all prepayment penalties with re-
5 spect to the loan comply with the limita-
6 tions described under subsection (c)(3).

7 “(B) EXCEPTION FOR CERTAIN TRANS-
8 FERS.—In the case of a depository institution
9 that transfers a loan originated by that institu-
10 tion to another depository institution by reason
11 of the bankruptcy or failure of the originating
12 depository institution or the purchase of the
13 originating depository institution, the depository
14 institution transferring such loan shall be
15 deemed to have complied with the requirement
16 under subparagraph (A)(i).

17 “(2) SAFE HARBOR FOR MORTGAGE ORIGINA-
18 TORS.—A mortgage originator shall not be subject
19 to suit for a violation of section 129B(c)(3)(B) for
20 steering a consumer to a residential mortgage loan
21 if—

22 “(A) the creditor of such loan is a depository
23 institution and has informed the mortgage
24 originator that the creditor intends to hold the

1 loan on the balance sheet of the creditor for the
2 life of the loan; and

3 “(B) the mortgage originator informs the
4 consumer that the creditor intends to hold the
5 loan on the balance sheet of the creditor for the
6 life of the loan.

7 “(3) DEFINITIONS.—For purposes of this sub-
8 section:

9 “(A) BANKING REGULATORS.—The term
10 ‘banking regulators’ means the Federal banking
11 agencies, the Consumer Financial Opportunity
12 Commission, and the National Credit Union
13 Administration.

14 “(B) DEPOSITORY INSTITUTION.—The
15 term ‘depository institution’ has the meaning
16 given that term under section 19(b)(1) of the
17 Federal Reserve Act (12 U.S.C. 505(b)(1)).

18 “(C) FEDERAL BANKING AGENCIES.—The
19 term ‘Federal banking agencies’ has the mean-
20 ing given that term under section 3 of the Fed-
21 eral Deposit Insurance Act.”.

22 (b) RULE OF CONSTRUCTION.—Nothing in the
23 amendment made by this section may be construed as pre-
24 venting a balloon loan from qualifying for the safe harbor
25 provided under section 129C(j) of the Truth in Lending

1 Act if the balloon loan otherwise meets all of the require-
2 ments under such subsection (j), regardless of whether the
3 balloon loan meets the requirements described under
4 clauses (i) through (iv) of section 129C(b)(2)(E) of such
5 Act.

6 **Subtitle E—Application of the** 7 **Expedited Funds Availability Act**

8 **SEC. 1121. APPLICATION OF THE EXPEDITED FUNDS AVAIL-** 9 **ABILITY ACT.**

10 (a) IN GENERAL.—The Expedited Funds Availability
11 Act (12 U.S.C. 4001 et seq.) is amended—

12 (1) in section 602(20) (12 U.S.C. 4001(20)) by
13 inserting “, located in the United States,” after
14 “ATM”;

15 (2) in section 602(21) (12 U.S.C. 4001(21)) by
16 inserting “American Samoa, the Commonwealth of
17 the Northern Mariana Islands,” after “Puerto
18 Rico,”;

19 (3) in section 602(23) (12 U.S.C. 4001(23)) by
20 inserting “American Samoa, the Commonwealth of
21 the Northern Mariana Islands,” after “Puerto
22 Rico,”; and

23 (4) in section 603(d)(2)(A) (12 U.S.C.
24 4002(d)(2)(A)), by inserting “American Samoa, the

1 Commonwealth of the Northern Mariana Islands,”
2 after “Puerto Rico,”.

3 (b) EFFECTIVE DATE.—This section shall take effect
4 on January 1, 2017.

5 **Subtitle F—Small Bank Holding**
6 **Company Policy Statement**

7 **SEC. 1126. CHANGES REQUIRED TO SMALL BANK HOLDING**
8 **COMPANY POLICY STATEMENT ON ASSESS-**
9 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
10 **TORS.**

11 (a) IN GENERAL.—Before the end of the 6-month pe-
12 riod beginning on the date of the enactment of this Act,
13 the Board of Governors of the Federal Reserve System
14 shall revise the Small Bank Holding Company Policy
15 Statement on Assessment of Financial and Managerial
16 Factors (12 C.F.R. part 225—appendix C) to raise the
17 consolidated asset threshold under such policy statement
18 from \$1,000,000,000 (as adjusted by Public Law 113–
19 250) to \$5,000,000,000.

20 (b) CONFORMING AMENDMENT.—Subparagraph (C)
21 of section 171(b)(5) of the Dodd-Frank Wall Street Re-
22 form and Consumer Protection Act (12 U.S.C.
23 5371(b)(5)) is amended to read as follows:

24 “(C) any bank holding company or savings
25 and loan holding company that is subject to the

1 application of the Small Bank Holding Com-
 2 pany Policy Statement on Assessment of Finan-
 3 cial and Managerial Factors of the Board of
 4 Governors (12 C.F.R. part 225—appendix C).”.

5 **Subtitle G—Community Institution**
 6 **Mortgage Relief**

7 **SEC. 1131. COMMUNITY FINANCIAL INSTITUTION MORT-**
 8 **GAGE RELIEF.**

9 (a) EXEMPTION FROM ESCROW REQUIREMENTS FOR
 10 LOANS HELD BY SMALLER CREDITORS.—Section 129D
 11 of the Truth in Lending Act (15 U.S.C. 1639d) is amend-
 12 ed—

13 (1) by adding at the end the following:

14 “(k) SAFE HARBOR FOR LOANS HELD BY SMALLER
 15 CREDITORS.—

16 “(1) IN GENERAL.—A creditor shall not be in
 17 violation of subsection (a) with respect to a loan if—

18 “(A) the creditor has consolidated assets of
 19 \$10,000,000,000 or less; and

20 “(B) the creditor holds the loan on the bal-
 21 ance sheet of the creditor for the 3-year period
 22 beginning on the date of the origination of the
 23 loan.

24 “(2) EXCEPTION FOR CERTAIN TRANSFERS.—

25 In the case of a creditor that transfers a loan to an-

1 other person by reason of the bankruptcy or failure
2 of the creditor, the purchase of the creditor, or a su-
3 pervisory act or recommendation from a State or
4 Federal regulator, the creditor shall be deemed to
5 have complied with the requirement under para-
6 graph (1)(B).”; and

7 (2) by striking the term “Board” each place
8 such term appears and inserting “Consumer Finan-
9 cial Opportunity Commission”.

10 (b) MODIFICATION TO EXEMPTION FOR SMALL
11 SERVICERS OF MORTGAGE LOANS.—Section 6 of the Real
12 Estate Settlement Procedures Act of 1974 (12 U.S.C.
13 2605) is amended by adding at the end the following:

14 “(n) SMALL SERVICER EXEMPTION.—The Consumer
15 Financial Opportunity Commission shall, by regulation,
16 provide exemptions to, or adjustments for, the provisions
17 of this section for a servicer that annually services 20,000
18 or fewer mortgage loans, in order to reduce regulatory
19 burdens while appropriately balancing consumer protec-
20 tions.”.

1 **Subtitle H—Financial Institutions**
2 **Examination Fairness and Reform**

3 **SEC. 1136. TIMELINESS OF EXAMINATION REPORTS.**

4 (a) IN GENERAL.—The Federal Financial Institu-
5 tions Examination Council Act of 1978 (12 U.S.C. 3301
6 et seq.) is amended by adding at the end the following:

7 **“SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.**

8 “(a) IN GENERAL.—

9 “(1) FINAL EXAMINATION REPORT.—A Federal
10 financial institutions regulatory agency shall provide
11 a final examination report to a financial institution
12 not later than 60 days after the later of—

13 “(A) the exit interview for an examination
14 of the institution; or

15 “(B) the provision of additional informa-
16 tion by the institution relating to the examina-
17 tion.

18 “(2) EXIT INTERVIEW.—If a financial institu-
19 tion is not subject to a resident examiner program,
20 the exit interview shall occur not later than the end
21 of the 9-month period beginning on the commence-
22 ment of the examination, except that such period
23 may be extended by the Federal financial institu-
24 tions regulatory agency by providing written notice
25 to the institution and the Independent Examination

1 Review Director describing with particularity the
2 reasons that a longer period is needed to complete
3 the examination.

4 “(b) EXAMINATION MATERIALS.—Upon the request
5 of a financial institution, the Federal financial institutions
6 regulatory agency shall include with the final report an
7 appendix listing all examination or other factual informa-
8 tion relied upon by the agency in support of a material
9 supervisory determination.

10 **“SEC. 1013. EXAMINATION STANDARDS.**

11 “(a) IN GENERAL.—In the examination of a financial
12 institution—

13 “(1) a commercial loan shall not be placed in
14 non-accrual status solely because the collateral for
15 such loan has deteriorated in value;

16 “(2) a modified or restructured commercial loan
17 shall be removed from non-accrual status if the bor-
18 rower demonstrates the ability to perform on such
19 loan over a maximum period of 6 months, except
20 that with respect to loans on a quarterly, semi-
21 annual, or longer repayment schedule such period
22 shall be a maximum of 3 consecutive repayment pe-
23 riods;

1 “(3) a new appraisal on a performing commer-
2 cial loan shall not be required unless an advance of
3 new funds is involved; and

4 “(4) in classifying a commercial loan in which
5 there has been deterioration in collateral value, the
6 amount to be classified shall be the portion of the
7 deficiency relating to the decline in collateral value
8 and repayment capacity of the borrower.

9 “(b) WELL CAPITALIZED INSTITUTIONS.—The Fed-
10 eral financial institutions regulatory agencies may not re-
11 quire a financial institution that is well capitalized to raise
12 additional capital in lieu of an action prohibited under
13 subsection (a).

14 “(c) CONSISTENT LOAN CLASSIFICATIONS.—The
15 Federal financial institutions regulatory agencies shall de-
16 velop and apply identical definitions and reporting require-
17 ments for non-accrual loans.

18 **“SEC. 1014. OFFICE OF INDEPENDENT EXAMINATION RE-**

19 **VIEW.**

20 “(a) ESTABLISHMENT.—There is established in the
21 Council an Office of Independent Examination Review
22 (the ‘Office’).

23 “(b) HEAD OF OFFICE.—There is established the po-
24 sition of the Independent Examination Review Director
25 (the ‘Director’), as the head of the Office. The Director

1 shall be appointed by the Council and shall be independent
2 from any member agency of the Council.

3 “(c) STAFFING.—The Director is authorized to hire
4 staff to support the activities of the Office.

5 “(d) DUTIES.—The Director shall—

6 “(1) receive and, at the Director’s discretion,
7 investigate complaints from financial institutions,
8 their representatives, or another entity acting on be-
9 half of such institutions, concerning examinations,
10 examination practices, or examination reports;

11 “(2) hold meetings, at least once every three
12 months and in locations designed to encourage par-
13 ticipation from all sections of the United States,
14 with financial institutions, their representatives, or
15 another entity acting on behalf of such institutions,
16 to discuss examination procedures, examination
17 practices, or examination policies;

18 “(3) review examination procedures of the Fed-
19 eral financial institutions regulatory agencies to en-
20 sure that the written examination policies of those
21 agencies are being followed in practice and adhere to
22 the standards for consistency established by the
23 Council;

24 “(4) conduct a continuing and regular review of
25 examination quality assurance for all examination

1 types conducted by the Federal financial institutions
2 regulatory agencies;

3 “(5) adjudicate any supervisory appeal initiated
4 under section 1015; and

5 “(6) report annually to the Committee on Fi-
6 nancial Services of the House of Representatives, the
7 Committee on Banking, Housing, and Urban Affairs
8 of the Senate, and the Council, on the reviews car-
9 ried out pursuant to paragraphs (3) and (4), includ-
10 ing compliance with the requirements set forth in
11 section 1012 regarding timeliness of examination re-
12 ports, and the Council’s recommendations for im-
13 provements in examination procedures, practices,
14 and policies.

15 “(e) CONFIDENTIALITY.—The Director shall keep
16 confidential all meetings with, discussions with, and infor-
17 mation provided by financial institutions.

18 **“SEC. 1015. RIGHT TO INDEPENDENT REVIEW OF MATERIAL**

19 **SUPERVISORY DETERMINATIONS.**

20 “(a) IN GENERAL.—A financial institution shall have
21 the right to obtain an independent review of a material
22 supervisory determination contained in a final report of
23 examination.

24 “(b) NOTICE.—

1 “(1) TIMING.—A financial institution seeking
2 review of a material supervisory determination under
3 this section shall file a written notice with the Inde-
4 pendent Examination Review Director (the ‘Direc-
5 tor’) within 60 days after receiving the final report
6 of examination that is the subject of such review.

7 “(2) IDENTIFICATION OF DETERMINATION.—
8 The written notice shall identify the material super-
9 visory determination that is the subject of the inde-
10 pendent examination review, and a statement of the
11 reasons why the institution believes that the deter-
12 mination is incorrect or should otherwise be modi-
13 fied.

14 “(3) INFORMATION TO BE PROVIDED TO INSTI-
15 TUTION.—Any information relied upon by the agen-
16 cy in the final report that is not in the possession
17 of the financial institution may be requested by the
18 financial institution and shall be delivered promptly
19 by the agency to the financial institution.

20 “(c) RIGHT TO HEARING.—

21 “(1) IN GENERAL.—The Director shall deter-
22 mine the merits of the appeal on the record or, at
23 the financial institution’s election, shall refer the ap-
24 peal to an Administrative Law Judge to conduct a
25 confidential hearing pursuant to the procedures set

1 forth under sections 556 and 557 of title 5, United
2 States Code, which hearing shall take place not later
3 than 60 days after the petition for review was re-
4 ceived by the Director, and to issue a proposed deci-
5 sion to the Director based upon the record estab-
6 lished at such hearing.

7 “(2) STANDARD OF REVIEW.—In rendering a
8 determination or recommendation under this sub-
9 section, neither the Administrative Law Judge nor
10 the Director shall defer to the opinions of the exam-
11 iner or agency, but shall conduct a de novo review
12 to independently determine the appropriateness of
13 the agency’s decision based upon the relevant stat-
14 utes, regulations, and other appropriate guidance, as
15 well as evidence adduced at any hearing.

16 “(d) FINAL DECISION.—A decision by the Director
17 on an independent review under this section shall—

18 “(1) be made not later than 60 days after the
19 record has been closed; and

20 “(2) be deemed final agency action and shall
21 bind the agency whose supervisory determination
22 was the subject of the review and the financial insti-
23 tution requesting the review.

24 “(e) RIGHT TO JUDICIAL REVIEW.—A financial insti-
25 tution shall have the right to petition for review of final

1 agency action under this section by filing a Petition for
2 Review within 60 days of the Director’s decision in the
3 United States Court of Appeals for the District of Colum-
4 bia Circuit or the Circuit in which the financial institution
5 is located.

6 “(f) REPORT.—The Director shall report annually to
7 the Committee on Financial Services of the House of Rep-
8 resentatives and the Committee on Banking, Housing, and
9 Urban Affairs of the Senate on actions taken under this
10 section, including the types of issues that the Director has
11 reviewed and the results of those reviews. In no case shall
12 such a report contain information about individual finan-
13 cial institutions or any confidential or privileged informa-
14 tion shared by financial institutions.

15 “(g) RETALIATION PROHIBITED.—A Federal finan-
16 cial institutions regulatory agency may not—

17 “(1) retaliate against a financial institution, in-
18 cluding service providers, or any institution-affiliated
19 party (as defined under section 3 of the Federal De-
20 posit Insurance Act), for exercising appellate rights
21 under this section; or

22 “(2) delay or deny any agency action that
23 would benefit a financial institution or any institu-
24 tion-affiliated party on the basis that an appeal
25 under this section is pending under this section.

1 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed—

3 “(1) to affect the right of a Federal financial
4 institutions regulatory agency to take enforcement
5 or other supervisory actions related to a material su-
6 pervisory determination under review under this sec-
7 tion; or

8 “(2) to prohibit the review under this section of
9 a material supervisory determination with respect to
10 which there is an ongoing enforcement or other su-
11 pervisory action.”.

12 (b) ADDITIONAL AMENDMENTS.—

13 (1) RIEGLE COMMUNITY DEVELOPMENT AND
14 REGULATORY IMPROVEMENT ACT OF 1994.—Section
15 309 of the Riegle Community Development and Reg-
16 ulatory Improvement Act of 1994 (12 U.S.C. 4806)
17 is amended—

18 (A) in subsection (a), by inserting after
19 “appropriate Federal banking agency” the fol-
20 lowing: “, the Consumer Financial Opportunity
21 Commission,”;

22 (B) in subsection (b)—

23 (i) in paragraph (2), by striking “the
24 appellant from retaliation by agency exam-
25 iners” and inserting “the insured deposi-

1 tory institution or insured credit union
2 from retaliation by the agencies referred to
3 in subsection (a)”; and

4 (ii) by adding at the end the following
5 flush-left text:

6 “For purposes of this subsection and subsection (e), retal-
7 iation includes delaying consideration of, or withholding
8 approval of, any request, notice, or application that other-
9 wise would have been approved, but for the exercise of the
10 institution’s or credit union’s rights under this section.”;

11 (C) in subsection (e)(2)—

12 (i) in subparagraph (B), by striking
13 “and” at the end;

14 (ii) in subparagraph (C), by striking
15 the period and inserting “; and”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(D) ensure that appropriate safeguards
19 exist for protecting the insured depository insti-
20 tution or insured credit union from retaliation
21 by any agency referred to in subsection (a) for
22 exercising its rights under this subsection.”;
23 and

24 (D) in subsection (f)(1)(A)—

1 (i) in clause (ii), by striking “and” at
2 the end;

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

5 (iii) by adding at the end the fol-
6 lowing:

7 “(iv) any issue specifically listed in an
8 exam report as a matter requiring atten-
9 tion by the institution’s management or
10 board of directors; and

11 “(v) any suspension or removal of an
12 institution’s status as eligible for expedited
13 processing of applications, requests, no-
14 tices, or filings on the grounds of a super-
15 visory or compliance concern, regardless of
16 whether that concern has been cited as a
17 basis for another material supervisory de-
18 termination or matter requiring attention
19 in an examination report, provided that the
20 conduct at issue did not involve violation of
21 any criminal law; and”.

22 (2) FEDERAL CREDIT UNION ACT.—Section
23 205(j) of the Federal Credit Union Act (12 U.S.C.
24 1785(j)) is amended by inserting “the Consumer Fi-

1 nancial Opportunity Commission,” before “the Ad-
2 ministration” each place such term appears.

3 (3) FEDERAL FINANCIAL INSTITUTIONS EXAM-
4 INATION COUNCIL ACT OF 1978.—The Federal Fi-
5 nancial Institutions Examination Council Act of
6 1978 (12 U.S.C. 3301 et seq.) is amended—

7 (A) in section 1003, by amending para-
8 graph (1) to read as follows:

9 “(1) the term ‘Federal financial institutions
10 regulatory agencies’—

11 “(A) means the Office of the Comptroller
12 of the Currency, the Board of Governors of the
13 Federal Reserve System, the Federal Deposit
14 Insurance Corporation, and the National Credit
15 Union Administration; and

16 “(B) for purposes of sections 1012, 1013,
17 1014, and 1015, includes the Consumer Finan-
18 cial Opportunity Commission;”; and

19 (B) in section 1005, by striking “One-
20 fifth” and inserting “One-fourth”.

1 **Subtitle I—National Credit Union**
2 **Administration Budget Trans-**
3 **parency**

4 **SEC. 1141. BUDGET TRANSPARENCY FOR THE NCUA.**

5 Section 209(b) of the Federal Credit Union Act (12
6 U.S.C. 1789) is amended—

7 (1) by redesignating paragraphs (1) and (2) as
8 paragraphs (2) and (3), respectively;

9 (2) by inserting before paragraph (2), as so re-
10 designated, the following:

11 “(1) on an annual basis and prior to the sub-
12 mission of the detailed business-type budget required
13 under paragraph (2)—

14 “(A) make publicly available and cause to
15 be printed in the Federal Register a draft of
16 such detailed business-type budget; and

17 “(B) hold a public hearing, with public no-
18 tice provided of such hearing, wherein the pub-
19 lic can submit comments on the draft of such
20 detailed business-type budget;” and

21 (3) in paragraph (2), as so redesignated—

22 (A) by inserting “detailed” after “submit
23 a”; and

24 (B) by inserting “, and where such budget
25 shall address any comments submitted by the

1 public pursuant to paragraph (1)(B)” after
2 “Control Act”.

3 **Subtitle J—Taking Account of In-**
4 **stitutions With Low Operation**
5 **Risk**

6 **SEC. 1146. REGULATIONS APPROPRIATE TO BUSINESS**
7 **MODELS.**

8 (a) IN GENERAL.—For any regulatory action occur-
9 ring subsequent to enactment of this section, and notwith-
10 standing any other provision of law, the Federal financial
11 institutions regulatory agencies shall—

12 (1) take into consideration the risk profile and
13 business models of the various institutions or classes
14 of institutions subject to the regulatory action;

15 (2) determine the necessity, appropriateness,
16 and impact of applying such regulatory action to
17 such institutions or classes of institutions; and

18 (3) tailor such regulatory action applicable to
19 such institutions or class of institutions in a manner
20 that limits the regulatory compliance impact, cost, li-
21 ability risk, and other burdens as is appropriate for
22 the risk profile and business model involved.

23 (b) OTHER CONSIDERATIONS.—In satisfying the re-
24 quirements of subsection (a) and when implementing such

1 regulatory action, the Federal financial institutions regu-
2 latory agencies shall also consider—

3 (1) the impact that such regulatory action, both
4 by itself and in conjunction with the aggregate effect
5 of other regulations, has on the ability of the institu-
6 tion or class of institutions to flexibly serve evolving
7 and diverse customer needs;

8 (2) the potential unintended impact of examina-
9 tion manuals or other regulatory directives that
10 work in conflict with the tailoring of such regulatory
11 action described in subsection (a)(3); and

12 (3) the underlying policy objectives of the regu-
13 latory action and statutory scheme involved.

14 (c) NOTICE OF PROPOSED AND FINAL RULE-
15 MAKING.—The Federal financial institutions regulatory
16 agencies shall disclose in every notice of proposed rule-
17 making and in any final rulemaking for a regulatory ac-
18 tion how the agency has applied subsections (a) and (b).

19 (d) REPORTS TO CONGRESS.—

20 (1) INDIVIDUAL AGENCY REPORTS.—

21 (A) IN GENERAL.—The Federal financial
22 institutions regulatory agencies shall individ-
23 ually report to the Committee on Financial
24 Services of the House of Representatives and
25 the Committee on Banking, Housing, and

1 Urban Affairs of the Senate, within twelve
2 months of enactment of this section and annu-
3 ally thereafter, on the specific actions taken to
4 tailor the agency's regulatory actions pursuant
5 to the requirements of this section.

6 (B) APPEARANCE BEFORE THE COMMIT-
7 TEES.—The head of each Federal financial in-
8 stitution regulatory agency shall appear before
9 the Committee on Financial Services of the
10 House of Representatives and the Committee
11 on Banking, Housing, and Urban Affairs of the
12 Senate after each report is made pursuant to
13 subparagraph (A), to testify on the contents of
14 such report.

15 (2) FIEC REPORTS.—

16 (A) IN GENERAL.—The Financial Institu-
17 tions Examination Council shall report to the
18 Committee on Financial Services of the House
19 of Representatives and the Committee on Bank-
20 ing, Housing, and Urban Affairs of the Senate,
21 within three months after the reports required
22 under paragraph (1)—

23 (i) on the extent to which regulatory
24 actions tailored pursuant to this section re-
25 sult in differential regulation of similarly-

1 situated institutions of diverse charter
2 types with respect to comparable regula-
3 tions; and

4 (ii) the reasons for such differential
5 treatment.

6 (B) APPEARANCE BEFORE THE COMMIT-
7 TEES.—The Chairman of the Financial Institu-
8 tions Examination Council shall appear before
9 the Committee on Financial Services of the
10 House of Representatives and the Committee
11 on Banking, Housing, and Urban Affairs of the
12 Senate after each report is made pursuant to
13 subparagraph (A), to testify on the contents of
14 such report.

15 (e) LIMITED LOOK-BACK APPLICATION.—The Fed-
16 eral financial institutions regulatory agencies shall con-
17 duct a review of all regulations adopted during the period
18 beginning on the date that is five years before the date
19 of the introduction of this Act in the House of Representa-
20 tives and ending on the date of the enactment of this Act
21 and apply the requirements of this section to such regula-
22 tions. If the application of the requirements of this section
23 to any such regulation requires such regulation to be re-
24 vised, the agency shall revise such regulation within three
25 years of the enactment of this section.

1 (f) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) FEDERAL FINANCIAL INSTITUTIONS REGU-
4 LATORY AGENCIES.—The term “Federal financial in-
5 stitutions regulatory agencies” means the Office of
6 the Comptroller of the Currency, the Board of Gov-
7 ernors of the Federal Reserve System, the Federal
8 Deposit Insurance Corporation, the National Credit
9 Union Administration, and the Consumer Financial
10 Opportunity Commission.

11 (2) REGULATORY ACTION.—The term “regu-
12 latory action” means any proposed, interim, or final
13 rule or regulation, guidance, or published interpreta-
14 tion.

15 **Subtitle K—Federal Savings**
16 **Association Charter Flexibility**

17 **SEC. 1151. OPTION FOR FEDERAL SAVINGS ASSOCIATIONS**
18 **TO OPERATE AS A COVERED SAVINGS ASSO-**
19 **CIATION.**

20 The Home Owners’ Loan Act is amended by inserting
21 after section 5 (12 U.S.C. 1464) the following:

1 **“SEC. 5A. ELECTION TO OPERATE AS A COVERED SAVINGS**
2 **ASSOCIATION.**

3 “(a) DEFINITION.—In this section, the term ‘covered
4 savings association’ means a Federal savings association
5 that makes an election approved under subsection (b).

6 “(b) ELECTION.—

7 “(1) IN GENERAL.—Upon issuance of the rules
8 described in subsection (f), a Federal savings asso-
9 ciation may elect to operate as a covered savings as-
10 sociation by submitting a notice to the Comptroller
11 of such election.

12 “(2) APPROVAL.—A Federal savings association
13 shall be deemed to be approved to operate as a cov-
14 ered savings association on the date that is 60 days
15 after the date on which the Comptroller receives the
16 notice under paragraph (1), unless the Comptroller
17 notifies the Federal savings association otherwise.

18 “(c) RIGHTS AND DUTIES.—Notwithstanding any
19 other provision of law and except as otherwise provided
20 in this section, a covered savings association shall—

21 “(1) have the same rights and privileges as a
22 national bank that has its main office situated in the
23 same location as the home office of the covered sav-
24 ings association; and

1 “(2) be subject to the same duties, restrictions,
2 penalties, liabilities, conditions, and limitations that
3 would apply to such a national bank.

4 “(d) TREATMENT OF COVERED SAVINGS ASSOCIA-
5 TIONS.—A covered savings association shall be treated as
6 a Federal savings association for the purposes—

7 “(1) of governance of the covered savings asso-
8 ciation, including incorporation, bylaws, boards of
9 directors, shareholders, and distribution of divi-
10 dends;

11 “(2) of consolidation, merger, dissolution, con-
12 version (including conversion to a stock bank or to
13 another charter), conservatorship, and receivership;
14 and

15 “(3) determined by regulation of the Comp-
16 troller.

17 “(e) EXISTING BRANCHES.—A covered savings asso-
18 ciation may continue to operate any branch or agency the
19 covered savings association operated on the date on which
20 an election under subsection (b) is approved.

21 “(f) RULEMAKING.—The Comptroller shall issue
22 rules to carry out this section—

23 “(1) that establish streamlined standards and
24 procedures that clearly identify required documenta-

1 tion or timelines for an election under subsection
2 (b);

3 “(2) that require a Federal savings association
4 that makes an election under subsection (b) to iden-
5 tify specific assets and subsidiaries—

6 “(A) that do not conform to the require-
7 ments for assets and subsidiaries of a national
8 bank; and

9 “(B) that are held by the Federal savings
10 association on the date on which the Federal
11 savings association submits a notice of such
12 election;

13 “(3) that establish—

14 “(A) a transition process for bringing such
15 assets and subsidiaries into conformance with
16 the requirements for a national bank; and

17 “(B) procedures for allowing the Federal
18 savings association to provide a justification for
19 grandfathering such assets and subsidiaries
20 after electing to operate as a covered savings
21 association;

22 “(4) that establish standards and procedures to
23 allow a covered savings association to terminate an
24 election under subsection (b) after an appropriate
25 period of time or to make a subsequent election;

1 “(5) that clarify requirements for the treatment
2 of covered savings associations, including the provi-
3 sions of law that apply to covered savings associa-
4 tions; and

5 “(6) as the Comptroller deems necessary and in
6 the interests of safety and soundness.”.

7 **Subtitle L—SAFE Transitional**
8 **Licensing**

9 **SEC. 1156. ELIMINATING BARRIERS TO JOBS FOR LOAN**
10 **ORIGINATORS.**

11 (a) IN GENERAL.—The S.A.F.E. Mortgage Licensing
12 Act of 2008 (12 U.S.C. 5101 et seq.) is amended by add-
13 ing at the end the following:

14 **“SEC. 1518. EMPLOYMENT TRANSITION OF LOAN ORIGINA-**
15 **TORS.**

16 “(a) TEMPORARY AUTHORITY TO ORIGINATE LOANS
17 FOR LOAN ORIGINATORS MOVING FROM A DEPOSITORY
18 INSTITUTION TO A NON-DEPOSITORY INSTITUTION.—

19 “(1) IN GENERAL.—Upon employment by a
20 State-licensed mortgage company, an individual who
21 is a registered loan originator shall be deemed to
22 have temporary authority to act as a loan originator
23 in an application State for the period described in
24 paragraph (2) if the individual—

1 “(A) has not had an application for a loan
2 originator license denied, or had such a license
3 revoked or suspended in any governmental ju-
4 risdiction;

5 “(B) has not been subject to or served
6 with a cease and desist order in any govern-
7 mental jurisdiction or as described in section
8 1514(c);

9 “(C) has not been convicted of a felony
10 that would preclude licensure under the law of
11 the application State;

12 “(D) has submitted an application to be a
13 State-licensed loan originator in the application
14 State; and

15 “(E) was registered in the Nationwide
16 Mortgage Licensing System and Registry as a
17 loan originator during the 12-month period pre-
18 ceding the date of submission of the informa-
19 tion required under section 1505(a).

20 “(2) PERIOD.—The period described in para-
21 graph (1) shall begin on the date that the individual
22 submits the information required under section
23 1505(a) and shall end on the earliest of—

1 “(A) the date that the individual with-
2 draws the application to be a State-licensed
3 loan originator in the application State;

4 “(B) the date that the application State
5 denies, or issues a notice of intent to deny, the
6 application;

7 “(C) the date that the application State
8 grants a State license; or

9 “(D) the date that is 120 days after the
10 date on which the individual submits the appli-
11 cation, if the application is listed on the Nation-
12 wide Mortgage Licensing System and Registry
13 as incomplete.

14 “(b) TEMPORARY AUTHORITY TO ORIGINATE LOANS
15 FOR STATE-LICENSED LOAN ORIGINATORS MOVING
16 INTERSTATE.—

17 “(1) IN GENERAL.—A State-licensed loan origi-
18 nator shall be deemed to have temporary authority
19 to act as a loan originator in an application State
20 for the period described in paragraph (2) if the
21 State-licensed loan originator—

22 “(A) meets the requirements of subpara-
23 graphs (A), (B), (C), and (D) of subsection
24 (a)(1);

1 “(B) is employed by a State-licensed mort-
2 gage company in the application State; and

3 “(C) was licensed in a State that is not the
4 application State during the 30-day period pre-
5 ceding the date of submission of the informa-
6 tion required under section 1505(a) in connec-
7 tion with the application submitted to the appli-
8 cation State.

9 “(2) PERIOD.—The period described in para-
10 graph (1) shall begin on the date that the State-li-
11 censed loan originator submits the information re-
12 quired under section 1505(a) in connection with the
13 application submitted to the application State and
14 end on the earliest of—

15 “(A) the date that the State-licensed loan
16 originator withdraws the application to be a
17 State-licensed loan originator in the application
18 State;

19 “(B) the date that the application State
20 denies, or issues a notice of intent to deny, the
21 application;

22 “(C) the date that the application State
23 grants a State license; or

24 “(D) the date that is 120 days after the
25 date on which the State-licensed loan originator

1 submits the application, if the application is
2 listed on the Nationwide Mortgage Licensing
3 System and Registry as incomplete.

4 “(c) APPLICABILITY.—

5 “(1) Any person employing an individual who is
6 deemed to have temporary authority to act as a loan
7 originator in an application State pursuant to this
8 section shall be subject to the requirements of this
9 title and to applicable State law to the same extent
10 as if such individual was a State-licensed loan origi-
11 nator licensed by the application State.

12 “(2) Any individual who is deemed to have tem-
13 porary authority to act as a loan originator in an ap-
14 plication State pursuant to this section and who en-
15 engages in residential mortgage loan origination activi-
16 ties shall be subject to the requirements of this title
17 and to applicable State law to the same extent as if
18 such individual was a State-licensed loan originator
19 licensed by the application State.

20 “(d) DEFINITIONS.—In this section, the following
21 definitions shall apply:

22 “(1) STATE-LICENSED MORTGAGE COMPANY.—
23 The term ‘State-licensed mortgage company’ means
24 an entity licensed or registered under the law of any

1 State to engage in residential mortgage loan origina-
2 tion and processing activities.

3 “(2) APPLICATION STATE.—The term ‘applica-
4 tion State’ means a State in which a registered loan
5 originator or a State-licensed loan originator seeks
6 to be licensed.”.

7 (b) TABLE OF CONTENTS AMENDMENT.—The table
8 of contents in section 1(b) of the Housing and Economic
9 Recovery Act of 2008 (42 U.S.C. 4501 note) is amended
10 by inserting after the item relating to section 1517 the
11 following:

“Sec. 1518. Employment transition of loan originators.”.

12 (c) AMENDMENT TO CIVIL LIABILITY OF THE CON-
13 SUMER FINANCIAL OPPORTUNITY COMMISSION AND
14 OTHER OFFICIALS.—Section 1513 of the S.A.F.E. Mort-
15 gage Licensing Act of 2008 (12 U.S.C. 5112) is amended
16 by striking “are loan originators or are applying for licens-
17 ing or registration as loan originators” and inserting “are
18 applying for licensing or registration using the Nationwide
19 Mortgage Licensing System and Registry”.

20 **Subtitle M—Right to Lend**

21 **SEC. 1161. SMALL BUSINESS LOAN DATA COLLECTION RE-** 22 **QUIREMENT.**

23 (a) REPEAL.—Section 704B of the Equal Credit Op-
24 portunity Act (15 U.S.C. 1691c–2) is repealed.

1 (b) CONFORMING AMENDMENTS.—Section 701(b) of
2 the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is
3 amended—

4 (1) in paragraph (3), by inserting “or” at the
5 end;

6 (2) in paragraph (4), by striking “; or” and in-
7 serting a period; and

8 (3) by striking paragraph (5).

9 (c) CLERICAL AMENDMENT.—The table of sections
10 for title VII of the Consumer Credit Protection Act is
11 amended by striking the item relating to section 704B.

12 **Subtitle N—Community Bank**
13 **Reporting Relief**

14 **SEC. 1166. SHORT FORM CALL REPORT.**

15 (a) IN GENERAL.—Section 7(a) of the Federal De-
16 posit Insurance Act (12 U.S.C. 1817(a)) is amended by
17 adding at the end the following:

18 “(12) SHORT FORM REPORTING.—

19 “(A) IN GENERAL.—The appropriate Fed-
20 eral banking agencies shall issue regulations al-
21 lowing for a reduced reporting requirement for
22 covered depository institutions when making the
23 first and third report of condition for a year, as
24 required pursuant to paragraph (3).

1 “(B) COVERED DEPOSITORY INSTITUTION
2 DEFINED.—For purposes of this paragraph, the
3 term ‘covered depository institution’ means an
4 insured depository institution that—

5 “(i) is highly rated and well capital-
6 ized (as defined under section 38(b)); and

7 “(ii) satisfies such other criteria as
8 the appropriate Federal banking agencies
9 determine appropriate.”.

10 (b) REPORT TO CONGRESS.—Not later than 180 days
11 after the date of the enactment of this Act, and every 365
12 days thereafter until the appropriate Federal banking
13 agencies (as defined under section 3 of the Federal De-
14 posit Insurance Act) have issued the regulations required
15 under section 7(a)(12)(A) of the Federal Deposit Insur-
16 ance Act, such agencies shall submit to the Committee on
17 Financial Services of the House of Representatives and
18 the Committee on Banking, Housing, and Urban Affairs
19 of the Senate a report describing the progress made in
20 issuing such regulations.

1 **Subtitle O—Homeowner**
2 **Information Privacy Protection**

3 **SEC. 1171. STUDY REGARDING PRIVACY OF INFORMATION**
4 **COLLECTED UNDER THE HOME MORTGAGE**
5 **DISCLOSURE ACT OF 1975.**

6 (a) STUDY.—The Comptroller General of the United
7 States shall conduct a study to determine whether the
8 data required to be published, made available, or disclosed
9 under the final rule, in connection with other publicly
10 available data sources, including data made publicly avail-
11 able under Regulation C (12 C.F.R. 1003) before the ef-
12 fective date of the final rule, could allow for or increase
13 the probability of—

14 (1) exposure of the identity of mortgage appli-
15 cants or mortgagors through reverse engineering;

16 (2) exposure of mortgage applicants or mortga-
17 gors to identity theft or the loss of sensitive personal
18 financial information;

19 (3) the marketing or sale of unfair or deceptive
20 financial products to mortgage applicants or mortga-
21 gors based on such data;

22 (4) personal financial loss or emotional distress
23 resulting from the exposure of mortgage applicants
24 or mortgagors to identify theft or the loss of sen-
25 sitive personal financial information; and

1 (5) the potential legal liability facing the Con-
2 sumer Financial Opportunity Commission and mar-
3 ket participants in the event the data required to be
4 published, made available, or disclosed under the
5 final rule leads or contributes to identity theft or the
6 capture of sensitive personal financial information.

7 (b) REPORT.—The Comptroller General of the
8 United States shall submit to the Committee on Financial
9 Services of the House of Representatives and the Com-
10 mittee on Banking, Housing, and Urban Affairs of the
11 Senate a report that includes—

12 (1) the findings and conclusions of the Comp-
13 troller General with respect to the study required
14 under subsection (a); and

15 (2) any recommendations for legislative or regu-
16 latory actions that—

17 (A) would enhance the privacy of a con-
18 sumer when accessing mortgage credit; and

19 (B) are consistent with consumer protec-
20 tions and safe and sound banking operations.

21 (c) SUSPENSION OF DATA SHARING REQUIRE-
22 MENTS.—Notwithstanding any other provision of law, in-
23 cluding the final rule—

24 (1) depository institutions shall not be required
25 to publish, disclose, or otherwise make available to

1 the public, pursuant to the Home Mortgage Dislo-
2 sure Act of 1975 (or regulations issued under such
3 Act) any data that was not required to be published,
4 disclosed, or otherwise made available pursuant to
5 such Act (or regulations issued under such Act) on
6 the day before the date of the enactment of the
7 Dodd-Frank Wall Street Reform and Consumer Pro-
8 tection Act; and

9 (2) the Consumer Financial Opportunity Com-
10 mission and the Financial Institutions Examination
11 Council shall not publish, disclose, or otherwise
12 make available to the public any such information
13 received from a depository institution pursuant to
14 the final rule.

15 (d) DEFINITIONS.—For purposes of this section:

16 (1) DEPOSITORY INSTITUTION.—The term “de-
17 pository institution” has the meaning given that
18 term under section 303 of the Home Mortgage Dis-
19 closure Act of 1975 (12 U.S.C. 2802).

20 (2) FINAL RULE.—The term “final rule” means
21 the final rule issued by the Bureau of Consumer Fi-
22 nancial Protection titled “Home Mortgage Dislo-
23 sure (Regulation C)” (October 28, 2015; 80 Fed.
24 Reg. 66128).

1 **Subtitle P—Home Mortgage**
2 **Disclosure Adjustment**

3 **SEC. 1176. DEPOSITORY INSTITUTIONS SUBJECT TO MAIN-**
4 **TENANCE OF RECORDS AND DISCLOSURE RE-**
5 **QUIREMENTS.**

6 (a) IN GENERAL.—Section 304 of the Home Mort-
7 gage Disclosure Act of 1975 (12 U.S.C. 2803) is amend-
8 ed—

9 (1) by redesignating subsection (i) as paragraph
10 (2) and adjusting the margin appropriately; and

11 (2) by inserting before such paragraph (2) the
12 following:

13 “(i) EXEMPTIONS.—

14 “(1) IN GENERAL.—With respect to a depository
15 institution, the requirements of subsections (a)
16 and (b) shall not apply—

17 “(A) with respect to closed-end mortgage
18 loans, if such depository institution originated
19 less than 100 closed-end mortgage loans in each
20 of the two preceding calendar years; and

21 “(B) with respect to open-end lines of
22 credit, if such depository institution originated
23 less than 200 open-end lines of credit in each
24 of the two preceding calendar years.”.

1 (b) TECHNICAL CORRECTION.—Section 304(i)(2) of
2 such Act, as redesignated by subsection (a), is amended
3 by striking “section 303(2)(A)” and inserting “section
4 303(3)(A)”.

5 **Subtitle Q—National Credit Union**
6 **Administration Advisory Council**

7 **SEC. 1181. CREDIT UNION ADVISORY COUNCIL.**

8 Section 102 of the Federal Credit Union Act (12
9 U.S.C. 1752a) is amended by adding at the end the fol-
10 lowing:

11 “(g) CREDIT UNION ADVISORY COUNCIL.—

12 “(1) ESTABLISHMENT.—The Board shall estab-
13 lish the Credit Union Advisory Council to advise and
14 consult with the Board in the exercise of the Board’s
15 functions and to provide information on emerging
16 credit union practices, including regional trends,
17 concerns, and other relevant information.

18 “(2) MEMBERSHIP.—The Board shall appoint
19 no fewer than 15 and no more than 20 members to
20 the Credit Union Advisory Council. In appointing
21 such members, the Board shall include members rep-
22 resenting credit unions predominantly serving tradi-
23 tionally underserved communities and populations
24 and their interests, without regard to party affili-
25 ation.

1 “(3) MEETINGS.—The Credit Union Advisory
2 Council—

3 “(A) shall meet from time to time at the
4 call of the Board; and

5 “(B) shall meet at least twice each year.

6 “(4) COMPENSATION AND TRAVEL EX-
7 PENSES.—Members of the Credit Union Advisory
8 Council who are not full-time employees of the
9 United States shall—

10 “(A) be entitled to receive compensation at
11 a rate fixed by the Board, while attending
12 meetings of the Credit Union Advisory Council;
13 and

14 “(B) be allowed travel expenses, including
15 transportation and subsistence, while away
16 from their homes or regular places of busi-
17 ness.”.

18 **Subtitle R—Credit Union**

19 **Examination Reform**

20 **SEC. 1186. EXTENSION OF EXAMINATION CYCLE OF THE NA-**
21 **TIONAL CREDIT UNION ADMINISTRATION TO**
22 **18 MONTHS OR LONGER.**

23 (a) FEDERAL CREDIT UNION EXAMINATIONS.—Sec-
24 tion 106 of the Federal Credit Union Act (12 U.S.C.
25 1756) is amended—

1 (1) by striking “Federal credit unions” and in-
2 serting the following:

3 “(a) IN GENERAL.—Federal credit unions”; and

4 (2) by adding at the end the following:

5 “(b) 18-MONTH OR LONGER EXAMINATION CYCLE
6 FOR CERTAIN CREDIT UNIONS.—

7 “(1) IN GENERAL.—An examination of a Fed-
8 eral credit union described under subsection (a) may
9 only be carried out once during each 18-month pe-
10 riod with respect to a Federal credit union that—

11 “(A) has total assets of less than
12 \$1,000,000,000;

13 “(B) is well capitalized, as such term is de-
14 fined under section 216(c)(1);

15 “(C) was found in its most recent exam-
16 ination to be well managed, and its composite
17 rating (under the Uniform Financial Institu-
18 tions Rating System or an equivalent rating
19 under a comparable rating system)—

20 “(i) was a 1, in the case of a Federal
21 credit union that has total assets of more
22 than \$200,000,000; or

23 “(ii) was a 1 or a 2, in the case of a
24 Federal credit union that has total assets
25 of not more than \$200,000,000; and

1 “(D) is not currently subject to a formal
2 enforcement proceeding or order by the Admin-
3 istration.

4 “(2) SAFETY AND SOUNDNESS EXCEPTION.—
5 Paragraph (1) shall not apply to a Federal credit
6 union if the Administration determines—

7 “(A) that such credit union should be ex-
8 amined more often than every 18 months be-
9 cause of safety and soundness concerns; or

10 “(B) that such credit union has violated
11 the law.”.

12 (b) INSURED CREDIT UNION EXAMINATIONS.—Sec-
13 tion 204 of the Federal Credit Union Act (12 U.S.C.
14 1784) is amended by adding at the end the following:

15 “(h) 18-MONTH OR LONGER EXAMINATION CYCLE
16 FOR CERTAIN CREDIT UNIONS.—

17 “(1) IN GENERAL.—An examination of an in-
18 sured credit union described under subsection (a)
19 may only be carried out once during each 18-month
20 period with respect to an insured credit union that—

21 “(A) has total assets of less than
22 \$1,000,000,000;

23 “(B) is well capitalized or adequately cap-
24 italized, as such terms are defined, respectively,
25 under section 216(c)(1);

1 “(C) was found in its most recent exam-
2 ination to be well managed, and its composite
3 rating (under the Uniform Financial Institu-
4 tions Rating System or an equivalent rating
5 under a comparable rating system)—

6 “(i) was a 1, in the case of an insured
7 credit union that has total assets of more
8 than \$200,000,000; or

9 “(ii) was a 1 or a 2, in the case of an
10 insured credit union that has total assets
11 of not more than \$200,000,000; and

12 “(D) is not currently subject to a formal
13 enforcement proceeding or order by the Admin-
14 istration.

15 “(2) SAFETY AND SOUNDNESS EXCEPTION.—
16 Paragraph (1) shall not apply to an insured credit
17 union if the Administration determines—

18 “(A) that such credit union should be ex-
19 amined more often than every 18 months be-
20 cause of safety and soundness concerns; or

21 “(B) that such credit union has violated
22 the law.”.

23 (c) BUDGET SAVINGS REPORT.—Not later than the
24 end of the 180-day period beginning on the date of the
25 enactment of this Act, the National Credit Union Adminis-

1 tration shall issue a report to the Congress analyzing how
2 the amendments made by this section affect the budget
3 of the Administration.

4 (d) RULEMAKING.—Not later than the end of the
5 100-day period beginning on the date of the enactment
6 of this Act, the National Credit Union Administration
7 shall issue regulations to carry out the amendments made
8 by this section.

9 **Subtitle S—NCUA Overhead**

10 **Transparency**

11 **SEC. 1191. FUND TRANSPARENCY.**

12 Section 203 of the Federal Credit Union Act (12
13 U.S.C. 1783) is amended by adding at the end the fol-
14 lowing:

15 “(g) FUND TRANSPARENCY.—

16 “(1) IN GENERAL.—The Board shall accom-
17 pany each annual budget submitted pursuant to sec-
18 tion 209(b) with a report containing—

19 “(A) a detailed analysis of how the ex-
20 penses of the Administration are assigned be-
21 tween prudential activities and insurance-re-
22 lated activities and the extent to which those
23 expenses are paid from the fees collected pursu-
24 ant to section 105 or from the Fund; and

1 “(B) the Board’s supporting rationale for
2 any proposed use of amounts in the Fund con-
3 tained in such budget, including detailed break-
4 downs and supporting rationales for any such
5 proposed use related to titles of this Act other
6 than this title.

7 “(2) PUBLIC DISCLOSURE.—The Board shall
8 make each report described under paragraph (1)
9 available to the public.”.

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