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House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. YARMUTH).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 25, 2010.

I hereby appoint the Honorable JOHN A. YARMUTH to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

CONGRESS NEEDS TO CONTROL FEDERAL SPENDING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

Mr. STEARNS. Mr. Speaker, recently, Speaker PELOSI sent a letter to her committee chairmen asking all of them to chip away at Federal budgetary spending. In addition, Majority Leader HOYER recently wrote an op-ed in the Wall Street Journal urging for shared sacrifice to address the budget crisis this country is facing. Unfortunately, Mr. Speaker, their rhetoric does not match up to reality.

Budget Chairman JOHN SPRATT even said, ''If you can't budget, you can't govern.'' Let me repeat that. This is what the Chairman of the Budget Committee said: ''If you can't budget, you can't govern.'' I could not agree more.

It is becoming increasingly clear, Mr. Speaker, however, that House Democrats cannot budget. American families and small businesses are making tough choices in this economic climate. But Democrats continue to spend and to spend.

The Federal Government is spending more per household than ever before and running up a $1.5 trillion deficit in 2010, the largest deficit since the end of World War II.

Now, how much is $1 trillion? If you started at day one, at 1 A.D., and spent $1 million every day, you still would not have spent $1 trillion.

Despite deficits and debts as far as the eye can see, Democrat leaders do not plan to even pass a budget resolution. Since 1974, when the modern budget process was created, the House has never failed to pass a budget resolution. Speaker PELOSI and Leader HOYER can send all the letters and publish all the op-eds they want, but it does not change the fact there is no significant or legitimate plan to rein in Federal spending or reduce the deficit by them.

The Federal Government now spends over $31,000 per household, the highest ever. Recent budget deficits have reached unprecedented levels, accounting for 11 percent of the GDP. By comparison, the historical budget deficits, a yearly debt deficit, is only 2.9 percent of the GDP in the past.

Publicly held debt is expected to climb to $15 trillion by 2020, and when combined with rising interest rates in a post-recovery economic environment, the interest payments on government debt also will skyrocket. CBO projects that the government's annual spending on net interest will more than triple between 2010 and 2020 from $207 billion to $723 billion; just the interest. These deficits are appalling and all more shocking since CBO based these calculations on the complete expiration of the Bush tax cuts, that the alternative minimum tax will never be patched, and that future appropriations would be indexed to inflation. This is something Congress never will do.

Since Democrats have taken over Congress in January 2007, the national debt has increased 42.4 percent. While the Democrat leadership talks a good game about addressing spending, we have yet to see any real action by them.

The first step is to pass a budget to provide us with a blueprint, a simple road map for deficit reduction. The Balanced Budget Act of 1985 set the target date for a budget for April 15, the same day as Tax Day for most Americans. Unfortunately, the April 15 deadline for enacting a budget resolution has long since passed, and we still have no sign of a budget resolution. The Senate has not passed a budget, and the House has not even begun the simple process.

Without a budget, there are no controls in place to rein in spending. It's a sign that Congress lacks the leadership and the willingness to set a framework to limit spending or control entitlement growth. Not passing a budget resolution sends a message to the American taxpayers that Congress is really not serious about addressing the fiscal crisis here, and is unable to meet the challenges of uncontrolled spending and runaway deficits.

This entire situation, obviously, is getting out of control. When someone goes for debt counseling, the first step is to cut up the credit cards and live within your means. Congress needs to rein in Federal spending and to start living within its means. The answers are not higher taxes on out-of-work Americans, such as a Value Added Tax. That's why I've joined with my colleagues to send a letter to the National

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Commission on Fiscal Responsibility and Reform to not increase taxes through a VAT tax as a means of balancing the budget.

High taxes aren't the solution, less spending is. We must reduce the spending of this Federal Government if we are to exercise fiscal responsibility.

Unfortunately, Mr. Speaker, the Democrat leadership continues to talk a good game, but has not yet shown a willingness to act in any significant measure to get our fiscal house in order.

LET'S GET OUR FACTS STRAIGHT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia (Mr. CONNOLLY) for 5 minutes.

Mr. CONNOLLY of Virginia. Mr. Speaker, I was going to talk about energy, but listening to my friend from Florida, I am compelled to respond.

First of all, the Democratic Party is called the Democratic Party, not the Democrat Party. We are democratic, and we give the same respect to our Republican fellows. I would hope that we would show more respect on the floor in properly referring to the Democratic Party by its proper name.

But maybe much more important, let's get our facts straight. When President Clinton left office in 2000, he left this country with a surplus, with three back-to-back budget surpluses, and surpluses as far as the eye could see, under Democratic economic management, a booming economy that created more jobs than any other administration in history, and economic and budget surpluses that actually had created some concern on Wall Street that we were going to fully pay down the national debt over the next 10 or 12 years and put in jeopardy the treasury market and the bond market. There were actually stories wringing their hands about that.

In 8 brief years, the Bush administration and their allies in this Congress took care of that. They took record surpluses and turned them into record deficits. Three things alone added $6 trillion to the national debt: unpaid wars in Iraq and Afghanistan; an unpaid new entitlement program, the Medicare part D drug prescription benefit; and, of course, the unpaid Bush tax cuts that we were told by Republican friends on that side of the aisle would lead to unprecedented prosperity, enormous economic activity. It would unleash innovation, creativity and job creation in America.

You know what? It led to the most anemic job growth, barely positive, in any Presidency. As a matter of fact, this year alone, the economic policies of this Democratic President will create more jobs than were created in the entirety of the 8 years of the Bush administration and their allies here in the Congress.

They led to unprecedented debt accumulation in the United States. They took a record surplus and turned it into a record deficit. That's their record.

The idea that they have clean hands, and they can come back to us, the American public, and tell us how we ought to manage our fiscal house, when they're the ones that put the fiscal house in disorder, they're the ones who ran this economy into a ditch, the worst economic meltdown in 80 years, the worst economic meltdown on Wall Street, the worst job performance in generations, an economy that was absolutely in a tailspin and close to the precipice of depression. That's their record. And to come to the floor and lecture us on how we ought to manage the fiscal house is a bit much.

The idea that somehow it's unprecedented that we haven't adopted a budget resolution—really? Because in the 12 years the Republicans were in charge of this Congress, for 4 of them they failed to pass a budget resolution, and somehow the Republic did not come to an end.

So lecturing us about whether or not we're going to have a budget resolution this year, let's get at what's really important: Are we going to get our arms around this economy?

Well, on our record, in 15 brief months, this economy is now growing again. Jobs are being created again. I've sat and listened to my friends on the other side frequently say, Where are the jobs? Well, we've actually created a lot of jobs now in the private sector, and we're going to create a lot more, it's estimated, in the balance of the year, a lot more than they did in the 8 years in which they were in charge.

We inherited a mess, a fiscal mess and an economic mess, and we've had the untidy task of having to clean it up. But we're doing it, and we're showing results. And what we don't need is lectures on the floor about how to do it the way they did it in the 8 years in which they were in charge.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 40 minutes a.m.), the House stood in recess until noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Florida) at noon.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

''The sufferings of the present, Lord, are nothing compared to the glory to be revealed for us.''

So as children of promise, we live with undying hope.

Empowered by Your Spirit, we work in this world as the free children of revelation, knowing we can change and we can change the world around us.

As their Representatives in government, help Members to undertake the sufferings of Your people and the birth pangs of new creation; that in and through Your redeeming love and purified wisdom, a new order of prosperity and peace may be established for the whole created world, both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4173. An act to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 707. An act to enhance the Federal Telework Program.

S. 2868. An act to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4173) ''An Act to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes,'' requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that on May 25, 2010, appoints: Mr. DODD, Mr. JOHNSON, Mr. REED, Mr. SCHUMER, Mr. SHELBY, Mr. CRAPO, Mr. CORKER, and Mr. GREGG, to be the conferees on the part of the Senate, and from the Committee on Agriculture, Nutrition, and Forestry appoints: Mrs. LINCOLN, Mr. LEAHY, Mr.

HARKIN, and Mr. CHAMBLISS, to be conferees on the part of the Senate.

OILY APOCALYPSE OR GREEN WAVE?

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. We are now in the 36th day of a man-made environmental disaster which is fast becoming an ecological apocalypse for countless species of marine life. The ecosystems of the Gulf of Mexico cannot survive wave and wave of toxic substances hitting the beaches.

The ultimate surprise is not that it happened. Oil companies, Democratic and Republican administrations, refused responsibility and rejected alternatives. In this privatization of the natural world, damage to sea life is the cost of doing business. The ultimate horror is that we can't stop the flood of oil, won't stop consumption of oil products, and fail to admit the limits of technology.

This is a morality play writ large as environmental collapse becomes the new normal. Can we realistically look to Washington alone to protect the natural world? More permits for offshore drilling have been issued. We must look to the consequences of our own demand and consumption: the energy we use, the kind of cars we drive, the products we buy, the food we eat, and our individual impact on the natural world.

We can seize this moment. We as individuals can begin a green wave of sustainability to save the planet and ourselves.

WHERE'S THE BUDGET?

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, back in my beloved Indiana and all across this country, families are hurting. This is a difficult time in the life of our economy. Families are sitting down and making hard choices. They are writing a family budget. Small businesses and family farmers are doing the same, sitting down, sharpening their pencils, and making the tough choices to keep the doors open and the lights on. They are doing that everywhere but in Washington, D.C.

The American people deserve to know that this Democrat majority has not produced a budget. For the first time since the adoption of the Budget Act, the House of Representatives has decided to abandon its responsibility to sit down and write a budget. It's truly extraordinary.

The chairman of the Budget Committee, the distinguished gentleman JOHN SPRATT, said famously, ''If you can't budget, you can't govern.'' Well, by abdicating their responsibility to sit down and make the hard choices, this majority is arguing that they in and of themselves cannot govern, they are unwilling to govern. The American people deserve leadership in the Congress that is as good as our families and our small businesses. They deserve a Congress that writes a budget.

Mr. Speaker, where's the budget?

ADDING THE CREST OF MONTEZUMA TO THE CIBOLA NATIONAL FOREST

(Mr. HEINRICH asked and was given permission to address the House for 1 minute.)

Mr. HEINRICH. Mr. Speaker, central New Mexico has been flanked by the majesty of the Sandia and Manzano Mountain ranges for thousands of years. Most of these mountains have been preserved as part of the Cibola National Forest, the Sandia Mountains Wilderness, and the Manzano Mountains Wilderness.

Today I am introducing legislation that would add the Crest of Montezuma to the north end of the Cibola National Forest and extend a wilderness designation to the Manzano Wilderness Study Area to the south. To families living near Placitas, this legislation will ensure their access to critical water infrastructure for farm irrigation and other important uses. It will also ensure that East Mountain families can use these places for recreation. Finally, it will preserve the area's critical role as a wildlife corridor for animals that migrate from north to south across our State.

I urge my colleagues support this legislation that will protect some of the greatest natural assets that make our State the Land of Enchantment.

FAILURE TO PASS A BUDGET RESOLUTION

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

MR. CANTOR. Mr. Speaker, not since 1974, when Richard Nixon resigned from office and Happy Days was the new hit show on ABC, has this House failed to pass a budget resolution. There is no doubt that passing a budget can be hard work. But just because something is hard work doesn't mean you don't have to deal with it. Our constituents did not elect us to make easy decisions; they elected us to make the hard ones.

Two weeks ago, House Republicans unveiled the YouCut program. So far, more than 500,000 votes have been cast. Leading the field this week by wide margins, with 40 percent of the votes, is a proposal to eliminate the next round of nonmilitary Federal employee pay raises.

As USA Today recently reported, Federal salaries are significantly outpacing their counterparts in the private sector. This vote won't be easy for everyone, but it is exactly the kind of choice we must begin to make to get us off the path towards financial ruin.

290,000 STEPS IN THE RIGHT DIRECTION

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, the most recent report from the Bureau of Labor Statistics showed that the economy has taken another 290,000 steps in the right direction. Two hundred ninety thousand, that's how many jobs the economy added in the month of April. This comes on top of the 230,000 jobs added in March.

According to Commissioner Keith Hall from the Bureau of Labor Statistics, there are now numerous bright spots, the trend is encouraging, and the growth is widespread. The growing consensus is that the economy is steadily improving, and that the private sector will continue hiring. This real possibility of hope on the job front is one of the reasons that an additional 800,000 people entered the labor force last month.

As you can see from this chart, the declining red is the number of jobs lost in the prior administration. The blue shows the jobs and the trend in the right direction, showing that policy does matter. This V chart is not for victory, but it certainly shows that we are moving in the right direction. There is now reason to hope, and there is real progress on the jobs front.

PASS THE U.S.-SOUTH KOREA FREE TRADE AGREEMENT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Our friend from Columbus, Indiana, the distinguished conference chairman, said it perfectly when he talked about the challenges that families are facing across the country in trying to put together their own budgets. He also pointed out the fact that for the first time in history since the implementation of the 1974 Budget and Impoundment Act, we have seen no budget provided from Washington, D.C. Well, Mr. Speaker, it's not surprising that that has been the case.

How can you put together a roadmap of where it is you are going when you have no idea where you are going? And that's really where we are today.

I am happy to say that we have a wide range of very positive proposals that we have put forward. Our whip just talked about the YouCut program. There are lots of things that we need to do. Tragically, today we are dealing with very anemic job creation and economic growth, and there is something that we can do that will help deal with national security as well, and that is the challenge of destabilization of the Korean Peninsula.

Mr. Speaker, if we were to have the President send to us immediately the U.S.-South Korea Free Trade Agreement, we could implement the largest

bilateral trade agreement in world history, and it would create millions of good American jobs. Please send it up now so that we can in fact get our economy back on track.

CELEBRATING OLDER AMERICANS MONTH

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, I rise today to celebrate May as Older Americans Month. Older Americans offer wisdom and guidance that our constituents treasure as invaluable assets to our families and our communities. By the year 2025, one in four drivers in this country will be age 65 or older. Without safe roads on which to travel, older Americans will have dramatically limited mobility options.

We must ensure that older Americans are as safe as possible as they go about their daily lives, which is why I have introduced H.R. 3355, the Older Driver and Pedestrian Safety and Roadway Enhancement Act. My bill, which has 34 bipartisan cosponsors, will make roads safer for both older drivers and pedestrians by implementing recommendations from the Federal Highway Administration's Older Drivers Handbook.

I urge all of my colleagues to honor Older Americans Month and the contributions of their older constituents by joining me in the fight for their safety and mobility.

□ 1215

VOTE ON EURO-TARP

(Mrs. MCMORRIS RODGERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MCMORRIS RODGERS. Mr. Speaker, older Americans care most about their children and grandchildren, and this Congress is mortgaging their children and grandchildren's future. All across this country, families are struggling to balance their budgets. Businesses are doing likewise, and it means laying people off, tightening their belts in order to balance budgets. And instead, what is this Congress doing? Continuing to borrow and spend beyond our means.

Americans are also suffering from bailout fatigue. When you think about the last 2 years, we've bailed out Wall Street, GM, Chrysler, Fannie Mae, Freddie Mac; and now the Obama administration is proposing $8 billion for Greece and over $50 billion for the European Union, which has been borrowing and spending beyond its means. And yet, America is following in these same footsteps.

Mr. Speaker, we need a budget. And just last week, my friend Congressman PENCE and I introduced a resolution asking for this Congress to take a stand in opposition to U.S. tax dollars being used for the bailout. We cannot afford a too-big-to-fail strategy on a global level. The only thing too big to fail is America itself. We owe it to the American people to have this vote.

PROTECTING SECURITY

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, my district makes most of our Nation's intelligence satellites. I have served on our key security committees, and I devote enormous attention to helping develop legal and operational strategies to keep our country safe.

The Obama administration understands that security and liberty are not a zero-sum game. We will either get more of both or less. We must capture or kill high-value targets, which this administration is doing in far greater numbers than did the Bush administration. But we must also live our values. Most important among them is the principle that the rule of law applies to all.

Tomorrow, my Subcommittee on Intelligence and Terrorism and Risk Assessment will hold a hearing to examine how the Internet is used by terrorists to train, recruit, and plan attacks inside the country and what the U.S. Government should do about it. It is the third in a series of hearings on violent extremism.

The Internet is a forum for free speech and global commerce, but the dark underside of that is it can also be a forum for violence and global terror. As difficult and controversial as this subject is, we need to find the right ways to intercept those who would do us harm. Developing a strategy around the Internet has to be part of that equation, and so does protecting security and liberty.

WHERE'S THE BUDGET?

(Mr. WALDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDEN. Mr. Speaker, if we talk about national security and intersecting those who do harm, the first thing we ought to talk about in this Congress at this time is where's the budget. As the budget chairman has said, if you can't budget, you can't govern. That was 4 years ago.

Taxpayers have to pay their taxes every April 15. Congress was supposed to have a budget April 15. Not since 1974 when the Budget Act was written has the House failed to even consider a budget.

And the budget that we need to consider needs to deal with deficit spending, deficits of $1.4 trillion, $1.6 trillion, and a trillion dollars every year added to the Nation's debt and to our kids' and grandkids' future. The budget being put forward by the President doubles the Nation's debt in 5 years and triples it in 10. This is unsustainable. We will look like Greece. We will look like Spain.

The budget-busting deficit that's being created is horrible for our kids and grandkids. It will not be good for this country's security. It is awful for our children's future. Let's get a budget that reduces wasteful Washington spending.

DISBAR BP FROM GOVERNMENT CONTRACTS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. It is impossible to talk about BP without getting angry about the broken promises, the buck passing, and the brazen profiteering. But I want to channel that anger into something productive and add one more ''BP'' to the mix: Be proactive.

This week, I will introduce an amendment to the Department of Defense reauthorization bill that would call on the Secretary of Defense to consider disbarring BP from government contracts to sell the American military its products. Disbar BP.

We hear that the cleanup may take years or may last forever. We hear calls for investigations that can go on for years or may last forever. But rather than look backwards and figure out what went wrong and who should pay, let's be proactive and take steps this week to ban permanently from Federal contracts the serial abuser of the American trust.

I urge you to support my amendment to the DOD reauthorization when it is debated and ban BP from Federal contracts.

COMPETITION IS KEY FOR COST CONTROL

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. When it comes to addressing the budget, competition is key. This principle applies to everything from produce to clothing items to defense procurement.

As the House considers the National Defense Authorization Act this week and an amendment impeding competition between fighter engines, it is important that we keep the merits of this principle in mind in order to continue to protect thousands of jobs and save taxpayers billions of dollars. History shows that competing fighter engines significantly reduce program costs while improving safety, reliability, and contractor responsiveness.

Controlling costs, spurring innovation, and accelerating weapons systems readiness and performance are just a few major reasons why we must continue the F–136 program. Without competition, we would rely on a single engine, which could lead to unnecessary

operational risk and the potential for grounding of the entire fleet if a glitch is found. The F–136 prevents this troubling scenario.

In conclusion, God bless our troops, and we will never forget September 11th in the global war on terrorism.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, this week the House will consider the American Jobs and Closing Tax Loopholes Act. This legislation is another step in our efforts to create jobs and keep our economic recovery on track. The bill will help communities build schools, roads, and other important infrastructure projects putting people to work now.

In my district, we will see benefits in places like Los Osos and El Rio, which have long been in need of sewer systems. The Build America Bonds program extended in the bill will help advance clean energy efforts like geothermal power projects that will provide electricity for Santa Barbara County.

Mr. Speaker, our economy is still in very rough shape, a result of the reckless actions on Wall Street and little to no oversight by the previous administration. But we are making progress.

Last month, the economy created nearly 300,000 new jobs, a stark turnaround from the 700,000 jobs being lost at the end of the Bush administration. This change comes in large part because of the tough, smart choices we have made to cut taxes and invest in our people. The legislation coming up this week is another of these efforts to keep us on the road to full recovery.

I hope all my colleagues will help support this bill and help build a stronger America.

TRIBUTE TO SPECIALIST GRANT WICHMANN, U.S. ARMY

(Mr. COFFMAN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COFFMAN of Colorado. Mr. Speaker, there are many heroes from Colorado who have fought and continue to fight in the global war on terror. Today, I rise to pay tribute to one hero in particular: United States Army Specialist Grant Wichmann of Golden, Colorado.

Specialist Grant Wichmann graduated from Golden High School, where he was an athlete, avid soccer player, and a snowboarder. Although one of his friends had been killed serving in Iraq, at the age of 24 he enlisted in the United States Army. When his father tried to talk him out of enlisting, Specialist Grant Wichmann said he could not sit by while others die protecting him. This is a true indication of the kind of courage Grant Wichmann possessed.

On March 12, 2010, while assigned to combat outpost Bari Alai, Afghanistan, Specialist Grant Wichmann's unit was attacked by enemy forces using small arms fire. During the engagement, Specialist Grant Wichmann was gravely wounded and ultimately succumbed to his injuries while at Walter Reed Army Medical Center.

Specialist Grant Wichmann is a shining example of the United States Army service and sacrifice. As a former member of the United States Army and as a retired Marine Corps Reserve officer, my deepest sympathies go out to his family and all who knew him.

DEFENSE REAUTHORIZATION BILL

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Ladies and gentlemen, we will soon bring to the floor a defense authorization bill that invests in our most important security needs: disrupting terrorists networks, countering nuclear proliferation, strengthening international cooperation to defeat the Taliban, preparing the Iraqi Government to stand on its own, and investing in the needs of our troops and their families.

This bill builds on Democrats' strong defense record. Under President Obama, we have killed or captured some of the highest ranking leaders in al Qaeda—many more than we did under the last administration—and the Taliban; laid out a clear way forward in Afghanistan; disrupted terrorism with the full resources of our intelligence community and justice system; and increased funding for human intelligence collection, cybersecurity, and security for our skies, our ports, and our borders.

This bill offers us a chance to improve on the flawed record of the Bush administration, and I urge my colleagues to support it.

CONGRESS' FAILURE TO PASS A BUDGET

(Mr. KLINE of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINE of Minnesota. Mr. Speaker, across the country, countless families and small business owners are making the tough decisions needed to weather this difficult economy. Many may have hoped to put off for another day the choices they were forced to make, but the American people realize the path to renewing our economic prosperity comes through courage and sacrifice. They also realize the difficult work must start today.

It is a dereliction of public duty for this Congress to deliberately fail to pass a budget. More than a year ago, the American people ignited a national debate about the future they see for the country. They have demanded that Washington get spending under control and spend taxpayer money wisely. It is shameful that here in the people's House, the Democrat majority's avoiding that same debate. We are failing our children by failing to produce a budget. It is time to get our priorities straight and our fiscal house in order.

Mr. Speaker, let's join this debate taking place around the country and begin to make the tough choices the American people expect from their leaders.

''YOUCUT'' OR ''CUTYOU''?

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, if you tuned in to last week's episode of YouCut, then you may recall that Republicans resorted to a legislative trick in an attempt to cut much needed funding from the Temporary Aid to Needy Families program. This cut would have been another break for the rich at the expense of the poor instead of providing financial support, job training, and child care subsidies to lower-income families with children. Fortunately, this measure was defeated.

This week, Republicans seek to stall the important business of the House yet again with a new list of proposed cuts.

While the YouCut program has been touted by Republicans as a partnership with the American people, a more fitting name for the program would be ''CutYou,'' because it can hurt everyday Americans while doing little to cut the Federal deficit.

What Republicans fail to mention is that the YouCut program is inherently selective and, therefore, biased. Neither online nor cell phone voters are able to vote to save a program rather than cut it. Further, the YouCut program conveniently targets only those who have Internet access and cell phones, which disproportionately leaves out both the poor and the elderly.

I will talk a little bit more about ''CutYou'' later on this evening.

COMMENTS ABOUT SPENDING

(Mr. WITTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WITTMAN. Mr. Speaker, folks in America's First District have a lot to say about spending, the debt, and the deficit, and I'd like to share their comments.

Chris from Warrenton says, Please cut Federal spending. This issue can't be put off any longer. It's not time for us to be able to afford these fancy Federal programs, and we have to get on the track of reducing spending now.

The American people get it. Dealing with the debt and deficit should be a top priority. Cut spending. No one has ever spent their way out of debt.

Elizabeth from Williamsburg says, Fix the budget. Stop spending what we don't have.

Scott from Yorktown says, The U.S. taxpayers are on the hook for billions. Anyone with sense knows that a debt crisis cannot be solved with more debt.

John from Quantico says, Please cut Federal spending. Congress is spending and borrowing too much. This must end. You must balance your books, and you must do so by cutting spending, not increasing taxes.

Frank from Stafford simply says, Stop the spending.

Diane from Williamsburg says, The national budget is way out of control. Citizens everywhere are so concerned about this that something has to be done right away.

Raymond from Warrenton says, I am deeply concerned that our Nation is falling hopelessly into debt. I urge you to promote reduction in spending. Keep taxes low to motivate business and people to spend, not the government.

With that, Mr. Speaker, I urge us to adopt a budget.

□ 1230

IN RECOGNITION OF MAGGIE FAZENBAKER AND HER COMMITMENT TO OUR TROOPS

(Mr. TEAGUE asked and was given permission to address the House for 1 minute.)

Mr. TEAGUE. Mr. Speaker, I rise today to congratulate an extraordinary individual who has been a relentless supporter of our troops. For over 5 years, Maggie Fazenbaker of Alamogordo, New Mexico, has been stuffing care packages to be sent to the men and women of our Armed Forces.

Now the simple act of stuffing care packages for servicemembers is honorable enough, but there are a couple of extra twists when we look at Maggie's story. You see, Maggie is only 17 years-old. Also, on May 14, Maggie and her corps of loyal volunteers stuffed hundreds more packages, bringing the total number of care packages that Maggie has sent to 10,000.

The care packages Maggie sends to our troops give them a small amount of comfort as they pursue their dangerous and important missions. We owe our troops great effort for even small comforts. Thank you, Maggie.

God bless.

RENEWABLE ENERGY AND ENERGY EFFICIENCY CAUCUS

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, one of the most difficult challenges facing our Nation's future is providing clean, affordable, and reliable energy. Rural America has tremendous wind potential. Unfortunately, these wind energy sources lack infrastructure, including the expansion of transmission systems to deliver wind power from its sources to centers of population.

We need to have the ability to create energy in one part of the country and use it in another without significant loss in either efficiency or usability. My friends, we need to continue to explore any and all viable forms of research and development in renewable energy.

On Thursday, Members of Congress will have the chance to see what the future may hold for our Nation's energy resources at the 13th Annual Congressional Renewable Energy and Energy Efficiency Expo. There are still hurdles to overcome, and now is the time to begin working for a strong and diverse renewable energy portfolio.

ECONOMIC UPDATE

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DAHLKEMPER. Mr. Speaker, when I was sworn into office in January of last year, our economy was on the verge of collapse. Thanks to decisive action in Congress, our economy is turning around. We have created half a million jobs so far in 2010. Our country is on track to create more jobs this year than we created in the entire eight years of the Bush administration.

In western Pennsylvania, our strong work ethic is driving our recovery. Companies like Talisman Energy and Kold-Draft Industries are creating new jobs in my district because western Pennsylvania is a good place to do business. Things are improving, but we still have a long way to go. We must continue to invest in American businesses and the American people.

I urge my colleagues on both sides of the aisle to work together so we can help create jobs, support our businesses, and further our recovery.

LET'S GET TO WORK AND PASS A BUDGET

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Mr. Speaker, the American people vividly remember the contortions this Chamber went through to find the votes needed to pass cap-and-tax. We remember the arm twisting and backroom deals that secured the votes for the government takeover of health care. When it comes to the policies the American people oppose, this House has always found the votes.

Yet, apparently, when it comes to passing a budget, something every family and small business must do, the majority just can't find enough votes to get it done.

With almost $13 trillion in debt, and record deficits adding more every minute, is this majority so desperate to avoid facing the tough decisions that they are going to scrap the budget all together? Talk about burying your head in the sand.

We are here to do a job, and passing a budget is a big part of that job. Let's get to work.

DON'T ASK, DON'T TELL

(Ms. SPEIER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SPEIER. Mr. Speaker, you know, the Army Corps of Engineers had a saying during World War II: ''The difficult we do immediately. The impossible takes a little longer.''

In 1993, President Clinton tried to do the impossible by lifting the decades-long ban on gay and lesbian soldiers serving openly in the military. Unfortunately, Congress opposed him, and the discriminatory Don't Ask, Don't Tell law was passed.

Since then, over 13,500 servicemembers have been fired and countless other courageous and qualified Americans have been prevented from serving. Well, it's been 17 long and painful years since we tried to do the impossible.

Congress now has the chance to end this injustice. The President agrees, the military agrees, the American people agree. Let's honor our Nation's over 1 million gay veterans this Memorial Day. This week, let's lift the ban on gays serving openly once and for all.

LEGAL RELIEF FOR SERVICEMEMBERS

(Ms. GRANGER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GRANGER. Mr. Speaker, I was pleased to hear that Petty Officer Second Class Matthew McCabe was acquitted of all charges against him in relation to the capture and detention of Ahmed Hashim Abed, a conspirator in the 2004 murder of four U.S. contractors in Fallujah.

Mr. McCabe can now rejoin his shipmates, Petty Officer Julio Huertas and Petty Officer Jonathan Keefe, who were both acquitted of all charges as well, with the juries reaching the same verdicts.

While these have been acquitted, what is left behind is significant legal debt. All three men sought civilian counsel. Based on the results of these trials, I can understand their decision. Up against the United States Government in court, the soldiers faced prosecution with unlimited resources.

Today I am introducing the Service Member Legal Relief Act, which reimburses soldiers who seek the best defense available and are subsequently acquitted, or the charges dropped, in cases relating to the handling of terrorists. Our warfighters face great personal risk every day on the front lines

in the global war on terror. They are right to defend themselves in court against egregious claims from known terrorists.

We need these men on the front lines to continue battling those who are actively trying to kill Americans at home and abroad. If a court finds that they have done nothing wrong and have simply executed their mission, we should repay their legal fees and get them back into action as quickly as possible. That's exactly what my legislation does.

FORCE CHINA TO LET US COMPETE

(Mr. SCHAUER asked and was given permission to address the House for 1 minute.)

Mr. SCHAUER. Mr. Speaker, I was outraged when I found that our U.S. Census bought promotional materials made in China, including this Census 2010 baseball hat. This hat is the poorest quality I have ever seen, and your tax dollars paid for it.

Recently, I read in the American Chamber of Commerce in China's 2010 White Paper that Chinese markets remain closed to American goods, even when U.S. companies manufacture in China.

What remains clear is that China has access to our government contracts, and we don't have access to theirs. So it's time to stop buying Chinese goods with our U.S. tax dollars.

I have in my hand a quality hat made in America by Unite Here workers, and a lousy, Chinese-made hat in the other hand. Where do you want your tax dollars going? Which jobs should your tax dollars support?

Support my bill, H.R. 5312, to force China to let our people and our businesses compete.

AMERICANS ASK, WHERE ARE THE JOBS?

(Mr. GINGREY of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY of Georgia. Mr. Speaker, Washington just isn't listening to what the American people want. Take a look at our state of affairs. Our national unemployment rate is close to 10 percent. We have almost $13 trillion in debt, and our budget deficit for this fiscal year 2010 is projected to be $1.8 trillion. And Americans keep on asking, where are the jobs? Indeed, where are the jobs?

Mr. Speaker, Republicans stand ready to get spending under control and to pass legislation that does create jobs. Yet the Democratic majority refuses to move forward with even the first order of business in getting our fiscal House in order, and that business is passing a budget. Foregoing a budget resolution this year would be a failure of one of our most basic responsibilities and the first time that that's happened since the current budget rules were put in place back in 1974.

Mr. Speaker, we need to rein in Federal spending this year, and the first step in that process is passing a fiscally responsible budget, and I urge my Democratic colleagues to do just that.

CONTINUING ON ROAD TO RECOVERY

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARNAHAN. Mr. Speaker, 8 years of failed economic policies under the Bush administration left a deep economic hole for the new Obama administration, but three things are clear: It will take some time to dig out; we have made steady progress; and there is much more to do.

But yesterday the Joint Economic Committee released its report showing progress with new jobs created and decreasing unemployment in my home State of Missouri. Now is not the time to reverse direction. We must remain focused on the real measure of recovery, and that's jobs. We need to move beyond bickering to real solutions that will put real people back to work.

I urge my colleagues to once again take up the job-creating America COMPETES bill that would strengthen U.S. scientific and economic leadership, support employers, and create jobs through investments in science, innovation, and education.

We can't let partisan gridlock hold us back while countries pass us by to invent, build, and sell us the technology that will power the next century. Ensuring the U.S. competes globally is a commonsense way of creating jobs.

DEVELOP A PATH TO FISCAL SOLVENCY

(Ms. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JENKINS. As a CPA, I've counseled folks who are in debt. The first step is to acknowledge the problem. The second step is to develop a budget that maps out the path to solvency.

Our children, who stand to inherit a national debt level that is unsustainable, should require Congress to adopt a similar approach. Apparently, the majority is afraid to admit that Washington has a spending and borrowing problem, and they plan to avoid even discussing a budget. In 2008, then-candidate Obama told Joe the Plumber, ''We need to share the wealth.''

I was concerned then, but now I am appalled, because who are we sharing the wealth with? The Chinese. Sending nearly a trillion dollars to foreign nations to pay debt service on reckless spending is not what our kids deserve. Our kids deserve a Congress that will do their job and make the tough decisions to get our fiscal House in order, which starts by developing a responsible budget.

2011 SOLAR DECATHLON

(Ms. HIRONO asked and was given permission to address the House for 1 minute.)

Ms. HIRONO. Mr. Speaker, I recently met a team from the University of Hawaii, one of 20 collegiate teams selected to build an energy efficient, solar-powered house as part of the Solar Decathlon, an international competition sponsored by the Department of Energy.

In the fall of 2011, the D.C. National Mall will transform into a zero-emission solar village built by the next generation of architects and engineers. These houses will be attractive and affordable, demonstrating an array of innovative, energy technologies.

Designed for a tropical climate, the Hawaii model will be built using a bio-based polymer and the house will be buoyant enough to float in the event of a flood. A new generation of leaders in the clean-energy economy will emerge from programs like these, and I look forward to walking through the solar village next year.

The Solar Decathlon is one example of harnessing American ingenuity to meet the energy challenges of the 21st century. Let us continue to support programs like these that empower a new generation of thinkers to engineer a clean-energy future.

□ 1245

WHY 20 PERCENT OF GDP?

(Mr. PITTS asked and was given permission to address the House for 1 minute.)

Mr. PITTS. Mr. Speaker, in a year when, for the first time in memory, the Pelosi Congress is failing to adopt a budget, I am proud to cosponsor a spending limit amendment that would place a cap on Federal Government spending.

Tax rates go up and down, tax laws change, the economy changes; but in the past six decades, Federal tax receipts have stayed consistent at nearly 20 percent of GDP. In a Wall Street Journal op-ed last Monday, Economist David Ranson explained this effect. He notes: ''The tax base isn't just something you can kick around at will. It represents a living economic system that makes its own collective choices.'' In other words, we can't fight against the natural level of maximum taxation. If we raise taxes, we won't collect enough to reduce our deficit, and we will restrain economic growth.

We have been living outside of our means, borrowing and spending and bailing out for far too long. The Spending Limit Amendment, based on economic reality, is a sensible measure that will keep our government in check.

MEMORIAL DAY SALUTE TO MEN AND WOMEN IN UNIFORM

(Ms. CASTOR of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CASTOR of Florida. Mr. Speaker, I am proud to represent MacDill Air Force Base back home in Tampa, Florida, where the mission partners include the 6th Air Mobility Wing, Special Operations Command, and Central Command. Now, the Democrats will bring the defense bill to the floor of the House this week to provide them with the tools they need to be successful in their missions.

The defense bill will follow a strong commitment by this Congress under Democratic leadership to our military families and our military personnel:

One, robust pay raises for our military over the past 3 years.

Two, the new GI Bill, where Democrats restored the promise to these brave men and women who have served this country in Iraq and Afghanistan for a full 4-year scholarship.

Jobs for veterans. The Recovery Act provided tax incentives to businesses who are sending soldiers off to war.

And a historic veterans budget that the American Legion hailed as a ''cause for celebration'' because Democrats led a bipartisan effort to adopt the largest funding increase in veterans health care and other services in the history of the VA.

''BUDGET WOES? JUST DON'T PASS ONE''

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, the headline in the Los Angeles Times read, ''Budget Woes? Just don't pass one.'' Now that's a novel idea.

There must be all kinds of problems that Congress can ignore. I think that we can apply it to a number of things that are happening right now: Oil spill woes? Think about it tomorrow. Fannie and Freddie problems? Maybe a solution next year. Entitlement spending out of control? Just don't think about it. It's too bad our constituents don't have the same luxury of ignoring their budgets.

The national debt currently is $12.36 trillion. The President's budget calls for $3.8 trillion in Federal spending, which will put the deficit at $1.6 trillion. These are numbers the majority wants to keep quiet. In my mind, it would behoove the majority to take a look at the spending and take an honest look at how to get it under control. Instead, the President has asked for the power of the line-item veto. It would seem to me that we could do a good job with a red pencil if the majority would allow it. But that would be real work right now, and apparently we don't do that.

AMERICAN JOBS AND CLOSING LOOPHOLE ACT

(Ms. KILROY asked and was given permission to address the House for 1 minute.)

Ms. KILROY. Mr. Speaker, in central Ohio the economy is growing stronger, but we must continue to create an environment that encourages prosperity. The American Jobs and Closing Tax Loopholes Act will do just that; it will close loopholes that give outsourcing a benefit and will provide jobs and tax relief for businesses and working families.

For too long unscrupulous corporations have outsourced American jobs, sending them overseas, sticking American taxpayers with the bill. It's time to close that tax loophole that encourages that behavior and demand accountability.

This bill also will close another tax loophole and make Wall Street fund managers pay a fair tax rate on their income, just like my central Ohio constituents do. It will make the oil companies pay for the gulf oil cleanup, not American taxpayers. And it will rebuild our crumbling infrastructure with Build America bonds. Also giving our students summer jobs, promoting research and development with a research and development tax credit.

H.R. 4223, the American Jobs and Closing Loophole Act, is deserving of our support. I encourage my colleagues to vote for it.

WE NEED A CONGRESS AMERICANS CAN COUNT ON

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Well, we were told that Don't Ask, Don't Tell was something we would take up once we had a study done because that's the only thing that would be fair to our men and women in the service. Now we're told the study will be finished at the end of the year; we're going to take up the bill now.

We were told by the Supreme Court it was okay to have a cross in the Mojave Desert, but thieves went out there, took it out after they lost, and now the Park Service is working with the thieves, perhaps unwittingly, to keep it from happening.

The Auto Task Force met behind closed doors, turned bankruptcy law upside down, made secured creditors unsecured, owned the place, took property without due process, turned the Constitution upside down. The Congress and the courts did nothing. No wonder employment is going down and unemployment is going up; businesses can't trust this government. It is time to get back to a body that deals honestly, with integrity and with a consistency the country and businesses and jobs can count on.

JOBS ARE PRIORITY

(Mr. ELLISON asked and was given permission to address the House for 1 minute.)

Mr. ELLISON. Mr. Speaker, I rise today to talk about the importance of continued support for jobs for Americans.

When America faced massive unemployment in the 1930s, our government stepped up with the WPA and the CCC. It's time to continue that drive, as the Democratic Congress has been doing without much help from our Republican colleagues.

The fact is that local governments have been hardest hit in the area of job cuts. Local governments have lost over 140,000 jobs in 2008 and 2009, and the number keeps growing. Another 53,000 jobs will be lost by July 1 if we don't act. Another 128,000 will be lost by fiscal year 2011 if we don't act.

So, Mr. Speaker, I'm asking our colleagues to step forward for people who need to do work. This summer we are looking at young people not having enough jobs, and we need this Congress to act. We've seen job creation, we've seen job growth, we've seen 290,000 jobs created last month; but this drive needs to stay alive. The Democratic Caucus is committed to it. We hope our Republican colleagues join us, but jobs must continue to be the first order of business.

DEMOCRAT BUDGET FAILURE

(Mr. CARTER asked and was given permission to address the House for 1 minute.)

Mr. CARTER. Mr. Speaker, the stock market, this very minute, is dropping like a rock over the financial collapse of Greece and the pending failure of other Euro nations. They are bankrupt from unsustainable government spending under the same programs the Democrats in this body are now forcing on America.

With an overwhelming majority in the House and Senate and a Democrat in the White House, they can't even pass a budget. Heck, they're not even proposing one. Mr. Speaker, the House majority has proven it can't govern; and if we don't make a change, America will join Greece in national bankruptcy.

RESTORING FINANCIAL SECURITY

(Mr. DEUTCH asked and was given permission to address the House for 1 minute.)

Mr. DEUTCH. Mr. Speaker, there is a lot of talk in Congress about restoring financial security for the American people. This week everyone in this body has a chance to turn their words into action. This week, we will have the opportunity to vote to preserve access to doctors for millions of Americans enrolled in Medicare.

No senior in Florida's 19th District or anywhere in America should see the

door to their doctor's office slammed shut as a result of ill-advised cuts in Medicare reimbursements. Likewise, no veteran should have to worry that their TRICARE benefits no longer enable them to see a physician that they trust.

So many doctors in south Florida do everything they can to serve Medicare beneficiaries and America's veterans. This legislation will stop a 21 percent cut in Medicare reimbursement rates so that the doctors in our community can continue to do their important work.

Our seniors deserve access to more than simply Medicare; they deserve access to doctors. Let's show our doctors and the seniors and the veterans who rely upon them the respect that they rightly deserve, and let's continue to help restore financial security to the American people.

TRILLION DOLLAR WEEK IN D.C.

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Mr. Speaker, I saw a headline yesterday that said it's going to be another trillion dollar week in Washington, DC. We are going to spend nearly $1 trillion this week in Washington, and you know what? We don't even have a budget. There's another problem: we don't have $1 trillion either.

So now what are we going to do? Well, we're going to go out and borrow some more money from the Chinese and other people. Remember the old days when you used to go to your parents and ask them if they could get a loan? Now we go to our children and ask them if they will pay back our loans.

We hear a lot of talk in this town about cutting expenses, cutting the budget. Well, it would be nice to cut a budget if we had one, but we don't. And how does the majority think that they can run this country or lead this Nation when they don't even have a budget? We don't even know what the deficit is going to be, but we hear it's going to be $1.8 trillion. And by the way, a trillion, that's 12 zeros, in case anyone wants to know. In fact, Mr. SPRATT said, who is the chairman of the Budget Committee who is supposed to bring us a budget, If you can't bring a budget, you can't govern. So we ask the question now, can this Democratic majority govern?

NATIONAL SECURITY STRATEGY

(Mr. OWENS asked and was given permission to address the House for 1 minute.)

Mr. OWENS. Mr. Speaker, I represent the 10th Mountain Division, which is located at Fort Drum in my district, and I rise today to honor the brave men and women of the Armed Forces who are serving both home and a broad to prevent future terrorist attacks against our homeland.

After 8 years of failing to identify a clear plan in Afghanistan and provide the resources necessary for our troops to succeed, we are now taking the fight against the terrorists to their own turf, and we have them on the run. Democrats have worked with this President to successfully kill and capture hundreds of al Qaeda and Taliban leaders in Iraq, Afghanistan, and Pakistan. Last week, a suicide bombing attack on a convoy in Kabul reminded us of the brave sacrifice the men and women on the front lines of this fight are making. Two officers from the 10th Mountain Division, both lieutenant colonels, were among those killed. Lieutenant Colonel Paul R. Bartz and Lieutenant Colonel Thomas P. Belkofer were part of a team that was conducting training and setting conditions for the 10th Mountain Division deployments to Afghanistan later this year. This is a heartbreaking loss for the Fort Drum community, and our hearts go out to their families.

AVOIDING CALIFORNIA

(Mr. MCCLINTOCK asked and was given permission to address the House for 1 minute.)

Mr. MCCLINTOCK. Mr. Speaker, the failure of this House to pass a budget at a time of unprecedented deficit spending speaks volumes of the House majority. In order to resolve a crisis, you must first be willing to face it; and if you can't face the problem, you can't deal with it. That is what the budget process is, the painful but necessary assessment of our financial affairs. Without it, there can't even be a theoretical solution.

I've seen this before in California. As left-wing majorities took control of our financial affairs and boosted spending at a reckless pace, we watched the orderly budget process disintegrate into a mere sham. Unable and unwilling to face up to the consequences of their out-of-control spending, they simply abandoned the budget process. Ultimately, they brought the most prosperous State in our Nation to the brink of bankruptcy.

Mr. Speaker, California is an example to be avoided, not imitated.

DEMOCRATS ARE COMMITTED TO GET THIS COUNTRY MOVING AGAIN

(Mr. YARMUTH asked and was given permission to address the House for 1 minute.)

Mr. YARMUTH. Mr. Speaker, it always amuses me to listen to my Republican colleagues talk about the economy. They talk about smaller government, they talk about lower taxes, they talk about cutting spending. I call this ''bumper strip economics.'' And we've seen what bumper strip economics means. It was called the Bush administration, and that led us to the worst recession that we faced in this country since the 1930s.

In Kentucky, we've seen what bumper strips actually mean. When Senate candidate Rand Paul says, Smaller government means not just don't hold oil companies accountable, let's not hold mining companies accountable for 29 deaths, let's not even let the government enforce basic civil rights, no, the country needs more than bumper strip economics and slogan politics. We need policies that are actually going to get this country moving again, and that's what Democrats in Congress are committed to providing.

□ 1300

NEW DRILLING MORATORIUM

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute.)

Mr. BUCHANAN. Mr. Speaker, I rise today to adopt an ironclad moratorium on all new drilling permits in the Gulf of Mexico.

Recent reports are saying 17 new permits have been granted since the explosion in the gulf. It is also shocking to find out 19 environmental waivers have been issued since then. Over 6 million gallons have now poured into the gulf, and every day, it continues—250,000 gallons-plus a day.

The Washington Post reported today that the Minerals Management Service officials get paid a cash bonus when they close these deals with the big oil companies. They're not working for the American people. They've got a pay plan. They're working for the oil companies.

We need to halt all permits for oil, new and otherwise, until we cap this well.

FINANCIAL REFORM

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, as financial reform takes shape, we must ask: Do Wall Street banks serve America or themselves? In these last years, we've seen the answer, and it is no surprise. Wall Street serves Wall Street. It could care less about the lives they ruin while seeking profits and bonuses.

The Bush administration allowed Wall Street banks to chase profit by building their growth on a weak foundation of risky debt. Their scheme collapsed. They held America's savings hostage. Congress could not afford to let them fail, so they couldn't lose. Of course, they didn't. America lost.

The International Monetary Fund estimates these gambles have destroyed nearly $3 trillion of economic value. Recently, economists have estimated the entire cost of World War II to be, roughly, the same. In other words, Wall Street banks devised a way to make billions in profits and bonuses while wiping out the savings of millions of Americans.

They cannot be allowed to do that again. The final bill must end their gambling and protect our savings.

IT'S TIME TO GET SERIOUS ABOUT THE BUDGET DEFICIT

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, we are looking at a record-breaking budget deficit this year, most likely more than $1.5 trillion, and next year, well, we're not sure since our Democrat colleagues haven't passed a budget. Not since modern budget rules were adopted with the 1974 Budget Act has the House failed to pass a budget. American families have made tough choices to balance their budgets, so why not Congress?

Republicans think the government should also live within its means, so we have created an online tool called YouCut to involve every American in the budget process. Americans have already cast nearly half a million votes in the YouCut program, voting for their topics to reduce spending and to cut the deficit.

We'll have a chance to vote this week on spending cuts approved by the American people. I hope my colleagues will join us in listening to the American people and in getting serious about our record budget deficit.

THE DISCLOSE ACT

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute.)

Mrs. DAVIS of California. Mr. Speaker, since the Supreme Court's Citizens United decision, my office has received hundreds of letters—not one in support of it.

We have no choice but to accept the Court's rulings, but we do not accept the idea that special interests should be able to influence the democratic process while hiding behind deceptive ads. Americans want to make informed decisions about everything:

What's in my credit card agreement? What's in my family's food? What are the side effects of this prescription?

They deserve to know these things, and our government has repeatedly responded by giving them the tools to know more, not less. So why shouldn't Congress help voters know who is trying to influence our elections?

Who paid for these ads? Who really stands to gain?

The DISCLOSE Act will bring these things to light, and it will bring the kind of accountability voters expect.

I am also pleased the committee passed my amendment to the bill with bipartisan support. The amendment puts knowledge in voters' hands faster, and it will improve government efficiency. The DISCLOSE Act is really truth in advertising for politics, and I urge my colleagues to join me in supporting it this week.

HOUSTON POLICE OFFICER EYDELMEN MANI

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, lawmen sometimes give their lives in the line of duty while protecting the rest of us. Houston, Texas, Police Officer Eydelmen Mani was one of those brave men.

On May 19, 2010, he gave his life assisting fellow police officers in chasing a criminal in a stolen car. He was 30 years of age. He left behind his wife, Monica, and a 3-year-old son, Eydelmen Mani, Jr. He grew up in Houston, Texas, and was one of 11 children. He served as a Houston police officer for just 7 years.

Officer Mani was greatly respected by his fellow peace officers, and when the Texas Medical Center used over 100 units of blood in an hour-long, valiant attempt to save Officer Mani's life, his fellow police officers stood in line and raised enough blood to replace all of the blood that was used to try to save him.

Captain Victor Rodriguez, Officer Mani's supervisor, said he was the kind of officer who didn't say a lot, but his fellow officers knew they could always count on him to be there.

Mr. Speaker, we are all able to go about our everyday lives because of officers like Eydelmen Mani. We should never take their sacrifice for granted. He was a brave and courageous peace officer. Every day, the ones who wear the badge place their lives between us and the lawless. Officer Mani was one of those lawmen. He was one of Houston's finest.

And that's just the way it is.

REGULATING OUR FINANCIAL INDUSTRY

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute.)

Mr. MURPHY of New York. Mr. Speaker, as a small business man, I came to this Congress a year ago to solve problems. One of the critical problems facing the United States right now is how to regulate our financial industry. Everyone in this country knows that, over the past decade, Washington has failed to regulate our financial industry, and some people on Wall Street took advantage of that to take outsized risk and to cause a financial collapse that impacted people all across this country.

Today, we stand at the precipice of coming up with legislation that will end bailouts, that will provide consumer protections, and that will regulate and illuminate the complex derivatives markets.

As a small business person who came here to solve problems, I cannot understand why no one on the other side of the aisle, why none of my Republican colleagues, is interested in solving this problem. There don't seem to be any reasons why not, yet they continue to refuse to move forward to solve the problem that we all face in America.

I hope, over the next month, the Republicans in this Chamber will join with the Democrats in regulating our financial industry in a sensible and sound way to protect American consumers and to make sure that we have sound and responsible financial markets.

THE SPENDING HAS TO STOP

(Mr. LEE of New York asked and was given permission to address the House for 1 minute.)

Mr. LEE of New York. Mr. Speaker, Washington never ceases to amaze. While families across the country continue to struggle to live within their means, Congress continues to spend money we simply don't have. The House has passed a budget resolution every year since 1974, yet leaders on the other side of the aisle have no plans to pass a fiscal roadmap for the upcoming year.

Without a budget, there will be no plan to curb the runaway government debt that we have, which is now approaching $12.9 trillion. It is embarrassing to think that the government running the world's largest economy would forgo the most basic of tools to manage close to a $4 trillion budget. If you ran a business and proposed to your bosses you wanted to forgo a budget in order to hide some very bad numbers, what would happen? I can assure you. You would be fired.

The spending has to stop. American families are making tough decisions each and every day. Washington needs to start playing by the same rules.

LIGHT A CANDLE RATHER THAN CURSE THE DARKNESS

(Mr. FATTAH asked and was given permission to address the House for 1 minute.)

Mr. FATTAH. Mr. Speaker, we have heard the report now. Some 34 of our States have seen job increases. The American economy is on the move. We saw in last month's job numbers some 290,000 additional jobs added to our economy, in part because of the work of the majority here in the House.

Unfortunately, with not one Republican vote, we passed important programs like the Energy Efficiency Block Grants—some $3.2 billion toward an effort that has over 1,000 of our communities retrofitting public buildings and installing energy-efficient light bulbs. We're doing the work that needs to be done to cut our dependence on foreign sources of energy, and we're also doing the work that America needs done.

So this economic recovery, even as others seem to root against our economy, is moving forward. The gross domestic product has seen an almost 12-point reversal from a 6-point decline to a 6 percent increase and, in the last

quarter, a 3.9 percent increase, and purchasing is up.

We are on the move, and Americans all across our country can be grateful that there are people in this Congress who would rather light a candle than continue to curse the darkness.

SHOW US THE MONEY

(Mr. ROGERS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS of Kentucky. Mr. Speaker, why is it that the majority party in this body, with an overwhelming majority, refuses to tell the American people, with a budget resolution, how they plan to spend their hard-earned taxpayer money? Why?

Well, it's a political year, and they don't want to show the American people that we are going to borrow $1.6 trillion beyond what we take in to pay for the profligate spending splurge that we see going on in this body. Every American family has to have a spending plan, a budget. Every church, every business, every government—State, local, and Federal—is supposed to have spending plans, and they do, except here in this Chamber.

Come on, majority. Show us how you're going to spend the money. Bring your budget forward. Every American has the right to know how you're going to spend their hard-earned money and how much debt you're passing along to their children and to their grandchildren.

Show us the money.

WE'RE BACK ON THE MEND

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Ladies and gentlemen, the oil spill isn't the only mess in town. The mess was first started by the past administration, which takes great glee in cutting taxes for the very rich in this country and then leaving behind a huge deficit.

Remember, when Clinton left office, we had a surplus. When it came to war, we didn't have the money to pay for it. Don't pay for it. Just put it on a credit card. When it came to bailing out the drug companies for giving prescription drugs, don't pay for it. Just put it on a credit card. When it came to bailing out Wall Street big banks, don't pay for it. Just charge it. The fact is the deficit is big today—in the billions. It went from zero to tens of billions, to hundreds of billions.

But guess what? We're back on the mend. Jobs are being created. People are going back to work. It's slow, but we're investing in America, and the work has just begun.

BE RESPONSIBLE. LET'S PASS A BUDGET

(Mr. PAULSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAULSEN. Well, Mr. Speaker, one of the most fundamental responsibilities of Congress is that of crafting and passing a Federal budget. This is not a responsibility that should be taken lightly, nor should it be cast aside when the job seems to be too difficult. Unfortunately, that is exactly what is happening right now with the House majority's failing to pass a budget for the first time since modern budget rules were established in 1974.

While there is no question that the budgetary challenges we face today as a country are very dire, the most dire we have seen in decades, this does not mean Congress should shirk its responsibilities in crafting a responsible budget. If anything, this year's budget should be viewed as an opportunity to bring long-term, overdue fiscal reform and discipline to Washington.

Mr. Speaker, it is absolutely time to address the reckless Washington spending, the trillion dollar deficits, the national debt that is over $12 trillion now, for the sake of our children and our grandchildren.

FIXING THE ECONOMY

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. So, Mr. Speaker, we are to be treated with 1 minute after 1 minute by our Republican friends telling us what they want to do with the economy, but is a year and a half so long ago?

For 8 years, the Republican Party had the opportunity to steer this economy, to fix this economy.

What happened?

They took a $5.6 trillion projected surplus and 21 million new jobs that had been created by the Clinton administration and left President Obama with a $3.5 trillion projected deficit—a $9 trillion fiscal reversal. In the last several months of the Bush administration, we were losing 700,000 jobs a month. In fact, in the last few months of the Obama administration, we have gained more net new jobs than during the entire 8 years of the Bush administration. Just a year and a half. Think of the reversal, but also consider what President Obama inherited.

So, while I have great fondness for many of my colleagues, we would ask the American people to look at the facts. When they had the opportunity, they blew this economy wide open left it in shambles and now we are being asked to believe that they would do it differently if we just give them one more chance.

□ 1315

SPENDING WITHOUT A BUDGET

(Mr. ROYCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROYCE. Yes, let's look at those facts, because it is not 1½ years, it is 3½ years; 3½ years since Nancy PELOSI became the Speaker of this House. In case the American public has forgotten it, every single spending bill originates in this House, and for 3½ years, we have a situation, oh, were the deficits bad? Yes, they were. In 2006, I remember that deficit was $161 billion, and I spoke against that deficit.

Today, after 3½ years of Democratic control of the House and the Senate, that deficit is ten times what it was. And if we think for a minute about some of the orchestration, of some of the schemes with Fannie Mae and Freddie Mac which were authored on the Democratic side of the aisle to force those institutions into purchasing subprime loans, over $1 trillion in subprime loans, and for us that protested that, to watch the impact that it had on housing in the United States as housing collapsed, and now today to see not even a budget submitted by the other side of the aisle going forward, spending upon spending upon spending with no budget even put before this institution.

CREATING AND PROTECTING AMERICAN JOBS

(Ms. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. RICHARDSON. Prior to the Obama administration, our economy was run into a ditch. We were losing over 700,000 jobs a month and most families were struggling just to pay their bills. But, yes, what a difference a year has made.

This Democratic Congress, working with President Obama, has chartered a new direction. Americans are now paying the lowest amount of tax rates since the 1950s; getting deductions on property taxes; help with bonds for States so they can rebuild hospitals and sewers; and tax relief for tuition and teachers for their out-of-pocket expenses. And finally, yes, we have to protect those coasts and increase the oil spill liability trust fund.

But there is more to do, we all know that, and that is why this week we are looking to pass the American Jobs and Closing Tax Loopholes Act, to close tax loopholes that many corporations have taken advantage of. We have to restore credit to small businesses, extend tax incentives so American businesses can do the research that they need, and, yes, our young people need jobs. Didn't you get one?

PASS A BUDGET AND LIMIT SPENDING

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, during these difficult economic times, families and small businesses across Florida are making sacrifices when it comes to their own budgets, yet Washington continues to spend trillions of dollars on bailouts, takeovers and pet projects. Now comes news that the House majority isn't even going to produce a blueprint for how they are going to intend to spend taxpayers' dollars, hard-earned taxpayer dollars.

Where is the budget, Mr. Speaker? Without a budget for the upcoming year, there will be no means to curb runaway government spending that has skyrocketed our debt to nearly $13 trillion. Unforgivable.

Simply put, a failure to budget is a failure to govern. The American people have repeatedly made calls for fiscal responsibility. They are tired of Washington's irresponsible spending.

Mr. Speaker, Congress should do its job by passing a budget and limiting spending.

REFORMING WALL STREET

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. Mr. Speaker, I rise today in support of Wall Street reform and American jobs.

In my opinion, the debate on Wall Street reform is straightforward; there are those who support hardworking American families and small businesses against those who wish to protect the status quo and big Wall Street banks, which are to blame for the current recession.

We must hold Wall Street accountable, protect American families from unfair, abusive financial practices, close the gaps in our financial system, create certainty and stability in our tumultuous markets, and act now.

It is time we streamline government and put a cop on the beat of Wall Street to protect American families and businesses. Absent this cop, Wall Street will regulate itself, as it did under the previous administration. The American economy cannot afford to live through that real-life tragedy again, and neither can her families.

In fact, under the leadership of this Congress and President Obama, we are on pace to create as many jobs in 2010 as President Bush created in his entire 8 years in office.

BALANCING THE BUDGET

(Mr. LUETKEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUETKEMEYER. Mr. Speaker, one of the top issues on people's minds these days is Washington's never-ending spending binge and the need for responsible budgeting. The American people know that reining in this wild spending spree starts with balancing our budget. But wait a minute. The majority party has now indicated that the House might not even consider a budget resolution this year.

It is vital for the House to submit a budget resolution that will start the budget process in this Chamber and crack down on the out-of-control spending that has the government borrowing 42 percent of the money we spend this year. If you are a businessperson, you have a budget. Most people even have a budget for their household. Our States have budgets. But yet, why would we think it is not important for the Federal Government to have a budget? If this were not so serious, it would be comical.

The question, then, is why does the majority not want to do a budget? The answer is obvious. There are tough choices that have to be made to rein in this out-of-control spending, and there is no political will to make those choices. Spending is easy; making cuts is hard. Failure to budget is failure to govern.

HONORING CIA EMPLOYEES KILLED IN THE LINE OF DUTY

(Mr. REYES asked and was given permission to address the House for 1 minute.)

Mr. REYES. Mr. Speaker, this Memorial Day, communities gather across the United States to honor and thank those who have served in uniform. Likewise, the CIA community will gather at the Memorial Wall at headquarters for a solemn and sobering ceremony to honor CIA employees killed in the line of duty this year.

The Memorial Wall bears this inscription: ''In Honor of Those Members of the Central Intelligence Agency Who Gave Their Lives in the Service of Their Country.'' Ninety stars currently bear witness to the patriotism and silent sacrifice of the men and women of the CIA. Below these stars rests a book, which we call the Book of Honor, that records each star with a date and, if possible, a name of an individual officer. Because, you see, in some cases, those names must remain classified. This year, those stars will be joined by the largest number of new stars ever added in the history of the CIA to this Memorial Wall.

This year's solemn and sad occasion reminds us all that the successes that we have had fighting terrorism come at a great price for liberty. We have taken terrorists off the battlefield and have denied them sanctuary. We have disrupted plots throughout the world. But the costs have also been high. Families have been left to mourn their mothers, their fathers, their sons, and their daughters.

This Memorial Day, let's remember all the great patriots that have served us so well.

WHY A BUDGET IS NEEDED

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, why does this country need a budget, and why does this House need a budget? It is very, very simple. We are looking at a $20 trillion debt in less than 10 years; $20 trillion. What is the yearly interest going to be on that in 10 years? Over potentially $1 trillion; $1 trillion in interest in one year that we are facing.

This year, Washington is going to spend a record $3.6 trillion, and at least $1.5 trillion to $1.6 trillion is going to be in the deficit. The CBO and OMB when they testified before the Budget Committee, their directors both said that the spending is unsustainable. Unsustainable. But what happens here? We don't produce a budget. How do you get this under control?

Our kids and their kids are going to be paying for it. It is tough to look these kids when they come to Washington in the face, when they are out here on the Capitol steps, look at them and ask where are they going to be in 10 years? It is not going to be what we did for them; it is what we have done to them.

When we look in the future, it is getting worse, because right now when you look at this little chart that came out from the Treasury, 47 percent of our debt today is foreign-owned.

This has got to stop.

RECOGNIZING THE SUCCESS OF THE RECOVERY ACT

(Mr. JOHNSON of Georgia asked and was given permission to address the House for 1 minute.)

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to remind my colleagues about where we are today and where we were under the dreadful 8-year Bush administration. At the end of that administration, we were losing 800,000 jobs every month, and today we are on track to create more jobs this year than were created during all 8 years of the last administration.

Say it again? I will. At the end of the last administration, 800,000 jobs were being lost each month, and we are on track this year to create more jobs than were created during all 8 years of the previous administration.

According to the Council of Economic Advisers, the Recovery Act has boosted employment in my State, Georgia, by 84,000 jobs.

It's like that, and that's the way it is.

GOOD NEWS ON THE HOUSING MARKET

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN of Florida. Mr. Speaker, this morning, the front page of our local newspapers in south Florida had some good news. Home sales are finally looking up. Our real estate market is

crucial to our local economy, and this is an important sign of progress.

South Florida is one of the best places to live and work and raise a family, and I am glad people are getting back into the market. Many folks took advantage of the first-time home buyer tax credit, and others are moving because their families are growing or they are ready to downsize.

I am constantly working side by side with our local homebuilders and realtors, great members of our community, like Nancy Hogan, Adam Saunders, who is executive director of the Fort Lauderdale realtors, and Deidre Newton from Palm Beach County.

Putting their ideas into action is one of the best ways to turn the corner in our local real estate market. And it is more than just buying a new house. Families with a new home need new furniture, flowers for their garden, and maybe a plumber or a painter or electrician to come by. These are all services and products that come from our local businesses and make a huge impact on our economy.

So while there is more work to be done, and we know that, I was glad to read some good economic news in this morning's newspaper.

□ 1330

IF YOU CAN'T BUDGET, YOU CAN'T GOVERN

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute.)

Mr. FRELINGHUYSEN. Mr. Speaker, back home in New Jersey, people don't want to hear that the House of Representatives is preparing to go home for Memorial Day recess without even holding a vote on President Obama's budget proposal given to the Congress back in February.

They're trying to live within their own shrunken family budgets, with less income and less ability to save, and with well over 10 percent of them unemployed.

They know with the President's budget proposal, whatever the magnitude of its spending that ensures more debt and borrowing, that we need to make the same hard choices they are, and the Federal budgets is comprised of their money.

It appears that this House will not vote because the majority, it seems, does not want to vote for sustained trillion-dollar deficits that will compound the national debt as far as the eye can see.

I'd also add that the President's much discussed ''spending freeze'' comes after a 24 percent increase in spending among the affected agencies and programs.

As others have said, If you can't budget, you can't govern.

CLOSING CORPORATE TAX LOOPHOLES

(Mr. GARAMENDI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARAMENDI. Mr. Speaker, for my colleagues' information, before this week is over, we will be voting on jobs for America and cutting corporate tax loopholes that are sending jobs offshore.

In the final days of the Bush administration, they asked for $700 billion to bail out the financial industry; 81 percent of that money went to the large Wall Street banks who managed, in the next year, to reduce their loans to small businesses, while just a small percentage of it went to local community banks who actually increased their loans to small businesses.

There's something to be learned here. The act that we'll be voting on, H.R. 4213, closes those tax loopholes, taxes the Wall Street barons that have ripped off our money, and brings jobs to America through several different programs; 250,000 summer jobs, R&D tax credits, other programs to encourage small businesses.

We should, with the support of the Republicans, pass H.R. 4213, the American jobs and tax loophole closing programs.

LEAD, FOLLOW, OR GET OUT OF THE WAY

(Mr. COLE asked and was given permission to address the House for 1 minute.)

Mr. COLE. Mr. Speaker, in 2006 our distinguished majority leader said enacting a budget was ''the most basic responsibility of governing.''

Representative SPRATT, from South Carolina, our distinguished Budget chairman, said in the same year, If you can't budget, you can't govern.

Yet this Democratic majority's produced no budget. I don't believe that's the fault of Mr. HOYER or Mr. SPRATT. They're both good men, and they're both working hard to create a budget. But that responsibility does rest with each and every member of the Democratic Caucus.

My friends, you have 257 Members. Can't 218 of you agree on a budget? And if not, why are you here?

I would suggest to my Democratic colleagues, they should lead, follow or, in November, get out of the way.

INDUSTRIAL OUTPUT IS EXAMPLE OF ECONOMIC GROWTH

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Mr. Speaker, America has been through tough times before, but we've always pulled together as a Nation to overcome our challenges.

Just over 1 year ago, Democrats came together and faced the challenges that we were handed by the mismanagement of the Bush Republicans. Faced with massive job losses exceeding 700,000 a month just over 1 year ago, we passed the American Recovery and Reinvestment Act; and, since that time, we've reversed the job losses and spurred economic growth.

One only needs to look at America's manufacturing sector to see the progress that we're making. American industrial production has increased a cumulative 6.8 percent during the past 10 months, the largest 10-month gain since 1997.

Total industrial production continued to increase last month. Together with last month's jobs report, this suggests a strong start for the second quarter. The increase, which was slightly above market expectations, was led by a strong 1 percent growth in manufacturing output.

As Americans, we can do it. We can turn our economy around. We have a ways to go, but we can get America back on track and, together, we are doing just that.

And that's just the way it is.

THE AMERICAN PEOPLE DESERVE BETTER

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute.)

Mr. THORNBERRY. Mr. Speaker, for the first time since the modern Budget Act was passed in 1974, the House will not pass a budget this year, for the first time in 35 years.

This dereliction of duty is important for at least two reasons: One, a budget is the first and necessary step to control spending. Every household in the country knows that you have to get a budget together to know your income and expenses, to separate priorities, and to decide how you're going to spend precious resources. The same is true in Washington. And yet this year the American people and Congress and the administration will not have the opportunity to use that tool.

The second reason is that it just confirms the worst that people feel about Washington. People around the country already believe that too many Members of Congress care more about their own re-election than they do about solving the problems of the country. This just confirms that Members of the majority, at least, don't want to take tough votes, that they're more worried about their own political protection than they are about trying to do what's right and solve problems.

Mr. Speaker, it is irresponsible to not even try to pass a budget this year. The American people deserve better.

THE ECONOMY

(Mr. MURPHY of Connecticut asked and was given permission to address the House for 1 minute.)

Mr. MURPHY of Connecticut. Mr. Speaker, in 2007 President Bush allowed for 14,000 waivers to our Buy America laws. In 2008, on his way out the door, that number became 65,000.

Let me say that again: in the last year of the Bush administration, he quadrupled the number of permits to allow for government contractors to outsource jobs overseas.

You want to know why we lost millions of manufacturing jobs over the last decade? There's your answer. We have allowed for American dollars to go overseas to be able to grow international workforces at the expense of our domestic workforce.

You want to know why this year we have already created more jobs than President Bush did in his 8 years?

Well, right at the root of it is President Bush's and the Republicans' drive to take our tax dollars, send them to multinational companies, and allow them to kill American manufacturing jobs. That has to stop, and the Democrats are leading the way.

THE AMERICAN PEOPLE DESERVE AN ANSWER

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, I rise today on behalf of the American people, and we deserve an answer about these out-of-control spending policies coming here out of Washington, D.C.

The House has failed to produce a budget. No plans for any appropriation bills, no markups. There's no plan on how the majority will spend America's taxpayers' hard-earned money for this fiscal year, or next fiscal year.

American families, if they don't budget and pay the bills, there are real consequences. Unfortunately, the majority continues to turn a blind eye to future consequences as they push spending to a record $3.8 trillion in fiscal year 2011 and widen the deficit to a record $1.5 trillion this year.

House Republicans stand ready to make tough choices in order to rein in spending. Just last week we introduced a measure on the House floor to cut $2.5 billion in expanded welfare. The program was selected by almost a half a million Americans through the innovative YouCut initiative.

The American people have spoken. Stop the spending frenzy, budget for the future, and return fiscal sanity to Washington.

STOP FOREIGN COMPETITORS FROM USING ILLEGAL SUBSIDIES

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, Republicans and Democrats should be united in one proposition, and that is that we should never allow our foreign competitors to steal our jobs by using illegal subsidies. And, in fact, that is what has happened with the Airbus company that has now been found guilty of receiving billions of dollars of illegal subsidies from European governments to subsidize their airplanes, including a tanker.

Now that company wants to steal American jobs by taking away a contract for the next tanker for the U.S. Air Force, so that those jobs can be shipped to France and other places. This is wrong, and it cannot stand.

We need to pass an amendment that will be offered on the defense authorization bill that will assign a cost of those illegal subsidies to the Airbus bid. If we do this, Republicans and Democrats will be united in standing for American jobs, for fairness, and for the rule of law. It's the right thing to do. We can't allow these jobs to be stolen.

THE CONGRESSIONAL BUDGET

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, most American families have a budget. Almost all American businesses have a budget, and virtually every State, county, local government has a budget. And, in fact, in this House, since the current Budget Act was passed in 1974, we have had a budget that has passed in this House every single year, except for this year.

Maybe the Democrats who run this place lost it. Let's see. Is it under here? No, that's the CONGRESSIONAL RECORD. That's not it.

Maybe they lost it. No, they didn't lose it, Mr. Speaker. They are not passing a budget because they don't want the American people to see that they have, after almost doubling the national debt already, they're going to triple it again. And, Mr. Speaker, they do not want the American people to see that because they know it will bring a financial calamity upon this country like one we have never seen if we don't turn it around.

WELCOMING THE 13TH ANNUAL RENEWABLE ENERGY AND ENERGY EFFICIENCY EXPO

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Mr. Speaker, I rise today to recognize the 13th Annual Renewable Energy and Energy Efficiency Expo here on Capitol Hill. As we struggle with rising energy costs and the BP oil spill, we are reminded every day about the importance of a sustainable energy policy.

This important event will bring together nearly 50 businesses, sustainable energy industry trade associations, government agencies, and energy policy research organizations to showcase the enormous potential of renewable energy and energy efficient technology.

As we search for ways to stimulate the economy, create green jobs, lower costs, reduce reliance on energy imports, and lessen the threats posed by the emission of greenhouse gas emissions, we must pay attention to this.

Mr. Speaker, I ask my colleagues to join me in welcoming this year's participants, and I encourage everyone to take some time to see the exhibits and speak with the participants.

PASSING A CONGRESSIONAL BUDGET

(Mr. LANCE asked and was given permission to address the House for 1 minute.)

Mr. LANCE. Mr. Speaker, I rise today to call on leaders in Congress to put forth a congressional budget and allow a meaningful, open debate on the important fiscal issues facing the Nation.

Producing a Federal budget blueprint is one of the most basic responsibilities of Congress. Yet, as of today, no such budget exists.

The failure of presenting a budget to the American people is a failure of leadership by the Democratic majority to govern and a missed opportunity to put forth a budget blueprint that puts our Nation on the path to fiscal responsibility.

Never before in the modern era has the House of Representatives failed to pass a budget; but never before has our Nation seen this type of unprecedented, runaway congressional spending, deficits, and debt.

According to the nonpartisan Congressional Research Service, the Congress has never failed to consider a budget resolution since the current budget rules were passed in 1974. Yet for the first time in 36 years, the Democratic majority has chosen irresponsibly to avoid the hard budgetary choices New Jersey families and small businesses must make every day.

THE NEW DIRECTION CONGRESS

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, as we go through Memorial Day this season, we recognize those brave men and women who defend our country. The New Direction Congress, under Democratic leadership the last 3 years, has made historic gains for America's troops, veterans, and military families. We have expanded new GI Bill college benefits for all children of fallen troops since 9/11. We have given businesses a $2,400 tax credit for hiring unemployed veterans. We have provided nearly 2 million disabled veterans a $250 economic recovery payment. We've established a veterans corps, creating volunteer opportunities to put veterans back to work, landmark legislation for wounded veterans, providing help to family members and other caregivers, and eliminating copayments for catastrophic disabled veterans injuries. We've enhanced health services for

women veterans, including care for newborns.

□ 1345

RISING UNEMPLOYMENT

(Mr. KING of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KING of Iowa. Mr. Speaker, I sat here and listened to perhaps as many as 10 Democrats do their 1-minute. And at least three of them said something that astonishes me. They said we have already created more new jobs than were created in all 8 years of the Bush administration, or some version of that. I have no idea how that could be true.

Now, I didn't check the Obama-sycophant-talking-points-dot-gov Web site, but I did everything else, and I couldn't quite find this data. Here is what I know: Last week, unemployment new claims were up to 470,000. The week before it was 478,000. The monthly average was 456,250. We have growing unemployment, not shrinking unemployment. And you don't have a category for jobs created. You have a category for jobs saved or created. That didn't exist until President Obama created that phrase.

Now if you get down to 3½ million jobs left, the President could always claim, well, that's the 3½ million I saved. Government doesn't create jobs. It gets out of the way so the private sector can, Mr. Speaker. We need a budget, and we need a budget now.

ENACT WALL STREET REFORM

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise today to express my strong support for the work being done to crack down on Wall Street and enact reform to prevent another economic collapse. We absolutely must create an environment in which corporations are held accountable to shareholders, employees, and customers.

That's why I plan to reintroduce the Federal Employees Responsible Investment Act, to add a socially responsible investment option to the Thrift Savings Plan. Making an investment in companies that are committed to corporate responsibility will have a positive impact on our financial system, and empower individuals to reward companies that share their values.

We absolutely must do everything in our power to move our economy forward, and I urge all my colleagues to support good corporate governance and legislation that ends Wall Street's gambling with our hard-earned dollars.

PASS A BUDGET

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Yesterday, President Obama asked for a new law to give him specific authority to force Congress to vote on spending cuts. He already has the ability to force Congress to consider spending cuts immediately, and we've been asking him to do it for months. With our national debt nearing some $13 trillion, Democrats are on the verge of adding $140 billion more this week. Why can't we start cutting spending now? And why don't we see a Democrat budget here on the floor?

President Obama and the Speaker continue to put off this important work, missing a critical opportunity to stop out-of-control spending that economists say is hurting our economy and slowing the creation of new jobs in America.

The President's fiscal commission, that won't even report until December, is a prime example of this lackluster, kick-the-can-down-the-road approach. Americans want immediate, decisive action to end Washington's out-of-control spending spree.

If President Obama is truly committed to fiscal responsibility, he will use the authority that he has under current law to force the Congress to vote immediately on his spending cuts. He should also call on Democrats in Congress to pass a real budget that reins in out-of-control Federal spending. The House has never failed to pass a budget in the modern era. And every family knows that the budget is more important, not less important, in times of a tough economy.

PASS THE AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT

(Ms. LEE of California asked and was given permission to address the House for 1 minute.)

Ms. LEE of California. Mr. Speaker, today the Congressional Black Caucus, which I chair, the Asian Pacific American Caucus, the Progressive Caucus, along with the Jobs Task Force conducted a forum with the Campaign for Community Change and the Lawyers Committee on Civil and Human Rights. We had a forum to discuss a comprehensive legislative strategy to create jobs, especially for the chronically unemployed.

For example, the national unemployment rate is still way too high, over 9 percent. Yet, in the African American community it is over 16 percent. African American and Latino teens are unemployed at nearly 40 percent.

It is critical that we pass H.R. 4213, the American Jobs and Closing Tax Loopholes Act. This bill includes a summer youth jobs provision, which will put over 350,000 young people to work this summer. Our young people now are helping their families pay the rent and put food on the table. Also, summer youth jobs programs give them the essential jobs and life skills to be productive workers and employees.

Under the Obama administration, we are beginning to see signs of hope in the economy, but we must do our part and invest in putting people back to work and pass H.R. 4213. This puts us on the right track.

DEMOCRATS' BUDGET FAILURE; REPUBLICAN SOLUTIONS

(Mr. HARPER asked and was given permission to address the House for 1 minute.)

Mr. HARPER. Mr. Speaker, spending will reach a record $3.8 trillion for fiscal year 2011, with $1.6 trillion of that being money that we don't have. This same White House budget proposes $1.8 trillion in tax increases by the year 2020.

Yet for the first time in more than 35 years, the House will fail to produce a budget. The failure of the Democratic leadership to responsibly construct a budget resolution threatens job creation, explodes spending and deficits, and intensifies America's debt crisis.

The majority must produce a budget if it is going to govern properly. House Republicans will continue to reach out to Democratic Members with solutions to boost our economy. Unfortunately, the President and his Democratic allies in the House have failed to engage Republicans on the principal issues facing our country.

My faith is in the American entrepreneur and our small businesses, not in the Federal Government, to create jobs. Give the taxpayers what they deserve, a fiscally responsible budget that spends much less, cuts taxes, and reduces our national debt.

IN HONOR OF R.H. ''BOB'' GOLDBERG

(Ms. TITUS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. TITUS. Mr. Speaker, as Memorial Day approaches, I want to take this opportunity to thank all of the brave men and women who have served in our Armed Forces and to honor the cherished memories of those who have made the ultimate sacrifice in defense of our precious democratic way of life.

I also want to take a moment to honor a veteran who not only fought for his country, but returned from war and dedicated his life to helping veterans here at home. R.H. ''Bob'' Goldberg celebrated his 75th birthday just a few months ago, on October 8. I rise today to wish him a belated happy birthday, and thank him for his service to our Nation and for his tireless efforts on behalf of his fellow veterans in southern Nevada.

Bob has served as commander of Post 711 of the Jewish War Veterans of America, and worked for many years as an Indian Affairs Officer for the State of Nevada. Bob personified valor on the battlefield and devotion on the home front.

UNEMPLOYMENT IN OHIO

(Mr. TURNER asked and was given permission to address the House for 1 minute.)

Mr. TURNER. Mr. Speaker, over the past year-and-a-half the administration and the majority in Congress have enacted legislation authorizing an unprecedented amount of government spending and intervention in private enterprise. I opposed many of these measures because I believed they spent money we don't have on programs that would not stimulate the economy.

An Ohio-based economist recently released a report stating that the State of Ohio has lost a staggering 587,000 jobs since 2001. In particular, the report indicated that at the end of the last decade each of Ohio's 88 counties lost employment, a total of 338,000 jobs, or 6.6 percent of all employment that year.

Specifically, my home county, Montgomery County, was one of the hardest hit counties in the State and the Nation. Over the past 9 years, Montgomery County has lost 20 percent of its total jobs and 53 percent of its manufacturing sector jobs. Today, current unemployment rates in my district for Montgomery County total over 12 percent, Clinton County over 17 percent, Highland County over 17 percent, Warren County over 9 percent.

The American people are looking for both sides to find reasonable solutions to these critical challenges. Congress needs to curb our out-of-control spending and enact bipartisan, commonsense solutions to stimulate the economy and create jobs.

SUPPORT THE LOCAL JOBS FOR AMERICA ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, because of the policies of the last administration, the Bush administration, our Nation is going through the most difficult economic times in its history, and unemployment is around 10 percent. We must do everything we can to help create jobs, especially for those struggling to support their families. That is why I support the goals of the Local Jobs for America Act.

We need a bill that will create and save millions of public and private jobs in local communities. This bill is intended to help ensure that local communities can still operate essential services, to help prevent State and local tax increases, to stimulate local businesses, and create more jobs in the local community.

The Local Jobs for America Act is aimed to get our economy back on track and Americans back to work. We have short memories sometimes and we forget where the problem began. It did not start with this administration. It was done by the last administration.

PASS A BUDGET

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, as we approach Memorial Day we still have no budget. And now it appears we will not even be offered a budget resolution for the first time since the adoption of the 1974 Congressional Budget Act.

Across the country, people are hurting and being forced to cut back on their spending. An article in USA Today released today cited income from private wages fell to an all-time low during the first quarter of this year. While our private sector is losing jobs and cutting wages, the Federal Government, under the leadership of this Congress, has been irresponsibly seeking to spend trillions of dollars on a stimulus package full of pet projects, a job killing cap-and-trade proposal, and a budget-busting, if we had a budget, health proposal.

While Americans across the country are making a budget and sticking to it, I think it's time that we in Congress sit down under their leadership, make a budget, and stick to it.

Mr. Speaker, the American people deserve better.

HELP AVERAGE AMERICANS

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise to call on this Congress to put the interests of the average American ahead of corporate special interests. In this tough economy, my three top priorities are jobs, jobs, jobs. That's true for America. We must provide opportunity to everyone who is willing to work hard to make the best of their God-given ability.

There is an important piece of legislation on the House floor this week that will help to get our economy going and boost jobs. Yesterday, I visited a coffee shop in Raleigh, North Carolina, that's thriving now after getting an SBA loan from the Small Business Administration. I also visited a North Carolina high-tech company yesterday. Even in this tough economy they're growing, adding jobs, and hiring. And they're counting on the R&D tax credit.

We need to act to empower local folks on the ground and get our economy running again. It's time to put aside politics to focus on the next generation rather than the next election.

PASS A BUDGET

(Mr. FRANKS of Arizona asked and was given permission to address the House for 1 minute.)

Mr. FRANKS of Arizona. Mr. Speaker, a government is what it spends, and a government without a budget is a government without direction. A highly intelligent man once put it this way: ''If you can't budget, you can't govern.'' The man responsible for those words was none over than JOHN SPRATT, the Democratic chairman of the House Budget Committee. He made that statement 4 years ago.

Likewise, 4 years ago now-House Majority Leader STENY HOYER said, ''Enacting a budget is the most basic responsibility of governing.''

Mr. Speaker, in the interest of bipartisanship let me just strongly affirm the sentiments of my Democrat colleagues in this case. As we now find ourselves well over a month past the April 15 budget deadline, with essentially no progress to be shown on any budget, something that hasn't happened in 35 years, truly this tax-and-spend Democrat majority is failing the most basic responsibility of governing and is categorically demonstrating its inability to govern in any responsible way.

Mr. Speaker, the American people deserve better.

□ 1400

NATIONAL SECURITY

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, Democrats have stepped up the fight against terrorists and are getting real results that make Americans safe. Democrats are strengthening our security by restoring America's global leadership. We have ended torture. We are working with our allies and are getting countries like Pakistan to cooperate in the fight against terrorism. We have increased funding for counterintelligence activities and human intelligence collection. We have enhanced cybersecurity efforts and bolstered aviation, ports, and border security.

We are ensuring troops, veterans, and their families have the support they need on the battlefield and when they come home. That means state-of-the-art equipment and body armor and mine-resistant vehicles that they need to bring them home safely. And we have also made historic investments in our veterans' health care and improved the benefits they have earned when they return home. And we passed a GI Bill for a new generation so that our troops and their family members will have access to a quality education.

Mr. Speaker, Democrats are making America stronger.

CONGRESS NEEDS TO PASS A BUDGET

(Mr. OLSON asked and was given permission to address the House for 1 minute.)

Mr. OLSON. Mr. Speaker, I rise today to urge my colleagues to perform one

of the fundamental duties required of this body and pass a budget. The budget is a blueprint for how the Federal Government defines our Nation's priorities. It's also an acknowledgment of the fiscal situation currently facing the American taxpayer. We have a solemn duty and obligation to inform those who fund our operations what we're spending their money on and how we are paying for it.

As a former Navy pilot, I know that you don't take off without a flight plan. The leaders of this Congress are asking us to do just that, guided by one failed principle: more spending. That's not how you fly. That's how you crash.

Mr. Speaker, our children and grandchildren deserve better. We are sent to this institution to be responsible stewards of the taxpayer dollars. I urge my colleagues to demonstrate leadership and pass a budget. The American people deserve no less.

DISASTER IN THE GULF OF MEXICO

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, we have a disaster in the Gulf of Mexico which makes it absolutely obvious that we do not have the answers to preventing and combating such carnage. We have not, any of us, Republicans or Democrats, invested in the necessary science and the important steps to prevent and combat an oil spill of this size.

That's why, as a result of the San Francisco Bay spill over a year ago, I introduced H.R. 2693, to streamline from 17 to three agencies and oversee the prevention and the responsibility to respond to preventing oil spills and to cleaning up oil spill emergencies. I would have the three agencies be:

NOAA, which brings its expertise on how to protect marine life and sensitive marine ecosystems. It would be the lead agency. I would have the Coast Guard, which will bring the expertise as the first responder, and the Environmental Protection Agency would be the third agency, to provide an understanding of the environmental and public health needs of any response and prevention methods.

We may need more. We'll find out later.

CONGRESS NEEDS TO PASS A BUDGET

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute.)

Mrs. MILLER of Michigan. Mr. Speaker, in recent weeks, we have seen some American corporate executives brought before Congress and grilled about how they run their firms, and appropriately so. Yet, what would the response of Congress be if a private firm had the following record? It operated at losses of about $3 trillion over 2 years. It used questionable accounting gimmicks. It had unfunded long-term liabilities of $50 trillion or more. It had provided no guidance to its shareholders about its bleak balance sheet.

Mr. Speaker, unfortunately, such a firm does exist, but it is not in the private sector. That firm is the Federal Government run by this majority. They've racked up over $3 trillion in new debt in just 2 years. They've passed outrageous new spending plans. They've refused to put forward a budget to the shareholders—the American people—because they don't want the people to see their plans for our Nation's fiscal future, Mr. Speaker.

If this was a private firm instead of our Federal Government, there would be charges filed for fiscal malfeasance. The majority owes the American people answers, and they must bring forward their budget immediately.

THE AMERICAN JOBS, CLOSING TAX LOOPHOLES, AND PREVENTING OUTSOURCING ACT OF 2010

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Mr. Speaker, soon this Chamber will have a chance to continue our work on a positive job-creating initiative when H.R. 4213 comes to the floor. This bill will work to restore credit for the small businesses who hire the bulk of the American workers. It will allow funding for summer jobs programs for many of our youth that are unemployed and are seeking jobs during the summer. It will also help to close tax loopholes to fully fund job creation and enforce corporate accountability.

This bill continues to provide aid to our brothers and sisters and unions who have been hit hard over the past year because of the outsourcing by the previous administrative policies.

Unemployment is still high. Americans still need support from the government, and we continue to rebound from this crisis. But the signs are there. We're recovering. Last month, we added 290,000 jobs—the most since March of 2006.

We need to continue this good work and put the American people back to work. This is why I urge my colleagues to support H.R. 4213.

FAILURE TO IMPLEMENT A BUDGET

(Mr. DAVIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Kentucky. Mr. Speaker, all throughout the Fourth District, Kentuckians are asking Congress to establish fiscal responsibility. Some Congressmen are fighting to establish a responsible budget, but the Democratic leaders are only offering more spending, more taxes, and more debt.

Washington doesn't have a revenue program or problem. It's got a spending problem. Just in the first 7 months of the current fiscal year, Congress has already run up an $800 billion deficit under the direction of Speaker PELOSI. If the House doesn't pass a budget, it will be the first time it has failed to do so since 1974.

Congress is missing a critical opportunity to provide a responsible blueprint for the Nation's fiscal future and serve as a check and balance to an administration intoxicated by excessive spending. Congress must restore the ownership of the American Government back to its rightful owners, the American people.

That's why House Republicans are creating major initiatives like YouCut and America Speaking Out. Both programs allow the American people to change the culture of spending in Washington and make the Federal budget the same as our families' budgets: Balanced.

Stop the spending madness, and give our children back a real future.

CONGRESS MUST PASS THE JOBS BILL

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, this morning I read an editorial in the Wall Street Journal that criticizes the unemployment program, saying, ''let's lay off everybody, pay them for not working, and watch the economy really boom.''

To criticize the system that's keeping millions of Americans afloat during this recession is appalling. Cutting benefits will drastically reduce their ability to buy goods and pay their mortgage. Does anybody really think that would be good for the economy?

When those workers' unemployment insurance benefits run out, they have no other support. We can't just tell millions of Americans that we don't care what happens to them. Maybe the Wall Street Journal thinks that only tax breaks for the superrich can help the economy, but most of you will remember the previous administration tried that, and the only thing it brought us was the worst economy since the Great Depression.

If we don't pass this jobs bill tomorrow, 1.2 million Americans will lose their benefits by June. Is that good for anybody? I say not. Vote ''yes'' tomorrow.

CONGRESS NEEDS TO PASS A BUDGET

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, budgeting is one of the most fundamental duties of governing. Yet here we are, a

month beyond the deadline for producing a Federal budget, and the Democrat-controlled House will not pass a budget for the next fiscal year. This will be the first time since 1974 that the House fails to pass a budget, and passing a budget is important.

The budget provides a fiscal blueprint for moving forward and addressing the deficits and debt. It provides the bigger picture in which fits all of the smaller things that Congress works on throughout the year.

American families and businesses budget all the time, making difficult choices necessary to remain solvent. So must government. Failing to consider a budget does not make the budget problems go away. It simply provides more proof that the current leadership in Congress has no plan for dealing with all this mounting debt and deficit—at least no plans that it wants the American people to know about.

COMPETITION AMONG GOVERNMENT CONTRACTORS IS KEY

(Mr. DRIEHAUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRIEHAUS. Mr. Speaker, if we're serious about reducing spending, we should be promoting competition among government contractors, not stifling it. We know from experience that a competitive engine program for our military aircraft drives down long-term costs and leads to a more reliable product for our Armed Forces. That's why competitive procurement has long been the policy of the Federal Government, and that's why we need a competitive engine program for the Joint Strike Fighter.

But the primary contractor responsible for the upcoming F–35 Joint Strike Fighter engine doesn't want to play by the rules. They want to be declared the winner of the race while all of the contestants are still at the starting line. The development of a competitive engine is 75 percent complete and is expected to be available to the military 5 years ahead of initial projections. The competitive contractor has twice offered a fixed price to complete this project, ensuring production won't be burdened with cost overruns.

I urge all of my colleagues to do what's responsible to taxpayers and responsible to our men and women in uniform: Support the Joint Strike Fighter Competitive Engine Program.

CONGRESS NEEDS TO PASS A BUDGET

(Mr. ROE of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. ROE of Tennessee. Mr. Speaker, media reports indicate that House Democrats will not only not pass a budget, but they won't even try. It's no surprise that they're unwilling to put their blueprint on the House floor, because it would be the clearest sign yet that their reckless spending has put our country's solvency in doubt and endangered our future's generations. But I am only judging them by their own words.

In 2006 then-House Minority Whip STENY HOYER said that passing a budget was the most basic function of government, and I agree. That same year, then-House Budget Committee Ranking Member JOHN SPRATT said, if you can't pass a budget, you can't govern. And Speaker PELOSI said in 2002 that failing to pass a budget hurts children.

This means, by their own standard, the standard in which they judge Republicans, Democrats aren't able to govern. House Republicans have said for months that Democrats are unfit to govern based on current policies. Now their own judgements agree with us.

Mr. Speaker, it's time for hope and change and a budget.

CONGRESS NEEDS TO PASS A BUDGET

(Mr. AUSTRIA asked and was given permission to address the House for 1 minute.)

Mr. AUSTRIA. Mr. Speaker, our Nation is making history for all the wrong reasons as our national debt reaches $13 trillion. Today, we still have no budget, no plan to rein in this out-of-control spending. For the first time in recent history, the House will fail to even propose a budget at a time when the American people are demanding fiscal responsibility.

Our national debt has now hit astronomical proportions, and without a budget, this spending will almost certainly continue to grow.

A recent Rasmussen poll found that only 21 percent think that today's children will be better off than their parents. Only 21 percent. And one of the main reasons that our children are going to be in a tough spot is that they are going to be footing the bill tomorrow for our irresponsible spending today.

Mr. Speaker, now is the time for Congress to address the issues facing our Nation in a fiscally responsible manner. We need to show constraint, set spending guidelines, make tough decisions, and eliminate wasteful spending programs.

□ 1415

BUDGET COMMITTEE DOESN'T MEET

(Mrs. LUMMIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LUMMIS. Mr. Speaker, I am on the Budget Committee, but the Budget Committee doesn't meet. Maybe the reason the Budget Committee doesn't meet is because they don't want you to see this chart.

If we look at this chart, and we look at the blue lines, the blue lines are private-sector employment. It is the private economy employment, the job creators, the revenue creators. Look at the Bush years, those are the years going up. Bush, Bush, Bush, Bush, Bush. Look at the PELOSI years. Those are the years going down. PELOSI, PELOSI, PELOSI.

The private-sector jobs dropped under NANCY PELOSI. They went up under George Bush. Now look at the red line. The red line is George Bush. The red line for government employment is flat.

But look at the PELOSI line. The PELOSI line for government employment goes up, up, up, up.

So, under PELOSI, private-sector jobs go down. Government jobs go up. The private sector pays for the public sector, but there are no private-sector jobs. Maybe that's why the Budget Committee won't meet, Mr. Speaker.

NO BUDGET RESOLUTION IN PLACE

(Mr. JORDAN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. JORDAN of Ohio. Mr. Speaker, 40 days. April 15 by law is when we are supposed to have a budget resolution in place. And yet here we are, 40 days later, no budget resolution.

No budget when we have a $1.4 trillion deficit, $12 trillion national debt. I mean, look, let's just be honest; the Democrats are going to take a pass. They are just going to take a pass on setting priorities and establishing a budget, and they are just going to keep spending. American families, American small business owners, they don't get to take a pass.

I am reminded of the old TV ad—I think it was the Wendy's restaurant who had this ad. The lady walks up and she says as she is handed the bun, ''Where's the beef?''

I think the same thing is being asked by the American people. They are going to be handed the bill. They are asking the question, where's the budget? Where's the priorities, where's the guidelines, where's the work we are supposed to do. Where is it being done? Why isn't it being done?

Let's get focused, and let's do a budget that actually sets priorities, sets the spending guideline and actually balances. Imagine doing something like that.

TIME FOR DEMOCRATS TO GET RID OF THEIR LEGISLATIVE POLICY OF ''DON'T ASK, DON'T TELL''

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, oh when, oh when will the majority party get rid of its legislative policy of ''don't ask, don't tell''? We saw it when we were dealing

with the health care bill, where they refused to ask the American people what they wanted and then refused to tell them what was in the bill. Remember? Pass the bill and you will find out what's in it.

Now we have a new rendition of ''don't ask, don't tell.'' Don't ask us what our budget is, we don't know what it is, and we won't tell you what's in it. Wait until after the year is over and we add up all the debt and we add up all the deficits and we add up all the taxes and we add up all the spending.

Mr. Speaker, it's time for the Democrats to get rid of their legislative policy of ''don't ask, don't tell.'' Let's be truthful with the American people and tell them what we are doing to them.

HEALTH CARE LAW IS HURTING SMALL BUSINESSES

(Mr. FLEMING asked and was given permission to address the House for 1 minute.)

Mr. FLEMING. Mr. Speaker, like millions of small business owners across the country, Zach Hoffman had been duped into believing his office furniture store would qualify for the small business tax credit under ObamaCare.

Imagine his surprise when after analyzing the numbers, he discovered he would receive zero assistance with the nearly $80,000 in health care premiums he pays for his 24 employees. By Hoffman's calculation, he would need to cut his staff to 10 employees and drastically lower wages to be eligible for the tax credit that the Obama administration previously touted as a lifeline for businesses with less than 25 employees. After seeing his premiums rise 15 percent this year, Hoffman rightly feels his government has ripped him off and eloquently described the situation as a bait and switch.

Mr. Speaker, how many promises will ObamaCare have to break with the American people before we repeal this disastrous legislation? Remember when it passed, 52 percent of Americans were against it. Today 63 percent want it repealed.

WHERE'S THE BUDGET?

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, we have been asking all afternoon, where's the budget? We have even sent out bloodhounds trying to find this budget.

Mr. Speaker, in 2006, Congressman STENY HOYER, who is now the House Majority Leader, was quoted as saying enacting a budget was ''the most basic responsibility of governing.'' And Congressman JOHN SPRATT, who is now the chairman of the House Budget Committee said, ''If you can't budget, you can't govern.''

Now, we are a month past the deadline and Speaker PELOSI and the Democratic leadership are showing no signs of complying with the law and coming forward with a budget for fiscal year 2011. Without a budget, there is no procedural enforcement mechanism to constrain spending. With the administration increasing nondefense discretionary spending by 84 percent since taking office, I fear that without a budget our national debt will continue to spiral out of control.

Mr. Speaker, this will be first time since the Budget Act was enacted that the House will not have passed a budget. We want to know, Mr. Speaker, where is the budget?

CONGRESS NEEDS TO CONTROL FEDERAL SPENDING

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, let me just reiterate what my good friend from Virginia said. The Budget chairman here in the U.S. House of Representatives said, ''If you can't budget, you can't govern.'' Let's take him at his word. I think everybody on this side of the aisle believes that that is very true.

It's becoming increasingly clear, however, that House Democrats cannot come up with a budget. American families come up with a budget, but continually Democrats sidestep it and show no progress towards trying to even attempt to create a budget.

This Congress has set upon an agenda where it's the first time since 1974 where there will be no budget passed in the House of Representatives. Without a budget, there are no controls in place to rein in this spending. It's a sign that Congress lacks the leadership to set a framework to limit spending or control entitlement growth.

Not passing a budget resolution sends a message to the American taxpayers that Congress is not serious about addressing the fiscal crisis we have here and they are unable to meet the challenges of uncontrolled spending. While the Democrat leadership talks a good game, we have yet to see any action.

PROTECT LOUISIANA MARSHES FROM CATASTROPHE

(Mr. SCALISE asked and was given permission to address the House for 1 minute.)

Mr. SCALISE. Mr. Speaker, it's been a month now, over a month, since oil has been spewing into the Gulf of Mexico from the Deepwater Horizon well explosion.

And now 2 weeks after our Governor submitted a request to the Federal Government for a plan that we put on the table to protect our marsh from oil coming in, we still have not heard one word from the President, 2 weeks after the request was made. This isn't something that BP can approve; this is something that only requires Federal approval and the Federal Government is standing in the way of our leaders on the ground protecting our marsh.

Where is the President? Does he not understand the magnitude of what is probably the worst environmental disaster in the country? And then we get mixed messages from his various Cabinet secretaries who come down and they say, looks like they are satisfied with the coordination going on.

They need to come down to New Orleans. The President needs to come down to New Orleans and actually help us and do his job.

We are tired of them talking like John Wayne and acting like Pee-wee Herman. It's time to step up.

TAX DAY AND NO CONGRESSIONAL BUDGET

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. GARRETT of New Jersey. Mr. Speaker, you know, it was on January 10, 1984, when Clara Peller first said those now famous words, ''Where's the beef?''

Well, the American public across this country is asking this Democrat Congress, where's the budget? Yes, they are spending, spending that's out of control, almost $2 trillion by this new Democrat majority. Yes, there are taxes, almost $700 billion in new taxes. Yes, there are new deficits, deficits, but larger than we have ever seen in the history of this country. But where's the budget?

Yes, we have heard the chairman, the Democrat chairman of the Budget Committee now famously saying a Congress that cannot pass the budget is a Congress that cannot govern. How true? But we also heard Speaker PELOSI say that the inability to pass a budget hurts American children.

Well, Mr. Speaker, where is your budget?

MAJORITY'S FAILURE TO PASS BUDGET RESOLUTION THIS YEAR REPRESENTS MISSED OPPORTUNITY

(Mr. GARY G. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARY G. MILLER of California. Mr. Speaker, the majority's failure to pass a budget resolution this year represents a missed opportunity to provide fiscal discipline that is needed to create new job growth in our economy.

Since President Obama was sworn into office, congressional Democrats have increased spending by nearly $1.8 trillion, including the failed stimulus bill and the government takeover of health care. To account for the spending binge, the President and the majority have enacted more than $670 billion in tax increases and pushed our Nation's debt to an unprecedented $14.2 trillion. That's $14.2 trillion.

Yet the spending continues. This week the House is scheduled to consider another massive spending bill

that will do little to create jobs but will, according to the nonpartisan Congressional Budget Office, raise the deficit by $133 billion.

As spending continues to spiral out of control in Washington, the failure of congressional Democrats to present a fiscally responsible budget demonstrates a complete lack of leadership on the part of the majority.

FOX NEWS SHOULD REPORT CORRECT FACTS ON PENSION LEGISLATION

(Mr. LATOURETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Speaker, I am going to veer off this message. We are supposed to be talking about where's the budget, and I guess I wonder where the budget is.

But I have to tell you, I think as a Republican, I am supposed to love Fox News and hate MSNBC. Now, I am going to tell you I do hate MSNBC, but something just happened on Fox News that compelled me to come to the floor. They have run this diagram, and it really is, I think, blaspheming my good friend, PAT TIBERI from Ohio, and indicating that there are nine Republicans who are supporting a bill that will bail out unions.

Well, that's nonsense, and I don't know who the pinheaded weenie is at Fox News that decided to put that story together, but the true facts of this piece of legislation are as follows. This bill will save the taxpayers by saying to those corporations that have union pension plans, if you find yourselves in a bind, rather than thrusting that upon the taxpayer, it spreads out over 5 years the ability to bring those pension plans up to speed.

That's good government. It's a good bill. It's a good Tiberi bill. And I don't know what they are doing at Fox News, but they should stop smoking it and get back to reporting the facts.

PENSION BILL IS NOT GOVERNMENT BAILOUT

(Mr. MCCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCOTTER. Mr. Speaker, I rise too, as the gentleman from Ohio did, to be grossly off message.

The bill in question is H.R. 3936. What it does is good government. It allows employers the space they need to make sure they meet the pension obligations that they have to their workers.

It is not a government bailout. Taxpayer funds are not involved unless, of course, these institutions, these unions and their pension plans, fail. It is a wonderful idea by my colleague, PAT TIBERI. It is endorsed by many, many business groups, and I would hope that over the course of the coming hours the truth will out.

Again, you can't always believe what you see on TV, except that it was a very handsome likeness of Congressman LATOURETTE that appeared on Fox News.

DEADLINE HAS PASSED FOR ANNUAL BUDGET RESOLUTION

(Mr. LAMBORN asked and was given permission to address the House for 1 minute.)

Mr. LAMBORN. Mr. Speaker, over a month has gone by since the April 15 deadline for Congress to pass its annual budget resolution. House Democrats, though, haven't even bothered to offer up a proposal. But without a budget resolution, it is still clear Democrats will go on spending unbelievable sums of money, as if a $940 billion health care bill, a $787 billion failed stimulus bill, and teeing up more permanent bailout authority weren't enough, House Democrats are going to spend another $200 billion this week on another massive spending bill.

The majority of this is not offset by other spending cuts in the budget. This latest spending spree will increase our annual deficit by $134 billion.

To the extent that there is any budgeting here in Washington at all, we are budgeting for bankruptcy. The Congressional Budget Office predicts that our debt will rise to an alarming 90 percent of GDP by the end of this decade.

This is unsustainable and puts us in the same territory as the country of Greece. Having already spent trillions of dollars, we are not even trying to budget for the next year.

This is unacceptable. Americans don't handle their checkbooks this way and neither should Congress.

THE DEFICIT

(Mr. GUTHRIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTHRIE. Mr. Speaker, I stand before the House today to talk about when I was making the decision whether or not to run for office, my wife and I talked about it. We had young children and were concerned about what a campaign and being in Washington back and forth would do to our children.

We talked about the $400 billion budget deficit in 2007 and 2008 and not what it would do to our children if I ran for office, but what we could do for our children, and our children's children, and their friends, and their future.

And, now, the $400 billion budget deficit is the point, the decimal point on the current budget deficit, $1.4 trillion. The budget that has been presented says it is going to go up double in 5 years and triple in 10.

So I am here to work for my children and their future, and we need to ask ourselves every time a spending bill comes forward, is this worth borrowing from our children and our grandchildren's future to spend this money?

□ 1430

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CUMMINGS). Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5145, by the yeas and nays;

House Resolution 1258, by the yeas and nays;

House Resolution 1382, de novo;

House Resolution 584, de novo.

Proceedings on H.R. 3885 will resume later.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

ASSURING QUALITY CARE FOR VETERANS ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 5145, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 5145, as amended.

The vote was taken by electronic device, and there were—yeas 413, nays 2, not voting 15, as follows:

[Roll No. 294]

YEAS—413

Ackerman	Boustany	Clyburn
Aderholt	Boyd	Coble
Adler (NJ)	Brady (PA)	Coffman (CO)
Akin	Brady (TX)	Cohen
Alexander	Braley (IA)	Cole
Altmire	Bright	Conaway
Andrews	Broun (GA)	Connolly (VA)
Arcuri	Brown (SC)	Cooper
Austria	Brown, Corrine	Costa
Baca	Brown-Waite, Ginny	Costello
Bachmann	Buchanan	Courtney
Bachus	Burgess	Crenshaw
Baird	Burton (IN)	Critz
Baldwin	Butterfield	Crowley
Barrow	Buyer	Cuellar
Bartlett	Calvert	Culberson
Barton (TX)	Camp	Cummings
Bean	Cantor	Dahlkemper
Becerra	Cao	Davis (CA)
Berkley	Capito	Davis (IL)
Berman	Capps	Davis (KY)
Berry	Capuano	Davis (TN)
Biggert	Cardoza	DeFazio
Bilbray	Carnahan	DeGette
Bilirakis	Carney	Delahunt
Bishop (GA)	Carson (IN)	DeLauro
Bishop (NY)	Carter	Dent
Bishop (UT)	Cassidy	Deutch
Blackburn	Castle	Diaz-Balart, L.
Blumenauer	Castor (FL)	Diaz-Balart, M.
Boccieri	Chaffetz	Dicks
Boehner	Chandler	Dingell
Bonner	Childers	Doggett
Bono Mack	Chu	Donnelly (IN)
Boozman	Clarke	Doyle
Boren	Clay	Dreier
Boswell	Cleaver	Driehaus
Boucher		Duncan

Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—2

Campbell
Flake

NOT VOTING—15

Barrett (SC)
Blunt
Conyers
Davis (AL)
Fallin
Graves
Griffith
Hinojosa
Hoekstra
Jackson Lee (TX)
Kilpatrick (MI)
Manzullo
Ryan (WI)
Scott (GA)
Wamp

□ 1501

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MENTAL HEALTH MONTH

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1258, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. MATSUI) that the House suspend the rules and agree to the resolution, H. Res. 1258, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 1, not voting 15, as follows:

[Roll No. 295]

YEAS—414

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—15

Barrett (SC)	Graves	Kilpatrick (MI)
Blunt	Griffith	Manzullo
Boucher	Hinojosa	Ryan (WI)
Conyers	Hoekstra	Wamp
Davis (AL)	Jackson Lee (TX)	
Fallin		

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 1508

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 24, 2010.

Hon. NANCY PELOSI,
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Mr. Scott T. Nago, Chief Election Officer, Office of Elections, State of Hawaii, indicating that, according to the unofficial returns of the Special Election held May 22, 2010, the Honorable Charles Djou was elected Representative to Congress for the First Congressional District, State of Hawaii.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,
Clerk.

By Robert F. Reeves, Deputy Clerk.

Enclosure.

STATE OF HAWAII,
OFFICE OF ELECTIONS,
Pearl City, HI, May 23, 2010.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives, The Capitol, Washington, DC.

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Saturday, May 22, 2010 for Representative in Congress from the First Congressional District of Hawaii shows that Charles Djou (R) received the most votes of the total number cast for that office.

It would appear from the unofficial results that Charles Djou (R) was elected Representative from the First Congressional District of Hawaii. We are unaware of any election contests at this time.

As soon as the official results are certified, an official Certificate of Election will be transmitted as required by law.

Sincerely,

SCOTT T. NAGO,
Chief Election Officer.

U.S. REP DISTRICT SPECIAL VACANCY ELECTION—State of Hawaii—Statewide

May 22, 2010 SUMMARY REPORT

Congressional District I	98 of 98
(R) Djou, Charles	(67,610, 39.4%)

U.S. REP DISTRICT SPECIAL VACANCY ELECTION—State of Hawaii—Statewide—Continued

May 22, 2010 SUMMARY REPORT

Congressional District I	98 of 98
(D) Hanabusa, Colleen	(52.802, 30.8%)
(D) Case, Ed	(47,391, 27.6%)
(D) Del Castillo, Rafael (Del)	(664, 0.4%)
(N) Strode, Kalaeloa	(491, 0.3%)
(N) Brewer, Jim	(273, 0.2%)
(D) Lee, Philmund (Phil)	(254, 0.1%)
(R) Collins, Charles (Googie)	(194, 0.1%)
(R) Amsterdam, C. Kaui Jochanan	(170, 0.1%)
(D) Browne, Vinny	(150, 0.1%)
(N) Tataii, Steve	(125, 0.1%)
(R) Crum, Douglas	(107, 0.1%)
(R) Giuffre, John (Raghu)	(82, 0.0%)
(N) Moseley, Karl F.	(80, 0.0%)
Blank Votes:	(135, (.1%)
Over Votes:	(889, (.5%)
REGISTRATION AND TURNOUT SPECIAL	
TOTAL REGISTRATION	(317, 337)
TOTAL TURNOUT	(171,417, 54.0%)
PRECINCT TURNOUT	(169,104, 53.3%)
ABSENTEE TURNOUT	(2,313, 0.7%)
OVERSEAS BALLOTS CAST	
OVERSEAS TURNOUT	(296, 0.0%)
1ST CONGRESSIONAL	(296)
2ND CONGRESSIONAL	(0)

SWEARING IN OF THE HONORABLE CHARLES DJOU, OF HAWAII, AS A MEMBER OF THE HOUSE

Ms. HIRONO. Madam Speaker, I ask unanimous consent that the gentleman from Hawaii, the Honorable CHARLES DJOU, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

The SPEAKER. Will the Representative-elect and the Hawaiian delegation present themselves in the well.

Mr. DJOU appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations, you are now a Member of the 111th Congress.

WELCOMING THE HONORABLE CHARLES DJOU TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. Without objection, the gentlewoman from Hawaii (Ms. HIRONO) is recognized for 1 minute.

There was no objection.

Ms. HIRONO. Madam Speaker, I would like to introduce to you and our colleagues today Congressman CHARLES DJOU, the newest member of Hawaii's large delegation.

Born in Los Angeles, Congressman DJOU's family moved to Hawaii when he was three. He is a graduate of Punahou School in Honolulu, the Wharton School of the University of Pennsylvania, and the University of Southern California Law School. By the way, he attended the same school as our President.

Congressman DJOU most recently served as one of nine members of the Honolulu City Council, where he represented District 4, the area extending from Waikiki to Hawaii Kai. He served as the chairman of the Executive Matters and Legal Affairs Committee, vice chair of the Planning Committee, and as a member of the Transportation and Public Safety and Services Committee. He was first elected to his seat in 2002 and reelected in 2006. He previously served one term in the Hawaii House of Representatives, from 2000 to 2002, and was the minority floor leader.

Hawaii is one of the most ethnically and culturally diverse States in our country, and that diverse heritage is exemplified in Congress DJOU's unique French variation on a Chinese surname, which goes back to his grandfather in Shanghai. I will let Congressman DJOU tell you that story himself.

Now I extend a warm, warm aloha to Congressman DJOU, his wife, Stacey Kawasaki Djou, and their three children. I know that they and all the members of your family are very proud today, CHARLES, as you become a Member of the people's House.

I look forward to working with you, CHARLES, to ensure that the needs of the people of Hawaii are met and that their voices are represented in the people's House.

Congratulations.

□ 1515

Mr. BOEHNER. Will the gentlewoman yield?

Ms. HIRONO. I yield to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. On behalf of the House Republican Conference, let me welcome Congressman CHARLES DJOU, his wife, Stacey, and their children, family and guests to our Nation's Capitol.

CHARLES understands what it means to pursue the American Dream because he's lived it. CHARLES' mother was from Bangkok, Thailand, his father, from China, raised in Hong Kong. And during the Communist Revolution of China in 1948, his grandfather fled from Shanghai to Hong Kong which, at the time, was under British control.

So CHARLES is the son of immigrants and a devoted young husband and father with three beautiful children. He serves as an officer in the U.S. Army Reserve, which gives him a deep appreciation for the sacrifices made by the many men and women of our military he will now represent in this body.

He served his community, as you've heard, as a former member of the city council in Honolulu, and a former minority leader in the Hawaii State

House. And as most of you know, this son of immigrants is about to begin a new chapter of his life representing the people of Hawaii.

CHARLES, on behalf of our conference and all of the Members of the U.S. House of Representatives, we welcome you to our Nation's Capitol, and look forward to your service on behalf of the people of the First District of Hawaii.

The SPEAKER. Without objection, the gentleman from Hawaii is recognized.

There was no objection.

Mr. DJOU. Madam Speaker, Leader BOEHNER, my colleague Congresswoman HIRONO, Members of the House of Representatives, aloha.

Today, I am extraordinarily humbled to have the incredible honor of entering the United States House of Representatives. And I understand with this incredible honor comes incredible responsibility, and I feel privileged to call myself a colleague of all of yours.

The reason I am here today, however, is not because of anything that I have done but, instead, thanks must go to a whole bunch of individuals who put an enormous effort to helping me become a Member.

First and foremost, I want to thank my family, my parents, who raised me, my wonderful children, Nicholas, Victoria and Alexandria. They are the reason I get up every morning and consider myself so blessed to have so much and driven to do so much more. And most of all, my wife, Stacey, who is my confidante, my best friend, my most trusted adviser and the reason I go on every day and the reason I am so successful.

Second, of course, I want to thank all of my hardworking volunteers. It is only because of their enormous amount of hard work, standing with me in the hot sun, doing the unique Hawaiian practice of sign waving, coupled with going door to door with me and phonebanking, that I was able to communicate my message to the voters of Hawaii.

Third, I want to thank the voters from Hawaii for bestowing upon me this incredible privilege. I want all of the voters to know that every single day I have the privilege of serving them I will never, ever forget the trust and confidence they have vested in me.

And, finally, I want to thank the American people. It is a testimony to the greatness of the United States of America that I, a son of immigrants from China and Thailand, have the privilege of calling myself a Member of the United States Congress.

It is a testimony to the greatness of our Nation that, had I been born in the home nation of either one of my parents, the idea of calling myself the maker of laws in my parents' home nation would be laughable. But it is because of the good fortune that I was born and today call myself an American that I have this amazing privilege.

I am eager to start work, eager to work with all of you. I look forward to beginning the hard work of doing good, bringing change and restoring our Nation to prosperity. Thank you all very much.

And as we say in Hawaii, mahalo aloha, best wishes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentleman from Hawaii, the whole number of the House is now 432.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CUMMINGS). Without objection, 5-minute voting will continue.

There was no objection.

EXPRESSING SYMPATHY TO FAMILIES OF SOUTH KOREAN SEAMEN KILLED BY NORTH KOREA

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1382.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa (Mr. FALEOMAVAEGA) that the House suspend the rules and agree to the resolution, H. Res. 1382.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. CONNOLLY of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 411, noes 3, not voting 17, as follows:

[Roll No. 296]

AYES—411

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hirono
Hodes
Holden
Holt
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor

Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOES—3

Jones
Kucinich
Paul

NOT VOTING—17

Barrett (SC)
Blunt
Conyers
Crowley
Davis (AL)
Fallin
Graves
Griffith
Hinojosa
Hoekstra
Honda
Jackson Lee (TX)
Kilpatrick (MI)
Manzullo
Ryan (WI)
Wamp
Watson

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1531

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CROWLEY. Mr. Speaker, on rollcall No. 296, I was unavoidably detained and missed the vote. Had I been present, I would have voted "yes."

RECOGNIZING THE IMPORTANCE OF MANUFACTURED AND MODULAR HOUSING

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 584.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. DONNELLY) that the House suspend the rules and agree to the resolution, H. Res. 584.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DRIEHAUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 4, answered "present" 1, not voting 18, as follows:

[Roll No. 297]

YEAS—408

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hirono
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (FL)

NAYS—4

Broun (GA)
Cao
Paul
Young (AK)

ANSWERED "PRESENT"—1

Rogers (MI)

NOT VOTING—18

Barrett (SC)
Blunt
Boyd
Conyers
Davis (AL)
Fallin
Graves
Griffith
Gutierrez
Hinojosa
Hodes
Hoekstra
Jackson Lee (TX)
Kilpatrick (MI)
Lummis
Manzullo
Ryan (WI)
Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1541

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

SPECIAL AGENT SAMUEL HICKS FAMILIES OF FALLEN HEROES ACT

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2711) to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a

result of the performance of official duties.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Special Agent Samuel Hicks Families of Fallen Heroes Act''.

SEC. 2. TRANSPORTATION AND MOVING EXPENSES FOR IMMEDIATE FAMILY OF CERTAIN DECEASED FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by inserting after section 5724c the following:

''§ 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees

''(a) IN GENERAL.—Under regulations prescribed by the President, the head of the agency concerned (or a designee) may determine that a covered employee died as a result of personal injury sustained while in the performance of the employee's duty and authorize or approve the payment by the agency, from Government funds, of—

''(1) any qualified expense of the immediate family of the covered employee attributable to a change in their place of residence, if the place where the immediate family will reside following the death of the employee is—

''(A) different from the place where the immediate family resided at the time of the employee's death; and

''(B) within the United States; and

''(2) any expense of preparing and transporting the remains of the deceased to—

''(A) the place where the immediate family will reside following the death of the employee; or

''(B) such other place appropriate for interment as is determined by the agency head (or designee).

''(b) NO DUPLICATE PAYMENT OF EXPENSES.—No expenses may be paid under this section if those expenses are paid from Government funds under section 5742 or any other authority.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'covered employee' means—

''(A) a law enforcement officer, as defined in section 5541;

''(B) any employee in or under the Federal Bureau of Investigation who is not described in subparagraph (A); and

''(C) a customs and border protection officer, as defined in section 8331(31); and

''(2) the term 'qualified expense', as used with respect to an immediate family changing its place of residence, means the transportation expenses of the immediate family, the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods and personal effects of such immediate family, not in excess of 18,000 pounds net weight, and, when authorized or approved by the agency head (or designee), the transportation of 1 privately owned motor vehicle.''.

(b) NO RELEVANCE AS TO COMPENSATION CLAIMS.—No determination made under section 5724d of title 5, United States Code, shall be deemed relevant to or be considered in connection with any claim for compensation under chapter 81 of that title or under any other law under which compensation may be provided on account of death or personal injury, nor shall any determination made with respect to any such claim be deemed relevant to or be considered in connection with any request for payment of expenses under such section 5724d.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724c the following:

''Sec. 5724d. Transportation and moving expenses for immediate family of certain deceased Federal employees.''.

Amend the title so as to read: ''An Act to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Missouri (Mr. LUETKEMEYER) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the House Committee on Oversight and Government Reform, I present H.R. 2711, the Special Agent Samuel Hicks Families of Fallen Heroes Act, for consideration.

This bipartisan legislation was introduced on June 4, 2009, by my colleague, Representative MIKE ROGERS of Michigan, as well as several members of the Oversight Committee, including Chairman TOWNS, and Representatives BILL FOSTER of Illinois, ELIJAH CUMMINGS of Maryland, and BRIAN BILBRAY of California. In addition, I am also pleased to be an original cosponsor.

Moreover, H.R. 2711 was passed by the House of Representatives by a voice vote on December 8, 2009, and subsequently passed the United States Senate, with minor amendments, on May 14, 2010.

H.R. 2711 is an important measure for the Federal law enforcement community. This bill authorizes the FBI and other law enforcement agencies to pay the relocation and moving expenses for families of agents who are killed in the line of duty. Law enforcement officers and their families are routinely moved by the government to take on assignments that enhance the security of our country. Under current law, the government is authorized to pay these expenses if an agent or employee is killed overseas, but it cannot do so for relocation if the death occurs within the United States. While we wish this legislation was not necessary, tragically there have been instances in which such authority was needed to support the families of agents or employees who have given their lives.

I applaud the Senate, and especially Senators LIEBERMAN, COLLINS, AKAKA, and VOINOVICH for recognizing the importance of this bill and for sending the bill back to the House with minor changes. The bill, as amended by the Senate, would extend these family benefits to employees of U.S. Customs and Border Protection. The Senate amendment also makes several largely technical changes to the scope of available assistance.

□ 1545

These improvements were made at the request of the Obama administration, which supports this measure. I do want to emphasize that the bill has strong support among the Federal law enforcement community, including the Federal Law Enforcement Officers Association and the FBI Agents Association.

Lastly, I'd like to point out that the title of the bill pays tribute to the memory and service of Special Agent Samuel Hicks. Special Agent Hicks was assigned to the Pittsburgh FBI office and was fatally shot on November 19, 2008, at the age of 33 while executing a Federal search warrant associated with a drug distribution ring.

Special Agent Hicks was a former police officer with the Baltimore Police Department. He and his family relocated to Pittsburgh when he became an agent. Unfortunately, after the loss of Special Agent Hicks, the Bureau was unable to assist the Hicks family in moving back to Baltimore due to the statutory limitations. This legislation would correct this problem and prevent future families from suffering additional grief and hardship.

I urge all of my colleagues to join me in supporting H.R. 2711.

Mr. Speaker, on behalf of the House Committee on Oversight and Government Reform, I present H.R. 2711, the Special Agent Samuel Hicks Families of Fallen Heroes Act, for consideration.

This bipartisan legislation was introduced on June 4th, 2009 by my colleague, Representative MIKE ROGERS of Michigan, as well as several Members of the Oversight Committee, including Chairman ED TOWNS and Representatives BILL FOSTER, ELIJAH CUMMINGS, and BRIAN BILBRAY. In addition, I am pleased to say that I am an original cosponsor of H.R. 2711.

Moreover, H.R. 2711 was passed by the House of Representatives by voice vote on December 8th, 2009 and subsequently passed the United States Senate, with minor amendments, on May 14th, 2010.

H.R. 2711 Is an important measure for the Federal law enforcement officer community. The bill authorizes the FBI and other law enforcement agencies to pay the relocation and moving expenses for families of agents who are killed in the line of duty.

Law enforcement officers and their families are routinely moved by the government to take on assignments that enhance the security of the country. Under current law, the government is authorized to pay these expenses if an agent or employee is killed overseas but cannot pay for relocation if the death occurs in the U.S.

While we wish this legislation was not necessary, tragically, there have been instances in the recent past where such authority was

needed to support the families of agents or employees who gave their lives.

I applaud the Senate, and specifically, Senators LIEBERMAN, COLLINS, AKAKA and VOINOVICH, for recognizing the importance of this bill and for sending the bill back to the House with minor changes.

The bill, as amended by the Senate, would extend these family benefits to employees of U.S. Customs and Border Protection. The Senate amendment also makes several, largely technical changes to the scope of available benefits. These changes were made at the request of the Obama administration, which supports this measure.

I want to emphasize that this bill has strong support from the Federal law enforcement community, including the Federal Law Enforcement Officers Association and the Federal Bureau of Investigation Agents Association.

Lastly, I would like to point out that the title of this bill pays tribute to the memory and service of Special Agent Samuel Hicks. Special Agent Hicks was assigned to the Pittsburgh FBI office and was fatally shot on November 19, 2008, at the age of 33, while executing a Federal search warrant associated with a drug distribution ring. Special Agent Hicks was a former police officer with the Baltimore Police Department. He and his family relocated to Pittsburgh when he became an agent. Unfortunately, after the loss of Special Agent Hicks, the Bureau was unable to assist the Hicks family in moving back to Baltimore due to statutory limitations. This legislation would correct this problem and prevent future families from suffering additional unnecessary grief and hardship.

I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

When we passed this bill in the House on December 8, 2009, this bill only applied to law enforcement officers as defined in section 5541 and other FBI employees who have sacrificed their lives during the performance of official duties. Additionally, the term ''qualified expense'' was more broadly defined than how this bill now characterizes the term.

Following the bill's passage in the House, the Senate, which passed this bill on May 14, 2010, amended this bill to expand its coverage to certain CBP officers. Moreover, the Senate amended this bill to qualify the term ''qualified expense'' and limit what constitutes a qualified expense.

At this stage, the bill would authorize the employing agency of Federal law enforcement officers as well as certain FBI and CBP employees who have sacrificed their lives in the performance of his or her duties to pay the moving, transportation, and relocation expenses due to a change of residence within the United States of the immediate family of the officer. Additionally, this bill would authorize the employing agency to cover the expenses of preparing and transporting the remains of the deceased to the place where the family will reside following the employee's death.

The Federal Government often requires or asks Federal law enforcement, including CBP and FBI officers, to relocate to new areas all across the country and throughout the world. Frequently, these officers bring their families with them to see these new localities. When the lives of these officers have been sacrificed during the performance of their official duties, the family is often stranded with no financial means to return to the area they call home. Congress should make it a priority to help care for the families of these heroes who have honorably sacrificed their lives for the security of our country.

Mr. Speaker, I support this measure and urge my colleagues to do as well.

Mr. Speaker, at this point, I would like to yield such time as he may consume to my distinguished colleague from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Thank you, Mr. LYNCH, for your help and cooperation—it goes to show you what good things we can do when we work together in this Chamber—to really stand up for the families of the fallen.

You know, the folks who are killed in the line of duty come from all walks of life and from every corner of our country, and they sign up for law enforcement, Federal law enforcement because they believe in a purpose higher than themselves. And they consistently, day in and day out, Mr. Speaker, put their lives on the line for the same rule of law that we enjoy in every ounce of every community.

And these are the rare and sad cases where these agents or patrol officers with the CBP have given their lives in defense of that law and liberty in communities across the United States.

But there's also another set of victims there, and it is the family members who have sacrificed with them and packed up their families and come a long way away from where they grew up and where their family is to help build a support network for those agents and officers who are serving so proudly the United States of America. And due to a glitch—and it was just that, a simple glitch—that if an FBI agent was killed in the line of duty overseas, their family could be relocated back. But if they moved from Maine to California, the family was stuck with the expense and the hazard and the hardship of getting home.

This is really a small step to say ''thank you'' for the service and sacrifice for the men and women who wear the badge of the people of the United States of America, and a small statement to them that we care, we have not forgotten, and we thank you every day for your service and sacrifice to this great Nation.

Mr. LYNCH. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I urge all Members to support the passage of H.R. 2711.

I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I thank the gentleman for his thoughtful remarks, and I just want to ask Members on both sides to join with Mr. ROGERS of Michigan, also Mr. FOSTER of Illinois—and, Mr. Speaker, I know that you, as the Representative from Maryland's Seventh District, had a special interest in this bill on behalf of the Hicks family and all of those officers who are killed in the line of duty, so I want to thank you for your work as well.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2711.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LUETKEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 3250. An act to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the ''Private First Class Garfield M. Langhorn Post Office Building''.

H.R. 3634. An act to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the ''George Kell Post Office''.

H.R. 3892. An act to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the ''E.V. Wilkins Post Office''.

H.R. 4017. An act to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the ''Ann Marie Blute Post Office''.

H.R. 4095. An act to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the ''Congresswoman Jan Meyers Post Office Building''.

H.R. 4139. An act to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the ''Sergeant Matthew L. Ingram Post Office''.

H.R. 4214. An act to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the ''Roy Wilson Post Office''.

H.R. 4238. An act to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the ''W.D. Farr Post Office Building''.

H.R. 4425. An act to designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the ''Martin G. 'Marty' Mahar Post Office''.

H.R. 4547. An act to designate the facility of the United States Postal Service located

at 119 Station Road in Cheyney, Pennsylvania, as the ''Captain Luther H. Smith, U.S. Army Air Forces Post Office''.

H.R. 4628. An act to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the ''Sergeant Christopher R. Hrbek Post Office Building''.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4840. An act to designate the facility of the United States Postal Service located at 1979 Cleveland Avenue in Columbus, Ohio, as the ''Clarence D. Lumpkin Post Office''.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2874. An act to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Roy Rondeno, Sr. Post Office Building''.

S. 3200. An act to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the ''Zachary Smith Post Office Building''.

RECOGNIZING WILL KEITH KELLOGG

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1172) recognizing the life and achievements of Will Keith Kellogg.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1172

Whereas Will Keith (W.K.) Kellogg, through his experimentation and entrepreneurship, revolutionized eating habits around the world; promoted healthy living for families and communities; patriotically assisted the United States during World War II; created the Kellogg Company, which has produced a wide variety of popular foods for more than 100 years and has developed memorable cultural icons; and formed the W.K. Kellogg Foundation, which promotes a vision of healthy living around the world;

Whereas Will Keith (W.K.) Kellogg was born on April 7, 1860, and died at the age of 91 on October 6, 1951;

Whereas, April 7, 2010, will mark the celebration of the 150th anniversary of W.K. Kellogg's birth;

Whereas W.K. Kellogg and his brother Dr. John Harvey Kellogg developed the first breakfast cereal, Kellogg's Corn Flakes, in Battle Creek, Michigan, on April 1, 1906;

Whereas W.K. Kellogg strongly promoted healthy eating and fitness throughout his career;

Whereas the Kellogg Company has produced many nutritious foods for 104 years;

Whereas consumer awareness of nutrition has long been a major priority of the Kellogg Company;

Whereas innovative packing and nutrition labels developed by the Kellogg Company have gone on to become standard practice in the food industry;

Whereas breakfast cereals have revolutionized eating habits in the United States and around the world;

Whereas the Kellogg Company has created memorable characters that have become cultural icons, including ''Tony the Tiger'' and ''Snap, Crackle, and Pop'';

Whereas during the Great Depression, W.K. Kellogg pronounced his faith in the United States by announcing ''I'll invest my money in people'';

Whereas the production facilities of the Kellogg Company played a key role in assisting the engineering efforts of the United States Armed Forces during World War II;

Whereas families in the United States often sent food products from the Kellogg Company to soldiers serving in foreign countries;

Whereas for his contributions to the United States during World War II, W.K. Kellogg was awarded the Army-Navy ''E'' Flag for Excellence;

Whereas the Apollo 11 astronauts brought Kellogg's breakfast cereal into outer space in 1969, during their successful mission to the moon;

Whereas the Kellogg Company has maintained its social responsibility by supporting a number of different organizations, such as the United Negro College Fund, the Statue of Liberty-Ellis Island renewal project, and organizations that fought apartheid in South Africa;

Whereas the Kellogg Company has been working to combat obesity and is joining together with more than 40 of the Nation's largest retailers, nonprofit organizations, manufacturers, and trade associations to launch the Healthy Weight Commitment Foundation to promote healthy living in homes, schools, and workplaces;

Whereas the Kellogg Foundation was begun by W.K. Kellogg to bolster the health of children in Battle Creek, Michigan;

Whereas the W.K. Kellogg Foundation today promotes health, education, agriculture, and family economic security throughout the world;

Whereas the Kellogg Company manufactures its products in 18 countries and sells them to people in 180 different countries;

Whereas the Kellogg Company currently has production facilities in 14 States, including: California, Georgia, Illinois, Kansas, Kentucky, Michigan, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Utah, and Washington; and

Whereas W.K. Kellogg created a legacy of healthy living, patriotism, and entrepreneurism that endures to this day: Now, therefore, be it

Resolved, That the House of Representatives recognizes the 150th anniversary of the birth of Will Keith Kellogg and his contributions to the citizens of the United States and the people of the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Missouri (Mr. LUETKEMEYER) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

On behalf of the Committee on Oversight and Government Reform, I present House Resolution 1172 for consideration. This legislation recognizes the life and achievements of a renowned American industrialist and philanthropist, Mr. Will Keith Kellogg.

Introduced by my colleague and friend, Representative MARK SCHAUER of Michigan, on March 11, 2010, House Resolution 1172 was favorably reported out of the Oversight Committee on May 20, 2010, by unanimous consent. And, additionally, this legislation enjoys the support of over 50 Members of Congress.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I present House Resolution 1172 for consideration. This legislation recognizes the life and achievements of a renowned American industrialist and philanthropist, Mr. Will Keith Kellogg.

Introduced by my colleague, Representative MARK SCHAUER of Michigan, on March 11th, 2010, House Resolution 1172 was favorably reported out of the Oversight Committee on May 20th, 2010 by unanimous consent. Additionally, this legislation enjoys the support of over fifty members of Congress.

A longtime resident of the city of Battle Creek, Michigan, W.K. Kellogg, the founder of the famed Kellogg Company, was born on April 7th, 1860. While Mr. Kellogg lacked a formal education beyond the 6th grade, he was always an aspiring businessman and at the age of 14, began his business career selling brooms for a living.

At the age of 20, Mr. Kellogg moved to Battle Creek to work at the Battle Creek Sanitarium, where his brother, Dr. John Harvey Kellogg, served as physician-in-chief. It was at the sanitarium where Mr. Kellogg and his brother first began experimenting with grains in order to improve the vegetarian diet of the hospital's patients.

The Kellogg brothers' efforts proved groundbreaking, as the year 1894 marked W.K. Kellogg's discovery of a process for making flaked cereal. The new cereal was an instant favorite among the sanitarium's patients and soon became available through mail order to accommodate the requests of hundreds of hospital guests.

In 1906, Mr. Kellogg officially entered the cereal business and founded the Battle Creek Toasted Corn Flake Company—which later became the Kellogg Company. Notably, the Kellogg Company product line reflected Mr. Kellogg's belief that the entire populace—and not just those on special diets—would be interested in healthy cereal foods. Accordingly, Mr. Kellogg continually sought to improve his breakfast cereals—eventually discovering that a better flake was produced by using only the corn grit or "sweet heart of the corn"—and the Kellogg Company quickly became an industry leader in terms of innovative packing and nutritional labeling.

As Mr. Kellogg's company quickly expanded its operations to locations such as Australia and England, the Kellogg Company continued to play a key economic role in Battle Creek and across the United States. During the Great Depression, Mr. Kellogg, who famously announced that he would invest his money in his people, expanded his facilities in Battle Creek—thereby bringing much-needed jobs to his hometown. Similarly, he directed his Battle Creek plant to offer four work shifts of six hours each, so as to spread the payroll among more workers.

The Kellogg Company also played an instrumental role during World War II, as the company provided packaged rations for the United States armed forces. In addition, Kellogg Company engineering personnel made use of the company's production facilities in support of United States armed forces engineering efforts. And in recognition of the company's contribution to the American war effort, Mr. Kellogg received the Army-Navy "E" Flag for excellence.

In addition to his pioneering contributions to the food industry and his devotion to promoting healthy living around the world, Mr. Kellogg is also remembered as a dedicated philanthropist. Notably, in 1930, President Herbert Hoover named Mr. Kellogg to serve as a delegate to the White House Conference on Child Health and Protection, and in his continued efforts to assist young people, Mr. Kellogg subsequently established the W.K. Kellogg Child Welfare Foundation. The foundation, now known as the W.K. Kellogg Foundation, serves to provide a variety of educational, healthcare, and other opportunities to vulnerable children.

Moreover, Mr. Kellogg donated millions of dollars to a variety of hometown causes throughout his life, including the establishment of the Ann J. Kellogg School for Handicapped Children and the construction of a civic auditorium, a junior high school, and a youth recreation center in Battle Creek.

Mr. Speaker, after a lifetime of remarkable achievements in the world of business and a dedicated commitment to public service, W.K. Kellogg passed away on October 6th, 1951, at the age of 91. It is my hope that we honor the life and achievements of Mr. Kellogg through the passage of House Resolution 1172. Notably, this legislation is as timely as it is fitting, as this past April marked the 150th Anniversary of Mr. Kellogg's birth.

At this time I yield 5 minutes to the lead sponsor of this resolution, the gentleman from Michigan (Mr. SCHAUER).

Mr. SCHAUER. Thank you, Mr. LYNCH.

Mr. Speaker, I rise in support of House Resolution 1172 to commemorate the extraordinary life of Will Keith Kellogg. W.K. Kellogg represents the embodiment of the American Dream. With an education only through the sixth grade, Mr. Kellogg rose out of the stockyards of Battle Creek, my home town in Michigan, to become one of the most influential industrialists and philanthropists in American history.

Now, in the 150th year since his birth, through both the Kellogg Company and the W.K. Kellogg Foundation, he continues to touch the lives of millions throughout the country and the world. Through the invention of the ready-to-eat breakfast cereal in 1906, W.K. Kellogg provided widespread access to a broad spectrum of vitamins and minerals for the first time. Think about this: W.K. Kellogg stood up an entire industry that didn't exist before he invented the corn flake in Battle Creek, Michigan.

Breakfast cereal has grown to become one of the most widely eaten foods around the world. In many countries, fortified cereal breakfast foods represent one of the few readily available sources of essential micronutrients. A nutrition and health visionary, W.K. Kellogg hired the first dietician to work in the food industry, was the first to print nutrition labels on packaging, and believed strongly in educating consumers to empower them to make good nutritional choices. With the number of obese and overweight children on the rise, W.K. Kellogg's message about nutritional awareness continues to resonate throughout our country.

W.K. Kellogg formed a foundation which bears his name. During the Great Depression, he announced, I'll invest my money in people. Today, through the Kellogg Foundation, his legacy lives on. From the $64 million he set aside to ease the suffering of children during the Great Depression, the Kellogg Foundation now boasts assets of over $8 billion and grants upwards of $200 million each year to charitable organizations, especially those aimed at benefiting children.

W.K. Kellogg would be proud of the Kellogg Company's work to attack childhood obesity and the Kellogg Foundation's grant-making to promote education and health and eliminate poverty and racism.

As we commemorate the 150th anniversary of his life, we should remind ourselves of the increasing importance that a healthy lifestyle plays in our lives and also remember that, in America, anything is possible.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1172, recognizing the life and achievements of Will Keith Kellogg. Will Keith Kellogg, who was known worldwide as W.K. Kellogg, was a great American marketer, philanthropist, patriot, and great revolutionary of the health food industry.

Mr. Kellogg and his brother ran the Battle Creek Sanitarium, a local health resort where he became interested in nutrition. Mr. Kellogg found a process to use corn grain to create light flakes that many guests in the sanitarium enjoyed. While his brother was skeptical, Mr. Kellogg said, I sort of feel in my bones that we're preparing a campaign for a food which will eventually prove to be the leading cereal in the United States, if not the world.

Kellogg was also the first company to put a nutritional label on its products, signifying the importance of nutrition in everyday living. Mr. Kellogg worked long hours to get his products to the market. He began to manufacture products in 18 countries and sell them to people in 180 different countries, with production facilities in 14 States.

He believed in the hands-on approach by walking through factories and observing operations daily. He was the first in the corporate world to offer extended benefits and services to his workers. He was particularly interested in helping children in 1927 when he opened a nursery at his main plant to accommodate the needs of his female employees with children.

In 1930 the W.K. Kellogg Child Welfare Foundation was established with a first donation consisting of more than $66 million in Kellogg Company stock and other investments from Kellogg himself. The foundation believes that children are the world's future, and they depend on families, communities, and society at large to nurture and protect them.

In reflecting on his success, Mr. Kellogg once said, I confess at the time I little realized the extent to which the food business might develop in Battle Creek. Kellogg made sure to establish and maintain a partnership between the small town of Battle Creek and its quickly growing company.

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During the Great Depression, Kellogg showed his patriotism and love of his country and community by his concerns for his fellow workers' welfare. He created more shifts so that more family men could be hired, directing his cereal plant to work four shifts, lasting 6 hours, helping the Battle Creek community.

W.K. Kellogg was an American entrepreneur and breakfast revolutionary. He stressed the importance of American made and American duty. Upon retiring from his company in 1938, he remained a chairman of the board and very involved in Kellogg's placement in the market. Mr. Kellogg was diagnosed with glaucoma and spent the last of his life blind but continued to visit his company's plants with his seeing-eye dog.

When he passed away in 1951, W.K. Kellogg left America a legacy of healthy living, patriotism, and entrepreneurism that still endures today.

With that, Mr. Speaker, seeing no other speakers, I urge the support of passage of House Resolution 1172.

I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I appreciate the gentleman's kind words and also the words of the gentleman from Michigan (Mr. SCHAUER).

I would just add one last point, and that is that the Kellogg Company also played an instrumental role during World War II as the company for the first time provided packaged rations for the United States Armed Forces.

In addition, during World War II, Kellogg Company engineering personnel made use of the company's production facilities in support of the United States Armed Forces engineering efforts. In recognition of the company's contribution to the American war effort, Mr. Kellogg received the Army-Navy E Flag for excellence.

With that, I would just ask Members on both sides of the aisle to support Mr. SCHAUER in his resolution.

I yield back the balance of our time.

The SPEAKER pro tempore (Mr. SERRANO). The question is on the motion offered by the gentleman from

Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1172.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LYNCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

COMMENDING LANCE MACKEY ON WINNING 4TH STRAIGHT IDITAROD TRAIL SLED DOG RACE

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1189) commending Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1189

Whereas Lance Mackey was born and raised in Alaska and currently resides in Fairbanks, Alaska;

Whereas Lance Mackey comes from a long line of successful mushers, including his father Dick and his brother Rick, each of whom has won the Iditarod Trail Sled Dog Race;

Whereas Lance Mackey is married to his high school sweetheart Tonya, who is also a musher, and has three children: Amanda, Brittney, and Cain and one new grandchild, born on the seventh day of the nine-plus-day Iditarod Trail Sled Dog Race;

Whereas Lance Mackey and his family run the Comeback Kennel in Fairbanks, Alaska;

Whereas Lance Mackey was diagnosed with throat cancer in 2001, took a year off from sled-dog racing to recover from the disease, and is now cancer-free;

Whereas the Iditarod Trail Sled Dog Race, which has been called the ''Last Great Race on Earth'', is a grueling 1,150-mile sled dog race across Alaska's jagged mountain ranges, frozen rivers, dense forests, and windswept tundra;

Whereas running the Iditarod Trail Sled Dog Race is a year-long commitment to training and caring for one's sled dogs;

Whereas the Yukon Quest is an equally grueling 1,000-mile sled dog race from Fairbanks, Alaska, to Whitehorse, Yukon;

Whereas Lance Mackey is the only 4-time consecutive Iditarod Trail Sled Dog Race Champion, the only 4-time Yukon Quest Race Champion and the only man to win both the Yukon Quest and Iditarod Trail Sled Dog Races in the same year, which he did in both 2007 and 2008;

Whereas Lance Mackey, guided by his two lead dogs ''Maple'' and ''Rev'', mushed his team of Alaskan Huskies along the path of the 38th Iditarod Trail Sled Dog Race from its start in Anchorage to the finish line in Nome in just 8 days, 23 hours, 59 minutes, and 9 seconds;

Whereas both ''Maple'' and ''Rev'' exemplify all the essential qualities for good lead dogs, including intelligence, initiative, common sense, and the ability to find a trail in bad conditions;

Whereas Lance Mackey, who despite retiring ''Larry'', the lead dog with whom Mackey won his first three Iditarod Trail Sled Dog Races, was still able to convincingly win his 4th consecutive Iditarod;

Whereas the Iditarod Trail, a National Historic Trail, is staffed by thousands of volunteers who monitor and assist all competitors; and

Whereas each checkpoint along the Iditarod Trail has coordinators, health care professionals, and licensed veterinarians who carefully monitor the health and safety of all dogs and mushers: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends Lance Mackey on his record-breaking 4th consecutive Iditarod victory during the 2010 Iditarod Trail Sled Dog Race;

(2) applauds each and every musher who was courageous enough to compete in the 2010 Iditarod Trail Sled Dog Race; and

(3) expresses appreciation to all volunteers and staff who help make this great Alaskan race possible each and every year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Missouri (Mr. LUETKEMEYER) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I present House Resolution 1189 for consideration. This resolution honors Lance Mackey for his record of four consecutive wins at the Iditarod.

House Resolution 1189 was introduced by my colleague, the gentleman from Alaska, Representative DON YOUNG, on March 17, 2010. The measure was referred to the Committee on Oversight and Government Reform, which ordered the measure reported by unanimous consent on April 14, 2010. Notably, House Resolution 1189 enjoys the support of over 80 Members of Congress.

Mr. Speaker, Lance Mackey's ability to win a record fourth consecutive Iditarod can truly be characterized as a remarkable achievement. As the residents of Alaska well know, the Iditarod takes place on 1,150 miles of grueling landscape across the State. Competitors race over mountain ranges, through tundra and spruce forests and across frozen rivers.

Mr. Mackey completed this year's race from a start in Anchorage to the finish line in Nome in just 8 days, 23 hours, 59 minutes and 9 seconds, the second-fastest finish in the history of this race.

In addition, he is the only person ever to be crowned Iditarod Trail Sled Dog Race champion four times in a row and the only person to win both the Yukon Quest and the Iditarod race in the same year, a feat that he accomplished in both 2007 and 2008.

Mr. Mackey's accomplishments have also served as an inspiration to the cancer community. In 2001, Mr. Mackey was diagnosed with throat cancer. He took a year off from racing in order to battle the disease.

Thankfully, Mr. Mackey is now considered cancer-free and often speaks to a variety of cancer patient groups about his fight and his recovery.

Mr. Speaker, let us now take this opportunity to congratulate Mr. Mackey on his historic victory. I thank the gentleman from Alaska for introducing House Resolution 1189. I would also like to thank the gentleman from California (Mr. ISSA) for his support of this measure.

I urge my colleagues to support the House Resolution 1189.

Mr. Speaker, I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, to facilitate matters, I will include my remarks in the RECORD at the conclusion of these proceedings.

With that, I yield such time as he may consume to my distinguished colleague from Alaska (Mr. YOUNG).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. I thank the chairman and the ranking member.

This is a resolution recognizing Lance Mackey. I know Lance personally. As the chairman mentioned, last March he made Alaskan history by being the first person to win four consecutive Iditarod races. My friends, that's a little over 4,450 miles across nearly 1,200 miles of Alaskan wilderness from Willow to Nome.

His exceptional fast time this year makes him only one of two finishers to finish the race in less than 9 days. Remember, this is over a thousand miles in less than 9 days. Lance was also the only person to have won the Yukon Quest four times, a thousand mile dog-sled race from Fairbanks, Alaska, to Whitehorse, Yukon. In 2007 and 2008, he won both the Iditarod and Yukon Quest in the same year within 2 weeks of one another, otherwise over 2,000 miles within 2 weeks.

Lance Mackey was born and raised in Alaska and comes from a long line of successful mushers. His father, Dick, helped form the Iditarod race in 1973, and I have raced with Dick Mackey when he was there and I was a lot younger. His brother, Rick, along with his father, have each won the Iditarod race.

Like both his father and mother, Lance won on his sixth day wearing lucky bib number 13. Mackey considers his dogs to be the true champions, and his team was guided this year by lead dogs Maple and Rev, who had big shoes to fill after the retirement of Larry, who led Lance's team during his first three Iditarod wins.

In 2001, as it was mentioned, Lance Mackey was diagnosed with throat cancer. He continued to run in the 2002 Iditarod with a feeding tube in his stomach, but had to pull out of the race halfway through. After extensive surgery, radiation treatment, a year-long break from racing, and the loss of an index finger, he is now fully recovered and cancer-free.

Lance Mackey is married to his high school sweetheart, Tonya, who is also a musher. They have four children: Amanda; Brittney; Alanah; and Cain. Together they run the Comeback Kennel in Fox, Alaska.

Lance Mackey is a real-life hero and an inspiration to thousands of Alaskan Americans who religiously follow the Iditarod. I want to commend Lance for the great achievement of winning the four straight Iditarods. This is a great Alaskan. Thank you, Lance.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1189, commending Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race. This resolution not only congratulates Mackey on his incredible successes but also recognizes the importance of the Iditarod race and all of the prestige that it brings to Alaska every year.

Since the 1970s, the Iditarod Sled Dog Race—frequently referred to as the 'Last Great Race on Earth'—has attracted the best dog sled racers (known as mushers) and dog teams from around the world to compete in Alaska. The 1,150 mile Iditarod trail race is famous around the world because of its difficulty and because of the incredible talent that it attracts every year. The Iditarod's official site explains the extreme difficulty of the trail saying that nature "throws jagged mountain ranges, frozen river, dense forest, desolate tundra, and miles of windswept coast at the mushers and their dog teams.

Add to that temperatures far below zero, winds that can cause a complete loss of visibility, the hazards of overflow, long hours of darkness and treacherous climbs and slide hills, and you have the Iditarod." In addition to a very exciting race, the Iditarod race every year attracts fans and spectators from around the world and creates many important jobs for Alaskans.

Lance Mackey who won this year's Iditarod race provides an inspiration not only to fans of the Iditarod but to all Americans.

Mackey grew up in a family of dedicated and victorious mushers as both his dad and his brother have won the Iditarod race. In 2001, Mackey suffered a severe career and life set back when he became sick with throat cancer. However, after a year of treatment and away from dog sledding, Mackey recovered from his cancer and was able to resume his career. Just a few years later he won his first Iditarod race and then went on to win three more times for a record four consecutive wins.

Mr. Speaker, I strongly urge all of my colleagues to support this resolution. The annual Iditarod race is an amazing event not just for Alaska but for the entire country, and Lance Mackey, the champion for the last four years, deserves our recognition and congratulations.

I have no further requests for time, and I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I commend the gentleman for his thoughtful remarks and ask Members on both sides of the aisle to support Mr. YOUNG in his resolution.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1189.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LYNCH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CELEBRATING ASIAN/PACIFIC AMERICAN HERITAGE MONTH

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1316) celebrating Asian/Pacific American Heritage Month, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1316

Whereas the United States joins together each May to pay tribute to the contributions of generations of Asians and Pacific Islanders who have enriched the Nation's history;

Whereas the history of Asians and Pacific Islanders in the United States is inextricably tied to the story of the Nation;

Whereas the month of May was selected for Asian/Pacific American Heritage Month due to the following two historical events, first, May 7, 1843, when the first Japanese immigrants arrived in the United States, and second, May 10, 1869, when, with substantial contributions from Chinese immigrants, the first transcontinental railroad was completed;

Whereas today, according to the United States Census Bureau, the Asian American and Pacific Islander community is one of the fastest growing and most diverse populations in the United States, comprised of over 45 distinct ethnicities and over 28 language groups in the community;

Whereas the United States Census Bureau estimates that there are 15,200,000 United States residents who identify themselves as Asian alone or in combination with one or more other races, 1,000,000 United States residents who identify themselves as Native Hawaiian and other Pacific Islander alone or in combination with one or more other races, and projects that by 2050, there will be 40,600,000 United States residents identifying as Asian alone or in combination with one or more other races, to comprise 9 percent of the United States population;

Whereas section 102 of title 36, United States Code, officially designates May as Asian/Pacific American Heritage Month, and requests the President to issue each year a proclamation calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities;

Whereas significant outreach efforts to the Asian American and Pacific Islander community have been made through the reestablishment of the White House Initiative on Asian Americans and Pacific Islanders to coordinate multiagency efforts to ensure more accurate data collection and access to services for this community;

Whereas the Presidential Cabinet includes a record three Asian Americans, including Energy Secretary Steven Chu, Commerce Secretary Gary Locke, and Veterans Affairs Secretary Eric Shinseki;

Whereas there has been a commitment to judicial diversity through the nomination of high caliber Asian Americans and other minority jurists at all levels of the Federal bench;

Whereas the civic engagement of Asian Americans and Pacific Islanders and community-based organizations has increased throughout the years;

Whereas the Congressional Asian Pacific American Caucus, a bipartisan, bicameral caucus of Members of Congress advocating on behalf of Asian Americans and Pacific Islanders, has reached a record 30 Members this year;

Whereas today, Asian American and Pacific Islander leaders serve in local and State legislatures across the Nation, in States as diverse as California, New York, Texas, Connecticut, Maryland, Ohio, and Iowa;

Whereas, even with these exceptional milestones crossed by the community, there remains much to be done to ensure that linguistically and culturally isolated Asian Americans and Pacific Islanders have access to resources and a voice in the United States Government;

Whereas learning from injustices faced by Asian American and Pacific Islander communities throughout United States history, such as the Chinese Exclusion Act, the Japanese American internment, unpunished hate crimes such as the murder of Vincent Chin, and other events, can help perfect the Nation;

Whereas Asian Americans and Pacific Islanders, such as civil rights activist Yuri Kochiyama, Medal of Honor recipient Herbert Pililaau, the first Asian American Congressman Dalip Singh Saund, the first Asian American Congresswoman Patsy Mink, the first Asian American member of a presidential cabinet Norman Y. Mineta, and others have made significant strides in the political and military realms; and

Whereas celebrating Asian/Pacific American Heritage Month provides the people of the United States with an opportunity to recognize the achievements, contributions, history, and address the challenges faced by Asian Americans and Pacific Islanders: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes that Asian American and Pacific Islander communities enhance the rich diversity of the United States; and

(2) celebrates the contributions of Asian Americans and Pacific Islanders to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Missouri (Mr. LUETKEMEYER) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to add any extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the Committee on Oversight and Government Reform, I present House Resolution 1316, as amended, for consideration. This legislation celebrates Asian/Pacific American Heritage Month, which is celebrated during the month of May.

House Resolution 1316 was introduced by my friend and colleague, Representative MIKE HONDA of California, on April 29, 2010. In addition, this resolution was favorably reported out of the House Oversight and Government Reform Committee by unanimous consent on May 6, 2010. This House Resolution enjoys the support of over 55 Members of Congress.

Mr. Speaker, the Asian American and Pacific Islander community is composed of over 15 million people, who on a daily basis, make significant contributions to the betterment of our country. In addition to being one of our country's fastest-growing minority groups, the Asian American and Pacific Islander community is also responsible for generating an estimated $326 billion annually for our economy as entrepreneurs and owners of over 1.1 million businesses.

While Asian/Pacific American heritage is certainly worth recognizing and celebrating year round, the country and the Asian/Pacific American community have traditionally come together in the month of May to celebrate and commemorate Asian and Pacific American heritage.

This celebration began back in 1977 when Representatives Frank Horton and Norman Mineta and Senators DANIEL INOUYE and Spark Matsunaga introduced resolutions asking the President to declare the first 10 days of May as Asian/Pacific Heritage Week.

The selection of the month of May stems from the fact that May marks the arrival of the first Japanese immigrants to the United States in 1843. In 1978, President Carter made Asian/Pacific Heritage Week an annual event. In 1990, President George H. W. Bush proclaimed the entire month of May to be Asian/Pacific American Heritage Month.

Mr. Speaker, Asian Americans and Pacific Islanders have also made great strides in the area of civil rights and public policy. Led by such notable Americans as Patsy Mink, the first Asian American congresswoman, the President's current Cabinet includes three Asian Americans: Energy Secretary Steven Chu; Commerce Secretary Gary Locke; and Veterans Affairs Secretary Eric Shinseki.

In closing, let us as a body take a moment to recognize the valuable contribution of the Asian and Pacific American community and celebrate their rich cultural heritage by supporting House Resolution 1316.

Mr. Speaker, I reserve the balance of my time.

Mr. LUETKEMEYER. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1316, celebrating Asian/Pacific American Heritage Month.

Asian American and Pacific Islanders have been an integral part of the fabric of American life since Japanese immigrants first arrived in the United States on May 7, 1843.

Asian Americans worked as coal miners on farms and helped with the completion of the first continental railroad. Rising from their humble beginnings, Asian Americans have been instrumental in the building of this country from the 19th century onwards. In arts, sciences, math and sports, commerce, and every other aspect of American culture, the contributions of Asian Americans have enhanced and benefited our rich cultural heritage.

The U.S. Census estimates that over 15 million Americans trace their ethnic heritage to Asia or the Pacific Islands and projects that by 2050, there will be approximately 40 million United States residents identifying as Asian alone or in combination with one or more races.

The month of May once again provides the people of the United States with an opportunity to recognize the achievements and contributions, history, and concerns of Asian Americans. Today we had the opportunity to increase our body here by one with an Asian American, Mr. DJOU of Hawaii, who we welcome and again give him the opportunity to serve his people and his heritage in this great body.

With that, I would like to thank my respected colleague Mr. HONDA for introducing this important legislation.

I reserve the balance of my time.

Mr. LYNCH. Mr. Speaker, I have no further requests for time, and I continue to reserve the balance of my time.

□ 1615

Mr. LUETKEMEYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. CAO).

Mr. CAO. Mr. Speaker, I rise today in support of House Resolution 1316, celebrating Asian Pacific American Heritage Month. I commend the gentleman from California (Mr. HONDA) for introducing this legislation, of which I am a proud cosponsor.

The month of May is Asian Pacific American Heritage Month. During this time, we celebrate the contributions of Asian Americans and Pacific Islanders to their communities and to this Nation. As we do, we also must pause to recognize the struggles they have faced and continue to face.

Today, we face a crisis in our community. Right now along the gulf coast, Asian Americans in particular are struggling because of the impacts of the Deepwater Horizon oil spill. This economic, environmental, and health disaster is disproportionately affecting those who rely upon the resources of our coastal waters for their livelihoods. Many of those affected are Vietnamese American fishermen living in Alabama, Mississippi, Texas, and my home State of Louisiana. While they are struggling, I know one thing for sure: they will persevere and overcome the effects of this catastrophe, relying upon the perseverance and the strength of family that runs throughout Asian American communities.

We have seen Asian American communities forced to start over to begin a new life, and I would like to use my family as an example. My mother and father were born in North Vietnam. In 1945, when the Communists took over North Vietnam, my family lost everything. They were forced to leave their home, their families, and their possessions to escape the Communists. They migrated to South Vietnam, where they started over.

After many years of struggle and much hard work, again they lost everything they possessed, even their children, when, in the spring of 1975, the Communist forces took over South Vietnam. My father then spent 7 years in Vietnamese re-education camps, during which time my mother single-handedly cared for my father, my brother, and my five sisters.

Once again, in 1991, they left everything they owned to come to the United States to begin a new life. Tragically, that new beginning, once again, was taken from them by the destruction of Hurricane Katrina; but they, like many who were in the same position, are survivors and they continue to thrive.

My family is but only one example of the thousands of Asian American families that have faced and overcome struggles with dignity and bravery. This just gives you a glimpse of the resiliency and the strength that is inherent in the Asian American culture, allowing those like my family to survive, just as those along the gulf coast will.

Mr. Speaker, I am proud to be a Vietnamese American representing the wonderfully diverse constituency in Orleans and Jefferson Parishes in the U.S. Congress, and I am proud to be associated with this important resolution honoring Asian Americans.

I urge my colleagues to support this important resolution as a tribute to the accomplishments of Asian Americans everywhere.

Mr. FALEOMAVAEGA. Mr. Speaker, I thank my fellow members of Congress who join us today in honoring Asian Pacific Heritage Month and I thank the gentleman from California, Mr. HONDA, for sponsoring this resolution to recognize and honor the contributions of our Asian Pacific American community to this great nation. I also thank my colleagues

who are members of the Congressional Asian Pacific American Caucus, and all those who continue to address the issues facing the Asian Pacific American community, and ensure that our community has access to resources and a voice in government.

Originally, Congress in 1978 designated the first week of May to commemorate the arrival of the first Japanese immigrants and the completion of the transcontinental railroad that was built by the Chinese laborers. Every year since then, the President would issue an Executive proclamation from the White House to honor this month and direct all federal agencies and military installations throughout the country to conduct special events and ceremonies to honor our Asian-Pacific American communities throughout our country.

The achievements and successes of Asian-Pacific Americans demonstrate, above all, that the greatness of our nation lies in its diversity and ability to accept peoples from all over world, as they pledge themselves to become fellow citizens of this great nation.

Americans of Asian and Pacific Islander descent, over 16 million strong, are among the fastest growing demographic groups in the United States today, even though they make up only 9 percent of our nation's population. According to the U.S. Census Bureau, the Asian American and Pacific Islander community is comprised of over 45 distinct ethnicities and over 28 language groups. In recent years, the Asian-Pacific American population has more than doubled and this rapid growth is expected to continue in the years to come—reaching 40.6 million by 2050, according to the U.S. Census Bureau.

There are an unprecedented number of Asian-Pacific Americans in the fields of medicine, business, sports, academia, entertainment, and government, just to name a few. As Asian Pacific Americans serve in their respective fields, they share vast knowledge, experience and viewpoints that their unique backgrounds have contributed to.

When I envision America, I don't see a melting pot designed to reduce and remove racial differences. The America I see is a brilliant rainbow—a rainbow of ethnicities, cultures, religions and languages with each person proudly contributing in their own distinctive and unique way for a better America. Asian-Pacific Americans wish to find a just and equitable place in our society that will allow them—like all Americans—to grow, to succeed, to achieve and to contribute to the advancement of this great nation.

Surely Asian Pacific Americans have achieved many important milestones in the history of this nation. Yet while there remains much to be done, I am hopeful that the character of this great nation will ensure equity and access to all of our fellow American citizens from every racial, cultural, ethnic, and socioeconomic background.

I would like to close my remarks by asking all of us here—what is America all about? I think it could not have been said better than on the steps of the Lincoln Memorial in that summer of 1963 when an African American minister by the name of Martin Luther King Jr., poured out his heart and soul to every American who could hear his voice, when he uttered these profound words, "I have a dream. My dream is that one day my four little children will be judged not by the color of their skin, but by the content of their character."

That is what I believe America is all about. I urge my colleagues to support this resolution.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H. Res. 1316 to celebrate Asian Pacific American Heritage Month and pay tribute to the many achievements of Asian Pacific Americans across our Nation.

The month of May marks several historical events in Asian Pacific American history. On May 7, 1843, the first Japanese immigrants arrived in the United States, paving the way for a great movement of Asian and Pacific peoples to immigrate to the United States. Only 26 years later, on May 10, 1869, the transcontinental railroad was finished, the completion of which is largely credited to Asian Pacific Americans. Due to these vents it is appropriate to celebrate the month of May as Asian Pacific American Heritage Month and honor the sacrifices and contributions of this great community.

Through the years, the Asian Pacific American Communities have made significant contributions to Texas's diverse culture. In Dallas, I am privileged to represent the largest Asian American Chamber in the United States. I believe that we all learn from those who come from different backgrounds, and I can truly say that I have learned a great deal from my Asian Pacific friends and constituents.

Today, there are over 15.2 million Asian Pacific Americans living in the United States, representing nine percent of the population. The rich history associated with the Asian Pacific American community has left a lasting and important imprint on our country.

I would like to acknowledge the devastating earthquake that shook Yushu County in the Qinghai province of China on April 14, 2010 which killed or injured over 10,000 civilians. My deepest condolence goes out to the friends and families of the victims.

Mr. Speaker, I am proud to support this resolution and the Asian Pacific American communities in North Texas and across the United States.

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Asian/Pacific American Heritage Day 2010 and to celebrate the many cultural and societal contributions of the Asian American and Pacific Islander communities throughout Northeast Ohio.

Asian/Pacific American Heritage Day provides us with an opportunity to celebrate the numerous achievements of Asian Americans and Pacific Islanders throughout Northeast Ohio and across the nation. Cultural diversity is a foundation of our community and it has allowed our residents to experience traditions from around the world.

The heritage of Asian Americans has been preserved and reflected by each generation. It shows the spirit, hope and courage of all of our ancestors who braved treacherous journeys along the road to freedom and opportunity in America.

Mr. Speaker and colleagues, please join me in celebrating Asian/Pacific American Heritage Day and honoring the contributions of all Asian Americans and Pacific Islanders in our Greater Cleveland community.

Mr. LUETKEMEYER. Mr. Speaker, I urge Members to support the passage of House Resolution 1316, and I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I ask all Members to join with Mr. HONDA and Mr. CAO and other Members in support of this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1316, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LYNCH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RECOGNIZING AND HONORING MEMBERS OF ARMED FORCES AND VETERANS

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1385) recognizing and honoring the courage and sacrifice of the members of the Armed Forces and veterans, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1385

Whereas May is commonly known as National Military Appreciation Month;

Whereas during World War I, more than 4,700,000 Americans served in the military, more than 116,000 Americans lost their lives, and more than 204,000 Americans were wounded;

Whereas only one American World War I veteran, Frank Woodruff Buckles, survives today;

Whereas during World War II, more than 16,000,000 Americans served in the military, more than 405,000 Americans lost their lives, and more than 670,000 Americans were wounded, and today more than 74,000 Americans remain unaccounted for;

Whereas during the Korean War, more than 5,700,000 Americans served in the military, more than 36,000 Americans lost their lives, and more than 103,000 Americans were wounded, and today 8,026 Americans remain unaccounted for;

Whereas during the Vietnam War, more than 3,400,000 Americans served in the military, more than 58,000 Americans lost their lives, and more than 150,000 Americans were wounded, and today 1,720 Americans remain unaccounted for;

Whereas during the Persian Gulf War, more than 2,200,000 Americans served in the military, 383 Americans lost their lives, and 467 Americans were wounded;

Whereas since 2001, more than 1,000 Americans have lost their lives and more than 5,500 Americans have been wounded in Operation Enduring Freedom;

Whereas since 2003, more than 4,300 Americans have lost their lives and more than 31,000 Americans have been wounded in Operation Iraqi Freedom;

Whereas members of the Armed Forces answer the call to serve the United States,

leaving their homes, their families, and American soil, in times of war and peace;

Whereas members of the Armed Forces respond to acts of aggression against the United States and its allies, protect and evacuate civilians, bring stability to areas experiencing political turmoil, and provide comfort and support in the wake of natural disasters;

Whereas members of the Armed Forces have served the United States in hundreds of deployments, large and small, since the earliest days of the United States; and

Whereas all Americans, and many hundreds of millions of people around the world, owe their freedom to the courage, service, and sacrifice of members of the Armed Forces and veterans: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes and honors the courage and sacrifice of the members of the Armed Forces and veterans and thanks such members and veterans for their service; and

(2) urges all Americans to recognize and honor the courage and sacrifice of the members of the Armed Forces and veterans and thank such members and veterans for their service.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. MCKEON) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, May is Military Appreciation Month; and to honor our men and women and uniform and our veterans, I, along with my good friend and ranking member from California (Mr. MCKEON), have introduced H. Res. 1385.

Mr. Speaker, I grew up around veterans of the First World War. My father served in the Navy onboard the U.S.S. *Missouri* in that conflict; and he, like so many young men who returned from that war, became the civic and political leaders of their day.

Tom Brokaw wrote a best-selling book entitled, ''The Greatest Generation,'' the saga of those who fought the two-front Second World War. These veterans changed the complexion of our country in every walk of life. Their experiences in war, sometimes on the battlefield, instilled in them tremendous confidence and a sense of duty and, like the generation of war veterans before them, the World War I veterans, returned to hometowns across America, large and small, to become leaders in their communities.

In 1950, President Harry S. Truman ordered U.S. military intervention on the Korean peninsula. In many respects, our participation in the Korean conflict has served as a model for the way our military operates today. Korea was the first multilateral United Nations operation, and it has become the longest standing peacekeeping operation in modern times. While we are inclined to remember the leaders who ultimately brought us victory in the Korean War—Truman, MacArthur, Acheson, Walker, and Ridgeway—it's really the men and women who served so bravely to whom we pay tribute.

The need to contain the spread of communism brought U.S. servicemembers to a small country in Southeast Asia called Vietnam. It was 1964 when Congress passed the Gulf of Tonkin resolution and 1973 before the last U.S. combat troops left Vietnam. Much is owed to the men and women who served in that conflict, and it must be remembered that those who fought and died in service to the United States in Southeast Asia are owed the appreciation of a grateful Nation, even though so many did not receive the welcome home that they deserved.

The Persian Gulf War was a tremendous display of U.S. military technology, but what must not be forgotten is that the swift end to combat operations was the result of a sound strategy and the ability of U.S. service personnel to carry out that strategy.

And of course today our men and women in uniform are engaged in Iraq and Afghanistan. I predict those returning from these conflicts will be another great generation. Rising from the sands of the Middle East, these veterans, who have toiled and fought there to bring peace and civilization back to those two beleaguered countries, are truly America's future.

In addition to large-scale conflicts, U.S. military forces have been involved in far more small-scale contingency operations. In each instance, in numbers both large and small, the men and women of the United States' armed services have answered the Nation's call.

So let us remember the importance of those who wore the uniform and those who wear it today. They have served this Nation, and now we must do right by them in Congress, in our communities, and in our everyday lives. Today, we honor their courage and their sacrifice, and to all of them we say thank you.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, May 21, 2010.

Hon. IKE SKELTON,
Chairman, Committee on Armed Services, Rayburn Building, House of Representatives, Washington, DC.

DEAR CHAIRMAN SKELTON: On May 20, 2010, H. Res. 1385, recognizing and honoring the courage and sacrifice of members of the Armed Forces and veterans was introduced in the House of Representatives. This measure was sequentially referred to the Committee on Veterans' Affairs.

The Committee on Veterans' Affairs recognizes the importance of H. Res. 1385 and the need to move this resolution expeditiously in order to honor the courage and sacrifice of members of the Armed Forces and veterans. Therefore, while we have valid jurisdictional claims to this resolution, the Committee on Veterans' Affairs will waive further consideration of H. Res. 1385. The Committee does so with the understanding that by waiving further consideration of this resolution it does not waive any future jurisdictional claims over similar measures.

I would appreciate the inclusion of this letter and a copy of your response in the Congressional Record during consideration of H. Res. 1385 on the House floor.

Sincerely,

BOB FILNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, May 24, 2010.

Hon. BOB FILNER,
Chairman, House Committee on Veterans' Affairs, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding House Resolution 1385, ''Recognizing and honoring the courage and sacrifice of the members of the Armed Forces and veterans, and for other purposes.'' This measure was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, 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.

I agree that the Committee on Veterans' Affairs has certain valid jurisdictional claims to this resolution, and I appreciate your decision to waive further consideration of H. Res. 1385 in the interest of expediting consideration of this important measure. I agree that by agreeing to waive further consideration, the Committee on Veterans' Affairs is not waiving its jurisdictional claims over similar measures in the future.

During consideration of this measure on the House floor, I will ask that this exchange of letters be included in the Congressional Record.

Very truly yours,

IKE SKELTON,
Chairman

Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman for introducing this resolution honoring those who have served in the Armed Forces and for honoring me to be a cosponsor with him in that legislation.

Mr. Speaker, next week is Memorial Day, and I rise today in support of House Resolution 1385 to recognize and honor the courage and sacrifice of the members of the Armed Forces and the veterans of our wars.

In the clearly defined wars against tyranny, in the controversial conflicts not appreciated until the guns long fell silent, in the limited actions unknown by anyone not there, the American Armed Forces have time and again answered the call of duty.

When our fighting men and women put on their uniforms, they became immune to politics and marched towards the sound of the guns, going wherever their orders sent them. We call them specialist, corporal, airman, and petty officer. They are our own children. These young Americans represent the best in all of us because, while America will always fight for those who cannot

fight for themselves, it is their faces that America sends to the aid of the broken, wounded, and starving of the world.

In the cold winter of Valley Forge, across the deserts to Tripoli, fighting against their brothers in the Civil War, across the wheat fields of France, on the beaches of Normandy, in the freezing Korean winter, in the jungles of Vietnam, and in the burning sands of Iraq and Afghanistan, what has set our Armed Forces apart is their commitment to a moral war, a just war, an American way of war.

Americans make the distinction between our enemies and the innocent bystanders. And once our enemies lay down their arms, our forces provide them food, shelter, and medical aid. And when the fighting stops completely, our forces help to rebuild war-torn nations, turning bitter enemies into great industrialized allies of today.

Since 1775, and across the world today, our Armed Forces and veterans symbolize all that is best in us as Americans. The American Armed Forces are just as eager to help feed and clothe the survivors of a natural disaster as they are to destroy tyranny and oppression. People across the globe know that when the Americans come they will fight for what is right, and those who rule by fear will then be afraid.

In the most difficult conditions, in the most challenging terrain, against the greatest odds, our Armed Forces have faced impossible odds without counting the cost to themselves. They have followed their orders, and the oath sworn to our Constitution makes the moral foundation of our government possible.

Since before the acknowledgement of our Nation's sovereignty and before the first session of this great legislative body, our citizens organized themselves to fight against oppression and to stand up for freedom and liberty. When the drums beat, when the bugles called, the sound of marching feet was the pride of our Nation answering the call.

Whether our veterans were drafted or volunteered, made long service careers or served only for a short time, they committed their lives, their youth, and their health to the principles of our great Nation. In no other industry of America today will you find a group of young men and women for whom truth is the only currency, pain is a temporary annoyance, ingenuity is the answer to all challenges, and teamwork is the thread that unites and binds them against all foes.

□ 1630

They have done all this without counting the cost to themselves and their families. We, who are a grateful Nation, must remember this. Our freedom is a tangible thing, a perishable thing, and our own last full measure of devotion must be dedicated to ensuring that their sacrifice is never in vain but that a more perfect union will yet rise and inspire the oppressed peoples of the Earth.

I urge the House to join me in passing this resolution to honor our Armed Forces.

Mr. Speaker, at this time, it is my pleasure to yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON).

Mr. WILSON of South Carolina. Mr. Speaker, I rise in strong support of House Resolution 1385, to recognize and honor the courage and sacrifice of the members of the Armed Forces and of the veterans of our wars. Next week, we will be celebrating Memorial Day, and it is fitting that we take time to remember all those who have served this Nation in uniform so honorably and selflessly.

I look forward to being with the Navy League of Hilton Head Island, South Carolina, at the Veterans Memorial Park next Monday. Last year, I was inspired to be with fellow members of the American Legion in Hampton, South Carolina.

We stand here today enjoying the fruits of freedom because good men and women from the Revolutionary War to present day have put the support of America and the ideals for which she stands above personal desires and preferences.

While estimates vary, it is certain that more than 1 million Americans have died in defense of this Nation. You may have known some of them. If you did, you should count yourself among the privileged. I hope you were as touched by their sacrifices as I have been by those I have known, people like Marine Lieutenant Colonel Joseph Trane McCloud—a military fellow in the congressional office I represent. He was killed in Iraq on December 3, 2006.

To Lieutenant Colonel Trane McCloud and to so many others like him over the years of our history, we owe so much. It is a debt that we can never really repay to extraordinary military families and widows, such as Maggie McCloud.

The only way I know how to even begin to express our thanks is to continue to support to the fullest extent possible those who now serve, to step forward and to publicly acknowledge their dedication and sacrifices for America. We should recognize and be grateful that, due to the sacrifices of American servicemembers, there is a broader spread of democracy and freedom today than in the history of the world, with dozens of new democracies, upon the defeat of Communism in the Cold War, from Poland to Mongolia and Bulgaria to Cambodia. Iraq and Afghanistan have been liberated from totalitarian despots in the global war on terrorism.

That's why what we are doing in this resolution and what we will do next week on Memorial Day is so important.

As the son of a World War II Flying Tiger who served in China, as a 31-year veteran of the Army Reserve and the Army National Guard, and as one with four sons currently serving in the military, I especially appreciate military service.

I want to thank Armed Services Committee Chairman IKE SKELTON and Ranking Member BUCK MCKEON for cosponsoring this resolution, and I urge my colleagues to support it.

In conclusion, God bless our troops, and we will never forget September 11th.

Mr. SKELTON. Mr. Speaker, Hector Polla graduated from West Point in June of 1941. After the infantry officers' basic course in Fort Benning, Georgia, he was assigned to his first military assignment—the Philippines.

It was on December 8, Philippine time, that the Philippines were invaded by the Japanese. Hector Polla helped defend the Peninsula of Bataan, receiving a commendation for heroism, a Silver Star for his actions, in February of 1942. In April, he, along with the other American forces, surrendered. He survived the death march on the way to Cabanatuan prison camp, and he was kept there over the years. In December 1944, he was put aboard a Japanese ship to be taken to Japan to do slave labor. American bombers bombed that ship, and he survived. On January 19, 1945, he was again placed on a Japanese ship to go to Japan to do slave labor. The American bombers bombed that ship, and Hector Polla died as a result of the wounds received.

There are others throughout that war who saw that battle—the combat, the deprivation. Yet, at the end of the day, the American forces did well in that sector of the Asia-Pacific and also in Europe. So many of them came home and became leaders in the community—in the businesses, in the churches, in the civic organizations, in politics. Today, we are the recipients of what they have done.

I thank the gentleman from California (Mr. MCKEON) for his words and for his cosponsorship of this resolution.

It is important that we as a Congress express our appreciation for those who served, not just in the Second World War, but in all of the wars down through and including today. I hope that we will recognize them when we see them at the airports or on the streets or in the coffee shops or in church so we can just say ''thank you'' to them. That's what this resolution does. It expresses appreciation. After all, it was the sister of a great Roman orator who once said that gratitude is the greatest of all virtues.

This is our opportunity as a Congress to say we are grateful for those men and women who have worn the uniform. We are proud of them and we thank them.

I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, listening to the chairman relate that story made me think of an experience I had last week at home. We had an event that was held by our community, honoring those who served.

At that event, I met again the parents of a young man who was killed a few weeks ago, from our home. It was a Filipino family who had a son and two daughters. Their son, Ian Gelig, was killed in Afghanistan, just as I said, a few weeks ago. They came to this gathering from the cemetery, which is where they go on a daily basis to visit their son.

We had another family there who had lost their son in Iraq a few years ago, and this family has kind of befriended the parents of other young people who have lost their lives since then. They go to all of the funerals, and they have become strong advocates, reaching out to help the other families.

They feel good about what their sons have done. They hate the fact that they have lost their sons, but they feel proud of what they have done and feel like their sons did what they wanted to do.

I had the experience today of meeting a young midshipman. He will be graduating Friday from the Naval Academy. He is planning on becoming a SEAL. He has been learning Arabic, and he is looking forward to having an exciting career in the Navy.

You know, seeing these young people and seeing the light in their lives and what their plans are makes one think of others, as the chairman talked about—of the young man who graduated from West Point, who lost his life. He had that same light in his life, and I'm sure he felt like what he was doing, the sacrifice he'd made for our country, was worthwhile.

It is up to us to remember those sacrifices and, as Mr. WILSON said, to never forget 9/11 and to never forget the service of all of these young people since the birth of our great Nation.

I would ask that all of our colleagues support this resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H. Res. 1385, to recognize and honor the courage and sacrifice of the members of the Armed Forces and veterans for their service to the people of the United States.

First I want to thank Chairman IKE SKELTON, and Ranking Member HOWARD "BUCK" MCKEON, of the Armed Services Committee, for their leadership and for championing the cause of our military men and women and our veterans. In this month of May known as National Military Appreciation Month, it is important to take time from our busy schedule to recognize and celebrate the service and sacrifice of our Armed Forces and veterans, and again I commend Chairman SKELTON and Ranking Member MCKEON for introducing this resolution.

Mr. Speaker, as a Vietnam veteran, I want to thank all members of the Armed Forces and veterans for their service to this great nation. I especially want to recognize the service and sacrifice made by the sons and daughters of American Samoa to protect this great nation. I am most proud to state for the record that American Samoa's sons and daughters have served in record number in every U.S. military engagement from WWII to the present. Indeed, located some 3000 miles from Hawaii, the American Samoa reserve unit is under the only remaining infantry unit of the U.S. Army Reserve, the 100th battalion of the 442nd Infantry Regiment, or the "Purple Heart Battalion" based at Fort Shafter, Hawaii.

As a true testament to the sacrifice made by our brave warriors from American Samoa, I am always reminded of retired Command Sergeant Major Falaniko and his late son Private Jonathan I. Falaniko. PVT Falaniko attended basic training at Fort Leonard Wood, MO, in May 2003 and was later deployed to Iraq in August 2003. He was then assigned to the 70th Engineer Battalion under the 1st Armored Division, Engineers Brigade of which his father, CSM Ioakimo Falaniko, was the Command Sergeant Major of the brigade and was the most senior enlisted soldier.

On October 27, 2003 PVT Falaniko was killed by a rocket-propelled grenade attack. Twenty-year-old Jonathan Falaniko had been in the U.S. Army for less than 6 months. He was laid to rest with all the other brave men and women that have served this great nation, at the National Cemetery in Arlington. Jonathan's story is only one of thousands of the many Americans who have given the ultimate sacrifice for this great nation.

Mr. Speaker, it is customary in the Samoan culture to recognize great deeds and exceptional feats in speeches, songs and storytelling so that they are memorialized and imbedded in the hearts and minds of generations to come. Therefore, I rise today with great honor in support of H. Res. 1385 to recognize the service and courage of all our servicemen and women and veterans. Let us honor their patriotism, love of country and willingness to serve and sacrifice so much to bring about peace and freedom in a troubled world. To our veterans and current service members, and especially to American Samoa's Reserve unit scattered throughout the Middle East, I would like to close by saying how honored and proud I am of your service to this great nation and I commend you for your courage.

May God bless you and may God continue to bless the United States of America. I strongly urge my fellow colleagues to pass this resolution.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to recognize and honor the courage and sacrifice of members of the Armed Forces and our Veterans.

May is National Military Appreciation Month, a tine when we honor the bravery and service of our Armed Forces, veterans, and their families. Members of our Armed Forces leave behind their homes, families, and jobs in times when duty calls. They protect America and American Allies, provide support in times of disasters, and help bringing stability to areas of unrest.

From my time as a psychiatric nurse in the Dallas Veterans Affair's Hospital, I know firsthand the burden placed upon those who serve in our Armed Forces. People around the world owe their freedoms and liberties to the courage, service, and sacrifice of members of the Armed Forces. I urge all Americans to recognize and honor the courage and sacrifice of our men and women in uniform and thank them for their service.

Mr. MCKEON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. SKELTON) that the House suspend the rules and agree to the resolution, H. Res. 1385.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SKELTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

STUDENT FINANCIAL AID AWARENESS MONTH

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1353) supporting the goals and ideals of Student Financial Aid Awareness Month to raise awareness of student financial aid, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1353

Whereas education is the key to a successful future for many people in the United States;

Whereas the ability of some students to attend an institution of higher education is conditional on the availability of student financial assistance;

Whereas the cost of higher education continues to rise for 4-year private colleges and universities, 4-year public colleges and universities, 2-year community colleges, and for profit institutions;

Whereas students and families across the United States are making important decisions about financing their education at an institution of higher education;

Whereas efforts to increase awareness about student financial aid options are necessary for students across the United States to receive all of the financial aid available to them;

Whereas increasing awareness about the Free Application for Federal Student Aid (FAFSA) ensures that more eligible students may benefit from Federal financial assistance;

Whereas students must complete and submit a new FAFSA each school year to be considered for all forms of Federal financial aid;

Whereas each year, about 16,000,000 students apply for financial aid by filling out the FAFSA;

Whereas increasing access to Federal financial aid helps reduce students' reliance on costly private loans; and

Whereas Student Financial Aid Awareness Month will help call attention to the critical role financial assistance plays in helping students attending an institution of higher education: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of Student Financial Aid Awareness Month;

(2) encourages students and families across the United States to participate in activities being offered during Student Financial Aid Awareness Month; and

(3) recognizes the importance of educating students and families about Federal student financial aid.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Tennessee (Mr. ROE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. BISHOP of New York. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 1353 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of House Resolution 1353, which expresses support for the goals and ideals of Student Financial Aid Awareness Month.

This month is an important part of increasing awareness of the many financial aid options available to young people who are preparing to go to college. With the cost of college rising rapidly every year, it has become increasingly critical that students take full advantage of their options for financial aid, including those of grants, loans, and scholarships.

The passage of the Health Care and Education Reconciliation Act of 2010, of the American Recovery and Reinvestment Act of 2009, of the Higher Education Opportunity Act of 2008, and of the College Cost Reduction and Access Act of 2007 have all increased the amount of aid available and have improved access to student aid for millions of students and their families.

Student Financial Aid Awareness Month helps students and their families get the information they need to make important decisions about financing their postsecondary education. High schools and colleges across the country celebrate Student Financial Aid Awareness Month by providing critical information, aid application deadlines, FAFSA application workshops, money management tips, advice on applying for scholarships, and student loan repayment options.

In 2008, 67 percent of students graduating from 4-year colleges and universities, or 1.4 million students, had student loan debt. The average debt level for these graduating seniors was $23,200 in 2008. With an increasing reliance on student debt to finance postsecondary education, it is important that students and their families have the information they need to make responsible borrowing decisions. Student Financial Aid Awareness Month helps achieve this goal.

Mr. Speaker, once again, I express my support for celebrating Student Financial Aid Awareness Month at schools across this country and for all of the benefits this focused effort brings to help families across the country in their pursuits of higher education.

I urge my colleagues to join me in support of this resolution, and I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

To the previous speakers who were here with regard to House Resolution 1385, I want to associate myself with the remarks of Chairman SKELTON, Mr. MCKEON, and Mr. WILSON. As a veteran, I, too, on Memorial Day, would like to honor all those who paid the ultimate price.

Mr. Speaker, I rise in support of House Resolution 1353, a resolution supporting the goals and ideals of Student Financial Aid Awareness Month to raise awareness of student financial aid. In many low-income households, a college education is the ticket to a more prosperous way of life. Many students rely on numerous Federal financial aid programs to accomplish that goal.

For example, the Pell Grant, originally created in 1972 and known then as the Basic Opportunity Grant Program, is used as the cornerstone for a low-income student financial aid package. Through this grant and the other Federal financial aid programs, like the Federal Work-Study, the Supplemental Educational Opportunity Grant, the Perkins Loan Program, and the Stafford Loan Program, millions of students have been able to pursue their dreams of postsecondary educations.

□ 1645

While it is important to recognize the role that Federal financial aid plays in college access, it is also critical to discuss the importance of the partnership that must exist between the Federal Government, States, institutions of higher education, and students and their families. Without each part of this partnership, it will be impossible to continue to help students attend some form of college.

In recent years, the Federal Government has increased the amount of aid provided exponentially, only to have institutions continue to raise their costs at rates outpacing inflation. If college costs continue to rise at rates of 4, 5 or 6 percent per year, students will quickly find themselves unable to afford a college education. All participants in the partnership must do their part if we want college to remain an option for all students.

While Federal financial aid is important, it is not the only thing that should be mentioned during the conversation around Student Financial Aid Awareness Month. There are thousands or organizations around the country whose mission it is to help low-income students navigate the student aid and college application process. Whether the organization helps students fill out the Free Application For Federal Student Aid, the FAFSA, provides financial literacy, assists students with filling out their college applications, or provides extra tutoring services to ensure that students are prepared for the rigors of college, these entities are critical in ensuring that college remains an option for every student who wants to attend.

For these reasons, I support the goals and ideals of Student Financial Aid Awareness Month, and I urge my colleagues to support this resolution.

I have also served on two foundation boards at universities, and I can tell you as a foundation board member and president of a college foundation board that these organizations are absolutely essential to help educate students.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I join Dr. ROE in urging my colleagues to vote for this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 1353, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

125TH ANNIVERSARY OF ROLLINS COLLEGE

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1169) honoring the 125th anniversary of Rollins College, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1169

Whereas Rollins College is one of the oldest institutions of higher learning in Florida;

Whereas the motto of Rollins College is ''Fiat Lux'', meaning ''Let There Be Light'' and, indeed, there has been light at Rollins from the beginning;

Whereas Rollins is a comprehensive liberal arts college with an undergraduate Arts & Sciences program, the Crummer Graduate School of Business, and evening degree and community outreach programs offered through the Hamilton Holt School;

Whereas for the fifth consecutive year, Rollins College ranked No. 1 among 117 Southern master's-level universities, in the annual rankings of ''America's Best Colleges'' in U.S. News & World Report;

Whereas Rollins College is fortunate to count among its alumni a Nobel Prize winner and Rhodes Scholars;

Whereas Rollins College students frequently secure Fulbright, Truman, Goldwater, and Pickering Scholarships;

Whereas John Dewey, the distinguished philosopher and educator, served as Chairman of the 1931 Curriculum Conference held at Rollins College, inspiring higher education curricular reform that still redounds today;

Whereas Sinclair Lewis, when he accepted the Nobel Prize in Literature, named Rollins

among the four colleges in the United States doing the most to encourage creative work in contemporary literature, a commitment that continues;

Whereas prominent figures such as Presidents Franklin D. Roosevelt and Harry S. Truman have visited Rollins College;

Whereas in 1949, Rollins College was the first institution of higher education in the South to present an honorary degree to an African-American, namely Mary McLeod Bethune;

Whereas Rollins College's Annie Russell Theatre, listed on the National Register of Historic Places, is reputed to be the oldest continuously operating theater in Florida;

Whereas the nondenominational Knowles Memorial Chapel, an architectural treasure at Rollins College, also is listed on the National Register of Historic Places, and is the site of regular religious services, as well as musical and choral performances;

Whereas the Cornell Fine Arts Museum at Rollins features six galleries, Florida's only print-study room, and a dynamic combination of permanent collection installations and traveling exhibitions that promote interdisciplinary learning;

Whereas Rollins has established the Winter Park Institute to create opportunities for nationally known scholars and artists to engage with the Winter Park and campus communities; and

Whereas Rollins College is committed to excellence not only in the classroom but also on the playing field, having won more than 20 national championships, and being a founder of intercollegiate rowing in the South, as well as intercollegiate soccer across Central Florida: Now, therefore, be it

Resolved, That the House of Representatives honors Rollins College on the joyous occasion of its 125th anniversary, recognizes its unwavering commitment to liberal arts education, and expresses its best wishes for continued success.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Tennessee (Mr. ROE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. BISHOP of New York. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 1169 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Res. 1169, which celebrates Rollins College for 125 years of service and leadership in higher education.

Rollins College was founded in 1885 by visionaries from New England who sought to bring liberal arts education to the State of Florida. Since then, Rollins has served as one of the leading liberal arts institutions in the South for undergraduate and graduate students alike.

The 70-acre Rollins campus sits along the sunny shores of Lake Virginia in the town of Winter Park, Florida. Rollins has an enrollment this year of over 2,500 undergraduate students and 700 graduate students, and has over 600 full-time faculty and staff.

The campus community offers a range of amenities and services, including the Annie Russell Theatre, the Knowles Memorial Chapel, the Cornell Fine Arts Museum, and the Winter Park Institute. Situated just a few miles from Orlando, students have a vibrant community right in their backyard.

The students, faculty, and staff at Rollins exemplify its rich tradition and excellence in education. As one of the oldest colleges in the State of Florida, Rollins delivers graduates who are passionate about learning and are active leaders and participants in their respective communities. The college's 10 to 1 student-to-faculty ratio for undergraduates is one way that Rollins is able to offer an engaging academic experience to its student body.

Rollins has also been recognized as a national leader in community service, most notably for programs known as ''Service, Philanthropy, Activism, Rollins College,'' or SPARC, a Day of Community held during freshman orientation week. Over 600 first-year students and community volunteers engage with agencies across central Florida, focusing on disadvantaged youth and the environment.

This year, Rollins College will celebrate 125 years of providing outstanding education, a significant milestone in the college's history.

Mr. Speaker, once again I express my support for Rollins College, and I thank Representative GRAYSON for bringing this bill forward. I urge my colleagues to join me in support of this resolution.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1169, honoring the 125th anniversary of Rollins College.

Rollins College, located in Winter Park, Florida, is one of the oldest institutions of higher education in the State of Florida. Founded in 1885 by New England Congregationalists, Rollins College is a small liberal arts college that offers a personalized education. Rollins College educates students for global citizenship and responsible leadership, empowering graduates to pursue meaningful lives and productive careers. The college is guided by excellence, innovation, and community.

Today, Rollins College serves almost 3,300 students and employs 700 faculty members and staff. The college awards over 800 degrees annually and has three divisions. Notable alumni include Nobel Prize winners and producers of award-winning Hollywood films.

Rollins College has a national reputation for excellence in education. The college was ranked the number one Southern master's level university by U.S. News & World Report in 2010 and was named a ''best value'' private college by the Princeton Review. The college's students have received a number of awards for high levels of community service and their willingness to give back to the surrounding communities.

Rollins College has made a lasting mark on the lives of its students and on the community throughout the past 125 years. I stand today to congratulate Rollins College, the students, alumni, faculty, and staff on the occasion of the college's 125th anniversary, and I ask my colleagues to support this resolution.

I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I am pleased to yield 5 minutes to the author of the resolution, the gentleman from Florida (Mr. GRAYSON).

Mr. GRAYSON. Mr. Speaker, it is with great joy that I stand here before you and my fellow colleagues today to offer House Resolution 1169, honoring Rollins College on its 125th anniversary.

125 years ago, the great State of Florida was largely a frontier. A daring group of New England Congregationalists, however, envisioned something more. They envisioned what Florida could be. So, in 1885 they established a small college, coeducational from the start, on the shores of Lake Virginia in Winter Park, Florida.

Over time, this humble school, nestled among the native pines and palmettos, would grow along with our great State. It has influenced the development of not only the central Florida region, through such alumni as Al Weiss, the former president of Walt Disney World Parks and Resorts, but also our whole Nation, through graduates such as Fred Rogers, better known to the country as Mr. Rogers. Rollins College has also contributed to a deeper understanding of our world through such graduates as Donald Cram, who won the Nobel Prize in Chemistry in 1987. Undoubtedly, Mr. Speaker, this tradition is sure to continue, as current students continually secure Fulbright, Truman, Goldwater, and Pickering Scholarships.

Today, the college is situated on 70 beautiful acres in Winter Park, Florida, in my home district. It boasts more than 1,700 university undergraduate students, several master's degree programs, and the highly regarded Crummer School of Business. It offers a truly remarkable liberal arts education and produces notable graduates, a fact that has not gone unnoticed. This year, for the fifth year in a row, the U.S. News & World Report in its annual ranking of America's Best Colleges has ranked Rollins College number one among 117 Southern master's-level universities.

Further, the college is fortunate to count among its successes more than just academic achievements. Its well-rounded student body has amassed more than 20 national championships on the athletic field. Time can only tell what future accomplishments may await.

For these reasons and so many more, Mr. Speaker, I am pleased to stand before you, and with you, in honoring Rollins College on its 125th anniversary. May they have as many more equally as fruitful as the first 125.

Mr. ROE of Tennessee. I have no further requests for time, and I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 1169, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CENTENNIAL CELEBRATION OF WOMEN AT MARQUETTE UNIVERSITY

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1161) honoring the Centennial Celebration of Women at Marquette University, the first Catholic university in the world to offer co-education as part of its regular undergraduate program.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1161

Whereas Marquette University was founded in Milwaukee, Wisconsin, in 1881 as a Catholic, Jesuit educational institution;

Whereas Marquette University was created to educate first-generation and low-income students under the premise that all people should be able to pursue higher education;

Whereas Marquette University was the first Catholic university in the world to admit women to be educated alongside men in its regular undergraduate programs in 1909;

Whereas because of the courageous vision of its then-president, the Rev. James McCabe, S.J. Marquette University pioneered the inclusion of women;

Whereas today, 53 percent of Marquette University students, 7 of the 33 members of the board of trustees, and 12 of the 27 members of the university leadership council are women;

Whereas Marquette University is celebrating the 100th anniversary of the admission of women during the 2009–2010 academic year through an alumnae memory project, guest speakers and lectures, commemorative publications, and faculty, staff, student, and alumni events;

Whereas Marquette University continued to expand access to education in 1969 by creation of the Educational Opportunity Program, which enables low-income and first-generation students to enter and succeed in higher education;

Whereas Marquette University is celebrating the 40th anniversary of the Educational Opportunity Program, which now serves more than 500 high school and college students annually through 4 Federally funded TRIO programs;

Whereas the Educational Opportunity Program continues Marquette University's tradition of serving as a model of success for more than 1,200 colleges and universities with Federally funded TRIO programs;

Whereas Marquette University's continued focus on its 4 core values of excellence, faith, leadership, and service challenges students to integrate knowledge, faith, and real-life choices in ways that will shape their lives and those of others in order to better society;

Whereas Marquette University recognizes and cherishes the dignity of each individual regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability, or social class; and

Whereas Marquette University continues to adhere to its tenet of asking who has yet to gain access to higher education and who needs support in succeeding once through the door: Now, therefore, be it

Resolved, That the House of Representatives honors the Centennial Celebration of Women at Marquette University and commends the largest independent institution in Wisconsin for continuing to fulfill its Catholic, Jesuit mission of offering premier higher educational opportunities to all students who have a desire to learn.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Tennessee (Mr. ROE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. BISHOP of New York. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H. Res. 1161 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1161, which celebrates 100 years since Marquette University became the first Catholic university in the world to admit women as part of its regular undergraduate program.

Marquette University started as a dream of the Most Reverend Martin J. Henni, the first Catholic Bishop of Milwaukee. At the time of its establishment, Marquette University was Marquette College. It was a small liberal arts school for men named for the Reverend Jacques Marquette, a French missionary and explorer in North America. The school was founded in 1881 by the Society of Jesus, a Catholic religious order established in 1540 by St. Ignatius Loyola.

Only 30 years later, Marquette University became a more inclusive institution when it made the pioneering move to embrace coeducation. In 1909, Marquette University became the first Catholic university in the world to offer coeducation as part of its regular undergraduate program. This gallant move was led by the president of the college, Reverend James McCabe, S.J.

Just one year after becoming president of the school, Father McCabe saw the need to further the education of teachers, who were primarily females, in Catholic elementary and high schools. While father McCabe's significant action was met with opposition within the local Jesuit community, Marquette prepared to open the first summer session in 1909 in Catholic higher education and to permit women to study alongside men in their bachelor of arts program. Father McCabe's groundbreaking decision was the introduction of coeducation to Catholic higher education.

Since 1909, the role of women at Marquette University has changed dramatically. Marquette now has a student body where women make up more than half of the student population. In addition, seven of the 33 members of the board of trustees, 12 of the 27 members of the University Leadership Council, and 39 percent of the full-time faculty are female as well.

Mr. Speaker, once again I express my support for House Resolution 1161 and congratulate Marquette University on this remarkable milestone. I urge my colleagues to join me in support of this resolution.

I reserve the balance of my time.

□ 1700

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1161, Honoring the Centennial Celebration of Women at Marquette University, the first Catholic university in the world to offer coeducation as part of its regular undergraduate program.

Marquette University was founded on August 28, 1881, as Marquette College by John Martin Henni, the first Catholic bishop of the Archdiocese of Milwaukee, Wisconsin. The university was named after 17th-century missionary and explorer, Father Jacques Marquette, S.J. The highest priority of the newly established college was to provide an affordable Catholic education to the area's immigrant population. Marqette College officially became a university in 1907. Marquette University High School, formerly the preparatory department of the university, became a separate institution the same year.

In 1909, Marquette University became the first Catholic university in the world to offer co-education as part of its regular undergraduate program. Since that time, the role of women at Marquette has changed and expanded dramatically. In 1923 the first dean of women was appointed. In 1936 the first female academic dean at Marquette provided leadership for the all-female college of nursing. By 1944, the enrollment of women at Marquette grew to

more than 40 percent of students during World War II.

Today, five of Marquette's 12 academic deans are women. Seven of the 17 key university leaders are women. Marquette's faculty is considerably enriched by the presence of women, 42 percent of part-time faculty and 39 percent of full-time faculty. In 2006, Marquette's board elected its first female chair, Mary Ellen Stanek. Today, women make up more than 50 percent of the student body.

With a student body of 11,500, Marquette is one the largest Jesuit universities in the United States and the largest private university in Wisconsin. It is one of 28 member institutions of the Association of Jesuit Colleges and Universities and is accredited by the North Central Association of Colleges and Secondary Schools. The university has 11 schools and colleges; and in 2009, Marquette ranked 84th overall among undergraduate programs for national universities by the U.S. News and World Report.

I want to extend my congratulations to Marquette president, Rev. Robert Wild, the faculty, the staff and students on their 100th anniversary. Today, we recognize Marquette University for focusing on its four core values of excellence, faith, leadership and service, and honor them for 100 years of service of offering premiere higher educational opportunities to all students who have a desire to learn.

I ask my colleagues to support this resolution.

I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I am pleased to yield 5 minutes to the author of the resolution, the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Mr. Speaker, today I am so proud and honored to be able to offer this resolution to my alma mater, Marquette University, which, of course, is celebrating the 100th anniversary of its admission of women during this academic year, 2009 to 2010.

Not only have we noted in this resolution that Marquette was the first Catholic university in the world to admit women to be educated alongside men in its undergraduate programs; but in doing so, it paved the way for women's access to higher education in the United States of America.

This, of course, was very controversial, the admission of women in these programs, and the objections among the religious communities in Milwaukee and elsewhere were rampant. But Father McCabe bravely persisted in admitting women to Marquette University for 4 years before he got word from Rome that it was okay to do so. And we certainly applaud that legacy, as well, today.

In the century following this landmark event, the role of women at Marquette has expanded and evolved. Not only is 50 percent of the Marquette student population women, but the university offers a Women's and Gender Studies major and minor. Marquette counts women among its student body leaders, its most outstanding students and its internationally recognized faculty and staff.

In the decades following this historic inclusion of women, the university has become known for its commitment to expanding access to higher education, not only to women, but also to low-income students, to veterans and to students who are the first generation in their families to attend college. This year, Marquette celebrates the 40th anniversary of its Educational Opportunity Program, of which I am among its first beneficiaries, which now serves over 500 high school and college students every year.

I am so proud of my alma mater, and Milwaukee, that they were on the front lines of change, and recognized long ago, before many other similar institutions, that in order to grow and move forward as a society we can't leave half our population behind. Expanding opportunities and access to education for women benefits our families and our society. I am so honored to recognize Marquette in this way.

I congratulate Marquette, its board of trustees, its student body, all of its alumni, and urge passage of H.R. 1161.

Mr. ROE of Tennessee. Mr. Speaker, I associate my remarks with the gentlelady. I think it was a historic occasion; you're absolutely right. Some would say more than 50 percent of the brain power, if women are left out.

It's a historic time for them, and that was a big step for the Catholic Church in 1909. And so I agree with you, it did pave the way to the 19th amendment that occurred less than 10 years after that. So this is indeed a pleasure to be on this bill, and I thank you for that.

I yield back the balance of my time

Mr. BISHOP of New York. Mr. Speaker, as a proud graduate myself of Jesuit College, I urge my colleagues to pass this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 1161.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

UNIVERSITY OF GEORGIA GRADUATE SCHOOL CENTENNIAL

Mr. BISHOP of New York. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1372) honoring the University of Georgia Graduate School on the occasion of its centennial.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1372

Whereas, on June 10, 1910, the University of Georgia organized its graduate education practices under the guidance of Professor Willis Henry Bocock, who became the first dean of the Graduate School;

Whereas the Graduate School has contributed to elevating and maintaining the University of Georgia as one of the preeminent public universities in the United States;

Whereas these contributions are a reflection of the great leadership of the Graduate School's first dean, Dr. Bocock, and those who succeeded him: R.P. Stephens, George H. Boyd, Gerald B. Huff, Thomas H. Whitehead, Hardy M. Edwards, Jr., John C. Dowling, Gordhan L. Patel, and the present dean, Maureen Grasso;

Whereas the Graduate School has grown from 7 students in 1910 to more than 7,000 today;

Whereas the Graduate School has awarded master's, specialist, and doctoral degrees to more than 73,000 individuals who occupy leadership roles in school systems, institutions of higher learning, business, government, and nonprofit organizations;

Whereas the Graduate School includes more than 350 fields of study and contributes to new knowledge and advancements in academic research; and

Whereas Graduate School graduates have made significant contributions to the economic development and competitiveness of the State of Georgia and the United States: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the centennial of the founding and organization of the University of Georgia Graduate School; and

(2) expresses sincere appreciation to the students and administrators who contribute to the growth and success of the University of Georgia Graduate School.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BISHOP) and the gentleman from Tennessee (Mr. ROE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. BISHOP of New York. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 1372 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BISHOP of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1372, honoring the University of Georgia Graduate School on the occasion of its centennial.

The University of Georgia's motto, ''to teach, to serve and to inquire into

the nature of things,'' has been guiding students at this outstanding institution for over 100 years. However, it was not until June of 1910 that the University of Georgia formalized its graduate education practice when it established its graduate school where students were offered an opportunity to continue their education.

Throughout these past 100 years, the graduate school has dedicated itself to becoming a leading educational institution and an outstanding academic and scientific research center. While the graduate school started off with a mere seven students in 1910, today there are more than 7,000 scholars in the program. The extraordinary and successful growth of the graduate school is a reflection of the great leadership of the first dean, William Henry Bocock, and today is represented by Dean Maureen Grasso.

As it approaches its centennial, the graduate school continues to offer its students excellence in education through more than 350 fields of study and innovative approaches to learning, including assistantships and fellowships for students across colleges and schools at the university, financial opportunities for thesis and dissertation writing, leadership development, study abroad and travel for academic presentations or data collection and professional development seminars.

Mr. Speaker, once again I express my support for House Resolution 1372, and I congratulate the graduate school and Dean Grasso on 100 years of excellence in education. I wish the university continued success and urge my colleagues to support this measure.

I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 1372, Honoring the University of Georgia Graduate School on the occasion of its centennial.

The University of Georgia organized its graduate practices into a collegiate program on June 10, 1910. The graduate education practices were organized under the guidance of Professor Willis Henry Bocock. Professor Bocock later became the first dean of the graduate school.

In 1910 seven students enrolled in the graduate school. Today the school has grown to include more than 7,000 students and more than 350 fields of study. The graduate school has awarded more than 73,000 degrees since its founding 100 years ago. These students and alumni and the faculty that have guided these individuals have made significant contributions to the success and growth of the University of Georgia and, furthermore, the Nation.

The University of Georgia, or UGA, was founded 125 years before the graduate school was organized. Located in Athens, Georgia, the University of Georgia is the oldest and largest of the State's institutions of higher education. The university serves almost 35,000 students and comprises 16,000 colleges and schools including the graduate school.

The university aims ''to teach, to serve and to inquire into the things of nature.'' This motto has helped to position the university as a leader in higher education. The U.S. News and World Report ranked the university 21st among the top national public research universities in 2010.

In addition, the university has claimed 37 national championships and is widely known for excellence in academics and athletics.

The University of Georgia Graduate School has significantly contributed to the university's success and excellence in the last 100 years. I stand today to congratulate the University of Georgia Graduate School, the students, alumni, faculty and staff on the occasion of the school's centennial.

I ask my colleagues to support this resolution.

And, Mr. Speaker, as a University of Tennessee grad, I was doing really well with this until we get to the 37 national championships.

Mr. Speaker, I yield 5 minutes to a distinguished colleague from Georgia, Dr. PAUL BROUN.

Mr. BROUN of Georgia. Mr. Speaker, the University of Georgia is the first land grant college in the United States. A lot of people don't know that.

The Graduate School of the University of Georgia is celebrating its centennial in June, as both speakers have just mentioned. In the hundred years since its organization, the University of Georgia's Graduate School has produced scholars of the highest caliber. Beginning with only seven pupils, it now boasts more than 7,000 students and hundreds of doctoral, master's and specialist degree programs.

At the center of advanced learn at the State's flagship university, UGA's Graduate School has contributed to new knowledge, advancements in academic research, and the economic development of Georgia and the United States.

Graduates of this great school occupy positions in school systems, businesses, and even the United States Congress. I'm honored to represent this great institution here in the U.S. Congress, and I urge my colleagues to join me in celebrating the graduate school on this great occasion of its centennial.

The University of Georgia is a great institution for the people of the State of Georgia and this Nation. The graduate school has come within the purview of that great institution and has been a stellar school to produce some of the greatest leaders of our Nation. I congratulate them personally, and I'm glad that Congress, hopefully, is going to congratulate them with this resolution.

And with that, I have one thing to say. Go Dogs.

□ 1715

Mr. ROE of Tennessee. I yield back the balance of my time.

Mr. BISHOP of New York. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BISHOP) that the House suspend the rules and agree to the resolution, H. Res. 1372.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BISHOP of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL ASTHMA AND ALLERGY AWARENESS MONTH

Ms. CASTOR of Florida. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 407) expressing support for designation of May as ''National Asthma and Allergy Awareness Month,'' as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 407

Whereas allergies are among the most common diseases in the United States;

Whereas an estimated 50,000,000 or 1 in 5 Americans suffer from all types of allergies;

Whereas approximately 3,000,000 school-aged children have a food allergy and the number of American children with a peanut allergy doubled between 1997 and 2002;

Whereas the prevalence of allergies has increased since the early 1980s in the United States across all age, sex, and racial groups;

Whereas allergies are the most frequently reported chronic condition in children;

Whereas almost 4,000 people die each year from asthma-related causes, and asthma is a contributing factor in another 7,000 deaths every year;

Whereas allergic reactions can be severe enough to cause death;

Whereas it is estimated that the cost of allergies is nearly $7,000,000,000 each year;

Whereas an estimated 20,000,000 or 1 in 15 Americans suffer from asthma, and over 50 percent of asthma cases are ''allergic-asthma'';

Whereas, due to asthma, each day in America 40,000 people miss school or work, 30,000 people have an attack, 5,000 people visit the emergency room, 1,000 people are admitted to the hospital, and 11 people die;

Whereas asthma is the most common chronic condition among children, affecting more than 1 of every 20 children;

Whereas asthma is more common among children (8.9 percent) than adults (7.2 percent);

Whereas nearly 6,500,000 asthma sufferers are under the age of 18;

Whereas ethnic differences in asthma prevalence, morbidity, and mortality are highly correlated with poverty, urban air quality, indoor allergens, lack of patient education, and inadequate medical care;

Whereas asthma accounts for nearly 2,000,000 emergency room visits in the United States each year;

Whereas each year, asthma accounts for more than 10,000,000 outpatient visits and 500,000 hospitalizations;

Whereas 40 percent of all asthma hospitalizations are for children;

Whereas asthma is the third-ranking cause of hospitalization among children;

Whereas among children ages 5 to 17, asthma is a leading cause of school absences from a chronic illness;

Whereas asthma accounts for an annual loss of more than 12,800,000 school days per year, which is approximately 8 days for each student with asthma, and it is estimated that children with asthma spend nearly 8,000,000 days per year restricted to bed;

Whereas the annual cost of asthma is estimated to be nearly $18,000,000,000;

Whereas the Asthma and Allergy Foundation of America first declared ''National Asthma and Allergy Awareness Week'' 25 years ago in May 1984;

Whereas each year, the Asthma and Allergy Foundation of America declares May as ''National Asthma and Allergy Awareness Month''; and

Whereas the month of May 2010 would be an appropriate month to designate a ''National Asthma and Allergy Awareness Month'': Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of ''National Asthma and Allergy Awareness Month'';

(2) supports the designation of a ''National Asthma and Allergy Awareness Month'';

(3) encourages local communities to raise awareness surrounding the prevalence of asthma and allergies;

(4) encourages awareness about disparities in asthma cases based on race, ethnicity, and socioeconomic status;

(5) recognizes and salutes health care professionals that treat asthma- and allergy-related health issues each day; and

(6) recognizes and reaffirms the Nation's commitment to continued education surrounding asthma and allergy treatment and symptoms and to advancing care for both asthma and allergy conditions.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. CASTOR) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. CASTOR of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. CASTOR of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of House Resolution 407. This resolution expresses support for the designation of the month of May as National Asthma and Allergy Awareness Month. I would like to thank my colleague, Congressman DAVE REICHERT of Washington, who partnered with me on this resolution. Congressman REICHERT and I cochair the Congressional Children's Health Care Caucus.

Today's resolution focuses on two conditions that affect millions of Americans, asthma and allergy. Asthma is a respiratory disease that is caused when the lungs become inflamed and constricted. Asthma attacks can be so severe that they can be life-threatening.

An estimated 20 million Americans currently have asthma, and it is the most chronic condition in children. Asthma accounts for nearly 2 million emergency room visits per year, and costs America about $18 billion annually. More than 12.8 million school days are lost each year due to asthma, approximately 8 days for each student with asthma. This makes it very difficult for parents who may miss work because their child is home from school after an asthma flare-up.

There is no cure for asthma. Almost 4,000 people die each year from asthma-related conditions. The best course of action is to manage the disease by preventing symptoms and treating attacks when they occur. Improved care and management has the potential to not only save lives, but also to reduce the number of people suffering asthma attacks so they don't miss work or have to visit the emergency room or the hospital.

Our resolution also underscores the disparities in asthma based on race, ethnicity, and socioeconomic status. It is important to work to improve asthma-related outcomes for all Americans, but particularly for those who are disproportionately affected by the disease.

Mr. Speaker, the resolution before us also focuses on allergy. This refers to reactions by the immune system when a person comes into contact with certain substances that act as triggers. Allergies are most often triggered by pollen. They can also be triggered by exposure to other substances like certain food or pets.

Like asthma, allergy is a common disease among Americans. Approximately 50 million Americans suffer from allergies. Approximately 3 million school-aged children have a food allergy. And the prevalence of allergy has increased across all age, sex, and racial groups in the last decade.

Symptoms of allergy also vary. And we understand this very well this time of year. The symptoms can be rather mild or for some people very severe. Hives and swelling of the throat and allergic reactions can be severe enough to cause death. So it's important to consider the impacts of allergy as an individual condition.

We must also not overlook the connection between allergy and asthma. Over 50 percent of asthma cases are triggered by allergens. Today's resolution gives us an opportunity to learn more about asthma and allergy and the impact of these conditions upon American families. It encourages local communities to raise awareness surrounding these diseases.

The resolution also recognizes and salutes the important work of health professionals who treat asthma-and allergy-related health issues. Finally, the resolution recognizes and affirms the Nation's commitment to education surrounding the care for these two conditions.

I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. TERRY. Mr. Speaker, I yield myself as much time as I may consume.

On behalf of the Republican side of the Energy and Commerce Committee, I rise in support of H. Res. 407, to support the designation of May as National Asthma and Allergy Awareness Month. About 50 million Americans suffer from allergies and around 20 million suffer from asthma. Of those 20 million asthma sufferers, over half have both allergies and asthma.

While it's rare, allergies and asthma attacks can be deadly. But even a more mild attack can keep a child home from school or a parent out of work. While allergies and asthma are often chronic conditions, they can be managed with medication. Inhalers, for instance, allow people with asthma to participate in sports, and a wide range of medications are available to those who suffer from allergies. In fact, my nephew Raymond played baseball all through his youth having to carry his inhaler.

Many of us rely on common, everyday over-the-counter medications to deal with allergies. Unfortunately, the health care bill will increase the cost of drugs to Americans because they will no longer get the benefit of untaxed dollars through their FSAs to purchase over-the-counter drugs for conditions like allergies. The actual cost to Americans for these medications will therefore increase, forcing them to go to prescription drug levels, and increasing the costs to health care. Additionally, the majority's health care bill will increase the costs or create a direct tax on inhalers and breathing devices.

Now, some might try to say that the savings really wasn't that great, and the benefit of this massive trillion-dollar government scheme will far outweigh the costs. But the fact is that Americans who suffer from chronic allergies and asthma have to purchase medications on a regular basis. Over time, savings from an FSA can add up. And it's kind of like how massive deficits year after year lead to a $13 trillion deficit. There may be some benefit to someone at some point in time from the President's health care bill, but in the meantime all the American people are getting is higher costs.

I support this resolution and urge Members to vote for it. However, I am opposed to some of the policies implemented by this Congress that would increase the cost of treatment for those with allergies and asthma.

Mr. Speaker, I understand the gentlelady is prepared to close, so at this

time I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise in support of this resolution. However, I find it interesting that we are discussing the hardships faced by those with allergies and asthma, when just over 2 months ago the Democrats rammed through a health care law that will prohibit Americans from using pretax dollars to buy over-the-counter allergy medicines and impose harsh new taxes on prescription drugs used in asthma inhalers.

Beginning next year, the Democrats' health care overhaul will prohibit the 45 million Americans with flexible spending arrangements and health savings accounts from using this money to purchase over-the-counter drugs like Claritin or Zyrtec. This amounts to a $5 billion tax increase. Those with asthma will soon see their out-of-pocket costs increase because the Democrats' health overhaul imposes a $27 billion tax on drug manufacturers, including those who make inhalation drugs. Mr. Speaker, that's nothing to sneeze about. The Medicare actuaries expect this, quote, ''tax would generally be passed through to health consumers in the form of higher drug prices.''

Mr. Speaker, it's time to repeal the Democrats' health law and replace it with commonsense reforms that actually lower health care costs, not raise them.

Mr. TERRY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. CASTOR of Florida. Mr. Speaker, I would like to thank my colleague from the Energy and Commerce Committee, Mr. TERRY, for his participation today. We're not going to repeal the health care reform law. It's too important to American families. We're going to make it work. And we're all in this together to make it work.

If you have asthma or if you have an allergy, the new health reform bill is very positive for you and your family because now no longer will health insurance companies be able to deny coverage based upon a preexisting condition. So if your child has a severe case of asthma, that health insurance company can no longer say, No, we're not going to cover that.

The new health reform law is good news for American families, especially those with asthma and allergies, because no longer will health insurance companies be able to cancel your policy just because you get sick. So if you have a health insurance policy and you come down with a severe case of asthma or your child does, under our law health insurance companies will no longer be able to cancel you because you have developed that condition. The same goes for breast cancer, the same goes for any terrible condition. And this is a real world solution for our families all across America.

More good news from the health care plan. There are many students in college these days that before they reached age 26 they were often left in the lurch. Now, under the health reform law we say that health insurance companies have to keep your kids on your policy until they turn age 26. There are plenty of young students today that are having a tough time finding a job, and this is an important lifeline for them.

I think we should also focus on our Medicare patients, because sometimes a condition like asthma gets a whole lot worse as someone ages. The good news under the health reform law is that Medicare patients will get free checkups and preventative care. So hopefully, if a chronic condition is developing, we can prevent it if they go in, and not have to worry about copayments anymore that are very expensive if you're on a fixed income. And you can get coverage that you need, the checkups and preventative care, whether it's asthma or allergies or some other serious condition.

I think it's probably going to help Medicare patients as well because some of them are spending a lot of money on their pharmaceuticals and drugs. So if you need those inhalers now and you're falling into the doughnut hole because you're spending a lot, we're going to be able to help you out for those seniors that are falling into that doughnut hole, meaning they are spending a lot on their drugs, whether it's asthma, allergies, or some other medication that they need.

So I am not sorry that this turned into a debate on health care. We're not going to repeal it. We're going to work together. Those are the values we share in America. We're going to make health reform work for American families, all of us. We're in this together. We don't need to waste time on repeal. We're going to dedicate ourselves, all of us, to making it work for American families.

Mr. Speaker, I would also like to urge my colleagues to support our designation of May as Asthma and Allergy Awareness Month. I urge my colleagues to support the resolution.

□ 1730

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CASTOR) that the House suspend the rules and agree to the resolution, H. Res. 407, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. CASTOR of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

APPOINTMENT AS MEMBERS TO NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY

The SPEAKER pro tempore. Pursuant to section 106 of the Higher Education Opportunity Act (P.L. 110–315) and the order of the House of January 6, 2009, the Chair announces the Speaker's appointment of the following members on the part of the House to the National Advisory Committee on Institutional Quality and Integrity for a term of 6 years:

Upon the recommendation of the Majority Leader:

Dr. Carolyn Williams, Bronx, New York

Dr. William ''Brit'' Kirwan, Adelphi, Maryland

Dr. Benjamin J. Allen, Cedar Falls, Iowa

Upon the recommendation of the Minority Leader:

Dr. Art Keiser, Parkland, Florida

Mr. Arthur Rothkopf, Washington, D.C.

Dr. William Pepicello, Phoenix, Arizona

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3885, by the yeas and nays;

concurring in the Senate amendments to H.R. 2711, by the yeas and nays;

H. Res. 1189, by the yeas and nays;

H. Res. 1172, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

VETERANS DOG TRAINING THERAPY ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3885, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 3885.

The vote was taken by electronic device, and there were—yeas 403, nays 4, not voting 24, as follows:

[Roll No. 298]

YEAS—403

Ackerman	Alexander	Austria
Aderholt	Altmire	Baca
Adler (NJ)	Andrews	Bachmann
Akin	Arcuri	Bachus

Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Cao
Capito
Capps
Capuano
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pitts
Platts
Poe (TX)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—4

Campbell
Flake
Issa
Shadegg

NOT VOTING—24

Barrett (SC)
Bishop (UT)
Blunt
Brady (TX)
Cardoza
Conyers
Davis (AL)
Fallin
Graves
Himes
Hoekstra
Jackson Lee (TX)
Kilpatrick (MI)
Langevin
Lewis (CA)
Manzullo
McCarthy (CA)
McGovern
Petri
Polis (CO)
Radanovich
Ruppersberger
Ryan (WI)
Wamp

□ 1800

Mr. STEARNS changed his vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. McCARTHY of California. Mr. Speaker, on rollcall No. 298 I was unavoidably detained. Had I been present, I would have voted ''yea.''

SPECIAL AGENT SAMUEL HICKS FAMILIES OF FALLEN HEROES ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and concur in the Senate amendments to the bill, H.R. 2711, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2711.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 15, as follows:

[Roll No. 299]

YEAS—416

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Chandler
Childers
Chu
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye

Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—15

Barrett (SC)
Blunt
Conyers
Davis (AL)
Fallin
Graves
Hoekstra
Jackson Lee (TX)
Kennedy
Kilpatrick (MI)
Manzullo
Petri
Radanovich
Ryan (WI)
Wamp

□ 1809

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMENDING LANCE MACKEY ON WINNING 4TH STRAIGHT IDITAROD TRAIL SLED DOG RACE

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 1189, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1189.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 0, answered ''present'' 3, not voting 17, as follows:

[Roll No. 300]

YEAS—411

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chandler
Childers
Clarke
Clay
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—3

Chaffetz
DeFazio
Lummis

NOT VOTING—17

Barrett (SC)
Blunt
Chu
Cleaver
Conyers
Davis (AL)
Fallin
Graves
Hoekstra
Jackson Lee (TX)
Kilpatrick (MI)
Manzullo
Petri
Radanovich
Ryan (WI)
Slaughter
Wamp

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1817

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING WILL KEITH KELLOGG

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 1172.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 1172.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. SCHAUER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 410, noes 0, not voting 21, as follows:

[Roll No. 301]

AYES—410

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Castor (FL)
Chaffetz
Childers
Chu
Clarke
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Grayson
Green, Gene
Griffith
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nunes
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Upton
Van Hollen
Velázquez
Visclosky
Walden
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—21

Baird
Barrett (SC)
Blunt
Chandler
Clay
Conyers
Davis (AL)
Fallin
Graves
Green, Al
Gutierrez
Hoekstra
Jackson Lee (TX)
Kilpatrick (MI)
Kirk
Manzullo
Mollohan
Petri
Radanovich
Ryan (WI)
Wamp

□ 1825

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Madam Speaker, I was unable to attend to several votes today. Had I been present, I would have voted "aye" on final passage of H.R. 5145, "aye" on final passage of H. Res. 1258, "aye" on final passage of H. Res. 1382; "aye" on final passage of H. Res. 584; "aye" on final passage of H.R. 3885; "aye" on final passage of Senate Amendments to H.R. 2711; "aye" on final passage of H. Res. 1189; and "aye" on final passage of H. Res. 1172.

CLOSING THE SPENDING LOOPHOLE

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Madam Speaker, in the next couple of days, the House is scheduled to vote on a bill called the American Jobs and Closing Tax Loopholes Act. Yet, for all of its parts, the bill fails to address the largest loophole of all—the double-spending loophole.

Last week, it was reported that the majority plans to fund a new billion dollar summer jobs program with revenue from a tax increase on each barrel of oil. One problem: the revenue they're counting on has already been promised to the Oil Spill Liability Trust Fund to cover the estimated $14 billion in damages on our Gulf Coast.

Madam Speaker, you don't need to be a CPA to know that you cannot spend the same dollar twice. Yet, just like the health care bill, the majority is again spending revenue that has already been committed to other programs. Using this deception is wrong, and it further inflames the distrust of the American people for our institution. The first loophole we ought to be closing is the double-spending loophole.

THE FEDERAL GOVERNMENT'S FAILURE TO SECURE THE ARIZONA BORDER

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Kansas. Madam Speaker, I state the obvious. The Federal Government has failed when it comes to immigration. It is no surprise that Arizona is stepping forward to do the job the Federal Government has not done.

Our country is a nation of laws, and they must be enforced. Whether or not this administration likes it, it is a Federal crime not to carry status documents in the United States. If they would read it, administration officials would know that Arizona's new law gives local law enforcement the authority to enforce our laws by making it a State crime for illegal immigrants to fail to carry such documents.

Despite all of the misinformation and criticism, 71 percent of Arizonans, who live with this problem every day, support the new law. Though, it's not just Arizonans who are fed up with the government's failure. Many Kansans share their concern, and they support their efforts.

It is the responsibility of the President to defend the United States and its people. Rather than agreeing with foreign criticism, President Obama should stand with the American people who are demanding that the Federal Government address this problem and secure our border.

□ 1830

COMMENDING THE HOUSE PAGES ON THEIR VICTORY OVER THE SENATE PAGES

(Mr. CLEAVER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. CLEAVER. Madam Speaker, on the 16th, the House pages played two games with the Senate pages. The Senate pages lucked up and won a Frisbee match—but with probably some cheating—but the House pages, standing strong, following all the rules, doing the right thing, defeated the Senate pages badly, 10–4, in kickball. And as the Senate pages, with their heads dropped and their spirits torn, left the field, they reported to the Senate only one part of that day, which was the game they lucked up and won.

So, Madam Speaker, I want to commend the athletic pages of the House of Representatives and hope that we can continue to get superior pages, as we have this year, in the future.

Congratulations to the pages.

IS NEWSWEEK THE CANARY IN THE LIBERAL COAL MINE?

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, The Washington Post Company is trying to sell Newsweek because the magazine is losing money, according to news reports.

In response, The Weekly Standard wrote that ''not only has Newsweek suffered from its online competition, it seems to have done everything within its power to hasten its own demise.

''During the 2008 presidential election, for example, its fawningly voluminous coverage of Barack Obama made it something of a journalistic laughingstock, and certainly affirmed every weary accusation of liberal bias in the mainstream media.''

The Standard wrote that Newsweek's recent overhaul was ''designed to create a left-wing journal of opinion.''

The American Spectator called Newsweek, ''The Canary in the Liberal Coal Mine'' and outlined the magazine's history of liberal bias.

Maybe Newsweek's biased reporting didn't cause its downfall, but it certainly didn't help.

URGING THE FEDERAL GOVERNMENT TO SUPPORT LOUISIANA GOVERNOR'S REQUEST TO BUILD SAND BARRIERS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, today I sent, along with Representative SCALISE of Louisiana, a letter to the United States Army Corps of Engineers supporting Louisiana Governor Bobby Jindal's request for an emergency permit to dredge and build sand barrier islands. The United States Corps of Engineers must conduct an environmental assessment before granting the State a permit to build the barriers.

Governor Jindal petitioned the Corps of Engineers on May 10, more than 2 weeks ago, for approval to dredge and build the sand barriers. He has yet to receive a response. In the meantime, oil has begun to inundate Louisiana's fragile coasts and marshes. The proposed sand barriers would create a permanent barrier to prevent oil from reaching the shores and the wetlands.

We support Governor Jindal's efforts to protect the fragile ecosystems and natural resources that are of critical importance, not just to Louisiana, but in fact the entire national economy, and we urge the Army Corps of Engineers to act swiftly so that they may assist the governor in protecting these valuable resources.

Mr. SCALISE and I were both part of a congressional delegation that visited the Gulf and the protected area 3 weeks ago. We have seen the spill and the waters firsthand and seen the way it is threatening Louisiana's coastline. Every resource should be utilized to stem this spill and protect the Nation's coastline.

I insert for the RECORD a copy of the letter we sent to Lieutenant General Robert L. Van Antwerp.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 24, 2010.

LTG Robert L. Van Antwerp,
Commanding General and Chief of Engineers, Headquarters, U.S. Army Corps of Engineers, Washington, DC.

LTG ROBERT L. VAN ANTWERP: As oil from the Deepwater Horizon oil spill begins to reach the fragile marshes and estuaries of the Louisiana coastline, it is imperative that the federal government do everything possible to stop the flow of oil and act immediately to protect the natural resources along Louisiana's coast.

On May 23, 2010, the Associated Press reported that Louisiana Governor Bobby Jindal, frustrated with Army Corps of Engineers delays over environmental impact studies, will move forward unilaterally in building sand barriers to protect the coastline. Gov. Jindal petitioned the U.S. Army Corps of Engineers the week of May 10 for approval to dredge and build sand barriers to protect the wetlands, but the USACE has yet to grant approval of that request, and oil continues to damage areas of Louisiana's coasts.

We support Gov. Jindal's efforts to protect the fragile ecosystems and natural resources that are of critical importance not only to Louisiana but also to the entire national economy. And we hope the Army Corps of Engineers will expedite any environmental studies so that the Corps may assist the Governor in protecting these valuable resources.

The oil spill in the Gulf of Mexico is a serious tragedy, resulting in the loss of 11 lives onboard the exploratory rig. Every resource should be utilized to stem this spill and protect the nation's coastlines. We appreciate your assistance in this matter.

Sincerely,

MICHAEL C. BURGESS, M.D.
STEVE SCALISE.

SPECIAL ORDERS

The SPEAKER pro tempore (Ms. KOSMAS). Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

AMERICA'S ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Madam Speaker, the recent explosion of the BP Deepwater Horizon oil rig in the Gulf of Mexico has raised legitimate concerns regarding safety and environmental standards of deepwater, offshore drilling. My thoughts and prayers go out to the families that lost loved ones in this tragic accident. Eleven individuals were killed.

Safety and responsible operating procedures must always come first, particularly when human lives are at risk. It is important to reevaluate and address our safety procedures and hold those responsible for the accident accountable.

At the same time, I believe the Federal Government has the obligation to make informed and responsible decisions regarding offshore drilling. We have to differentiate between the causes of this accident and other responsible and safe drilling operations.

Our primary purpose right now should be to stop the leak and determine the cause of this tragedy, and the Federal Government needs to simultaneously address the cleanup. We need the full cooperation of Federal, State, and local agencies, as well as private industry, to immediately address the cleanup and containment situation in the Gulf of Mexico.

In my opinion, there has not been sufficient urgency to do this thus far. Cleanup remains inadequate and is still bogged down in redtape from Federal bureaucrats. This bureaucratic response from Interior Secretary Salazar has been to shut down all new offshore drilling permits, including both shallow water and deepwater offshore drilling.

However, shallow water drilling is fundamentally different from deepwater drilling. It has operated safely in the Gulf of Mexico for over 60 years, yet this prohibition treats both the same. This drilling in shallow water is primarily for natural gas. The oil remaining in these reservoirs has largely been produced, so it is at lower pressure than the oil found at deeper depths. And unlike deepwater drilling, the blowout preventers in shallow water drilling are located above the surface, not thousands of feet below on the ocean floor.

I recently joined our congressional neighbor in Louisiana, Congressman CHARLIE BOUSTANY, and 40 other additional colleagues in sending a bipartisan letter urging Secretary Salazar to resume permitting for the shallow water drilling.

The unintended consequences of this wide range ban are far-reaching. The blanket ban has the potential to cause

more widespread economic damage in the gulf coast and the entire United States.

The devastating effects of the oil spill go beyond waters and wetlands. For southeast Texas and southwestern Louisiana, our lives are intertwined with the oil and gas industry in the Gulf of Mexico. Over 180,000 Americans are directly employed in the oil and gas and mining industries along the gulf coast, and the prospect for severe economic hardship is very real. And that doesn't include the countless people that make their living in fishing and restaurant and tourism-related industries. Many of these out-of-work fishermen stand ready to help with the cleanup but are denied the ability to help because it is stalled down in Federal redtape.

I think we should have an-all-of-the-above energy policy, one that I believe we can achieve with the highest safety and environmental standards. Our Nation and our economy, however, run on fuel supplied by the oil-producing sector of the Gulf of Mexico. We cannot simply shut off the spigot and expect this Nation to run on nothing. Meanwhile, we need to clean up the mess and find out what caused this tragedy in the Gulf of Mexico. And that's just the way it is.

TRIBUTE TO JUDGE EDWARD DAVIS, QUESTIONS REGARDING GULF OIL SPILL, AND COMMENTS ON REPUBLICAN ''YOUCUT'' PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. HASTINGS) is recognized for 5 minutes.

Mr. HASTINGS of Florida. Madam Speaker, I rise today with a heavy heart because of the loss of a very good friend of mine, Judge Edward Davis of the Southern District of Florida. He passed this morning. My love and condolences go out to Pat and the rest of the family for this tragic loss. I shall speak more at another time about my dear, good friend.

Additionally, Madam Speaker, while we are ''slick and tired'' of hearing people pontificate about this ecosystem disaster of apocalyptic proportions, there are questions that do need to be raised, not only for the entirety of the oil industry, but certainly for the United States Government in this particular case.

I would like the questions answered, and am proposing by way of a letter what steps are being taken to determine how much oil is underwater, where it is located, and what path it will take over the next decade.

What do we project the threat to be from a potential hurricane in the Gulf of Mexico, and how is our government planning for the potential impact of such a possibility?

What are the potential long-term impacts if the oil plume stays in its location and-or begins moving through the loop current and Gulf Stream to various coastal locations?

Why have we not used our tankers that can suck in oil and water and pump out oil?

Why have we not asked Russia or Norway or China or Japan to use their submersibles in a meaningful way?

Interagency coordination is required. I happen to like Thad Allen. I think he is one of the better commandants that the Coast Guard has ever had, and I think he is doing an incredible job trying to coordinate. But what does the Federal Government's short-term, mid-term and long-term response structure look like, and what agencies are in charge, is what I would ask him and anyone else involved.

What steps are being taken to coordinate long-term observations, impact analysis, mitigation research and research that is needed? Not BP's research, but our research. We have an institution, NOAA. They have modeling efforts to improve hurricane intensity forecasting and a sufficient amount of information that could be beneficial, and I am sure many are using it.

What is the government's plan to improve security at these oil facilities? Nothing has been really said to us here in the Congress directly regarding this.

But, now, Madam Speaker, I want to turn to my colleagues on the other side for the remainder of my time.

Earlier today, I spoke on the House floor regarding the Republicans' latest ploy to stall the important work of this body known as ''YouCut,'' which I like to call ''CutYou.'' Each week, a targeted pool of online and cell phone users are supposed to vote for one of five programs that they would like to see cut from the budget. Simply put, YouCut can and probably does undercut our representational responsibilities, which leads to undercutting our democracy.

Once we start getting into the business of government by referendum, we negate representation. Ask my friends in California and ask those of us in Florida what impact that kind of activity has had on our representatives.

The last time I checked, last week, there were 280,000 votes, and that doesn't constitute the will of the American people. That is what brings me to the floor.

Very occasionally, Democrats and Republicans get on the floor and say what the American people want. What the American people know is that we represent them, and therefore when we stand up and say that 280,000 people voted a certain way, or 81,000 of them voted to cut much-needed funding from the Temporary Aid to Needy Families program, that does not represent the majority of Americans.

Quite frankly, I think how this idea got started is that they need to rebrand themselves, and I don't fault them for that, and they are particularly good at messaging, and I don't fault them for that.

The simple fact of the matter is that somewhere along the line somebody decided, let's use us a mechanism to gather in these emails. Let's use us a mechanism to get these phone numbers. And then what do we do at campaign time? We turn it back around and go at them to make them intense and enthusiastic. And that is what people can do, so I have no quarrels with that.

I have no quarrels with their new program. What is it called? It is getting ready to be unfolded next Tuesday on their Web site. It is called ''America is Speaking Out.'' Well, the last time I looked in my office, America has spoken out an awful lot.

I don't know that we need too much more undercutting, and the poor in this country sure don't need an uppercut.

What Republicans fail to mention is that the "YouCut" program is inherently selective, and therefore biased. Neither online nor cell phone voters are able to vote to save a program rather than cut it. Furthermore, the "YouCut" program conveniently targets only those who have internet access and cell phones, which disproportionately leave out some of the poor and the elderly.

Instead of continuing to be the "party of no," Republicans should say "yes" to the American people and help pass the legislation that this National needs and deserves.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SECURING THE SOUTHERN BORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP of Utah. Madam Speaker, I appreciate the opportunity of following my good friend from Florida in his wonderful address to the House. I wish to talk about one particular issue.

There was a newspaper article that came out today that said that President Obama is scheduled to send 1,200 troops to the Arizona-Mexico border. If indeed that report is accurate, I commend him for that type of activity, because his goal is to try to stop three of the most heinous organizations that are entering this country through public lands on the southern border: Illegal drug traffickers; illegal human traffickers and all the violence, especially against women, that they present; and the potential terrorists coming into those areas.

The escalating violence on the southern border is of unprecedented proportion. Unfortunately, the success of stabilizing that border is not in the number of bodies that we send down there, but the ability of those bodies to have

full access to the border region. Unfortunately, the land manager policies that we have on our southern borders allow the criminal element unfettered access but prohibit the Border Patrol from going into those exact same areas.

The traffic barriers that are put up in this picture on Federal lands in the south are not border barricades to stop illegals coming in from Mexico, or drug cartels, or human traffickers. They are to stop the Border Patrol from going into Federal lands on our southern border. The end result of this activity of all these drug traffickers, the human traffickers coming in, is the massive amount of environmental damage that is done.

If I could give a quote from a 2007 article in the Tucson Weekly dealing with Ironwood National Monument talking about these smugglers that are coming in and their vehicles, mostly stolen from Phoenix: They often travel at night without headlights, with tape over the brake lights. They have been clocked tearing through the monument's dirt roads at 89 miles an hour, endangering the lives of residents and visitors alike. And it also ensures that many of these load vehicles never make it out of the monument, for they smash into trees and run into ditches. The BLM has towed 300 vehicles a year out of this one monument since the year 2000.

These loaded vehicles, as well as the constant foot traffic, destroy habitat and threaten cultural sites and endangered species.

□ 1845

The trash that is left behind, this is from Ironwood, requires pickup crews to have biohazard training and armed guards watching them as they do their work. They have even attacked the cacti in the area, simply cutting it down, leaving it there across roads to create a barrier so they can stop park visitors and there either rob them or steal their autos at the same time. This also destroys the natural environment that happens to be there.

This is not just taking place in the South, I want to emphasize, though. It is also taking place in the North. Although 40 percent of the land on our southern border between California and El Paso is owned by the Federal Government, we have the same situation on our northern borders, with over 1,000 miles of land, 13 States that intersect 12 national parks, four Indian reservations; and the exact same problem exists on our northern border.

In a letter to House Republicans, Homeland Security Secretary Napolitano talked about Border Patrol issues in the Spokane sector up in Washington. She wrote, the sector is currently working with Interior and Forest Service regarding Endangered Species Act issues related to grizzly bears and road use. Government biologists claim agents in vehicles on some roads are detrimental to bears. The sector, however, must occasionally have some motorized presence in those areas, and a related important issue is retaining access to critical areas. The sector must maintain the ability to respond via a motor vehicle when required.

The importance of this?

Well, the guy who was charged in the 1997 plot to bomb New York City's subway system crossed illegally across our northern border into Washington.

In 2005, a 360-foot drug smuggling tunnel on private land was also found going from Canada to Washington. This illustrates how much effort smugglers are willing to do to try to attempt to come into this country, not just in the north, but also in the south.

We had a testimony today in Resources where some people in the Park Service said, well, if there are exigent circumstances, obviously we make allowances for the Border Patrol to go in there. The problem, though, is definition of that term. Interior defines that term as a life and death situation. Homeland Security defines it as when there is evidence of a crossing. Those definitions are in conflict.

Until the Department of the Interior and National Park Service rules are changed in both the North and the South along our borders and allow access to Federal Border Patrol and Federal employees, there is no amount of numbers that's going to make a difference. Instead, we simply have the worst of both worlds on both borders.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

FEMA IMMEDIATE-NEEDS FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Madam Speaker, our hearts go out to victims of recent floods and natural disasters, but I also fear that we suffer from the old adage, ''Out of sight, out of mind.'' Once the cameras are packed away and the news crews leave for their next breaking story, what happens to the victims and the survivors of our natural disasters?

You know, one would hope that the system of emergency response would keep on plugging away and assisting the families in need across this country. But sometimes, unfortunately, that system breaks down.

Madam Speaker, I rise today to bring the voices of my constituents in Jefferson County, Wisconsin, to the floor of the people's House.

In 2008, homes along the northern shore of Lake Koshkonong and the surrounding community were absolutely devastated by a record-setting flood. This was a 500-year flood that ravaged much of the Midwest and, in particular, Wisconsin and Iowa.

During that storm, I knew that the damage was going to be devastating and that many of the houses in our community would be beyond repair. But what I didn't know was that after nearly 2 years after the floods, our government would be leaving those hardworking Americans behind. You see, in February of this year, FEMA instituted what it calls ''immediate-needs funding.'' Basically, they are freezing already approved funds to folks in Wisconsin and in other disaster areas across the country.

A couple of weekends ago I had the chance to visit with the property owners who were affected from the district that I have the privilege of representing. These are survivors of the 2008 floods. I wanted to hear their stories. Many brought photos, letters, and all brought unique stories and anger and frustration.

I met first with Gene and Marie Harris at their home on Lamp Road, one of the most extensively damaged neighborhoods in this flood. The damage was so extensive that their house is absolutely uninhabitable, and has been since the flood. They showed me photos of before and during and after, and we talked about the tangle of bureaucratic red tape that they've waded through in order to get approved for FEMA money.

But they were approved for FEMA money, until the freeze took effect. When I asked Marie to recall what they went through back in June of 2008, not surprisingly, she welled up with tears.

I met with other families affected, a family who had four generations who lived in a property that is also beyond repair. He talked about the generations having put their heart and soul into remodeling.

I met with a young family who had several properties in the area. This young family, with two young sons, decided that, in order to plan for their retirement, rather than investing in a 401(k), they were going to buy a few bungalows along the lake shore and rent them out. After they paid off the mortgage, this would help with their retirement. So they bought five bungalows. Three out of the five were damaged in the flood beyond repair. The remaining two are reparable.

But what's happening, as they wait for those frozen funds, is that this family is having to pull out of their kids' college funds and money that they were saving for their retirement in order to pay mortgages, taxes on properties that are uninhabitable, and for which they are getting no rental income.

They brought when they met with me a letter that asks, and I'm only reading a part: but why freeze the funding now? We've been waiting almost 2 years, and during this time we must still pay taxes, mortgages, and mow what is left

of our lawn. How much longer are we expected to keep paying and waiting with no more source of rental income?

Please, somebody, wake me up from this nightmare and tell me it's all a bad joke. Our government couldn't do something as unfair and cruel as this, could they? Do they think about the people whose lives they are destroying?

I know there are people who are a lot worse than us and suffering even more. But at least, at least we have another home to live in right now.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE DEFINITION OF A HYPOCRITE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, as we approach the passage of the Jobs for America Bill in the next few days, we need to talk about a subject that is at the heart of the debate, hypocrisy.

The definition of a hypocrite is someone who acts in contradiction to his stated belief. In other words, he says one thing and does another.

For example, a hypocrite would deplore our Nation's deficit in a floor speech today, even after helping President Bush turn the biggest budget surplus in our Nation's history into the biggest deficit ever.

A hypocrite would vote for two wars with a price tag of over $1 trillion, two tax cuts for the wealthy, and a new entitlement program, all without ever thinking about how to pay one thin dime of their cost, and then turn around and say they voted to cut off unemployment benefits out of concern for the budget deficit. That's what people will argue in the next couple of days.

A hypocrite would complain that there are not enough budget offsets, that is, pay-fors, in the jobs bill before us while, at the very same time, try to eliminate the over $50 billion in offsets that are contained in the legislation. Closing loopholes is against the philosophy of a hypocrite.

I think it's safe to say that all of us have not lived up to every pronouncement that we've made in our lives. No one is perfect, but rarely has hypocrisy been as constantly and blatantly displayed as it has been by the opponents of this bill.

The same people, the same people who spent like drunken sailors when they were in charge, now say we cannot afford to help our fellow citizens who've lost their jobs through no fault of their own.

Here is the bottom line: if we don't pass this bill, 1.2 million Americans who were following the rules and working and paying their taxes will lose their unemployment benefits by the end of June. Moving forward, a total of 2 million will be off by mid-July and 5 million Americans will lose their benefits by the end of this year.

Thanks to the hypocrites who say, oh, I can't, I'm worried about the deficit; I can't worry about these people who have no way to pay for their home or their food or their mortgage or their children, Americans will face these cuts of their unemployment benefits because people will not follow what they say they believe.

They were unable to deal with the spending on wars and tax cuts and all the rest; but when it comes time to pay the benefits to somebody who lost their job, their message to them is, well, you know, tell your children that they're just going to have to tighten their belts a little, and we're not going to have three meals today. We're only going to have two because your dad or your mom or both haven't been able to find work.

There are six people in this country looking for every job that's out there. The chances of people getting a job today are very low, and people are giving up because, with 8 million jobs lost in the last 2 years, they are simply unable to find work to take care of their families.

Now, to take away their last lifeline because you're saying you're being a budget hawk and you're against deficits, when you spent like that in the last 8 years, is pure and unadulterated hypocrisy.

The SPEAKER pro tempore (Mrs. HALVORSON). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 5 minutes.

(Mr. LINCOLN DIAZ-BALART of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

(Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Michigan (Mrs. MILLER) is recognized for 5 minutes.

(Mrs. MILLER of Michigan addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE DOCTORS CAUCUS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. BROUN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROUN of Georgia. Madam Speaker, tonight the Doctors Caucus, people who are physicians, and those of us who are involved in health care on the Republican side, are going to be talking a little bit tonight about ObamaCare. We've talked about ObamaCare a lot over the last several months, and it's now law. We hear over and over again about how ObamaCare is beginning to filter out, and how it's going to affect the American people.

Our President has said, Madam Speaker, that when the American people know what's in the bill, they're going to like it. Well, to the contrary. As the American people get to know what's in the bill, they dislike it more and more, as they rightfully should, because ObamaCare is going to be extremely expensive for everyone.

□ 1900

It's going to be very onerous to almost everyone, except for the Federal bureaucrats who are going to be hired to put ObamaCare into place and who are going to be enforcing it. And in fact, we are even going to have to hire, I think it is 16,500 new IRS agents to enforce it. That's right, Madam Speaker, 16,500 new IRS agents just to enforce ObamaCare on small businessmen and women around this country. The more the American people discover about ObamaCare, the less they like it.

We just heard, I think it was last week, where the Congressional Budget Office said, Oops, we made a mistake. We made a mistake. We were $115 billion too little on our estimate, which puts it way over a trillion dollars. Our Democratic colleagues, their leadership—actually, it's not even all the

Democrats, because there are many of them who are very reasonable over there on that side. But the leadership of the Democratic Caucus wanted to get ObamaCare and the President wanted to get ObamaCare passed, and forced the CBO through the parameters that they gave them to try to get the numbers below $1 trillion. Well, they are north of $1 trillion.

Frankly, if you look at Medicare, when CBO projected the cost of Medicare, CBO missed it, missed it terribly. And in fact, I think that's what's going to happen here too. I think ObamaCare is going to be $3 trillion, $5 trillion, maybe $10 trillion. And it's money that our children and our grandchildren are going to have to pay because we don't have the money.

In fact, we just had a lecture about hypocrisy by one of our colleagues just a moment ago, talking about saying one thing and believing another. Frankly, we are continuing to fight to stop this outrageous spending. As Republicans here, we are fighting against ObamaCare. Every single Republican voted against it. Even several Democrats, many Democrats, voted against it. The only bipartisan vote was a vote of ''no'' against ObamaCare, because it's going to be terrible. Unfortunately, it passed the House by five votes. Five votes. That's certainly not a mandate from the House.

The American people, as they study the bill, they are beginning more and more to see how bad it is. The feelings against ObamaCare have been described by one Democratic pollster as hardening against it. We need to repeal and replace ObamaCare. It's the only rational, reasonable thing to do. It's the only economically feasible thing to do.

We see colleagues on the other side talk about budget deficits. They don't care about budget deficits. They don't care about the huge debt that's created. In fact, just last week I was down here on the floor and heard several of our Democratic colleagues blame this economic woe that we have and this huge Federal debt and deficit on George Bush. Can you imagine? On George Bush. We have created more debt in the last year-and-a-half than George Bush did in 8 years. But my Democratic colleagues continue to blame George Bush.

I blame George Bush for bringing us the first tranche of the TARP bill. I voted against it. Many Republicans voted against it. I thought it was a mistake. Then the President came back, our current President, President Obama, came back and he wanted another $350-plus billion to bail out Wall Street even more. Now they are talking about a Financial Services bill to regulate Wall Street that they, the Democrat leadership in this House and the President, want to bail them out and then regulate them on the other hand.

And if the American people will look at who Wall Street gives money to, it's the Democrats. They give the Democrats and the Democratic Party a whole lot more money than they give Republicans. The best friends of big business and the best friends of Wall Street are our Democratic colleagues.

So we are here tonight to talk about spending and failed promises. I am joined in this discussion tonight with two very good friends, two great Members of the House, both freshmen. Both are physicians. We have got Dr. PHIL ROE, who is an OB/GYN from Johnson City, Tennessee, and we have got my fellow family doctor, Dr. JOHN FLEMING, from Shreveport, Louisiana, that have joined us tonight. I understand that Dr. PHIL GINGREY may join us. He is in a markup. And so is Dr. BURGESS. They are both in markups in Energy and Commerce.

But now we've got three stellar Members of this U.S. House of Representatives, three stellar members of the Republican Caucus, three stellar members of the Doctors Caucus who have been leaders here. I want to thank the people of Tennessee and Louisiana for sending these two gentlemen here and being part of our conference and being part of this Congress, fighting for the interests of their constituents. I want to thank the people of Louisiana, Madam Speaker, and thank the people of Tennessee for sending Dr. PHIL ROE and Dr. JOHN FLEMING here.

So to kick this off, I will go to Dr. PHIL ROE to put in his input about failed promises and the huge spending that ObamaCare, as well as the Democrats not only with ObamaCare, but with their stimulus bill. Dr. ROE, we are fixing to have another bill that our Democratic colleagues are calling a jobs bill. If they liked the first nonstimulus bill—actually, it stimulated big government. It has been an abject failure. But they want to give us another bill. They call it the extenders bill here in Congress, but the American people are going to hear it described as a jobs bill. And that is just absolutely incorrect. Thanks for joining us.

Mr. ROE of Tennessee. Thank you, Dr. BROUN.

I bring with me tonight a blank sheet of paper. On this blank sheet of paper is where we ought to go back with health care and start over. That's what the people in my district and in the State of Tennessee have overwhelmingly told me. I was at a convention in Gatlinburg this weekend. They understand it. They get it. And who gets it the most are our senior citizens.

When I came here, I came as a 31-year practice physician, private practice. I also taught in medical school some, and run a small business, and also was mayor of a city, the largest city in our district. So I have been used to balancing budgets, not raising taxes. And I do believe in smaller, more efficient government. And by far and away after seeing this, I call it the Twilight Zone here inside 395. No one understands in the State of Tennessee or in the cities where I go to, in Kingsport, and Bristol, and Newport, and Gatlinburg, and Sevierville, and all the cities in my district, Rogersville, they have to balance a budget. The county mayors have to balance a budget, the city mayors, the local city commissioners.

One of the things that I have paid very close attention to since I have been here is I have tried to not vote, and to the best of my knowledge have not voted for any unfunded mandate for local or State government. I have had enough of that when I had the Clean Water Act and ozone and everything else as a mayor I had to deal with, with no money to deal with it.

Mr. BROUN of Georgia. Dr. ROE, let me interrupt you briefly and reclaim my time here.

The American people understand what you are having to say about balancing budgets because they have to do that every day in their own home and businesses. My State of Georgia has to balance its budget, our State government does. Many States around this country have to balance their budgets. You had to balance the budget of the city when you were mayor of Johnson City.

We don't even have a budget. First time in history since the last budget act was passed that we're not going to even attempt, not even attempt to have a budget. So how can they constrain their spending? I guess they don't want to have any constraints or anything to try to hold them accountable.

So the American people I think, Dr. ROE, need to know that we are not going to have a budget. They don't have a budget. We're not going to have a budget in this Congress. JOHN SPRATT, who is the chairman of the Budget Committee, said, ''If you can't budget, you can't govern.'' The majority leader on this side said that putting forth a budget is critical for governing. They're not governing. They're not budgeting. I just wanted to kick that in just so that our listeners tonight could understand they don't have a budget so they're not working under the constraints of a balanced budget.

I have introduced a balanced budget amendment to the Constitution. There are three actually on our side that have been introduced. They are all slightly different. But all of them call for a balanced budget. But we on the Republican side want to balance our budget.

Mr. ROE of Tennessee. I think until we do that, you are going to see, and you see this fiscal irresponsibility around the world. You've seen the Greece meltdown, and you've seen Spain is in trouble. Italy is in trouble. The EU is having problems even being held together now because of the spending and social programs that are going to have to be paid for. We're going down the same path. And I just asked myself today, how long can you continue to run enormous, 43 percent this year of our budget is deficit spending, how long can you continue to run

almost half the dollars you spend are borrowed dollars until you can't do that any more and then a true crisis hits?

But what I was going to bring up was I came here with high ideals and high thoughts about health care. I had spent my career doing that, and I said, you know, I think I can go to Washington and have something to offer in the debate. What really disappointed me is we have 10 doctors on the Republican side in the Doctors Caucus, and not one of us in a meaningful way was consulted about this health care bill. When I tell people that, they can't believe it.

Mr. BROUN of Georgia. What? Not one doctor on our side? Not one?

Mr. ROE of Tennessee. It's the most astonishing thing I have ever heard of, Dr. BROUN, in my life is you would have the expertise here. And I know people think this is all politics and games and so forth. I came here very sincerely wanting to be part of this debate and offer 30-plus years of experience about what worked and what didn't work. And the thing that this bill has that the Senate has, about half of it is what we had already tried in our State that failed miserably. And I wanted to explain what went wrong so that we wouldn't magnify this debate 50 times across America.

When I came here, I recognized the problems were ever-rising costs, number one. Number two, we had a lot of uninsured people that needed health care services in this country. You've dealt with them. Dr. FLEMING has dealt with them. I've dealt with that problem. And preexisting conditions. And so we had a way, very easily, to deal with those without a massive 2,500-plus page bill that almost nobody read. And that's very frustrating to me to see no physicians involved, no malpractice reform in this bill, which has to be in there. No doctor fix.

And so the folks understand what we are talking about, our physicians that accept Medicare, many of them now, hundreds have left in Texas—I was reading an article the other day—won't take Medicare any more. And why? Because for years now we've been putting off a proposed cut. And this year, next week, there is going to be a 21 percent cut in your doctor's pay for Medicare.

The problem is when you do that, that's going to do three things. That's going to decrease your access to your doctor, it's going to decrease the quality of care because you can't get to your doctor, and number three, it's going to increase the cost to patients when they can least afford it. We on our side have been tasked, the Physicians Caucus has been tasked with a true doctor fix. Not this stuff tomorrow that's going to be done and voted on where 2013, I believe it is, 3 years from now, there's a 35 percent cut. So the doctors get a reprieve for 36 months, a car payment basically, a 36-month reprieve and you're facing the same thing again instead of a true fix for this very, very real problem.

So we had those three things. It didn't take a trillion dollars—and Dr. BROUN and Dr. FLEMING, you can't spend a trillion dollars without helping some people. When people ask me, Is there anything in this bill you like? I said, well, you can't spend a trillion dollars and not help some people. That's not the issue. The issue is, could you have done the same thing and done it better with a lot less money?

I think more importantly than this, is that ultimately this right here, I can write the prescription, no pun intended, I can write the prescription right now of what's going to happen in this country. You set up a scenario where the private sector will fall apart, and I think in a very few years. I don't think it will take long. And then the politicians right here on this House floor are going to step up once again and say, Oh, see, we told you this wasn't going to work. And here's the government, we'll take the whole thing over. When that happens, my friends, rationing of care is going to occur. And there's no doubt in my mind that will occur.

You brought up a minute ago, Dr. BROUN, about the costs and the government estimates of Medicare. I know those numbers. In 1965, Medicare cost $3 billion. The estimate 25 years later was it was going to be $15 billion. The actual number in 1990 was $90 billion. They missed it by a factor of six. That's how much they missed it by. In TennCare, in Tennessee we brought forth this managed care plan, uninsured, costs going up, the same argument I just made, and guess what? In 10 budget years we tripled our costs—just in 10 years.

□ 1915

So from 2010 to 2020, if we triple, it will be exactly as you just pointed out, it will be a $3 trillion program, not a $1 trillion program, and that will probably be on the low side.

I think the other thing about this particular plan—and we'll get into it in more detail here in a moment. But what folks don't understand between the difference of Medicare and Medicaid, Medicare you've actually paid a premium in for that. You paid 2.9 percent of your salary, either as employee or employer, both shares are. So there's a premium. It may not be the right number to actually fund it properly, but you are paying into that.

Medicaid's a flat-out entitlement. It just comes right out of a general fund from taxpayers to pay for it, and we're going to expand that by some 20 million people. We've seen the problem in Tennessee when you do that, when you don't put the patient in control on health care expenses. They'll explode like they did in Tennessee.

I yield back.

Mr. BROUN of Georgia. Thank you, Dr. ROE. I appreciate it.

And you are exactly right. In the State of Georgia, they've just finished their session, a 40-day session. The general assembly just finished about 2 weeks ago. It took 40 legislative days, all the way to May to finish 40 legislative days, and it is because of the economic downturn and the lack of revenue. And we have a balanced budget requirement in our State constitution. So Georgia has to balance its budget, just like people have to balance their budgets, just as we should be balancing our budget here in the Federal Government.

And in doing so, people who are paid by the State—teachers, policemen, State highway patrol, as an example. Just talked to Jimmy Williamson, the police chief at University of Georgia, as a person who is employed by the State. All of these folks are being furloughed. They're being furloughed on a day-by-day basis. So they have to lose a day of work, maybe a day a month, a day periodically. They're not counted in these unemployment statistics. They're not counted in how the Department of Labor gives us all of those numbers on a monthly basis. So our administration and the leadership up here don't count those furlough days, but they're unpaid furlough days. It's hurting their salary. It's hurting families.

And it's because of this gross mismanagement of the Federal spending, this gross, outrageous spending that the Federal Government's doing that is going to put our children and our grandchildren in an economic squeeze where their standard of living is not going to be as high as ours. And ObamaCare is going to put a lot of people in a position, as you were just saying, where they can't find a doctor.

In fact, during another previous Doctors Caucus period of time of discussing things during Special Orders, I said that people may have a free health care card, Medicaid card or whatever card it is, but it will be as worthless as a Confederate dollar was after the War Between the States. And the reason for that, you just brought up, Dr. ROE, is that doctors are not going to be able to accept Medicaid and Medicare because of the rationing of care, the marked reduction of their payments from the Federal Government and doctors who are trying to take care of poor people. And the elderly today are struggling because the Federal Government pays providers—whether it's a hospital, a doctor, or a physical therapist—less money today than it costs them to provide that service.

I'll give you an example, just a number of years ago in my own practice when I was in an office. I've done house calls since 2002. So I'd go see my patients at home, and work was no longer office space. But when I was office space, Medicaid reimbursed us for the shots, immunizations for our kids, childhood immunizations, at less money than it cost to buy the serum. And then that doesn't count the cost of our nurses' time and the liability costs and the medical records costs and the syringe and the alcohol pad and these

other things. Government was reimbursing us at a lower level. So I had to send all of my pediatric patients for their childhood immunizations over to the health department, and they were getting them from a government entity because I could not provide those services.

But that comes back to another thing that you said, Dr. ROE, where just before ObamaCare was passed, our President said he wanted everybody in this country in one health care pool. What does that mean to the American people? What that means is that his desire is for us to have total socialized medicine where everybody in this country is in the same pool. Everybody's health care is controlled by the Federal Government. So there are panels here in Washington, D.C., that are going to ration care, as Dr. ROE was just mentioning. It's going to tell us who can go in the hospital, who can get a treatment, what medications we can get. There's going to be a tremendous rationing of care.

Before that happens, I think, Dr. ROE, you're exactly right in that this unfunded mandate that's being forced on the States by the expansion of Medicaid rolls is going to hurt my State of Georgia that much more. They're struggling now to balance their budget. The teachers are being released from their duties and are not going to be rehired for next school year because the State of Georgia doesn't have the money to pay for Medicaid today. And it's going to be expanded. And we're going to fire all of the teachers? I hope not. We need to be paying our teachers more. We need to be doing more for our teachers.

But we're in a bind. And the Federal Government, under this leadership of this administration and the leadership of the House and the Senate, are making matters worse and worse.

Dr. ROE.

Mr. ROE of Tennessee. It is not going to matter about health care if we don't get our budget in order, if we don't get our deficits in order. And these budget deficits that you see out into the next 6 to 8 years that they predicted is without health care. And if it adds on top of that, I don't see how we can afford it, how we can go forward as a nation. And I am truly concerned about that for the people who are retired on fixed incomes, for young entrepreneurs.

Look at what a business would do right now. Let's say a business looks up, and this ObamaCare plan, they can pay a fine that's $2,000 per employee and they can put them on the exchange—which is not even calculated into these numbers, this $1 trillion.

There's a business in Tennessee—I won't say where—that's using—the government will again decide what's adequate health insurance coverage. Not you, not you as an individual. You won't go out as a family. The government will decide if your plan is adequate. And if it is not adequate, then you'll have to buy an adequate plan.

Well, this particular company's plan wouldn't be considered adequate right now. It would cost them $40 million to comply with this. Or they could drop the folks in their business into the exchange, pay the $2,000 fine and have a net $40 million savings.

So what are they going to do? They're going to drop those people into a plan. They will not pay the cost of the care. And it's going to amplify much faster. And that's why I said a moment ago that you're going to have people step up real soon and say, See, we told you that the private sector failed.

No. Businesses are making a perfectly logical business decision.

Mr. BROUN of Georgia. Dr. ROE, just tonight I went to a meeting just before we came down for this last series of votes. In fact, I came from that meeting here to the floor of the House. And I was talking to a leader of a large transportation organization, and he told me that they've studied ObamaCare and they've decided that they're going to do exactly what you said. They're going to push all of their employees into the public exchange, which—they're just going to pay the $2,000. Just tonight I talked to a guy, just an hour and a half ago, who said that hundreds of their employees are going to be pushed into the public exchange.

This goes back to fulfill Barack Obama's promise of wanting to try to develop one pool for everybody. But he has failed in his promises because we were assured that their new law would be the answer to health care financing problems. Au, contraire. I am not good at speaking French. My wife, Niki, all the time chastises me for my not being able to speak these things and not even—she's from Indiana, so she doesn't even think I speak English.

But we see over and over again where these failed promises and this increased debt and all of the things that are going on are costing hundreds of jobs and are going to force people into government health insurance programs.

So the spending has to stop. This outrageous spending has to stop here. And unfortunately, we have failed promises by the Federal Government.

Dr. ROE is unfortunately having to leave, and I thank Dr. ROE for spending some time with us and with the American people this evening. Thank you, Dr. ROE.

I want to go to our next doctor who's here with us tonight, a good friend, great Member of Congress, Dr. JOHN FLEMING. Family doctor from the northwest corner of Louisiana. One of my favorite States. I love to go down there and go duck hunting. And they're struggling by the Federal Government's failure to deal with this outrageous economic as well as environmental disaster that's going on down there. In fact, failing—our Federal Government and this administration is failing to take care of what they're charged to do under Federal law.

In fact, STEVE SCALISE, our good friend from New Orleans, came to the floor yesterday and was talking about that. He was even chastised by one of our dear Democratic colleagues. But the Federal Government has a responsibility under Federal law on these major oil spills to get engaged in trying to deal with that. They failed to do so.

But thankfully, your district is up in the northwest corner. I know your patients miss you like my patients miss me. I am still practicing medicine, but, Dr. FLEMING, thanks for joining us tonight.

And I yield to you, sir.

Mr. FLEMING. I thank the gentleman, Dr. BROUN from Georgia.

And I still see patients as well when I get a chance, but it's not nearly as often as I'd like. We, being both family physicians, I think we have a special bond. I want to thank the gentleman for his leadership, and certainly he's been a mentor for me, and also a special kind of family practice heart that only we family physicians understand, not just for your patients, but for the work that you do here, and not least of which is for this Republic that I know you love so much. And that, I greatly respect.

What I wanted to extend a little bit from our discussion that we're already into is the fact that, you know, we've had a number of these GOP Doctors Caucus Special Orders during the health care debate, and tonight we know the bill is passed. There's nothing we can say tonight that's going to keep it from being passed. The votes have all been counted and it is in law; although, it's not been fully implemented.

Mr. BROUN of Georgia. Let me interrupt you a minute, Dr. FLEMING, and reclaim my time, but I want to ask you a question.

Have you heard any of our Democratic colleagues say we need to move on, it's now law and we need to accept it, and we just need to go forward and it's the law of the land and, thus, we're being sore losers? We're just being nothing but soreheads because we're talking about health care still.

But it's critical the American people understand that it's not put in place completely, and the most onerous parts of ObamaCare are yet to come, and it's a few years out. So we can repeal ObamaCare. We can replace it with something that makes sense. I've already introduced one repeal and replace bill. I had introduced a bill, H.R. 3889, prior to ObamaCare passing, which was my own comprehensive health care reform bill. Comprehensive. It dealt with Medicare, helped reform Medicare so that people could continue to get Medicare and could continue getting their money back that they invested in the Federal Government through Medicare through their FICA taxes and their payroll deductions and stuff like that. And I reintroduced it as repeal ObamaCare and replace it with my H.R. 3889.

Just this week I'm going to introduce another one that puts in place repealing ObamaCare and puts in place four things:

Number one, across-State-line purchases for individuals and businesses.

Number two, where anybody in this country can join an association just for a meager amount of money, 5, 10 bucks, $25, have multiple insurance products that they can buy and own themselves, have huge pools with these associations.

□ 1930

The third thing is to encourage the State to set up a high-risk pool.

The fourth thing is to have tax fairness for everybody in this country so that everybody can deduct every health care cost that they have, including purchasing insurance. Makes sense.

I have had many of my Democratic colleagues—when I challenged them before ObamaCare passed—I challenged Democrat after Democrat individually to introduce those four things in a bill, that I would give them the legislative language. I would give them the bill, have a blank. They would just write their name in the blank.

And then it would be a Democratic bill. They could claim that as being ObamaCare, as far as I was concerned, because it's not about my name being on anything. I am just concerned about policy. I had Democrat after Democrat say, PAUL, I would love to do it. It makes sense.

Many of our Democratic colleagues said, PAUL, that makes sense to do this and to work on this incrementally. Many Democrats wanted to work on this incrementally. But their leadership wouldn't let them, Dr. FLEMING. They were forced to swallow ObamaCare just like the American public is being forced to swallow ObamaCare.

And those four things would radically change the health care financing, would solve a lot of problems, not all of them, but would solve a lot of the problems we have. It would help cover a lot of people who can't afford health insurance today, would cover a lot of people who can't get health insurance because of preexisting conditions.

We have very few people. In fact, ObamaCare is not going to cover everybody in this country either until we get everybody in the same pool that the President wants us to go in. But these are all failed promises and high spending that we are getting from our leadership. I just wanted to throw that in, Dr. FLEMING.

Mr. FLEMING. I thank the gentleman.

What I would like to do is take a moment to look through the retro spectroscope, where we are today now that the bill has passed, look at the rhetoric that occurred during the debate—

Mr. BROUN of Georgia. Now, Dr. FLEMING, you better explain about retro spectroscope because a lot of people haven't heard about that. They have heard of a colonoscope or sigmoidoscope, but you are not talking about the same thing.

Mr. FLEMING. Right. Well it's a quasi-medical term which is equivalent to armchair quarterbacking or postmortem in which we look back and we go, How do things look now, looking back, as opposed to the way they looked then? You know, what we were saying during the debate is this: This bill is by no means really paid for, that there is smoke and mirrors about the financing, that it will definitely cost tax for the middle class, although the President said otherwise.

The President said premiums would go down for insurance. We said they would go up. The President said people would get more care and better care, and we said, no, the care would be diluted, there would be less access to care.

Mr. BROUN of Georgia. Let me interrupt you again a half second, if you don't mind, Dr. FLEMING, because I have got some news for the American people.

The Congressional Budget Office, even missing all the numbers, as Dr. ROE and I were just talking about, the Congressional Budget Office has stated that the law will raise the individual market premiums by an average of $2,100 per family, raise them. They are going to go up above what would have been if we did nothing. Now, I don't want to do nothing.

I know that you don't want to do nothing. You made that very clear in many hours here on the floor, talking. But the cost is going to go up by $2,100 per family on the average across this country. That's another failed promise by Speaker PELOSI and Barack Obama.

Mr. FLEMING. So there were a number of promises made and, you know, each time we tried to rebut these, we were told that we were using scare tactics, that we are scaring old people and that, really, it was unconscionable to do that.

So what has happened since the bill was passed? Well, first of all, the bill had about 52 percent of Americans who were against it, against 38 percent who were for it. Today, 63 percent of Americans want repeal, so that means that more people now want to get rid of this bill than actually were against it before. That means that some people who were for it now want to repeal it.

And what was the first thing we heard after it passed? Almost within 24 hours, AT&T a write-down of $1 billion, that is a loss of $1 billion for the year; Verizon, $970 million; John Deere, $150 million; Caterpillar, $100 million.

We had communication just the other day, a small business owner who thought he was going to be okay under ObamaCare because he had 24 employees, and he said, you know, the threshold is 25 employees, so you get special tax credits and you get support under this program because you are a small business owner that has fewer employees.

Mr. BROUN of Georgia. Say that again, please, so people can understand, because we just saw a report. I don't know if you saw the report, because we haven't talked about it.

There was a report just recently where businesses that were going to hire new employees, that are right on the cusp, have decided not to hire those new employees. So it's killing jobs, right?

Mr. FLEMING. Yes, what's happening is the employers, now that they are getting the language of the bill—remember that Speaker PELOSI said if we want to find out what's in it, we have got to pass it first, okay? Well, now it's passed. So, now, business owners are putting the pencil to it.

Here is what they are finding. This is a gentleman who said, you know, I have got 24 employees. So I should be under the threshold, and I should actually get some subsidies and tax credits.

But what he found out was that the way it's calculated, he would have to draw down his 24 employees to 10, and he would have to cut wages down to $25,000 a year, fine print. The gentleman's name is Zach Hoffman.

He is going to have to go from 24 employees making an ample of $35,000 a year down to 10 years making $25,000, $35,000 versus $25,000 a year in order to make that happen. But that's not all. Remember, what I am telling you is not me telling you this. I am just passing on the bad news. Don't shoot the messenger here, okay.

What I am telling you is what people are finding out. The President's chief actuary, this is from, this is in the President's administration, soon after the bill was passed, said, You know what, we made a miscalculation on this. That's from CMS, that this is going to cost $311 billion more than what was anticipated and that it will consume 21 percent of gross domestic product instead of the 16 percent that we predicted. This was within days of it passing.

And then also the CBO, the Congressional Budget Office, which we know played along with the smoke and mirrors and the sleight-of-hand financing of this says, oh, my goodness, there's $115 billion that we haven't accounted for. So instead of this thing being revenue neutral or maybe a little bit on the plus side, no, it is going to go in the red just like we were saying all along.

Mr. BROUN of Georgia. That's another plus side, Dr. FLEMING. We were told that the cost curve would go down. Now that may be a nebulous term to most people in the country, some of that congressional speak language we talk about up here. We have heard over and over again from our Democratic colleagues, particularly in leadership, that the cost curve would go down.

In other words, that the spending, the total level of spending, the total level of spending in this country on health care would go down with ObamaCare.

Mr. FLEMING. Right.

Mr. BROUN of Georgia. But what you are just saying is great information, so that the American people can understand and hopefully our Democratic colleagues will understand, the cost curve goes up, higher than if we did nothing. In fact, this new estimate does not include any cost for the 52 new programs, 52 new programs that are in the bill that the CBO could not even measure and give us a figure for the cost because each program was authorized for such sums, blank check, such sums, funding level.

So our leadership, Ms. PELOSI and company, have given us 52 new programs that are funded at such sums that they need and is not even scored or accounted in this new estimate of $150 million that the CBO missed because they couldn't even score that.

Mr. FLEMING. But it goes further than that. There's going to be $120 billion in taxes that were not anticipated. That's on top of the $600 billion that were already——

Mr. BROUN of Georgia. Tax increases.

Mr. FLEMING. Additional tax from the actuary who is saying it's going to be more taxes. Job cuts: 90 percent of medical device makers say that they will eliminate jobs. That's 9 out of 10 companies that make anything from tongue blades to pacemakers, what have you, as a result of the taxation, heavy taxation, excise taxation of medical devices.

Mr. BROUN of Georgia. Doc, let me interject something there.

Mr. FLEMING. Yes.

Mr. BROUN of Georgia. One of our constituents in northeast Georgia in my 10th Congressional District just wrote us a note saying that he is a small businessman, and he said that his small business was going to survive this economic downturn. But the way it was going to survive was he was going to let all of his employees go, and he and his family were going to run the small business. That's the only way you can stay in business.

It is ObamaCare that is running his employees, even of a small business, very small business, where they are having to let employees go because of ObamaCare, right now today.

Mr. FLEMING. Yes. So you have costs going up and you have jobs going down. We know that there's supposed to be 32 million more Americans covered under this than otherwise. Half of those are to be estimated to be going into Medicaid. And doctors across the country are dropping Medicaid.

Where are these people going to end up? They are going to end up in emergency rooms, not in the doctors's offices like was anticipated.

But let me get to something that I think is real important because you remember that we brought up the idea that there would be committees that may make a decision about what kind of treatment you may or may not get? Now, we know that they exist in Canada and in the United Kingdom, but we started talking about these. I know that Sarah Palin, Governor Palin, made mention of this and the left blew apart. They said, my goodness, you are talking about death boards. Shame on you for scaring the American people.

Okay, well, let me tell you what's really happening, and this is being reported now. The President has nominated Dr. Donald Berwick to run the Centers for Medicare and Medicaid Services, that's CMS, and his job is to oversee CMS. He is also supposed to oversee the $2.5 billion comparative effectiveness research.

Mr. BROUN of Georgia. Those are big words. What's that mean?

Mr. FLEMING. Well, what it basically means is that there's going to be a bunch of unelected bureaucrats, perhaps not even doctors, who are going to be tasked with looking at research, hopefully there's going to be research or they are going to do research, to decide what treatments and what diagnostic tests are worth paying for and which ones are not.

Mr. BROUN of Georgia. Dr. FLEMING, you and I talked about creative effectiveness research and comparative effectiveness of different treatments. For instance, as an example, my trout fishing buddy at home, a retired full bird colonel, Randy Dudley, served a stellar service in the United States Air Force, retired.

Randy Dudley has just undergone a series of treatments for his prostate cancer. He has been very open about it and that's the reason that I can bring that forward here tonight because HIPAA otherwise wouldn't let me do so.

But Colonel Dudley looked at surgery, looked at high-dose radiation therapy, low-dose radiation therapy, chemotherapy, or a combination of those, as he chose his treatment. We, as physicians, do comparative effectiveness evaluation or research to look and see whether the surgery for him is better or which of those treatments are a combination of treatments or better.

But this comparative effectiveness research that was started with a nonstimulus bill back a little over a year ago—that's when NANCY PELOSI and company funded the comparative effectiveness research—what the American people need to understand, Dr. FLEMING, is something you and I understand very firmly; it's not about what's the best treatment, but it's how to spend dollars.

Mr. FLEMING. Right.

Mr. BROUN of Georgia. They are going to use age as the means of trying to determine how to spend dollars. That means that one of my patients who is 75 that has diabetes versus another one of my patients that's 35 with diabetes, they are going to decide whether they are going to spend $100 on my 75-year-old diabetic patient or $100 on my 35-year-old diabetic patient.

Dr. ROE was talking about seniors are very upset because we know where that decision is going to be, and that Federal bureaucrat who is not a doctor, that panel that is not going to be run by physicians, is going to be deciding the comparative effectiveness of spending dollars on an age-related basis with less dollars being divided by more people, which means rationing of care. And this panel is going to deny, deny, treatment to that 75-year-old.

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And the reason Governor Palin was talking about death panels is because they're going to just say, So sorry, you can't get that treatment because comparative effectiveness says spending $100 on you, a 75-year-old patient who has diabetes, is not as effective as spending $100 on a 35-year-old, and our senior citizens are going to be denied treatment. And what's going to happen? They're going to get gangrene in their legs, and they're going to die from that. They're going to get pneumonia, and they're going to die from that. This panel is not going to put them to death, but it's going to deny treatment, particularly the more expensive treatment.

Mr. FLEMING. If the gentleman would yield.

Mr. BROUN of Georgia. Yes, sir.

Mr. FLEMING. Let me focus on Dr. Berwick, specifically, because this is important.

Mr. BROUN of Georgia. Thank you.

Mr. FLEMING. Dr. Berwick, this is a quote from him.

Mr. BROUN of Georgia. Now this is the head of CMS, who is going to be heading up the comparative effectiveness rationing panel. I call it a rationing panel.

Mr. FLEMING. Right. This is his quote. He considers the British health system ''a global treasure.'' In fact, it's my understanding—I don't have it in my data right here—it's my understanding that he helped design it. And it's designed very simply just to be—a little more technical than what you were describing—is that what they do is they take the population and they assign a value, a numerical value based on quality-adjusted life years. And so just as you say, let's say that the government can afford 1,000 hip replacements this year because of the budget and you've got someone who's 75 with diabetes and let's say somebody 35 who's fully healthy——

Mr. BROUN of Georgia. A football player.

Mr. FLEMING. A football player, okay. Now, according to the quality-adjusted life years, the 35-year-old has not only more years left to live, but he has more productive years, that is, he's going to work for the state more years. In fact, the 75-year-old probably is not going to work any more years. And so they have to draw the line someplace: Which thousand is going to get the hip replacement this year? And guess which one it's going to be? It's going to be the 35-year-old. That is the way the comparative effectiveness system works.

That's the way they do it in England today. And anybody who's skeptical or doubts that that's where we're headed, they just need to read about Dr. Berwick and all the other information that's coming out on this. And again, there is much reported by The Wall Street Journal. It says, The decision is not whether or not we will ration care—according to The Wall Street Journal—the decision is whether we will ration with our eyes open. And right now, we are doing it blindly.

It goes on and on to describe the fact that if the quality effectiveness research board is not, in essence, a death panel, then I don't know what really is because, just in the case with the gentleman with the prostate cancer, that's a decision between him and his doctor whether he gets chemotherapy, whether or not he can get surgery. Or maybe he decides, he and his doctor, that the cancer has advanced too far and he's just going to go home, take pain medication, and not fight it. Some people decide that, but that is their decision. But this is going to make it the government's decision to do that.

If you doubt that that happens, again, go and talk to people from the United Kingdom and from Canada. It happens all the time. It's acceptable in those countries and in those cultures that if the government says you don't get treatment or you get only palliative treatment when there is a cure, then that is strictly the way it is. And as far as I know, there is no right to petition; there is no court or anything that you can go to.

So what we really have, just to summarize my comments here, is we had a number of promises by the President. He said the cost curve would go down, as you say; he said the middle class would not pay increased taxes; he said the premiums would go down; and he said a number of other things that I can't even think of today. He scoffed at the idea of death panels and any kind of board or bureaucrat that would dictate what your care would be like, whether the bureaucracy or government would come between you and your physician.

And he said that businesses would be happy, that this would be a boon for businesses. Well, today, where are we? None of those things have proven to be true. Now that the bill is in law, we have businesses not hiring people because we have an unemployment rate of 9.9 and holding because businesses know that if they hire people, they're going to have to pay a lot of money for their health care coming forward. And we also know that what we feared the most is actually in play, and that is that we will have a board, a comparative effectiveness board, just like that in the United Kingdom.

Mr. BROUN of Georgia. You're right, Dr. FLEMING. Let me reclaim my time.

Just today, the consulting firm of Towers Watson just released a study of large employers across the country, what their response is to ObamaCare. And it's not at all surprising, really, to us because we've been talking about it. You and I and many of our Doctors Caucus members have been here on the floor talking about these things, you're just talking about it now, as we did for months and months before ObamaCare was put in place. But let me give you the data, some things that Towers Watson found that just released today.

The overwhelming majority, 90 percent of employers, believe that health care reform will increase their organization's health care costs. They're right. I don't know why it's not 100 percent, because it's going to; but 90 percent of employers believe their health care costs will go up, and they will. Sixty-eight percent plan to re-examine their health benefit strategy for active employees this year.

Now, I'll tell you something, just Sunday, I think it was in the Sunday Athens Banner-Herald, there was an article where the University of Georgia is very seriously considering not giving any new hire that the University of Georgia puts on their payroll retirement benefits once they retire, or health care retirement benefits because of the cost, because of ObamaCare, and because of the strain on the budget that University of Georgia is suffering from right now. So I know University of Georgia, there are a lot of people in Athens, Georgia, who want to go to work for the University of Georgia. It's a great place to work, it's a great school to go to. I'm a graduate of the University of Georgia. But 68 percent are going to re-examine their health benefit strategy. That, I'm sure, is going to please our President because he wants everybody to go off of private insurance; he said that himself. He didn't say it in those words; he said he wants everybody to be in the government pool, one pool.

Eighty-eight percent plan to pass increased costs from the law onto their employees through high premiums. So those people who are working today, those middle class people that Barack Obama said it wouldn't affect them, we heard over and over—still hear—95 percent of Americans are not going to see an increase in taxes. That's just totally erroneous; it's nothing but falsehood. Eighty-eight percent plan to pass on the increased cost to their employees through high premiums.

And let me give a couple more examples, and then I will yield back. Seventy-four percent plan to pass the law's higher costs onto their employees by changing the plan options, by restricting eligibility, which means more people won't be eligible to get insurance through their employer, or by increasing their deductibles or copays. More than one in 10 firms plan to pass on these higher costs of ObamaCare by reducing employment. Twelve percent say that they're going to do that, 12 percent, or by reducing employee contributions to their retirement plans, like their 401(k)s, 11 percent.

Forty-three percent believe that their plans will be subject to the Cadillac tax on high-cost plans. Of course, our leadership here in the House and our President want to get rid of Cadillac plans unless they're for who? The unions. In fact, they've given the unions a pass on the Cadillac plans because they want to do everything that they can do to support the unions.

Of those firms offering coverage, 43 percent said they are likely to eliminate or reduce retiree medical programs as a result of the law's enactment. That's what I just mentioned with the University of Georgia is a good example that is considering right now, very seriously—and I expect it probably will happen. Almost half of the companies in this country are going to reduce or eliminate their retirees' health care plans for their retirees.

I yield back to Dr. FLEMING.

Mr. FLEMING. If you would yield for just a comment about employers.

I'm a small business owner, and you, as a medical physician and one who has to run a business, in essence, for health care, I think a lot of people out there may feel safe in the fact that, you know, my employer has always taken care of us, they've always stepped up and done the right thing. But what people have to understand is that if an employer is paying these high premiums and their competitor is not paying those high premiums or reduces the number of employees, then your employer is no longer competitive in the marketplace, and he either has to do the same thing or he goes out of business.

So it's not like you can take comfort in the fact that, well, my employer always does the right thing, he always steps up and he always buys us insurance. This is a whole new paradigm because he's going to be competing; and if his costs are higher, then he's going to go out of business or match what the other one does.

I yield back.

Mr. BROUN of Georgia. Thank you, Dr. FLEMING.

We have just a couple of minutes left, and maybe I will get back to you in a second.

But I want to tell Madam Speaker and the American people that Republicans have been charged by our Democrat colleagues—and I've heard many a Democratic colleague come stand down here in the well or stand back there at the Speaker's desk and say that the Republican Party is the party of ''no.'' We are the party of ''k-n-o-w.'' So I'll admit that we are the party of ''know'' because we know how—k-n-o-w—we know how to reduce the cost of health care for everybody in this country. We know how to solve the problems of insuring those people who are uninsurable today because of preexisting conditions. We know how to maintain that doctor-patient relationship; it's how health care decisions are made. ObamaCare doesn't do that.

That's another failed promise, another myth that our President and

NANCY PELOSI and company have given to the American people. President Obama said over and over again, If you like your insurance, you can keep it. And Dr. FLEMING was just talking about, no, you can't. That's another myth; that's another failed promise. But the Republicans are the party of ''k-n-o-w,'' know, because we know how to do those things. We know how to create jobs. We've been asking over and over again, Where are the jobs?

The American people are hurting. We see the statistics, 9.9 percent, but that's not correct. It's much higher than that. As an example, one of my county commission chairmen just told me that 1 year ago the unemployment in their county was 14.3 percent. Now it's down to, according to the statistics, 10.7. I said to him, That is fantastic. Where did the jobs come from? He said, PAUL, there aren't any jobs; people have just gotten discouraged and fallen off the rolls. And I think that's why we see it below 10 percent today.

We also mentioned earlier where teachers and policemen and other people are being furloughed and not being paid for those furlough days. There are millions of people who are unemployed. And people who are unemployed and getting jobs, the few that are out there, are being employed at a lower level than they are really qualified. So the unemployment, the underemployment, those that are off the rolls, it's much, much higher than 10 percent. I think it's above 20 percent, maybe even 25 percent; I don't have the data because we can't get those data. But the Republicans do have alternatives. And we're going to try our best to repeal ObamaCare and replace it with things that make sense, that will build jobs, build a stronger economy.

We're just going to see, in the next few days here on the floor of the House, a bill that they're going to call a ''jobs'' bill, and that's not correct. They are naming anything a ''jobs'' bill these days, but jobs are being killed by this outrageous spending.

The health care quality in this country is going to go down. The American people deserve better. We are going to try to repeal and replace ObamaCare and put in place something that makes sense economically and is good for the American people.

I yield back.

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THE ROAD TO ECONOMIC RECOVERY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from New York (Mr. TONKO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TONKO. Madam Speaker, we are going to use the time made available to us in the majority to speak this evening about contracts and about choices—about the change in the direction that this Nation is pursuing.

It is important for us, I believe, Madam Speaker, to talk about the changed order of policies, the new direction, the opportunities that we believe are essential if we are going to grow this economy after having witnessed what many would suggest to have been the worst financial crisis since the Great Depression. It took a turnaround in thinking. It took new leadership. It took a transition from the failed policies of the past.

The Bush recession, the Republican policies that dominated Washington, brought us into economic woes. It brought this country into a situation that found people in the ranks of the unemployed and brought the American economy to its knees—as I indicated, the worst since the Great Depression.

What I think is important to note is that, when we talk about choices, when we talk about contrasts, it is looking at where the allegiances lie. With the Republican Party, it was siding with big banks, with Wall Street, with the big oil companies, with credit card companies, certainly with the insurance industry, and in making certain that those special interests were their priorities.

Well, the turnaround here is an alignment with the American worker. Rather than with special interests, the Democrats have aligned with the American worker. Rather than with big oil companies and big banks, the Democrats have aligned with American families. Certainly, when it comes to the special interests that were held precious by the Republican leadership of the past, we here, as Democrats, have aligned with small business and in seeing that as the springboard to a recovery, in seeing that as the backbone of our economy. So there is a difference. There is a change of heart. There is a policy enhancement that finds us moving in a new direction.

What has that meant? I believe that one needs merely to look at the statistics out there. Let's look at the facts.

This chart here will show us in very stark contrast where we were headed with the economy over the last several years. The red lines, the bar graphs of red, will show us that severe drop, that constant loss in jobs, in payrolls, across this country.

Then, finally, a change in direction with the blue bars suggests the turnaround, the investment through policy that has enabled us to begin the climb upward. This formation of red and blue will show the sharp contrast. It will show the choices—the priority shift, if you will—where we have now begun to climb forward, where we are now experiencing absolute job growth.

Since December of 2009, this Nation has experienced some 573,000 jobs created, 84 percent of which are in the private sector category. That has been a goal to enable us to grow the economy, to create and retain jobs and to add to that private sector column. This goal is beginning to be achieved.

Now, one needs to recall that the changes here in our economy are not going to come nearly as quickly as we would like, because the problem, the dilemma, the siding with special interests, occurred over a number of years. So, with the change of leadership with the Obama administration, with the leadership in the House and, certainly, in the United States Senate, we have been able to march forward in a way that allows us to speak with dignity toward the American worker, to speak with compassion toward the American family, and to speak with productivity and growth toward the small business community.

How do we do that?

Well, there are a number of measures that have been proposed and passed here in the House, in both Houses, and in some cases that have been signed by the President. We are still in the midst of unfinished business, but we are continuing to work on a number of items. What we have currently is in this last bit of recovery where we are seeing that over one-half million jobs added to the picture are in sharp contrast—again, contrast and change here—to the 8 million jobs lost through the course of the Bush recession. That rivals—in fact, it surpasses—the statistics, the job losses, from the Great Depression.

It is a change in thinking where we embrace science and technology, where we look toward the strengths of an innovation economy, one that can use the American intellect and that can embrace the intellectual capacity of this Nation to not only advance research and development and basic research, which translates into jobs, but to also create new products, new discoveries, innovation that leads to businesses, that leads to production, that leads to job security and job growth, oftentimes, again, in the private sector.

So it was this stewardship of our economy arriving on the scene, inheriting a gross bit of policy that drove us deep into a recession, that found an impact not only on American workers and on the budgets of American households but on house sales and on all sorts of investments that need to be part of a robust economy. All of these were dulled. The competitiveness of business was dulled simply by this recession.

Again, the contrasts and the change, the choices.

As we approach an election this November for Members of this House, which will be a report card on the progress made to date, it is important to note that there is a changed order of thinking—the choice to be one of tremendously stark contrast, one that will look at hope, inspired simply by the opportunity to land a job. Now, there are still millions of people out of work. We know that. We are not happy yet with the point at which we've arrived. It is not our final destination, but it is certainly a climb in the right direction, and it is a climb out of what

was a very low, low pit in the Nation's economy.

Let's look at the contrasts.

Again, there are those who would have chosen and did choose to align with Wall Street, with big banks, with credit card companies, with Big Oil, with the insurance industry, with special interests. They had their day and made our day extremely gloomy and dark, made our economy bleak. However, there are those who align with American households, with America's families, with the hardworking middle class, with small business, with senior populations, most of whom are looking to enjoy those golden years and who have been threatened by this crash that has hurt us so badly.

Let's look at some of those opportunities that we've had here in the House—opportunities to work with the President, opportunities to work with the leadership in the House of Representatives.

We had an opportunity called the American Recovery and Reinvestment Act. Many would like to suggest that it should have been avoided, that we should not have invested through what are economically difficult times. Well, a panel of a cross-section of economists, from very conservative thinking to more liberal thinking, in advising the President, the White House—the President's administration—and in the panel's advising both Houses, both parties in each of the Houses as to where and how to recover the economy, advanced the notion that investing in these difficult times was essential, investing in a way that found a growth of some 2.8 million jobs to date with the American Recovery and Reinvestment Act.

That includes individuals in the public sector, which includes our educators, teachers, the school system, and support personnel. It includes public safety, which includes our police officers, our firefighters, who are essential to the quality of life of communities. Educators are essential to growing the workforce of tomorrow. These were important measures, again, equating to some 2.8 million jobs that are part of that recovery—keeping Americans working, keeping services provided.

More than a third of the package of the American Recovery and Reinvestment Act came in the form of tax cuts for 98 percent of America's workers and her small business community, so there were advancements there of the largest historic tax cut in this Nation's history. For that income strata, it is a part of this package that is easily documented and that should be touted as a form of relief that engaged this economy. It allowed for people to circulate the dollars in their regional economies and, again, to see the climb out of this difficult and very deep and painful recession.

It also allowed, as an American Recovery and Reinvestment Act, for us to play catchup with investments that were long overdue—investments in the area of clean energy, which is where this Nation looks to advance and needs to advance the concepts of energy security; in the enhancement of energy independence; and, yes, in national security. For as we reach to experts and their opinions, many suggest that our gluttonous dependency on fossil-based fuels not only endangers our environment but finds us shipping hundreds of billions of dollars per year to unfriendly and unstable governments that will oftentimes, as we put those American consumer dollars into these foreign treasuries of unfriendly governments, utilize these dollars against our troops in the Middle East.

Don't take our word for it. Take the word of those who are part of the tool of Veterans for American Power. They recently traveled to New York State, which was the only stop made by the tour of our veterans who defend this Nation's liberties and her principles. These veterans made a stop in New York State. It was our fortune to host them in Schenectady, New York, part of the 21st Congressional District, where we were joined by vintages of veterans, including our World War II vets, who were the oldest in the clustery. They listened intently to the message, and the message was this:

We witnessed daily on the battlefield what was happening. Dollars were invested into the treasuries and then spent to train the Taliban that would then go to harm and threaten our American troops. So they said that, if we do not resolve this climate change/global warming issue, the battle they see out there will be enhanced because, with flooding and drought and, therefore, famine, we will have a weaker people around the globe with lesser and lesser available land—a perfect storm if you will—that will then create the chances and will enhance the situation of terrorist activity. As they look for less available land with a weakened people, it enhances that concept. So they said we witnessed the destruction and the devastation to our troops, funded by our sending dollars into the treasuries of these unfriendly nations.

The American Recovery and Reinvestment Act allows us to break away from those concepts, from that thinking. It allows for a new mindset. It takes projects from the back burner to the front burner. It allows us to invest, as we have, in a clean energy economy with the Recovery Act, enabling us to talk about smart grids, smart thermostats, smart metering. It is an investment in our transportation and distribution system—the artery and veins of how we wheel electrons to the workplace and to the homeplace.

That is part of the Recovery Act so as to invest in a way that grows jobs in research, that grows jobs in trades over to Ph.D.'s. It goes on and on with broadband opportunities for our communities that are economically distressed or that are rural in nature or that are remote in location. It allows for us to invest in education, with technology in the classroom, to stretch opportunities for our Nation's students. It allows us to invest in health care with technology introduced into record keeping imaging and in making certain that mistakes and unnecessary duplications are avoided.

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So that is one investment that we made here in the House. We had a choice. The President placed it before the House. Democrats said yes. Republicans said no. And repeatedly, the contrast, the choices, the differences that need to be understood by the public out there, are what we are talking about here this evening.

I am joined by a fellow freshman who has an outstanding record in the State of California. He was a State leader there, knowledgeable, extremely knowledgeable on insurance issues and small business issues, and a leader extraordinaire.

This evening we are joined by the gentleman from California, Representative GARAMENDI. I welcome you, Representative. Share with us your thoughts on change and contrast.

Mr. GARAMENDI. I will, and thank you very much for this discussion of what is one of the most important national security issues facing this Nation, which is our energy policy. It is a situation in which we are finding about $1 billion a day of our money is being transferred offshore to people and countries who are really not our friends at all. So the American energy policy is crucial to national security. We need to break our addiction to oil. And you are bringing out not only the necessity of breaking that addiction to oil and reducing the amount of money we are sending to very dangerous places in the world, but you are talking about creating the jobs of the future.

Now, I represented California. I was the lieutenant Governor there, and throughout the State of California we are looking to the green economy as being the next great opportunity.

We talk about Silicon Valley, and certainly 30 or 40 years ago the move to computers and silicone chips and all of those things did create a huge industry. Now, what is the next step? Everyone in Silicon Valley says the next step is the green economy, and the venture capital community, the scientific community, the research is all moving to the green economy.

We see it in my own district. The biggest wind farms in California are in my district, in the Montezuma Hills and Solano County and the Altamont Pass. Those are the industries of the future, and as we move to those green economies, we free ourselves from oil.

It is a huge issue. You so correctly pointed out that the stimulus program, the American Reinvestment and Recovery Act, pushed us in that direction by providing research dollars. The biggest increase in research in the last 12 years has occurred as a result of that stimulus program.

We have another piece of legislation that was on this floor last week, and it was the COMPETES Act, which is the next step in giving us the opportunity in America and in California to compete internationally with science, research, and the educational system that we need to have those engineers and scientists and technicians educated.

Unfortunately, right here on this floor last week the Republicans put forth a motion to reconsider that gutted that legislation, took away half of the potential money and stopped it cold in its tracks. It was one of the worst situations I have seen. Every other business group, the American chamber of commerce, all said we have to have that piece of legislation, yet the Republican Party, for pure political reasons, stalled that legislation, derailed it.

We are working hard to put it back on, because this is the future of America. We cannot any longer be held hostage by those countries that control our oil supply in the Middle East, in Venezuela, and even in the Gulf of Mexico. We now know how risky it is even in our own Gulf to rely upon oil. We need these new sources of energy.

The next step is going to occur this week when we vote on the American Jobs and Closing Corporate Tax Loopholes legislation. That bill is going to be up on the floor of this House this week. What it does is to provide a very significant amount of funding for small businesses, increasing the Small Business Administration loan potential. It provides funding for research for green technologies. It provides tax credits and subsidies so we can advance the green industries, so that future jobs of this Nation are going to be advanced.

I know what is going to happen. The Republican Party on that side of the room is going to do everything they can to stop this critical piece of legislation, 250,000 summer jobs for youth that are otherwise going to be on the street causing trouble.

Mr. TONKO. Representative GARAMENDI, I believe you are citing yet another contrast we can feel is coming in the near future. But we can even point to history, just recent past history about the Wall Street reform package that came before the House, yet another contrast, yet another choice that becomes very clear in terms of the behavior patterns here to the American people.

The Wall Street reform legislation gave us a golden opportunity to fix what is broken on Wall Street, to deal with consumer protection when it comes to predatory lending, when it came to addressing executive bonuses and salaries, when it came to providing a watchdog in the equation.

We are joined by another colleague, another freshman in the House who is yet another powerful voice. It is just a great class to work with. As a fellow freshman, I am enjoying this first term in Congress, because we see fresh thinking, we see soundness of advocacy.

We are joined by the gentleman from Ohio, Representative DRIEHAUS, who has been banging away at reforms, and again speaks to the contrast, the change, the change in thinking that I think aligns up a very sharp choice as we move toward this fall's campaign activity.

Mr. DRIEHAUS. Mr. Speaker, I want to thank the gentleman from New York for his leadership on this issue.

When we talk about the economy, obviously clean energy is a critical piece of this. Wall Street reform is critical to making sure we don't repeat the mistakes that were made.

But oftentimes as I am sitting in that chair and you are sitting in that chair, you hear Republican after Republican after Republican come down to the floor and tell the American people that the sky is falling; that this is the worst economy, and we are still in that recession; that people can't find jobs; that the Recovery Act isn't working.

So I thought perhaps I would share with our audience not what you and I think and not what the Republicans have to say when they come down to the floor, but what other people are saying about the economy today, because there has been a lot of dispute as to the impact of the stimulus, of the American Recovery Act, as we passed it, what was it now, just over a year ago.

So let me tell you what has happened in that year. Just one year later the numbers speak for themselves. U.S. consumer confidence rose in April, reaching its highest level since September 2008. GDP grew for the third straight quarter, 3.2 percent. Consumer spending is up for the sixth straight month, surpassing pre-recession levels. Manufacturing activity increased for the ninth straight month at the fastest rate in nearly 6 years. Pending home sales are up for the fifth straight month, a 5.3 percent jump in just the last month, largely attributed to the tax credit for first-time home buyers that was included in the stimulus. Factory orders increased by the largest amount in more than 9 years, and car sales were up by 20 percent, according to The Wall Street Journal.

According to Market Watch, this is what they had to say. Hiring has increased in all 4 months so far in 2010, reversing nearly 2 straight years of job losses after the recession that began in December 2007, according to The New York Times.

This is unambiguously a strong report for growth implications, James O'Sullivan, chief economist at MF Global said. It adds to the evidence that the pickup in growth is leading to a clear-cut pickup in employment. It is very clear there has been a bounce here and momentum has been up, according to CNNmoney.com, another sign the recovery in the U.S. economy is taking hold.

According to the AP, clearly companies have found a newfound confidence in the future of the economic recovery on the part of their business prospects, said Joel Naroff, president of Naroff Economic Advisors. The broad-based job gains are an indication that businesses are feeling more comfortable about expanding their workforces.

According to Bloomberg, companies such as General Electric are boosting staff as sales improve, leading to income gains that may spur consumer spending and more hiring.

There is no doubt that the economy is recovering. There is no doubt that the stimulus that we voted on, that we infused into the economy, not only shortened the length of the recession, but shortened the severity of the recession.

But I think it is worthwhile to explore, because you brought up regulatory reform. We know the Senate recently passed their version of the bill, a bill that we passed last December. But I think it is important to take people back, take people back to where we were during the Bush administration and what was happening.

The former Congresswoman from northern Ohio, Stephanie Tubbs Jones, who passed away, Representative Tubbs Jones repeatedly came to this floor and sought predatory lending legislation to be heard on this House floor. It was denied her in 2000, in 2001, in 2002, in 2003, in 2004, in 2005, and in 2006.

In the meantime, Ohio was experiencing the worst foreclosure crisis that we have seen in generations, due in large part to the predatory lending activity that we were seeing on the part of brokers, on the part of out-of-town financial institutions.

What was enabling this? Well, we have come to find out what was enabling this. It was the mortgage-backed securities on Wall Street. It was the credit default swaps that backed up the mortgage-backed securities. It was the collateralized debt obligations. It was all of these fancy derivative products, none of which were being regulated.

They were being rated by the rating agencies hired by the same financial institutions that put the products together. So investors were purchasing these products, yet they didn't know what the underlying risk was.

So what happened? Well, I will tell you what happened. Because there was lax regulation, because the Bush administration and the SEC didn't look at these various securities and the various derivatives, they were shifting the risk away from the local markets. So in the past, when you would have to go to your local financial institution, you would have to go to the savings and loan and you would have to show proof of employment, you would have to show proof of income, and then the bank would offer you a loan, and you would share the risk. The bank would then take that mortgage paper and hold on to it. It would be part of their long-term investment portfolio.

That didn't happen anymore. What we saw was that as soon as that mortgage was closed, it would be immediately sold on to a secondary market. That would then be bundled into these mortgage-backed securities. So no longer was there any risk at the close of the deal.

So what did that incentivize? You had people closing as many deals as they possibly could to whoever walked in the door at the highest rates they could possibly get, putting people that shouldn't have qualified for loans into bad loans destined to fail. That is what was contained in most mortgage-backed securities. That is what those credit default swaps were backing up, and that is why it was a house of cards ready to collapse.

Where were the regulators? Where was the Republican leadership, when so many times Democrats came to the floor and said we needed to crack down on this behavior? Well, the mortgage bankers were supporting the Republican leadership. They didn't want to see change. They were making handsome profits on Wall Street.

But finally we have an opportunity. Finally we have an opportunity after this crisis, knowing that it led to the greatest recession in our lifetime. Finally we have an opportunity to do something about it, and that is Wall Street reform. That is what we passed in the House. That is what we passed in the Senate. That is what the Republicans are now standing in the way of.

Mr. TONKO. You are so very right. The gentleman from Ohio outlined the greed that was allowed to take over because there was no watchdog in the equation. Tonight, in this Special Order hour, we are sharing with the American public the sharp contrast, the change in direction, the choices that exist out there in terms of, do we pursue this course and climb out of this recession and continue along the path of progress, or do we go back into the Bush recession era and go to those choices where we cater to these special interests?

□ 2030

When we talk about these bank outcomes, with this investment financial community and all of the woes that accompanied it, we're talking about everyday people who perhaps live paycheck to paycheck and go to work and are proud of the living that they earn. This is the sort of community that got impacted, homeowners who lost their homes, retirees who had relied upon these savings and the growth of these savings upon which to retire, totally evaporating from their surroundings.

Looking at small businesses not being able to have credit lines available because the community banks were impacted by the big banks, this is an alignment with the special interest community, from big banks to Big Oil to insurance companies, to the credit card companies. And the gentleman from California is wanting to jump in here. I think, you know, the choice is very clear to me.

Mr. GARAMENDI. It's very, very clear, Mr. TONKO, and thank you so very much for pointing out that there's a dichotomy. There are two different views about what America needs to do. The Republican view, as articulated by Mr. DRIEHAUS, is one of hands off, let the big boys do whatever they're going to do. We saw the result of that, the deepest recession since the Great Depression occurred because of a lack of regulation and the notion that somehow the marketplace would take care of itself. Well, it took care of the economy of the world.

We need that regulatory system in place, and we're going to see it in the next week to two weeks, whether the Republicans are going to stand for reining in Wall Street or letting it rip once more.

We know where we came from. We did pass a bill in December. I was fortunate enough to be here. The Senate has now acted with just a couple of Republican votes in support. Now it's going to be back. We'll see.

In this week, however, we have another opportunity to see where we stand, where the Republicans stand. This is the American jobs and closing corporate tax loopholes and bringing jobs back home. I want to go to Wal-Mart some day and see ''Made in America'' on the things I buy. I've seen enough ''Made in China.'' I want to see ''Made in America.'' And we can do that.

And this piece of legislation that we're going to be voting on this week, the American jobs and ending corporate tax loopholes for those corporations that have sent the jobs overseas, right now those corporations have a tax break when they send American jobs offshore. Enough of that. We're going to bring that back.

And we're going to get some of our money back from Wall Street because we're going to raise the taxes on those Wall Street barons that have ripped this country off to a fare-thee-well.

You take a look—one more little fact before I turn it back to you, Mr. TONKO, is that in the last days of the Bush administration, in the very last days of the Bush administration, when it was obvious that the entire financial institution of this Nation and the world was collapsing, Bush came forward with what became known as the TARP program, Troubled Asset Relief Program. That turned over some $700 billion to the financial industry. About $400 billion of that went directly to Wall Street. What did they do with that money?

I can tell you one thing they did not do. With all that money they received, they reduced the number of loans and the amount of loans that they made to small businesses on Main Street.

Now, the business banks on Main Street, the community banks, actually increased their loans, even though they got less than 18 percent of the money; 81 percent of the money went to the big banks. They reduced their lending to small businesses; 18 percent went to the small banks. They increased.

So what we're doing in this bill is shifting the direction. We're shifting the support to the small banks, and we're going to build up small businesses.

Mr. TONKO. Well, I think the contrast is clear. You know, when it came to whether you want a watchdog in the equation, when it comes to Wall Street behavior, Democrats in the House say yes. Republicans say no.

Do you want to have consumer protection for the general public out there that invests? The Democrats say yes. Republicans say no.

Mr. GARAMENDI. Now that's in the bill, the consumer protection.

Mr. TONKO. As these instruments were invented to circumvent regulation, the Democrats have said yes, we're concerned about that. We want to fix it. Republicans say no. The vote was clear. No to Wall Street reform.

You look at the GDP growth. You look at the changes that have come since the first quarter of 2009. We were hitting a job loss that was incredibly difficult, nearly 750,000 jobs lost per month. Lately, 187,000 jobs increase.

We talked earlier about December 2009 forward. In the last 4 months, 84 percent growth of the private sector from those over one-half million jobs; 573,000 jobs created. So the GDP is improving.

The household income lost $17.5 trillion over the last 18 months of the Bush Presidency. Now 60 percent recovered, some $6 trillion recovered. And it goes on and on and on.

And even with the tax situation, I know that Representative DRIEHAUS is concerned about the tax situation. The tax cut that was part of the Recovery and Reinvestment Act was a part of it, but there are tax cuts galore. And the gentleman from Ohio, I believe, wants to address that factor.

Mr. DRIEHAUS. And the American Recovery and Reinvestment Act, the largest single tax cut for middle income families in the United States.

Mr. GARAMENDI. Ever.

Mr. DRIEHAUS. And it's pretty clear to me that the Republican Caucus wants to take us back to the failed policies of the Bush administration, the exact same failed policies that brought us to the worst recession we've seen since the Great Depression. And they do it using scare tactics. They go out to the American people and suggest that we're raising their taxes.

Well, I was struck, as many people were struck, by the headline in USA Today on May 11. May 11: ''Tax bills in 2009 at lowest level since 1950.'' Since 1950.

Now, you might ask, where does this come from? Well, it comes from the Bureau of Economic Analysis, where they say, Federal, State and local taxes, including income, property, sales and other taxes, consumed 9.2

percent of all personal income in 2009, the lowest rate since 1950. The lowest overall tax rate since 1950.

On average, though, the tax rate paid by all Americans, rich and poor combined, has fallen 26 percent since the recession began in 2007. That means a $3,400 annual tax savings for a household paying the average national rate and earning the average national household income of $102,000.

Every once in a while, the facts get in the way of the arguments being made by the Republicans because, time and time again, they will come down to the floor and talk about how the taxes are going up for middle-income Americans. But the proof is far different.

You know, I know that, through the stimulus package, we lowered taxes. And according to reports all across America, the economists agree with us that these are the lowest tax rates since 1950.

So I think, when you talk about the stimulus, and the Republicans often say, we need to be putting money back in the hands of the American taxpayer, that's exactly what we did. That is exactly what we did in the stimulus, and it's reflected in the tax rates

Mr. TONKO. And I think the results here are driven by a number of things, choices, contrasts. The choice here was to put American families, American workers, small business, as a high priority. No more alignment with Big Oil, big banks, insurance companies, credit card companies.

Let's drive a benefit, let's drive the focus for America's hardworking families across this country; 98 percent of Americans were part of that tax cut that was part of the Recovery and Reinvestment Act; 98 percent of Americans and small businesses, a tremendously strong statistic, a contrast to the behavior before, the decade before, which found two wars off-budget. Let the credit card cover that, I guess. Tax cuts for the highest income brackets, off-budget. A deal with the pharmaceutical company, Medicare part D, which suggests that Medicare paid for a part of the program, when we know seniors, oftentimes retirees, dug into their pocket to pay for pharmaceutical costs.

□ 2040

So we come up with a health care reform measure to which Republicans said ''no.'' Contrast again, Democrats say ''yes.'' We make certain pharmaceutical costs are covered. We make certain that deductibles and copays are taken out of the picture for our Medicare-eligible population.

There are huge contrasts here, siding with people who really make America's economy work. They invest their money on basic core needs. They work paycheck to paycheck and then invest in the community. So when we had an opportunity here to further grow opportunity for this country and for people, we said ''yes'' to student loan reform, said ''yes'' to community college investment. Republicans said ''no.''

All of these activities, all of this legislation, all of these improvements, all of this sensitivity, all of this fairness is equating to a resurgence in the economy. Because what is it? The large, broad middle class that needs to be fairly treated in public policy terms and budgeting are now being able to have more dollars available. The GDP tells the story. The household income situation, the graph that we had here last week talked about trillions of dollars, $17.5 trillion of household income lost in the last 18 months of the Bush Presidency. That Bush recession drained American households. And now, since the beginning of '09, 30 percent of that has been recovered. Some $6 trillion has been recovered.

We're not stopping there. We're going to continue to go. The choice here is, based on the contrast, very clear. Do we continue along the path of progress or do we, as the President said a few days ago, give back the keys to the people who drove the car into the ditch and it was a painful measure to pull the car out of the ditch?

Mr. DRIEHAUS. I think it's important to note, though, that we didn't just stabilize the economy, we didn't just keep it from continuing to go into the ditch, we didn't just stop the recession. We also laid the foundation for future growth. I think our colleague from California was mentioning this earlier, and I think this is really important for all of us to understand.

When we talk about the future economy, it's an economy of knowledge and it's an economy where there is investment in new energy technologies, where there is investment in energy efficiency, where there is investment in health care IT. There are such huge opportunities for all of us in these areas.

I know in Ohio, the Governor was just down in Cincinnati the other day talking about all of the energy companies wanting to come to Ohio and take advantage of the investments being made in new energy technology, much of that coming from the stimulus as well as funding coming from the State of Ohio.

I know when I went out in Cincinnati to a foundry where they used to work with steel and they built steel rolls, they have now changed their technology, realizing that that same steel, that same fabrication, those same talents and skills can be used to make the gears for windmills. They see into the future. They get it. And we are laying the foundation for the future growth of this economy.

Mr. GARAMENDI. The gentleman from Ohio just touched on something that is really a serious issue, and I want to just drive home, because you said something that I want to take back to California. As I said earlier, we have some of the biggest wind farms in the Nation. Texas has done some that are a little bit bigger, but I was out touring there with a couple of the companies that are building those things.

I said, ''Well, this is interesting. Where is it made?'' It turns out that the tower, steel tower, was made in Korea. Yet just across the river 20 miles away is a Korean company's steel mill that could have been made in California, but instead they shipped it in from Korea. The big blades and the gears in the wind turbines all have been made overseas. And I told the company, ''Enough. You will have no more support from me for one more wind turbine in this area until you start buying America.'' They said, They don't make it in America.

Mr. DRIEHAUS, you and I need to get together and I need to know where those gears are, because I'm going to go back to California and tell them, I know where you can get a gear. That may be one one-hundredth of this machine, but by God you are going to make it in America and you are going to build it in America because, one more thing, our tax dollars are subsidizing that industry. And if our tax dollars are going to be used to subsidize any industry, they are going to be made in America. And we are going to help out Ohio by making that happen.

I've had enough of these jobs being shipped offshore by corporations that get a tax break, get a subsidy from the American taxpayers so that they can send our jobs overseas. Enough. And this week we are going to see the kind of division that you talked about, Mr. TONKO, because the Republicans are going to be held accountable. Are they going to stand with the corporations that have been shifting jobs overseas and continuing that tax loophole? Or are they going to stand with the American public and bring the jobs back to America and close those loopholes?

Mr. TONKO. If my colleagues would yield, the colloquy you developed reminds me that the change in thinking here, the policies initiated and the change in direction, I think it was Fortune magazine in its April 16 issue said, the economy has taken a sharp U-turn, and they're applauding the efforts of achievement in this short time frame to date.

What I think has been sparked here is a sense of optimism. We see the confidence growing. And so that can't help but grow the economy and get a fresher feel. Because people were weighted down by this recession, which was extremely painful and long. What it does also I think is tap into the pioneer spirit that is always in the DNA of this country. It is part of our fabric as a people, as a society. We see it time and time again.

Throughout the course of history, this Nation has stories that are replete with the sense of courage and determination and optimism. I represent a district in Upstate New York that is the host to the Erie Canal bed that gave birth to a westward movement, an industrial revolution that grew the United States and impacted the world. Because as we developed this necklace of communities called mill towns, they became the epicenter of invention and

innovation. And it was all the intellect of the worker and the pride of producing along that assembly line process, these discoveries that would be the magic to enhance the quality of life of people not just in these United States, but around the world.

That same magic can be prompted today. And it is the turnaround in policies, it's the fairness, it's the focus on American job production, American energy independence, innovation. My gosh, I know that the history of Schenectady, the birthplace of electricity, was the place that converted a factory that was producing locomotives. And we had mostly women at that time in World War II changing their agenda, rolling up the sleeves—you can see the Rosie the Riveter symbolism—and producing for the troops.

They were producing for the troops. The transitioning, the transformation, came because of the intellect and the can-do attitude of American workers. And so I think we've tapped into this resource in a way that is very powerful. And it's not just turning around the economy, it's showing respect, it's enhancing the dignity of the American worker, and it's bringing us together as a people so that we can grow this economy. To me, that is the validity here. And tonight this discussion of contrast, of change, of choices couldn't be more clear.

We cannot afford to fall back into those Republican recessionary policies. We cannot afford to fall back to the huge deficit inherited by this administration, passed on from the Bush administration after it inherited a surplus. So the choice, the contrast, the change that should be endorsed, becomes very clear to me.

Mr. DRIEHAUS. I think we have tremendous opportunity. And I think we are close to wrapping this up. But I would agree wholeheartedly that this is about innovation. It's about giving American businesses the tools to move forward. They were in desperate straits in January of 2009, when you took that oath of office, when I took that oath of office, when President Obama took the oath of office. We were in the middle of the worst recession in our lifetimes, caused by greed and corruption on Wall Street. We have an opportunity to address that greed and corruption.

The Republicans have the opportunity to turn things around, to join us in holding Wall Street accountable. But more importantly, they have an opportunity to embrace the policies that are making a difference. We know the economy is turning around. We have spent the last hour citing the various sources who support that notion. We know the GDP is growing.

□ 2050

We know people are going back to work, and we're investing in their intellect. We're investing in their skills. We're investing in new technology. That's what's so critically important. If we are to see continued growth over time, we have to be making those necessary investments, and we are making those investments.

But at the same time, we have to have the courage to stand up—stand up to the oil companies who would have us dependent upon foreign oil for years to come. We have to have the courage to stand up to the Wall Street investment bankers who want to control all of the decisions when it comes to the economy but don't have the best interests of small businesses in mind. We have to have the courage to stand up to do the right thing and make the right investments in our economy. That's what we're doing. That's what this agenda has done as we move forward.

And I'll pass it back to the gentleman from New York.

Mr. TONKO. Thank you so much for joining us this evening, Mr. DRIEHAUS.

And Representative GARAMENDI, thank you. And I'm sure you have some final statements that you'd like to make.

Mr. GARAMENDI. I do, and I'd just like to run through a list.

You've been very, very forthright in pointing out the differences between the Republican agenda and the Democratic agenda. I'll put my reading glasses on here. I'm going to go through this very, very quickly because I know we only have a few moments.

The American Recovery and Reinvestment Act. Jobs. We talked about it. All House Republicans voted ''no.'' The Worker Homeownership and Business Assistance Act; 93 percent of the Republicans voted ''no.'' Health insurance reform; all House Republicans voted ''no.'' Student Aid and Fiscal Responsibility Act; all House Republicans voted ''no.'' Cash for Clunkers; 55 percent of the Republicans voted ''no.'' Hiring Incentives to Restore Employment, the HIRE Act; 97 percent of the Republicans voted ''no.'' We passed every one of those. Many of those are now law.

The Wall Street reform passed this House. Every Republican in this House voted ''no.'' American Workers, State, Business Relief Act; 93 percent of the Republicans voted ''no.'' Small Business and Infrastructure Jobs Tax Act; 98 percent voted ''no.''

Bottom line here is that every effort that has been made to advance the economy has been done by the Democratic Party, and it is working, as you so carefully pointed out.

Thank you for bringing this to our attention and giving us the opportunity to point out the extraordinary contrast here. Our efforts to move the economy, to take action, to do what must be done to move the economy forward, we have done it. The Republicans have consistently and every time either voted ''no'' or tried to block it.

Thank you so very much for leading us in this discussion, Representative TONKO.

Mr. TONKO. Thank you, Representative GARAMENDI.

I would just close with this and thank my colleagues for joining me. The change is working. The contrast is stark. The choice is clear.

And so I appreciate my colleagues sharing some very strong thoughts about what's happening here for the good. It has been a climb out of the toughest times America has known, but we need to continue to pursue in the direction, I believe, that has been strengthening our economy and, therefore, the American families, the American workers, and the American small business community.

Mr. Speaker, I yield back.

WHAT HAVE THE DEMOCRATS DONE WHILE IN CHARGE?

The SPEAKER pro tempore (Mr. OWENS). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Thank you, Mr. Speaker. I appreciate the honor to be recognized to address you here on the floor of the House. I appreciate the opportunity to listen to the speakers in the previous hour and the opportunity to do a bit of rebuttal even though I've been a little more attentive in previous presentations.

Looking at the decline in the economy that they show in their bar graph, it seems as though it could be that when President Bush was no longer President, things got better a lot faster. As I watched that, the graph doesn't go back quite so far enough to really understand what happened during the 8 years of the Bush administration. But I remember what they said.

Remember what they said when they stood here on this floor night after night, hour after hour, year after year, the 30–Something Group and others that would stand here and tell America, Mr. Speaker, through this microphone and project it out across the C–SPAN cameras that, if they were just in the majority, they'd fix America. If you would just give them the gavels, they'll solve all of the problems in America. And they made that case over and over again night after night.

And lo and behold, what happened? I don't think it was intentional or willful. I think it was a matter of circumstance—race by race, circumstance by circumstance, district by district—that the majority changed from Republicans to Democrats.

And the problem that you have when you find yourself in the majority is you're responsible for governing. And even though they claimed the mantle of responsibility in all of those years, those 12 years leading up to the 2006 election when the majority in this House shifted, they claimed the mantle of responsibility. But when it was passed to them by the voters in November of 2006, and when Speaker PELOSI was passed the gavel here—I believe the date was January 3, 2007, Mr. Speaker, and you can correct me if I

am wrong on that date—then they'd achieved the goal that they'd called for for all of that time.

And I watched what happened. The election returns came in in November in 2006. It was apparent that the Democrats had won the majority in 2006, that there was going to be a new Democrat Speaker. It was most likely going to be NANCY PELOSI. And the incoming most likely chairman of the Ways and Means Committee would be Charlie Rangel, who became the chair of the Ways and Means Committee.

And he did the national talk show circuit from November, December, January, and February, all the way across every network. And they asked him over and over again, Tell us about the Bush tax cuts. Which ones of those tax cuts would you want to keep, which ones do you want to let expire? The questions came out over and over and over again. And, Mr. Speaker, I don't want to allege that CHARLIE RANGEL never gave a straight answer. I just don't remember one. But I do know that by February of 2007, the SmartMoney had analyzed the answers and the voids in those answers of CHARLIE RANGEL and concluded there wasn't a single Bush tax cut that he would like to keep.

And here we are today in this year of May 2010, and it's obvious the Bush tax cuts will expire at the end of this year. And it will be obvious that the conclusions that SmartMoney drew in November and December of 2006 and January and February of 2007 were accurate.

And we saw, in the beginning of 2007, a dramatic drop in industrial investments because SmartMoney in America understood that the cost of capital was going to go up because taxes were going to go up, and that burden was going to come down on those who invested in, yes, their future profits and also creating jobs. Jobs get created by the private sector, not the public sector, unless you punish the private sector and take the money and you drop it into the public sector. That's the only way the public sector creates jobs.

So we saw this happen in 2006 and 2007. Lo and behold, the dog that had chased the car for 12 years finally caught it. And what happened? What happened was industrial investment dropped off. The economy began to decline, and they pushed the economy down because they were punishing business every month of all of those years beginning in 2007 with Pelosi. She had the Speakership of the United States House of Representatives, 2007, 2008, 2009, and now into 2010.

And furthermore, the argument was, well, they couldn't do enough because we had a President Bush who would veto the crazy anticapitalist ideas. The people who were opposed to free enterprise were in charge of the House of Representatives, but occasionally the President of the United States, President Bush, would veto a bad idea. And it would come back here to the House and we'd uphold his veto, and so they were restrained.

And during that period of time, Speaker PELOSI pushed and promoted and supported 44 votes in the House of Representatives that were designed to unfund, underfund, or undermine our troops, 44 votes. And I'm not pulling that out of my head or out of my hat, Mr. Speaker. I have the data. I have the Excel spreadsheet, and I have it all linked to each one of those issues that were pushed.

The effort was to attack President Bush and undermine the support for President Bush by challenging his position as Commander in Chief. And in doing so, it undermined our military in a time of war when their lives are on the line.

And I asked the question, When someone in this House of Representatives—let alone the Speaker of the House of Representatives—speaks against a military operation, when they argue that we ought to all sack up our bats and go home from Iraq and from Afghanistan, when they make that argument, what happens to some al Qaeda terrorist that's sitting in a mud hut somewhere in Iraq and Afghanistan?

□ 2100

He has got the satellite dish on top. I mean, I have flown over those, those mud huts, and added up—I don't remember the exact number now, but it was over 50 percent of those huts had a satellite dish sitting on top of them. They are sitting there watching satellite TV. And these terrorists are making bombs, IEDs, and they are planning to set these bombs up to detonate them against Americans.

When Americans are victims of this, we need to ask this question, what happens in the mind of that al Qaeda terrorist that's sitting in that mud hut making his bomb, watching Al Jazeera TV, when he sees the Speaker of the House come out on the floor and speak up and oppose the war in Iraq or Afghanistan?

What happens when there is a debate on the floor that goes on over and over and over again, and the left-wing radical liberals in this Congress that call themselves progressives that are identified by the socialists in America as their candidates say that we should pull out of those countries without any hesitation, just do the best we can to keep from getting shot in the back.

Do you think, Mr. Speaker—and this is a rhetorical question—but do you think that that terrorist is more likely to build more bombs or less, plant more bombs or less, detonate more bombs or less, are there more Americans lost or fewer Americans lost, because the enemy has been encouraged by 44 votes on the floor of the House of Representatives in 2007 and 2008 in that Congress.

That's what's happened here, Mr. Speaker. President Bush was going to retire regardless of what happened and the actions on the part of the Speaker PELOSI, and this country was going to move forward. And even though the President of the United States now, our Commander in Chief, as in the spring of 2008, took the position that he wanted to pull the troops out of Iraq immediately, without any hesitation, just simply try to keep from being shot in the back on the way out of Iraq.

That was his position. And I argued that if that was his position, then if he is elected President, the enemy will be dancing in the streets in greater numbers than they did on September 11, 2001.

Now, we don't know if that turned out to be a true prediction, because now President Obama, then candidate and Senator Obama, changed his position. From the spring of 2008 until election day in November of 2008, he walked a line of changing his position from being for immediate withdrawal to being for a slower withdrawal from Iraq.

What we have seen also happen is, now, President Obama has adopted the exact position in Iraq that President Bush negotiated. It's called the Status of Forces Agreement, Mr. Speaker, the SOFA agreement. That agreement was negotiated by the Bush administration and it was with the Iraqis, and it was signed on November 17, 2008, by Ambassador to Iraq Ryan Crocker, and just a very impressive public servant who never received his due respect for the job that he did for all of us in that country for the time that he was there, Ryan Crocker.

I want to say a few more good things about Ryan Crocker. I met with him very late in the night, I have sat there in those hot and uncomfortable places in Iraq with the top officers, with Admiral Mullen, for example, Ryan Crocker, General Petraeus, a number of other very top leaders in our military and our State Department personnel.

Ryan Crocker understands the Middle East. Ryan Crocker served well there. He was instrumental in the negotiations of the Status of Forces Agreement. He was the one who put that hand to that agreement on November 17, 2008. And today, the letter of the Status of Forces Agreement is being followed by President Obama. Good for him. I appreciate that. I support it. It's something I called for.

If it were President Bush doing that, I would be for that. I just don't think the American people see it the same way because he is not as proud of that decision as perhaps he would be of a different posture that we have in that part of the country.

Mr. Speaker, we have a number of interests in America. Our national security interests are paramount. Those are constitutional. The responsibility of the President of the United States and the Federal Government is to defend us, to defend our shores, to defend the American people.

And our military and our troops, and those people that put on uniforms, day after day after day, are the ones that deserve our gratitude and our respect.

And we need to do them just duty here on the floor of the House, and not back up from those responsibilities just to provide them with the resources that they need.

And that means a consistent message from the Commander in Chief on down and a strategy that we believe that we can win, and it means to say to the leftwing radicals in the United States of America, Don't tell me you are for the troops and tell me you are also against their mission. You have to support the troops and their mission.

What's interesting is that when George Bush was the Commander in Chief, you said you supported the troops but not their mission. Now that Barack Obama is the Commander in Chief, you don't really answer to that at all, except for the most part, you left wing radicals, you say support the troops out of a level of pandering to the, let me say, the mission of patriotism, but you don't support their mission. We cannot, Mr. Speaker, ask our military to put their lives on the line on a mission that we don't believe in.

No. We have got to ask them to put their lives on the line for the cause of liberty and a mission that we believe in. If we don't believe in the mission, we should not send them, they should not go. But it's up to the call of the Commander in Chief to do so. After all, he is Commander in Chief.

He orders our Armed Forces, he sets the foreign policy, and if we don't like what the President of the United States does when it comes to that, we have got about two choices. One is elect a new President and the other is look into the Constitution for another solution. I am not ready to do that because I don't believe there is just cause at this point to look in the Constitution for another solution.

In fact, I believe that the President of the United States has eclipsed my anticipation for what he might have been doing in Iraq. In Afghanistan, it's relatively stable; it's not been extraordinarily brilliant. He did send only 75 percent of the minimum number of troops that were requested by General McChrystal, and they have a very difficult task.

But the prospects of being successful in that task, I believe, are greater than the prospects of the State Department being successful in setting up institutions that never existed before in parts of the country of Afghanistan that don't have a history of those institutions of centralized government reaching out.

We have the foreign policy question that's before us, Mr. Speaker, and we have the question of the United States economy. And we have a bunch of people that are self-professed experts that come here to this floor that never signed the front of a paycheck. They don't have the first idea what it takes for a free market economy to thrive or prosper.

They believe that if you raise taxes it's just taking a little more out of the pot of the greedy capitalists. And if you raise regulations, they have got plenty of time to fill out all the paperwork because, after all, what else are they going to do with those resources? It creates jobs when you create more paperwork for the private sector do.

Why would you want these people to be in charge of our economy? They demagogue Republicans and say that we are in support of Wall Street. It's Democrats that are cashing checks from Wall Street. And it's big banking and international banks and investment banking, large interests that are sending the biggest checks to Democrats all the while they are hedging their bets.

And if you are a big business interest and you have a crony relationship with the United States Congress, you have got a pretty good deal going because you can have the United States Congress raise the regulations and raise the burden of government to keep your competition out. You want to drive out your competition, what's the simple solution to that complex problem? Raise the regulations, raise the taxes, you are only competing against fewer people.

I have seen this happen in my lifetime over and over again. I spent my life in the contracting business as a small contractor. I started out as this tiny little old guy that bought a old beaten-up bulldozer. Then I worked it for a while and fixed it a lot. And then I bought another machine and hired another man and after a while we had enough machines we could go out and do a job like grade a road or something.

When I was looking at building State highways, I began to look around, and I realized there were only a handful of contractors that were big enough to bid these projects. So I went to the State and said break these projects up, will you? I would like to bid some projects that are under a million dollars.

They said, well, we don't like to do that because it takes a lot of administrative hassle to deal with too many contractors. We would rather deal with this half a dozen we have got that we are comfortable working with. So I had to run for the State Senate to get that changed. When we lowered that standard down, we were able to bring more competition in.

It's not enough. It's a small part of the solution, but it illustrates a problem, Mr. Speaker. Big business will always try to promote regulation to keep their competition out. It's how it works.

Think of it this way. I will take it down to the lowest common denominator, a simple thing that metaphorically can explain this to everyone that's listening, Mr. Speaker. Just imagine that they hadn't yet discovered gold in Colorado. So some miner out there with a pan is panning his way up the stream, and he finds a nugget of gold. He pans his way in, and he goes around and he finds that vein. Then he gets out his pick axe and he starts to chop out this rock, and here is this gold in this rock.

□ 2110

Son of a gun, gold in Colorado. There's no settlements around there. So he breaks out his gold and processes it and takes it down and sells it, and pretty soon the rumor goes like wildfire: there's gold in Colorado. The gold rush is on. People come rushing in. Everybody gets their pickaxe, and they start to mine for gold.

Now, you may think that this doesn't connect, Mr. Speaker, but it does because the miners then set up their tents and they're there and they are working away. And now that they're making a little bit of money and they're selling their gold, they need some things. Somebody's got to bring them some food, somebody will open up a bar, somebody will start a band so they've got some entertainment to draw the stress down at night.

And these miners would be out there, and after a while their hair gets so long that they have to climb up into a tree to get a haircut. And sooner or later one of those miners is going to get out the clippers and cut somebody's hair. When that happens, Mr. Speaker, then somebody else will line up and decide, that's a pretty good haircut for what I need out here. So he'll get in the line and climb into the chair, and there will be a second haircut, then a third haircut. And after a while, this fellow that's pretty good cutting hair will be so busy being a barber he doesn't have time to pick up his pickaxe and mine for gold.

And then he decides, I'm going to have to charge you guys; you're taking me out of my cash-flow endeavor. And so he begins to charge the people that he's cutting their hair maybe a dime for a haircut. Now he's making a little bit of money, and pretty soon, eventually, somebody else will see that and decide, I can get into this business. That guy is making a dime for every haircut. He can cut 10 heads a day, that's a buck a day—that's pretty good wages in those days—and he'll set up a barber shop and he'll do it for a nickel. Now that first barber is thinking, I would have been better off to keep out there with a pickaxe mining gold.

And so we've got two barbers that are competing, then a third barber, and a fourth, and a fifth. And pretty soon the first barber that got in, he decides that it isn't fair because he has all of this technological equipment. He's got the electric clippers and he's got the nice clean sheet to put around their neck and he's better at taking care of those ingrown hairs and he does a little antiseptic while he's at it. And his equipment is clean and well maintained and the other guy has a pair of scissors and a comb.

So he'll go to the State legislature and argue that barbers should be licensed so that there is a standard quality of care for haircuts. It isn't because

he believes so much in that standard quality of care. It's because he knows that he can regulate some of his competition out of business. That's what goes on in the barbershops in the gold mining towns in Colorado 150 years ago, but that's also what goes on in big business in the United States of America today.

That's what is going on, Mr. Speaker. Big business says, Come and regulate me because it's a cost of doing business at big-business level, the multibillion dollar level. And by the way, those people that can only do business down in the few millions, they're not going to be able to compete.

So we should not accept big business as the purest form of free enterprise capitalism. We should look at big business as coming here to this Capitol, ask us to level the playing field, all the while they're looking to turn into a playing field that it's often difficult for a small business to climb into.

So, Mr. Speaker, that is the status of big business regulation versus small business regulation, and it sets the tone for I think what we're about to take up next. Although I recognize that in a moment we will be asked to yield for the esteemed chair of the Rules Committee as soon as she gets prepared. But in the meantime, I see that the gentleman from Texas is about to get prepared.

I would suggest that, Mr. Speaker, we need to take a look at this regulation that's coming in from the Senate and the regulation of the financial services industry and the credit industry in America. This idea that here in the United States of America we would establish government entities that would look in on every business in America, anybody that's got a credit transaction, whether it would be AIG doing business with a large investment bank or some smaller entity—Mr. Speaker, I will pick that up in a moment, but I would be so happy to yield so that the gentlelady who chairs the Rules Committee can conduct business.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS, AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Ms. SLAUGHTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–494) on the resolution (H. Res. 1392) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

WHAT HAVE THE DEMOCRATS DONE WHILE IN CHARGE?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. Mr. Speaker, as I watch this regulation that's coming through in the financial services component of this, it's a regulation that sets up Tim Geithner, the Secretary of the Treasury, to decide which businesses are too big to be allowed to fail, which businesses would be deemed to fail, and all he needs is the agreement of the FDIC and the agreement of the Chairman of the Fed. Those things concern me a great deal. But this conversation could go almost in any direction, Mr. Speaker, because I am prepared to yield to my good friend, the gentleman and the judge from Texas, LOUIE GOHMERT.

Mr. GOHMERT. Well, I appreciate my friend for yielding, but I want to follow up on that very point.

We're told that there is going to be a financial ''reform'' bill that sounds more like a financial ''deform'' bill. All these reforms end up being deformities. But this in particular, financial reform? To get us out of the mess that had been building through the nineties and through this past decade, for the last 20 years?

And nonetheless, as I understand, in this bill we're going to take up, it still has the Systemic Risk Council that is going to pick the winners and losers in America. That is so grossly un-American; it has no place in our law coming out of this body. That's the kind of thing that the Revolution was started over, that some King was going to get to tell them who would be the business that would stand and who would fall, because the Americans here wanted to be able to let the market decide that.

Now, one thing we've seen, and it has been accentuated, is you do need a government that will ensure that people play fairly and play right. We saw that down on the coast as President Obama expressed that we have gotten a relationship too cozy between his administration and the Big Oil companies. Now we've heard people say on television that Republicans took contributions, Democrats take contributions; but it was the Department of the Interior in 1998 and 1999, some of the Clinton administration people, that pulled the language from the offshore leases that would allow the oil companies, ultimately, to make millions and millions and millions at the expense of the government and the taxpayer getting full value for the leases for those offshore oil and gas developments.

When we had the Inspector General in front of us in the Natural Resources hearing a couple years ago, I asked why he had not talked to the couple of people that the Inspector General said were apparently responsible for that language being pulled out of the leases that hurt the revenue of the government and helped the massive oil companies at the time. He said, Well, they've left government service; we can't talk to them. Well, certainly you can at least try to talk to them, but the Inspector General indicated that they left government service.

□ 2120

Well, after I'd heard the President announce that we had to end this cozy relationship between people in his administration and the big oil company, I wondered: Whatever happened to those two people?

Well, it turns out one of the people with whom, apparently, the inspector general did not talk but felt probably had the best information on why that language was left out—when she was not working for the government, she went and worked for a company called British Petroleum. Perhaps my friend has heard of British Petroleum. In fact, after the inspector general said he couldn't talk to her about why that language was pulled—the language that helped the oil companies so much during 1998 and 1999—and why she would pull language that hurt our government, it turns out she has now returned to government service. In fact, she did last summer. This administration hired her to be the Deputy Assistant Secretary of MMS, the Minerals Management Service, which is the agency of this administration that is supposed to ensure that blowout preventers work properly.

Well, we've got people here in the House who had asked for the results of the tests that were done by MMS within 2 weeks of the blowout preventer's failing. Apparently, the information has come back from this administration's MMS: We are not providing that information to you, maybe to a Democratic chairman of the committee but not to you guys.

You would think that this would be public information, that MMS would want to be as transparent as they're demanding the CIA be, but apparently, they're not willing to be as transparent as they want the CIA to be. They're more in the nature of obscurity like the Federal Reserve continues to try to be and is. So they won't release the information of how badly bungled the tests were. You have to figure they didn't go well or they would have released that information to show that they were exonerated, that they did proper tests.

In fact, as a trial judge back in my days in the courtroom, oftentimes, one side would produce evidence to show that the fact that there is no evidence indicates a fact. I think here the fact that they won't produce those test results indicates that the MMS of this administration is too cozy with British Petroleum because of the interactive business that has gone on here. It must not have gone well.

Mr. KING of Iowa. Will the gentleman yield?

Mr. GOHMERT. Certainly, I'll yield to my friend.

Mr. KING of Iowa. Just remind me. I'm standing here thinking we're drawing a rational conclusion that the Minerals Management Service would not release the information that showed the results of the testing of the blowout preventer.

Mr. GOHMERT. If they had even done the testing, actually, yes.

Mr. KING of Iowa. If they'd done the testing.

There are reports out there that there is testing that had failed some 10 days or so before the well, itself, had failed. Now, I don't know if that's true or not. I don't want to start a rumor.

Mr. GOHMERT. They won't release the records.

Mr. KING of Iowa. But are we drawing a rational conclusion here that we could have a government that we could draw conclusions from based upon their response or lack of response and not the answer to the question?

I would yield.

Mr. GOHMERT. Well, yes, it would certainly appear that that's exactly right. If the MMS of this administration will not produce the records to show exactly what testing was done and exactly what the results were, which should be public record for heaven's sake—they're public waters controlled by our government—then you've got to pretty well figure it would not make this administration look very good.

I yield.

Mr. KING of Iowa. The gentleman from Texas, we've got an open government. This is the most open, the most honest government in history, and we are drawing conclusions based upon not getting an answer as opposed to the answer that we might get if they would just simply give us the information. I mean, this really saddens my heart to hear this. I'm not that surprised, but it saddens my heart, Mr. GOHMERT.

Mr. GOHMERT. Well, that also brings us back to this problem with the Federal Reserve and with the Secretary of the Treasury. Yes, we had some people saying we've got to confirm Timothy Geithner as the Secretary of the Treasury because he worked with Paulson in the early days of TARP. He knows the plan. Well, that tells me he should never have been confirmed if he'd worked with Paulson on the original plan, because it was a disaster, and it should never have been allowed to have happened as it did; but now we've got these guys—the head of the Federal Reserve and the head of the Treasury—who are going to pick the winners and losers in the country.

I yield.

Mr. KING of Iowa. Would we choose some mainline IV drug users off the streets to go in and take IVs in hospitals because they happen to have had the kind of experience that they're good at even though it's illegal?

If somebody were proficient in how he operated Turbo Tax and were able to avoid paying his taxes, would that mean he'd be a good person to have as the head of the IRS so that he could probably set up a system to prevent other people from avoiding paying their taxes?

Mr. GOHMERT. Well, that's an interesting issue.

You know, obviously, Secretary Geithner had great problems complying with his certification 4 years in a row. He swore that he would pay the tax that was shown on the form, and he certified, if they would just pay him that money, he would pay it. Then he didn't pay it.

In answer to the question, I guess an analogy comes to mind, which is the FBI. For example, there was a movie about a gentleman who was so good at forging and acting as someone else, and he could create a forged document out of anything. Well, the FBI ended up hiring him because he was so good at forging checks and making fraudulent checks. The FBI hired him because he knew more about ways to cheat other people and to cheat the government. They felt like he could be an immense help, and apparently he was. As I understand, he has helped prepare more secure documents and more secure institutions because he was so good at cheating those very institutions and the government.

Mr. KING of Iowa. Who best to catch tax cheats.

Mr. GOHMERT. So perhaps that was the thinking, that this is somebody who would be an expert in not paying taxes. Maybe that's who we want in charge of the tax entity, the IRS. It's an interesting point.

It still cuts to my core to think that the land of the free and the home of the brave is being converted into a land of the unfree where liberties are taken away because people have decided that the Secretary of the Treasury and the Federal Reserve Chairman get to pick and choose what entities or what banks get to stand when the smoke clears.

I mean, what happened to competition? Why not let people play and play fairly and just enforce fair rules?

That's what is needed here. We don't need the Federal Government saying what companies they're going to support and will never let fail, because as soon as the Federal Government says they're not going to ever let this bank or this company fail, then that's going to be the last one standing, because it knows it can operate in the red and that its competition cannot do that. At the end of the day, that government-supported entity or bank will end up being the one left.

That is outrageous. It is un-American. Anybody who would stand for that proposition that we're not going to let these companies compete fairly, that we're going to come in and pick the winners and losers, needs to start wearing a name tag that reads, ''King George III wannabe.''

I want to pick the winners and losers. I want to tell you who prevails and who doesn't. I will tell you who ends up getting to be the dominant force in America instead of letting people live in freedom and in liberty and letting them pursue happiness and pursue opportunity. The Constitution never guaranteed equality of outcome. It guaranteed equality of opportunity, and that's what ought to be done.

Anybody who says they support a systemic risk council that gets to pick the winners and losers—these are too big to fail, and we can't let them fail—are enemies of this country as it was founded.

Mr. KING of Iowa. Well, in reclaiming my time then, I have to pose the question:

If you're in business, if you're an investment banker, for example, if you have a large credit operation going on and if you've watched the Barney Frank bill and the Chris Dodd bill and now your knees are knocking on what might be going on in a future conference committee that's going to produce a bill that likely spills out over here in the House for passage, that's sent over to the Senate and rammed through there and that's put on the President's desk, we know the President will sign the bill.

□ 2130

But what is your business model? Let's just say you are providing credit transactions, Mr. Speaker, to a large portion of America, whether it is credit cards or whether it is the toxic assets of mortgage-backed securities, the subprime loans that might be out there. Whatever that might be.

Now, if you are sitting there with billions of dollars in those kind of assets and you are making your profit off of those margins of those assets going through, I am going to suggest that if you don't already have a lobbyist, you had better hire a bunch of them. Bring them into this Congress and start to convince people like chairman of the Financial Services Committee BARNEY FRANK, a majority of the members on that committee and others, perhaps through the Ways and Means Committee, start to work your angle. Because your business model, Mr. Speaker, is no longer the business model of providing the most competitive, the most service-oriented, the most customer-focused service that there is.

Your business model is do what you have to do out here on the streets in the business world in America, treat customers fine, that is good, come here into Washington and get that playing field not leveled, but tipped in your favor, because you can't do business without, so that you have those kind of chips when the time comes that the regulators would come in and take a look at your balance sheet and determine, well, you weren't quite big enough to be allowed to fail, so we are going to shove you into receivership and we will chop you up and deal you out to our preferred companies.

I know the model, I know the pattern, even though it is done in a pretty good fashion with the FDIC when a

bank has to go under. We have had too many of them go under. In the farm crisis years in the eighties we had 3,000 banks that went under, and those banks were split up sometimes and dealt out and sold to other investors that had a better track record with managing banks.

All right. Well, that looks good and it works well in the micro version. But when you get into the macro version of big business and you have Tim Geithner as the Secretary of the Treasury making the decision on a business that is too big to be allowed to fail, and calling in Sheila Bair and calling in Ben Bernanke and saying, well, don't you agree? They are too big to be allowed to fail, so let's go prop these people up. And, by the way, what would help is if we go in and shove this company into receivership and we deal the assets of that company over into the company that is too big to fail.

You pick the winners and you pick the losers out of government. And who wins? The people that pay the lobbyists. The people that have paid for the most political influence. Government cannot make rational decisions on business. They make political decisions on business.

Peter Wallison spoke today on Fannie Mae and Freddie Mac, the American Enterprise Institute scholar, one of the brightest minds we have on free enterprise economics in America, a very solid man. Many times I have listened to him illuminate the issue for me in a way that helps me understand it even better.

He spoke today about Fannie Mae and Freddie Mac, and his sense is that they aren't yet nationalized, that they are still quasi-government. My position is they are nationalized, because the Federal Government calls all their shots, and we have got roughly $50 billion each dumped into either one of them and roughly another $30 billion rolled on top of that $100 billion. So we are around the $130 billion range.

Peter thinks that there is not $360 billion, but $400 billion in losses that will have to be swallowed up by the American taxpayers. And we knew and we know now that we were looking at $5.5 trillion in contingent liabilities that the Federal taxpayers would have to swallow if Fannie and Freddie were flushed down completely the way the markets might drive them.

Concluding my statement and then yielding, that was an example, Fannie Mae and Freddie Mac are an example of how government can't set values, neither can they evaluate risk, because they are doing political calculations based on political pressure, not economical calculations based upon the risk of success and failure.

I yield to the gentleman from Texas.

Mr. GOHMERT. I was just asking if the gentleman would yield for a question, if he would.

Mr. KING of Iowa. I would.

Mr. GOHMERT. With regard to the financial deform package that apparently is going to be coming to the House, is the gentleman aware of whether or not these two entities, Fannie and Freddie, that kicked us into the spiral downward in the fall of '08, whether they are included in this reform package? Is there any reform of these two entities that nearly brought our economic house of cards down?

Mr. KING of Iowa. Reclaiming my time, in scouring the financial reform package and the Barney Frank bill or the Chris Dodd bill and setting up the word search and chasing it through there, Mr. Speaker, I don't find anything in either one of those bills that addresses the necessary reform for Fannie Mae and Freddie Mac. They are completely insulated.

I recall a debate here on the floor of the House on October 26, 2005, that the chairman of the Financial Services Committee, Mr. FRANK, was very much engaged in. He came to the floor to vigorously oppose an amendment that was offered by Mr. Leach of Iowa that would have established higher levels of collateralization for Fannie Mae and Freddie Mac, higher standards for underwriting in the secondary market, and higher standards for capitalization for Fannie and Freddie.

The vigorous opposition of Mr. FRANK flowed out that day. And the gentleman from Texas remembers the exchange that took place on the Thursday before Easter in 2009 here on this floor. The gentleman from Texas was there, the gentleman from Massachusetts was there, and I think me up there somewhere. Because we talked about what had happened with Fannie Mae and Freddie Mac.

In that debate on October 26, 2005, the gentleman from Massachusetts, Mr. FRANK said, If you are going to invest in shares of Fannie and Freddie, don't do so believing that he would ever vote to bail out Fannie Mae and Freddie Mac, because he would never do that. He would let them go down instead. That is the core and the essence of the statement made by the gentleman from Massachusetts, who now is the chairman of the Financial Services Committee.

Well, we know what has happened. Fannie and Freddie have been bailed out. And on that day, the gentleman from Massachusetts said that he wasn't biased in favor of or against Fannie or Freddie because the man whom he had had an intimate relationship with was not a senior executive. It is in the CONGRESSIONAL RECORD. I don't pull this out of thin air. I suggest, Mr. Speaker, that you check the RECORD. For me, that is an astonishing confession. To draw a fine line between the reason for bias and not bias is because this individual was not a senior, but more apparently a junior executive for Fannie Mae.

So that is a little too intimate for me, Mr. Speaker. I don't choose to go there any further, except to point out that there are a lot of things going on in this United States Government that are not what meets the eye. There are undercurrents here that threaten to swallow up the United States of America. There is a driven philosophy on this side of the aisle that wants to swallow up free enterprise capitalism, that abhors the words of capitalism.

There is a driven philosophy that is reflected by 77 members of the Progressive Caucus who come to this floor with their blue charts and say come visit our Web site. Well, not that long ago, a few years ago, the progressives' Web site was hosted by, managed by and taken care of by the socialists in America. But when they took a little bit of heat, they decided they would manage their own Web site so they didn't have to take the criticism. So the socialists ran the progressives' Web site.

Now, dsausa.org, that is the socialist Web site, it stands for Democratic Socialists of America, dsausa.org. Mr. Speaker, you should go visit that Web site and understand who your colleagues are. Seventy-seven of them are self-professed progressives.

The progressives, according to the socialist Web site, are their legislative arm. They write that they are not Communists; they are socialists. That is a step above a Communist. They don't want to nationalize everything, they just want to nationalize the Fortune 500 companies in America. And they have got a big start on it.

They don't run candidates on the banner or under the political party called the socialists, because there is a stigma attached to being a socialist in America. So what do they do, Mr. Speaker? They push the candidates that are self-professed progressives.

Progressives are not distinct from socialists. They are one and the same. They are just wearing a little bit different-colored jersey. And they are the people here who have driven the idea that we should nationalize the Fortune 500 companies, nationalize the oil refinery industry. Mr. HINCHEY in New York, take over the oil industry. MAXINE WATERS from Los Angeles, operate these Fortune 500 companies, and I quote, ''for the benefit of the people affected by them.'' That is the unions.

The Speaker is a member. The Speaker advocated and said that she would not give, in the case of the car companies, a bargaining advantage of the auto makers over that of the unions. Right off of the Web page of the socialists, and she followed through on it.

□ 2140

And today, 17½ percent of General Motors is owned by the unions, without a cash outlay, without a concession of any kind. The President of the United States, who voted to the left of self-professed Senator BERNIE SANDERS, crammed that down the throats of the investors, the secured investors in General Motors; and now we have the unions owning 17½ percent, the Federal Government owning 61 percent, and the

Canadian Government owning 12½ percent of General Motors, exactly off of the playbook of the socialist Web site.

Mr. Speaker, the American people need to go visit the Web site. They need to understand the playbook is written. It's being carried out by the progressives in this Congress; 77 of them are the core driving force here. When you add to that the Congressional Black Caucus, the Hispanic Caucus, a whole lot of these people that are self-segregating caucuses, instead of integrated caucuses, you understand who's running America today, Mr. Speaker.

I'd yield to the gentleman from Texas.

Mr. GOHMERT. Well, if we go back to the day that the Wall Street bailout passed, that first week in October of 2008, I made the statement that when the Federal Government buys private assets and holds them in order to try to make money, or the Federal Government decides it's going to start trying to make money for the taxpayer, it's called socialism. And I was belittled by colleagues that serve here in this body for saying that it was socialist. One person even said, well, I only know three Socialists in America, and they're all against the Wall Street bailout.

Well, I was pretty depressed and devastated when the Wall Street bailout passed. The next morning, Saturday morning, I was watching Neil Cavuto, and he had the Presidential nominee of the Socialist Party, and the Socialist candidate for President being interviewed by Neil Cavuto was asked, basically, what's the deal? I thought you guys were against the TARP bailout, the Wall Street bailout? And now this morning you're saying it was a good thing. And in essence, the Presidential nominee of the Socialist Party said, well, yes, they were against the TARP, Wall Street bailout.

In essence, they didn't feel like the government should pay anything to take over the assets they were taking over. But once it passed and was signed into law, they realized this is probably the greatest day for socialists in American history because the Federal Government has begun the takeover, in a substantial way, of private assets.

And of course he went on to say now that they've made this wonderful great step of taking over, socializing, nationalizing private assets from the financial sector, the government just needs to go ahead and finish taking over the rest of the financial sector because, he said, because we know then the government takeover of all of that area would not be done out of greed, and so they would do a much better job of spreading the wealth around the country, and that under the present system, greed rules the day, and that just that great, wonderful step of the TARP bailout, socializing America, as he saw it, just needed to be followed by the final step of completing the takeover of the financial sector.

So the gentleman from Iowa is exactly right: according to the Presidential candidate of the Socialist Party in 2008, this is a socialist move to nationalize more and more of the assets, just as the Presidential nominee of the Socialists had hoped would happen.

I yield back.

Mr. KING of Iowa. Reclaiming and thanking the gentleman from Texas, I'd point out into the RECORD, Mr. Speaker, that some months ago the Secretary of the Treasury, Tim Geithner, came before a couple of committees, Financial Services and Ag. And the question that I posed to him, and he was bound to answer that question under oath, was I made the point that President Obama was elected at least in part because he had declared and effectively made an argument, however it might have been true or untrue, that President Bush had gone into Iraq without an exit strategy. So I made the point in my question that President Obama had engaged in, supported, and participated in the nationalization of about half of our private sector, and that is the three large investment banks, AIG, Fannie Mae, Freddie Mac, General Motors, Chrysler, I didn't go on into the nationalization of our skin and everything inside it which is ObamaCare. But in that letter that he was obligated to answer under oath, 2 months later I got a response back.

And I do want to give Secretary Geithner credit. There are some members of this Cabinet that simply don't answer my letters. They apparently don't think they're accountable to Members of Congress, and they don't think that we might decide to send them a little less money when it's time to do the budget. But Geithner did answer the letter. It was seven pages long. It took 2 months to get it back, and that's not a particular complaint of mine because I know that it's difficult to make the machinery of government work. But in those seven pages of answering the question, What is your exit strategy for taking over all of these huge chunks of the private sector, his answer was, well, it's not a written strategy, and he would know when the time was right, and he would execute that when the time is right. In other words, don't you be asking me. I'm the Secretary of the Treasury, and I don't need to answer to you or to anybody else.

I'm going to submit this, Mr. Speaker: there is no plan; there is no exit strategy. The President of the United States is delighted to see these companies taken over by the Federal Government and managed by the Federal Government, as is the Secretary of the Treasury and most or all of the members of the United States Cabinet because it fits in with the Web site of the Democratic Socialists of America.

You know, there used to be a little bit of resistance that came up over here on this side of the aisle when someone might imply that the President of the United States is a Socialist. But I've made the argument I think so effectively that they don't try to rebut me anymore; and if any of you choose to do so, I'd be happy to yield.

But the President of the United States as a United States Senator voted to the left of BERNIE SANDERS. BERNIE SANDERS is in the Senate still today, self-professed Socialist. And no one argues with him. But there were three Senators that voted to his left. Barack Obama was one of them, and he is the chief nationalizer.

And when I saw the picture of Barack Obama standing next to Hugo Chavez, and he's doing the double grip glad hand handshake with that great nationalizer from Venezuela, the Marxist Hugo Chavez, I thought, you know what? Hugo Chavez is a piker when it comes to nationalizing. Barack Obama has way outdone him. And I don't think that he would have been a man that could have done that on his own. He surrounded himself with people that had for years worked toward this vision.

Had I been assigned the task of writing the screenplay to turn America into a Socialist state, and if they would have even created for me a charismatic figure that matches that of the President and started me down the path of my imagination, and with 3 years to get ready to do it, could not have unfolded a scenario even close to what is reality today for the businesses that have been taken over by the Federal Government. Neither could have been anticipated some of the things that they're seeking to do now.

But when you add these up, and you add up the takeover of three large investment banks, Bank of America, Bear Stearns, Citigroup, and when you see that AIG, for $180 billion swallowed up by the Federal Government, and Fannie Mae and Freddie Mac, for the tune of $130 billion and perhaps another $400 billion piled on top of that, and still remaining at $5.5 trillion in contingent liabilities, and the takeover of General Motors and Chrysler, both of them now under the control or influence of the Federal Government, being managed now, exactly off the Socialist Web site, ''run for the benefit of the people affected by them,'' the unions, who made no concession whatsoever, except to concede future claims that they think are going to be paid anyway by ObamaCare.

And the student loan program taken over completely, exactly within the mold of what happened when we had Federal flood insurance that came in to provide one more competitor for the private market back in 1963. Now there is no private market. Now the Federal Government runs it all.

When the Federal Government stepped in to compete on student loans, people said, well, you know, we need to keep these people honest. Somebody's making money off these students. Now the Federal Government runs it all.

And the President's idea was that he would set up one more insurance company to provide health insurance for Americans to compete against these insurance companies whom he demagogued relentlessly, for getting one more company, correct?

□ 2150

But there existed, up until ObamaCare passed, 1,300 health insurance companies in America, 1,300 companies that produced a variety of policies numbering to 100,000 policies. So who can imagine that one more company and a handful more policies was going to provide more options for people that would help with the competition and take some of the profits out of the industry? If these 1,300 companies competing against each other, Mr. Speaker, couldn't take the profit out of the industry, how could the Federal Government do that? Regulate and subsidize. And that's what governments do. They regulate and they subsidize their competition out of existence like they did on the flood insurance programs from 1963 and the student loan programs culminated this year.

And now here we are, ObamaCare, the law of the land, the law of the land that has not just nationalized three large investment banks, and Fannie and Freddie, and General Motors and Chrysler, and the student loans, now they have nationalized our very bodies, the most sovereign thing that we have. The Federal Government has taken over the management of our skin and everything inside it and decided who will buy what policy and what the premium will be.

And now they're trying to decide our diet. And now they have decided a mission across the country that the retailers need to cut 1.5 trillion calories out of the products that are going to these kids. Because one-third of our kids are obese, they want to cut the calories down on a bag of Doritos. I didn't ask them how to do that. I think they just take a few chips out of the bag of Doritos.

But I know what they do to a PowerBar. A 150-calorie PowerBar gets reduced to 90 calories because some fat kids will eat too many and they will get a little heavier. But I don't know what we do with those two-thirds of the kids that are probably too skinny, that need more than the 150 calories that are in the PowerBar. And I don't know what we do with the fat kid that hoards three PowerBars now for 270 calories as opposed to maybe one at 150 calories. But we cannot put a one-size-fits-all regulation in and reduce calories going into kids that need them for energy and need them for growth.

More kids need more food rather than all kids need less food. And so those kids that are overweight, they need more exercise. And maybe they need to watch their diet a little bit, and that's education and that's parents, yes. But don't starve the hungry kids so that those that are eating too much have to work a little harder to keep getting too much.

The super nanny state. The recycling of all of these components. Here the Speaker of the House in the House of Representatives has decreed that you can't go to the cafe over here and eat an omelet unless the eggs that are broken are from a free range hen. I think that the chicken that you eat is probably not free range because it's pretty tender and good. I didn't check on that, but I'd like to know. Doesn't taste like free range to me. But the eggs are from a free range hen.

The paper, the napkins that we have around this Capitol, most of them are brown because they are recycled paper. And when I go look at my coffee filters, I wonder why they're running over, they're recycled paper. So we have these decrees that come down from on high. And the light bulbs themselves are regulated by the Speaker of the House. How much nanny state does this country need? And how much nanny state can we stand?

I want American people making their own decisions. It's a free market economy. I want them to be able to exercise all of their constitutional rights. I want them to be able to own guns and defend themselves and hunt and target shoot and be in a position to defend us against tyranny. And if we do not, you know, there is something about constitutional rights and liberty. It's use it or lose it. If you don't use it, you lose it.

You've got to use your freedom of speech, religion, assembly, press, second amendment rights. You've got to exercise those rights. We must do so. Mr. Speaker, we have to take this country back.

I yield back the balance of my time and thank the gentleman from Texas for joining me tonight.

THE BORDER SECURITY CRISIS

The SPEAKER pro tempore (Mr. MURPHY of New York). Under the Speaker's announced policy of January 6, 2009, the gentlewoman from Arizona (Ms. GIFFORDS) is recognized for 60 minutes.

Ms. GIFFORDS. Mr. Speaker, I rise tonight to address the border security crisis that is part of daily life in my southern Arizona district in Arizona's Eighth Congressional District. I am really proud to represent one of the most diverse parts of the entire country. I represent a district that is over 9,000 square miles and is one of 10 U.S.-Mexico border districts.

The U.S.-Mexico border has changed a lot over the years. I am a third-generation Arizonan. I represent a lot of people in my district who are multigenerational Arizonans. After decades of building up the U.S.-Mexico border in California and in Texas, there has been a systematic funneling of illegal immigration, the flow of traffic, illegally through southern Arizona. This has become the most porous part of the U.S.-Mexico border.

So today, together, my constituents live in a situation on the front lines of a national border security crisis. We live and breathe the Federal Government's failure to secure the border with Mexico. Every day my constituents are subjected to home invasions and to burglaries and to cut water lines and to graffiti, an unbelievable amount of garbage and trash that's left behind by illegal immigrants who are crossing through the border, and by people increasingly who are drug smugglers, people that are human smugglers, the cutting of fences, the threats and intimidation by armed smugglers, and the violence that they experience on their own land, on their own ranches, their own property.

In this hour, I am going to talk about action that I and others have taken along the U.S.-Mexico border here in Washington. But more importantly, I am going to talk about the lives of the constituents that I represent, the people of Cochise County, the ranchers who live on the U.S.-Mexico border.

It's always been my belief that if the decision-makers here in Washington, if they could hear the stories, the impact that illegal immigration has on the lives of my constituents, that there would be greater action here in Washington, the decision-makers, elected officials, people in the administration, policymakers, that they would move to greatly enhance the security along the U.S.-Mexico border. So that's what we are going to talk about tonight.

I think it's important to begin this hour with the most heart-wrenching story of all, the tragic death of Robert Krentz, a fourth-generation rancher whose family has been on his land for over a hundred years. Actually, the Krentz family has had their ranch before Arizona even achieved statehood.

On March 27, Rob Krentz, who was working on his ranch, was murdered by an assailant who was later tracked to the Mexico border. He and his dog were both ruthlessly murdered on his land. They were left to die. They were shot. Law enforcement officials believe that Rob was killed by a smuggler.

Next to me is a photograph of Rob and his brother Phil, the two Krentz brothers. This was run on the front page of a local newspaper, the Tucson Weekly. Frankly, the image tells it all. You see the two brothers, you see them in the tack room, their hands, their boots, their lives right there represented.

Reporter Leo Banks wrote the companion story in which he interviewed Rob's family and the neighbors. Banks wrote the following:

''What has to be noted first is the inevitability of what happened. Something like the Krentz murder was coming, and everybody knew it. The stories residents told this newspaper, the frustration that they feel trying to keep property and families safe in smuggler-occupied territory were like a freight

train in the night. Down the tracks you see a faint light, coming closer and closer. On March 27 in Cochise County's big country a mile west of Paramore Crater, the train arrived. The aftershock has been so powerful, because the killing exploded the lie about a secure border that Washington, D.C., has been working hard to promote.''

On its front page, the Tucson Weekly asked the question, ''Will the murder of a respected Cochise County rancher change anything on our border?'' Mr. Speaker, tonight I ask the same question. Again, will the murder of Robert Krentz on March 27, a respected rancher in my district, change anything on the border? Well, it has changed, and we know that today. The President has announced the deployment of the National Guard to the U.S.-Mexico border.

I knew Rob Krentz. I knew his family. He participated in the meetings that I convened between ranchers and the Border Patrol. He was and is—he was a family man. He was a good neighbor. And he was a friend to all who knew him.

He was described as a humanitarian, who would give water and aid to illegal immigrants who suffered from heat exhaustion and physical injuries as they trekked from Mexico across his land. He was, like fellow ranchers out in Cochise County, a straight talker. And he, like them, saw their lives changed by the increased flow of illegal immigrants and the drug smugglers.

□ 2200

Tonight I will share additional stories about the ranchers in this area, and I will call on my colleagues to join me in demanding that our government step up and do more, the responsibility here in Washington to help protect its citizens. The safety and security and the defense of its citizens should be our primary focus in Washington, D.C.

Mr. Speaker, the very first speech that I made on this floor, the floor of the House of Representatives in January of 2007, was precisely about securing the border. In some areas, border security has improved over time, and in many ways it has worsened. I've been proud to support legislation and appropriations that funded the border patrol and the Department of Homeland Security, including ICE, as well for increases in personnel and technology.

Democrats and Republicans have worked together to give the Department of Homeland Security the resources they need, and we have seen those resources in the Tucson sector. I have fought to increase funding to local law enforcement programs through the State Criminal Alien Assistance Program, also known as SCAAP. When the President's budget eliminated SCAAP, I led the fight to restore the funding.

And why this is important is that communities out in Cochise County and Santa Cruz County and Pinal County, as well as Pima County, they carry the brunt of this problem because the local law enforcement agents are oftentimes required to respond when a resident calls in need of help. They are responsible for a lot of the work that should be done by the Federal Government. The Federal Government has very increasingly not been able or not willing to reimburse the local law enforcement agents for the cost that they incur. We were able to augment the budget.

I also worked to establish Operation Streamline. It's a program that finally reversed many years of the catch-and-release situation that we had down in southern Arizona. So instead of just apprehending illegal immigrants and then immediately deporting them back to the border to find them crossing over the next day, back and forth and back and forth, we are now in a situation that instead, we charge these individuals and we incarcerate illegal immigrants for 30 days, which is a big deterrent for someone who's trying to pass north.

Last year and again this year, I introduced legislation with Congressman SAM JOHNSON from Texas to create a new mandatory electronic employment verification system for hiring employees. Our system would be a national employee verification system that would protect American citizens from identity theft and hold employers accountable for hiring illegal immigrants. The State of Arizona was the first State to authorize E-Verify, making it mandatory for all employers.

But we've seen a lot of problems with E-Verify, plus the fact that this situation of employee verification should not be a State-by-State situation. We need to have a national solution, and that's why Congressman SAM JOHNSON and I have introduced legislation NEVA.

Recently, with Congressman BRIAN BILBRAY, I introduced a bill to crack down on the use of stored value cards, which drug cartels are using increasingly to launder money. In fact, Mr. Speaker, I have an example right here. This is an example of a stored value card that you can buy basically at any retailer. These stored value cards do not require any formal banking agreement. The threat assessment by the U.S. Department of Justice, the National Drug Intelligence Center, dubbed the cards an ideal money laundering instrument citing loose regulation, cardholder anonymity, and liberal limits on value reloading, withdraw, and spending on certain types of these cards. And again, you can go to a store and anyone can buy these stored value cards.

We're also seeing more stored value devices like cell phones where money can be transferred, hundreds of millions of dollars, through these types of devices.

According to a March 7, 2010, article in the Arizona Daily Star, the average amount of the 415 seizures on the southwest border in 2009 was $89,565, more than double the average seizure 5 years ago. That is why this legislation, the Stored Value Device Registration and Reporting Act of 2010, is so important. This is legislation that will include the stored value devices—either the cards or the cell phones—under the definition of a monetary instrument under title 31 in the United States Code. This will require cardholders to declare if they are carrying $10,000 on a stored value device to customs officers, because currently the Federal officials have absolutely no way of tracking whether or not this money is coming into the United States because individuals are not required to declare whether or not they have money on a stored value device.

Mr. Speaker, at 6:20 early Sunday morning 2 weeks ago, the North American Aerospace Defense Command, also known as NORAD, detected a low, small-flying aircraft in southern Arizona near the border with Mexico. NORAD immediately scrambled two F–16s to intercept the ultralight aircraft, shadowing it for 30 minutes until that small plane returned to Mexico. This is just another example of how the drug smugglers are getting ahead of us by using these small homemade planes. They stealthily enter our country illegally.

Right before that, Congressman DEAN HELLER and I introduced another bill that will dramatically increase the penalties for the newest way to smuggle drugs, flying them in by ultralight aircraft. These single-pilot aircraft are capable of flying low and can land and take off quickly. They are very difficult to detect. We have reports of them flying up to 200 miles into our country from Mexico. They are being used to bring drugs into our communities and represents the latest threat to border security. And if they can bring in drugs, they can also bring in other materials that can threaten our national security.

I first learned about the illicit use of ultralights in a briefing by the United States Border Patrol. They told me that we needed to take action to crack down on the ultralight drug smugglers, and that's why I introduced the Ultralight Smuggling Prevention Act. Ultralights are typically used by people for sport or recreation and, as a result, are currently not categorized as an aircraft by the Federal Aviation Administration.

In the 2010 National Drug Assessment released by the National Drug Intelligence Center, they identified ultralights as one of the newest ways drug cartels are using to smuggle drugs into our country. And according to the CBP Air and Marine Operation Center, or AMOC, based in Riverside, California, there were 193 suspected incursions into our country and 135—make that 136 with the incursion 2 weeks ago—by ultralights from October 1 to the present time.

In October of 2008, AMOC detected an unidentified northbound low-flying aircraft 12 miles west of Nogales. A CBP surveillance helicopter was launched from Tucson and the low-flying aircraft was identified as an ultralight. The pilot landed southwest of Marana, Arizona, with 223 pounds of marijuana on board where Border Patrol was waiting to transport the pilot and the marijuana to another location.

In November of 2008 near San Luis, field workers arrived for work and discovered a crashed ultralight, a dead pilot, and 141 pounds of marijuana. And in December of 2008, the pilot of an ultralight collided with power lines and crashed southwest of Tucson. The pilot had been carrying, this time, 350 pounds of marijuana when he crashed.

It is time for the Federal Government to get ahead of the drug traffickers. We need to pass this legislation to outmaneuver these individuals who are trying to bring drugs into our country and to do us harm, and the Ultralight Smuggling Prevention Act will amend the Tariff Act of 1930 to include ultralight aircraft under aviation smuggling provisions.

There is an unintended loophole that needs to be closed. We have to get law enforcement the tools that they need to crack down on the drug smugglers. And because ultralights are not currently technically considered aircraft, they do not fall under the smuggling provision.

So under my legislation, individuals caught smuggling on ultralights can be prosecuted for using the aircraft in addition to being prosecuted for the drugs in their possession. When they are convicted of this new offense, they can receive a maximum penalty of up to 20 years in prison and a $250,000 fine. The bill will establish the same penalties for smuggling drugs on ultralights as for smuggling on airplanes and in automobiles.

Mr. Speaker, as I said earlier, today is a good day for the southwest border. It's a good day for Arizona and the people of this country. President Obama has finally agreed to my repeated requests to deploy the National Guard to the U.S.-Mexico border. Today, the President announced that he will authorize 1,200 National Guard troops to be deployed to the southwest border. He will also request that $500 million be included in the supplemental spending legislation for enhanced border protection and law enforcement activities.

Just yesterday, I communicated with my two Senators, Senator MCCAIN and Senator KYL, as well.

□ 2210

I thought it was important that the Senate stand up for border security and include the $500 million in additional funding in the war supplemental making its way through the Senate this week. The fulfillment of my request is a clear sign the administration is finally beginning to take border security seriously.

I first called for immediate deployment of the National Guard after the March 27 murder of Rob Krentz. Arizonans know that more boots on the ground, even if we are starting with 1,200, I requested 3,000, but this is a start, and just because this is our first step doesn't mean it's the last step.

Washington has clearly heard our message. Republican Congressman TED POE and I sponsored a resolution calling on the President to send the National Guard to the border many weeks ago. We did another press conference today. This goes to show this is not a Republican or a Democratic issue. This is an issue that affects all of our constituents and all Members of Congress. It's an American issue.

Tonight, again, I reiterate my request to the House, the Senate, and the President to step up and do more. We need to secure our U.S.-Mexico border, period.

The Tucson sector, as we see on the map here, this is my district, and this includes the Tucson sector, which goes all the way over to the farther west part of the State, has been an area that has been confronted by narcoterrorists who have killed thousands of people in Mexico and have brought their violent ways to the United States and, in particular, to our area.

My district has over 100 miles of border with Mexico, and the drug smuggling and the traffic has systemically been funneled through this area. Again, as we have closed off California and Texas, we have been funneling all of this activity through southern Arizona. And, as you can see, the more urban areas, the dense part like Tucson and Sierra Vista, are away from the border.

But here along the line, you see an incredible vast amount of open space. And this is where the ranchers of Cochise County live. These are individuals who have had their ranches for hundreds of years, some of them, who are not being protected.

The Tucson sector, and I would like to put up a chart here of the Tucson sector of the Border Patrol, because it accounts for almost 50 percent of all the apprehensions of illegal immigrants and the drug seizures across all Border Patrol sectors in the Nation. This is to represent what we are actually dealing with in southern Arizona in my district.

So as you read the chart from fiscal year 2005 up to fiscal year 2009, in fiscal year 2005, there were 439,000 apprehensions in that year. And for every individual apprehended, we believe, possibly, one, or two, or maybe three, or maybe more get away. In fiscal year 2006, 392,000 apprehensions; in fiscal year 2007, 378,000 apprehensions; in fiscal year 2008, 318,000 apprehensions; and in fiscal year 2009, 241,000 apprehensions.

We have seen almost a 50 percent decrease in the number of people that are being apprehended, which is a good sign. It shows that the border security measures that we put on the border are working.

But it's an interesting story when you look at seizures in terms of marijuana. In fiscal year 2005, 488,000 pounds of marijuana were seized. And then it increases. In 2006, 616,000 pounds; in 2007, 897,000 pounds; in fiscal year 2008, 816,000 pounds; and a banner year last year, fiscal year 2009, 1.2 million pounds of marijuana seized in the Tucson sector of the Border Patrol.

When you look at cocaine seizures, fiscal year 2005 was an anomaly. We had 1,200 pounds seized. And then in fiscal year 2006, we had about 100 pounds; fiscal year 2007, 177 pounds; up to 2009, 524 pounds of cocaine.

You see, again, a decrease in the number of illegal immigrants and an increase in the amount of drugs, marijuana and cocaine, seized in the Tucson sector of the Border Patrol.

Personnel in fiscal year 2005: The United States Border Patrol had 2,339 Border Patrol agents in the Tucson sector. We have vastly increased that to fiscal year 2009. We are almost at 3,700 boots on the ground Border Patrol agents in the Tucson sector.

In terms of prosecutions, in fiscal year 2007, there were 5,447 prosecutions. That number has more than tripled in fiscal year 2009, with over 17,000 prosecutions that are now taking place in the Tucson sector because of the increased and enhanced enforcement activity that we have there.

Operation Streamline, I talked about this earlier, making sure that we are actually detaining for 30 days illegal immigrants who are crossing into our border illegally. As we started up a couple of years ago, this is the work of many hardworking individuals. In 2008, 9,638 prosecutions, and in fiscal year 2009 over 15,000 prosecutions with Operation Streamline. That sounds like a lot until you go back and look at the number that in 2009 we had 241,000 apprehensions.

I would like to now relate in the words of my constituents what we are actually dealing with along the border. And I really believe that the ranchers out in Cochise County speak for themselves the best, and I asked them to submit stories to me of real accounts. And I have collected their letters over the days and the weeks and the years that I have served in this capacity.

This is a letter that was sent to me following a community meeting that I convened at the Apache schoolhouse 4 days after Rob Krentz was murdered. The author wrote, I am angry. I had been operating at a slow simmer for some time now. Then last Saturday, when he was working on his ranch, Rob Krentz was murdered in cold blood. He was shot along with his dog. Now I am more than angry. Rob was a fourth-generation rancher in Cochise County. Friends and family, some with hunting hounds and horses and every kind of law enforcement official that we have, went into an all-out search mode for his killer, but the killer had a nearly 24-hour headstart on them by the time they found the body.

They followed his tracks to the new fabulously wonderful, multibillion dollar and completely ineffective fence at the border and then into Mexico. They returned to their homes and jobs sick that they could not catch this killer before he made it back across the border. I have known Mr. Krentz and his family for many years and considered them friends. We are not close but have become friends largely because of common beliefs and issues that arise from living in these huge arid landscapes. Most of us here have what the general population would consider conservative leanings when it comes to politics. We prefer and have to take care of ourselves for the most part. We do not have the option of calling for help in emergencies much of the time because we do not have phones, radios, or cell service when we are out in the landscape or on isolated roads. When you live here you have to be prepared to handle your own emergencies. It is expected that may include a snake bite, a car wreck on an isolated stretch of the highway, a neighbor with car trouble. That sort of thing.

But for the last 4 years or so, that has included illegals that carry fully automatic weapons. That is a little tougher to prepare for, especially when official response time is 1 to 4 hours and the official that does respond is usually alone and only allowed to carry a measly pistol to respond with.

Two years ago a Bureau of Land Management fire crew was pulled off a fire when a fire they fought flushed 17 illegals out of a canyon, and they were all carrying automatic weapons. Most of us have guns, as did Rob Krentz. His was found in a scabbard on his Polaris Ranger where they found his body.

The people who killed him, according to a garbled radio message his brother received, appeared to be hurt and needed help. That bit of acting may explain why Rob did not have his gun out and ready to use.

Just the day before Rob had helped Border Patrol officials with a drug bust on his ranch. More than 300 pounds of marijuana was confiscated. Was the killer one of the thwarted smugglers seeking revenge? We do not know and probably never will.

The people that I represent have told in person and on phone and in emails that this is the sort of situation that they are facing on their ranches.

Like the story of Kelly Kimbro and the Glenn family. They have the Malpai Ranch, very, very close to where Rob Krentz' ranch is. On May 14 of this year, a couple of nights ago, a half-mile east of Airport Road in Douglas, 10 of the concrete filled 6-inch steel casings that serve as uprights on the border fence were cut off at the ground with cutting torches and that piece of fence removed for a drive-through.

□ 2220

Our friend was called down to go down there yesterday with his boom truck and try to hoist it back into place. I know how to use a cutting torch. When you try to cut into something filled with concrete, it is nasty and dangerous and very hard work. My point is that it would have had to take hours or days to do this. It is on the border road, one-half mile from Douglas. If the border was being patrolled . . . one more instance when it is not. This is no longer a laughing matter. What the heck is going on? Why did this have to happen?''

This is a story from May 16. This is a story from Wendy Glenn: ''Last summer, our well on the border had a solar panel stolen from it right between the border road and Geronimo Trail Road. The control box, float and wire were taken also. It was taken and carried out by a fellow over a mile on the border road before he went into Mexico. The fellow had to climb up and unbolt it and let it down to the ground and then had to carry it off. Surely he had to have been seen by some Border Patrol people as all this happened.''

Other reports coming from Susan and Louis Pope on May 18: ''Last night, there was a large group that crossed our lower place on the State line between Arizona and New Mexico. As far as we know, they are on their way north. Tonight, we had the illegals talking on the radio; they're making plans about tomorrow morning.

''There are at least two groups coming up the west side of the Pelloncillos Mountains. There are also groups on the south end of the Chiricahuas.''

Here is an email from May 19: ''Today resulted in recovering several bundles of dope, but since air support was not available, the mules got away. Just as soon as the Border Patrol left the area, the spotter was on the radio again guiding and gathering the group back together. Two loads of dope came down the highway. They crossed out of Arizona into New Mexico, and the Hidalgo County Sheriffs Department caught one and the other got away. We understand that the Lordsburg Border Patrol will get two helicopters next week from the New Mexico National Guard, but they cannot cross into Arizona to help with the Border Patrol here.

''Now guess where all the illegals will wind up? Yes, you are right, in our back yards. We want everyone to know that there is not a road on the border in the Pelloncillos Mountains. The horse patrol has a vital part in helping stop the crossers, but air support is absolutely critical.''

Another email from May 19: ''It is 9 p.m., Sunday, May 19. I just found out that there are no night scopes available for the area from the New Mexico line to Douglas, 50 miles, tonight. Just one mobile surveillance system in New Mexico, another mobile surveillance system five miles north of Douglas, and one MSS, as well, close to the border, about 15 miles east of Douglas. The Border Patrol is just about blind tonight. There are supposed to be four units, but not tonight. We need to get these people some help.''

I'd like to show an illustration of, again, what some of the situation looks like in terms of having illegal immigrants that are coming into the area. The following email comes from the Stroller family, who are winter visitors in my district. Given the dangers that they now face on their land in Arizona, they have made the difficult decision of not returning to our State. This is from May 18: ''Hello, friends. It is with great regret that we've decided to leave our little Arizona winter retreat. It has been with much thought that we have decided not to return. We worry about you, our friends, and wish that you had the flexibility that we have to not be there during this dangerous time.

''Whether you are fearful for your safety or not so much is of little consequence as to how we are feeling. We worried when hunting this winter or just walking next door on our 160 acres, will we be confronted by a camp of illegals? What will we do with one shotgun, one camera, and four dogs? Will Louis, that just dashed out of the doggy door at midnight barking madly, will he come back, or will we find him in the morning with a bullet in his head?

''Guess what we're trying to say to you is we don't want to do this anymore. It isn't worth the possible consequences. We will miss the magnificent views, but even more, we will really miss you. Thank you for the wonderful years.''

Another story that I heard at the Apache Schoolhouse, the ranchers and other residents of this beautiful part of the country have seen terrible changes over the past few years, and they have been calling on their government to take action to protect them and to finally secure the border. Their plea was well summarized in a letter that was recently personally delivered to the Governor of Arizona and to us, the congressional delegation. In the email he said: ''Over the past 8 years, we have experienced many break-ins, burglaries, and attempted home invasions. Two of the attempted home invasions occurred just last month.''

He says: ''As someone who actually lives on the U.S.-Mexico border, I am here today to share with you a partial account of my family's experiences living near the Arizona-Mexico border for the past 10 years. We are a fifth-generation Arizona ranching family. By no means is this account all inclusive, but is intended to give you an understanding of the mayhem and the trepidation we are going through every single day on the borderlands.

''My words are offered to you in good faith and are not intended to be inflammatory toward any culture, nationality, group, or agency, but I refuse to weave political correctness into their meaning, which has so far distracted from the important work of credibly securing our borders first for the citizens of Arizona and the United States.

''Border security has been promised for so many times over the past 30

years without delivering security and safety to our families. These are my opinions on the matter. The U.S.-Mexico border is out of control and has been for a very long time. We laugh out loud when we hear the politicians claim that the border is more secure. This uninformed view is a political fairytale. People in Washington making these statements don't live here. And if they did, they would have a far more different view from the remedial policies which need to be immediately actioned on our and the country's behalf to secure the Arizona-Mexico international boundary.

''Our small ranch is located adjacent to the Chiricahuas National Wilderness. Presently, I'm sitting in my new ranch house, which looks more like a fortress than a home. Day and night we suffer home invasions, burglaries, multi-thousand-acre fires, some as large as 20,000 acres, ranching infrastructure and personal property destruction perpetrated by both illegal aliens and drug smugglers. They break into our homes and ranches, they steal jewelry and firearms, ammunition, money, small cartable electronics to fence in U.S. interior cities and Mexico, maliciously vandalize our property. They destroy our livestock and so on.

''In 8 years, our home has suffered over 15 illegal alien and smuggling burglaries and four attempted home invasions; intolerable when you consider that I'm here most of the time. I gave up filing police reports. Why bother?

''The latest attempted home invasion occurred last Saturday when we were invaded in the early morning by an illegal alien and an accomplice while my wife was asleep. The perpetrators were about to enter and burglarize our house and who knows what else. They were later caught by our hardworking Border Patrol and the Cochise County sheriff. We understand their backpacks were full of stolen items from burglarized homes in Portal, and some, if not all, had prior arrest records.

''Last month, another smuggler entered our home and confronted my wife in her utility room before he was run off. And as I write this account, the Border Patrol and the Cochise County Sheriff's Department are on the mountain searching for several groups of illegal aliens.

''How many American citizens would tolerate a situation like the ones that we experience every single day? Why are we not able to live in safety and in security in our own homes like the rest of you in Tucson and in Phoenix and in Washington, D.C.?

''Many of the homes and ranches in the Portal area stretching to Douglas have been burglarized, vandalized, and invaded by illegals. No one, and I mean no one, dare leave their homes unprotected for longer than a couple of hours at a time. Can you imagine worrying about leaving your home to attend your son's out-of-state wedding for fear it is going to be burglarized and trashed upon your return? Not a pretty picture missing such important parts of your family's lives.

''As I read my statement upon a risk of attending this meeting, I wonder what I will find or face upon my return to our ranch later this evening. There are hundreds of these people illegally crossing through our valleys 24/7. It is a very scary situation when they're kicking in your door and the sheriff is located over 70 miles away and the Border Patrol is undermanned and underequipped, and they can't respond in a timely basis to your call; when they're pursuing multiple illegal immigrant groups through the mountains 24 hours a day—yes, a very dangerous job we've asked them to do.

''From personal experience, illegal immigrants and smugglers have absolutely no fear of law enforcement, Border Patrol, nor State or Federal officials; in fact, U.S. citizens seem to be held to a higher enforcement and prosecutorial standard than illegal immigrants arrested for the same criminal activity.

□ 2230

You will appreciate the cynicism this creates for border residents when the same illegal aliens and smugglers are caught time and time again after being released back into Mexico.

If apprehended, one of the first questions they often ask the Border Patrol is: ''Which State am I in—the Ninth Circuit Court or New Mexico?'' They sure hope it's Arizona.

The large numbers of undetected illegal aliens and north-southbound smugglers using our vast, remote desert mountain country are never counted in numbers Washington is using. You can't count what you can't catch, and if Border Patrol apprehends 300,000 annually in the Tucson sector alone or if collectively they catch one in four, maybe over 800,000 or 850,000 have entered into the country illegally.

I must ask if this is really a border which has never been more secure. I don't think so, and neither do the majority of the American people.

This letter goes on. It talks about what's happening with the Border Patrol. Yes, it's true that we've had a lot of press on this, but unfortunately, up until today, we have not had a lot of action. The Arizona Cattle Growers have put together an 18-point border security plan. It's available on my congressional Web site. It's available on the Arizona Cattle Growers' Web site. It mandates that crossing the border illegally the first time is a felony charge for breaking into our country and that it prevents, for any reason, one from gaining U.S. citizenship or residency.

The individual ends by saying, ''For those of you who worry about 'militarizing the border,' I can only say you're too late.''

There are a couple of additional stories, one being of Ann and Paul Palmer.

They say here, ''Let me give you yet another perspective from a farming family.''

On May 21 of this year, our confidence in the sheriff's department and in the Border Patrol is right at 0 percent. Within the last 8 months, we've had two different vans abandoned on our farm. The first time, they were running from the sheriff's department. On that occasion, the van ran through several fences and way out into a field of growing corn before it got stuck in the mud. At that point, the fugitives were on foot. The sheriff's department and Border Patrol were too scared to go into the cornfield to get them. They said they didn't feel safe leaving their vehicles and looking for people in the dark. So they left. This all happened 200 yards from our homes.

It's plain to me the only protection for our families comes from my son and I.

The following day, my son and I had to get the vehicle out of the field. Then when the sheriff's department did come back in the daylight, they gave it a cursory inspection. They told us that we should check to see that there was no dope before we pulled it out. Needless to say, this caused some serious economic damage to our having this vehicle. I mean, not only was that crop destroyed in that area, but there were deep ruts in the field and the labor and the materials to rebuild the fences.

The second occasion was after harvest. Many of us pasture cattle on our cornstalks, so there are large numbers of cattle in the cornfields. Late one night, our neighbor called, informing us that a van had run through several of his gates and was coming our way. He had three separate herds of 500 head, and we had one herd of 600 head of cattle that could have all been mixed up had our neighbor not been on the ball. That would have been a several-day sorting job. We got the van stopped before it went through the last fence. The people jumped out and ran.

By the time the sheriff's deputy, who had been lost, got there, we had tracked the people and knew which way they were going. This time, the sheriff's department said that, if we could give them the van—a 1977 Chevrolet—they would pursue them, and if not, they would not. I pointed out, by that time, that, if they got a record, the illegals would be gone. The sheriff's department left. The Border Patrol was supposedly coming with a tracker, but never showed up. There was no interest at all in apprehending these individuals, and, once again, labor and materials to rebuild the fences were expended by me and my family. I could go on and on, but you get the point, he says. From our standpoint, there is no will to do anything about the problem. The Border Patrol should be on the border, not 40 or 50 miles north of the border.

Willcox recently got a new Border Patrol station. That's 80 miles north of the border. They keep horses near the Willcox station. What are they doing so far north? The horse patrol comes in after a part of a day because they don't

have enough horses to ride all day. A private company or an individual simply cannot operate as efficiently as Border Patrol and stay in this business. Throwing more money at a poorly laid-out plan just means that you have a more expensive poor plan.

Here is another story by Ruth Cowan, a rancher near Tombstone, Arizona. This account took place on June 7. Fence run through. June 9, fence run through and cattle on the road. June 10, 20 arrests. June 13, fence run through and 20 arrests. June 14, 60 arrests. June 15, fence hit and two runners.

She talks about calls about cattle on the road both day and night, personal damage in 1 day, including three $150 gates that were run through, a float broken off losing 10,000 gallons of water in one spot and a faucet I installed to keep them from breaking the floats left open and the submersible pump pumping our precious desert water on the ground all night, two gates left open and my bulls were gone.

Some additional complaints.

My travel trailer has been broken into, my truck stolen, and the one they couldn't steal, which is a diesel, I had to get repaired. My insurance rates have gone up. Field days for the most requested field trip in Douglas, Arizona, cancelled due to discarded pornography, weapons, feminine hygiene products, trash, and associated health issues.

I believe we have an image of that.

The economic damage to my rangeland is devastating. Rangeland is being trampled by thousands upon thousands of illegals. Native vegetation can't grow.

Here we have images of the debris.

Lost income from cattle because they're now wild, and buyers give less. My new $2,400 bull ate a plastic sack and died 4 days later. Disease from my neighbor's cattle and broken fences resulted in my animals' aborting their calves, and then the cows sold at half price. I can't even get anyone to come look at the ranch because it's south of I–10.

Invasive weeds have been introduced. One seed pod can produce over 200 seeds and then hang on the clothing and blankets of individuals who are smuggling through. They can fall off vehicles if they travel off road. On State trust land, I have been informed that it is the landowner's/lessee's responsibility to control these weeds that are being brought in.

The deer herds on my ranch have decreased as I have three drug and illegal routes splitting herds and sportsmen very angry because I have totally locked off my private property in an attempt to slow the traffic.

All the trash left behind washes downstream to lower watershed into the bird sanctuary. The Clean Water Act directs businessowners to decrease nonpoint source pollution. Yet this trash problem I have no control over. I had nine at-risk youth camps with counselors for 5 days out to pick up the garbage. Within 2 weeks, it was right back there. Who paid for this? The American taxpayer. We have sent our men and women all over the world to protect others, and yet the same government refuses to protect my rights as a U.S. citizen.

This is a story from John Ladd. The Ladd family is a very well-known ranching family in southern Arizona. John Ladd has a ranch along the border right where some new fences have been constructed.

John tells me that he can ride for hours along the fence without seeing a single Border Patrol agent. He has shown us where smugglers have cut through the new steel fence and have used a ramp to drive their loads of drugs up and over the fence.

Imagine that.

He has filmed scores of people crossing illegally through his land, and reports that there has been no less than 49 groups visible from his kitchen window last year. The last group was seen just a few days ago.

The murder of Rob Krentz has brought a lot of attention to the border in Cochise County, but it is important to note that the smugglers' impact on ranchers north of the border and into Pima County is a very unique situation.

A couple of additional stories.

This was sent to me by the Coping family, Robert and Cynthia.

They wrote, My husband, Robert, and I purchased our ranch northwest of Marana, Arizona, in 1995. In 2000, President Clinton proclaimed the Ironwood Forest National Monument, which now surrounds our ranch. We spend six nights a week there, just the two of us. With the remoteness and animals needing daily care, we sometimes travel separately and leave just one of us alone on the ranch. Our nearest neighbor to the northeast is La Osa Ranch, 8 miles away. To the south, the Silver Bell Mine headquarters is about 10 miles distant. To the southwest, Queens Well is about 25 miles. To the west is the Jet Ray Ranch about 10 miles away.

This is a part of the district that is not directly on the border, but it is impacted.

We have no cellular telephone service at our ranch even though our provider, Verizon, advertises that we get coverage there. When we need to make a call, I have to get in my truck and drive 5 miles just to get a call to connect.

Our neighbor owns the grazing lease formerly attached to our deeded property. His leases surround our property. The Tohono O'Odham Nation borders the west boundary of his allotments, and the fence line is 10 miles west of our house.

From 1995 to 2003, the biggest problem we had with illegal immigration was plumbing being destroyed and valves being left open at water tanks so that some 30,000 gallons of water would be drained out onto the ground. This can be deadly to cattle. It can drain entire wells.

Illegal vehicle crossing from the Nation to the Ironwood monument started becoming problematic and created environmental havoc in about 2003. Vehicles heavily overloaded with people began parading past our house at all hours of the night—pristine areas filled with trash, tremendous environmental damage from cross-country motorized traffic.

□ 2240

The BLM has posted accountings of the cleanup costs online.

With the murder of Rob Krentz, our compassion for illegal immigrants in distress has been compromised by our fear for our own lives. This area is very deadly, he goes on. Chuck is out numerous times riding horseback in the desert. I have come across trees with women's underwear hanging from them. The threat to women that are crossing illegally as well is something that is not heavily reported, but we know it happens.

Drug smugglers come up north through the reservation. They steal horses, in this case, two horses from different ranches on the reservations. Then they travel north of a wash located about a mile west of our house. They pass under a loose fence and then head north, cutting a hole in the county ranch boundary fence.

Those were the early days of what now is major vehicular traffic and drug smuggling through the Tohono O'odham Nation, of which the entire eastern fence line runs across the western boundaries of now what is the Ironwood National Forest. This individual writes that the smugglers are now using stolen vehicles instead of stolen horses.

Mr. Speaker, I bring these stories forward, they are real stories, they are from real constituents, they live in my district, to emphasize to Members of Congress, members of the administration and to the general public the real problems that we are having down in southern Arizona.

Yes, it is true that we have increased the amount of resources in urban areas. We have more fencing. We have more boots on the ground. We have more surveillance. But out in the rural part, where the land is vastly wide open, there is still a major problem.

Before the community meeting that we had in Apache, I met with a representative group of ranchers and heard many of these stories directly told to me. They also had some commonsense recommendations for us, and these were recommendations that I included in two letters to the President of the United States and to the Secretary of the Department of Homeland Security.

At that time, I called for the immediate deployment of the National Guard to the U.S.-Mexico border, and I asked that five additional measures be

taken to address the increased amount of violence and to assure the residents that we would step up to provide the protection that they are entitled to receive from the Federal Government.

I urged the President and the Secretary to deploy more Border Patrol agents. I looked at the budget being proposed by the administration to cut agents, and that was absolutely wrong. Not only do we not need to cut, we need to increase Border Patrol agents.

We also need to include more horse patrol, and I am very pleased that the Tucson sector two weeks ago graduated another recent class of horse patrol, because, as you can see from these images, in some of these areas there are no roads. It is very difficult to access the remotest part of the desert, and horse patrol is the only way.

I also urged the President and Secretary Napolitano to establish Border Patrol forward-operated bases in the San Bernardino Valley, again the most remote part of southern Arizona, right there on the border.

As I was driving to that meeting, I was on the phone trying to communicate with people here in Washington to find that my cell phone service was completely cut out. Miles before I was even able to arrive at Apache, I found there was no cell phone service. So I have urged the President and the Department of Homeland Security to improve telecommunications among law enforcement agencies and among residents as well. We need more cell phone towers. We need to know the costs of the cell phone towers. We are working to get that information. And then I had submitted funding requests to make sure we can handle the cost of those cell phone towers.

We also need to increase the deployment of mobile surveillance systems. I understand we have three new mobile surveillance systems coming to the Tucson sector today redeployed from other areas. That is a good first step, but, frankly, we need more.

I also asked to form a joint agency task force to coordinate local border security efforts, because what we see happening oftentimes, for example, during an investigation, and I talked about some of the criminal activities that have been reported in my area, you will have a local law enforcement agent come out and do the initial investigation, and then at that point there is a handoff. So many different entities end up handling that case that we need to have a joint agency task force to coordinate what is happening.

I have also since that time submitted a request for supplemental funding to increase personnel and technology on the border. I was joined by 52 other Members of the House of Representatives, Democrats and Republicans, in making that request. Again, yesterday I wrote to the two Arizona Senators asking that they support this request in the United States Senate.

We know what we must do to secure the border. The people of Cochise County and the residents of southern Arizona know exactly what they need. So the time for talk is over. The people that I represent, the people that are American citizens that live on the front lines of this problem, they deserve an answer. We need to stop the drug cartels and the violence that they bring, and this will in fact not just help my constituents, but help everyone across the country.

In closing, Mr. Speaker, I want to talk about another story from another constituent, Peggy Davis. She writes here, My name is Peggy Davis. My husband Fred and I own a cattle ranch between Tombstone and Elfrida on Davis Road. As you can probably assume by the name of the road, Fred's family has been ranching this area for a long time. Our grandchildren are the fifth generation to live on this ranch.

I have personally lived along the border for 37 years. I moved to southern Arizona when Fred and I were married in 1972. Up until that time, I had never encountered an illegal immigrant or even heard of the Border Patrol. It didn't seem like something that citizens were overly concerned about.

On our ranch, we encountered immigrants occasionally, but usually they walked openly up to our home and asked for work or something to eat. I always fed them. I gave them water, sometimes medicine, and often gave them a few dollars for doing a small job for that day. I always treated them with dignity and compassion, as did most people who lived in that area.

In the 1990s, something drastically changed. I began to notice that many of the immigrants I encountered were traveling in large groups and often had an attitude that left me feeling uneasy. She says, today I still provide water for them when asked, but I never give food or medicine, nor do I give them work. To do that would encourage larger numbers to walk through my land, leaving their trash and threatening me and my family.

My husband is away from home quite often for several weeks at a time, leaving me home alone. In fact, he couldn't be here today because he is gone now working to supplement ranching income. This is necessary due in large part to the exorbitant costs to repair our land, our water tanks, our fences damaged by immigrants daily. Everyone I know experiences the same loss of value to their land and to their livestock.

Peggy writes, I used to go for walks for exercise. I no longer feel safe doing that. I am armed at all times, she writes. I can't even feed my animals without having a firearm. And this is not unique. Most of the ranch women that I know that live in this area know how to use a gun and would use it to protect our families, make no mistake. She says, I don't ever want to have to use it. In fact, the mere thought of making me use it gives me anxiety beyond words. But what choice do I really have? I could call 911, but we all know by the time they would actually get to me, it would be likely too late.

She says, I know most of the people that live here, and literally all of the people I know who live along the border area have at least one personal story they could tell where they were threatened or their animals or their property damaged. To go into all of them would take days or weeks. But this is time-sensitive. We are being invaded now, Peggy says, and something has to be done immediately.

However, I do feel compelled to briefly tell you, when our daughter Marlo was in college, she was home alone. Fred and I were both in Texas on business. Marlo had gone to the barn one evening to feed our horses, and after coming back to the house and locking our doors, she heard our dogs barking in a way that alerted her that someone was nearby.

When she looked out the window, she saw a man standing right outside. She noticed that he was holding one arm behind his back, so instead of opening the door, she merely cracked the window a bit so she could ask what he wanted. He told her that he wanted her to give him a ride into town. He said that he had a friend with him who was hurt and needed medical attention.

When my daughter told him that she couldn't give him a ride, he got angry. He still kept his arm behind his back. He told her to open the door. And when she refused, he told her that he knew that she was home alone. She replied that she wasn't alone, that her dad was on the ranch and would be back at any minute. Apparently he believed her, fortunately, and left.

When the Sheriff's Department arrived about 30 minutes later, they did a search on the premises and they found a large butcher knife missing from the butcher block in our guest house. The man's attitude and words were confrontational, and I truly believe that he meant her harm but was convinced that she really wasn't home alone.

The current administration has claimed that the border is secure. If all of us here gathered up all of the trash, included the hypodermic needles, the toilet paper, the dirty diapers, the countless other items detrimental to our health, and took it here to Washington, D.C., and put it on their front yard at the White House, perhaps then the President would conclude that the border is indeed not secure.

My husband and I have talked at length with friends, with neighbors, law enforcement, Border Patrol, Congressmen and Senators over the years about this problem.

Rob Krentz, Peggy writes, was a personal friend of mine. He was a kind and compassionate man, as evidenced by his final act as a citizen of our country. He stopped to help someone who he thought was in need, and he got repaid for his kindness by losing his life. Please don't allow his life to be lost in

vain, but help us convince the government that we must solve the immigration problem with swift and firm action. I do admit that many of these people are desperate, but so are we.

□ 2250

When you mix desperation and fear on both sides, you create a volatile situation where violence endures.

Mr. Speaker, these are stories from the people that I represent who feel that their government, frankly, has abandoned them. They're angry and they're frustrated. I'm angry; I'm frustrated. We need action, and we need it now.

We can spend billions of dollars on conflicts in other countries, billions of dollars to secure other borders across the world to protect other citizens from other countries in places and far-off lands. But if this Congress is truly the people's House, then we must listen to the people. And they are asking for our attention, and they are calling out for help.

Mr. Speaker, I show you a sign here. It's a photograph of the Forest Service. It's a warning sign that cautions the citizens of southern Arizona. It's an official sign to warn hikers of the dangers of the smugglers on public land.

When I think about citizens that have to see signs like this on their property, of being warned about the possibility of the violence, of the destruction, of the threats—it says: ''Caution, smuggling activity is common in this area because of the proximity to the international border. Be aware of your surroundings at all times.'' And then there's information in case of emergency.

I would suggest that the Federal Government puts up these signs and the Federal Government should actually do something about the problem. And so I ask my colleagues to join with me for once and for all to take the necessary steps that we need to take.

I applaud the administration today for taking action. The deployment of the National Guard to our U.S.-Mexico border is a first start. The $500 million in supplemental funding to the U.S.-Mexico border will be greatly welcomed.

But we have no greater responsibility than to carry out the duty of protecting our citizens. Hence, Mr. Speaker, I believe that we should do more. This duty is embedded in the oath that each one of us took when we were sworn into this great institution.

In closing, Mr. Speaker, again, I'd like to reference Rob Krentz; his brother, Phil Krentz; the Krentz family—my constituents, southern Arizonans, U.S. citizens. Rob Krentz is no longer with us for doing nothing more than being on his own land.

The Federal Government has to take responsibility for the safety and security of its citizens, first and foremost. This is a great institution. The United States Congress can achieve great things. It is important that we focus our national security efforts, first and foremost, on homeland security, and that means border security and not allowing a situation like the tragic murder of Rob Krentz to ever occur again, to not allow the continued stories that we hear of the destruction along the U.S.-Mexico border, to not allow that to continue.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. KILPATRICK of Michigan (at the request of Mr. HOYER) for today.

Mr. MANZULLO (at the request of Mr. BOEHNER) for today on account of illness.

Mr. PETRI (at the request of Mr. BOEHNER) for today after 5:30 p.m. and May 26 on account of attending his daughter's graduation activities.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) to revise and extend their remarks and include extraneous material:)

Mr. HASTINGS of Florida, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mrs. MILLER of Michigan, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, May 27, 28, and 29.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2868. An act to provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments; to the Committee on Oversight and Government Reform.

ADJOURNMENT

Ms. GIFFORDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 26, 2010, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> ''I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.''

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 111th Congress, pursuant to the provisions of 2 U.S.C. 25:

CHARLES DJOU, Hawaii, First.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7638. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the Administration's final rule — Loan Policies and Operations; Loan Purchases from FDIC (RIN: 3052-AC62) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7639. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Federal Housing Administration: Continuation of FHA Reform; Strengthening Risk Management Through Responsible FHA-Approved Lenders [Docket No.: FR 5356-F-02] (RIN: 2502-AI81) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7640. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Addition to the List of Validated End-Users: Advanced Micro Devices China, Inc. [Docket No.: 100205080-0187-01] (RIN: 0694-AE87) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Foreign Affairs.

7641. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Endangered and Threatened Wildlife and Plants: Threatened Status for the Puget Sound/Georgia Basin Distinct Population Segments of Yelloweye and Canary Rockfish and Endangered Status for the Puget Sound/Georgia Basin Distinct Population Segment of Bocacciio Rockfish [Docket No.: 080229341-0108-03] (RIN: 0648-XF89) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7642. A letter from the Rules Administrator, Federal Bureau of Prisons, transmitting the Bureau's final rule — Inmate Communication With News Media: Removal of Byline Regulations [BOP-1149-I] (RIN: 1120-AB49) received May 11, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7643. A letter from the Interdiction Coordinator, Office of National Drug Control Policy, transmitting annual report to Congress; to the Committee on the Judiciary.

7644. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1883-DR for the State of Oklahoma; jointly to the Committees on Transportation and Infrastructure, Homeland Security, and Appropriations.

7645. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1884-DR for the State of California; jointly to the Committees on Transportation and Infrastructure, Homeland Security, and Appropriations.

7646. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1879-DR for the State of North Dakota; jointly to the Committees on Transportation and Infrastructure, Homeland Security, and Appropriations.

7647. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1880-DR for the State of Iowa; jointly to the Committees on Transportation and Infrastructure, Appropriations, and Homeland Security.

7648. A letter from the Administrator, FEMA, Department of Homeland Security, transmitting the Department's report on the Preliminary Damage Assessment information on FEMA-1881-DR for the State of West Virgina; jointly to the Committees on Transportation and Infrastructure, Appropriations, and Homeland Security.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADY of Pennsylvania. Committee on House Administration. H.R. 5175. A bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from taking expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes; with an amendment (Rept. 111–492, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. WAXMAN. Committee on Energy and Commerce. H.R. 5026. A bill to amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States from cybersecurity and other threats and vulnerabilities, with amendments (Rept. 111–493). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Florida. Committee on Rules. House Resolution 1392. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules (Rept. 111–494). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XIII the Committee on the Judiciary discharged from further consideration. H.R. 5175 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. GRANGER (for herself, Mr. THORNBERRY, Mr. BURTON of Indiana, Mr. CRENSHAW, Mr. CARTER, Mrs. MYRICK, Mr. KINGSTON, Mr. CULBERSON, Mr. WITTMAN, Mr. NEUGEBAUER, and Mr. OLSON):

H.R. 5374. A bill to provide for the reimbursement of attorney fees incurred by a member of the Armed Forces who retains private counsel in response to certain charges brought against the member under the Uniform Code of Military Justice and is acquitted or has the charges dismissed or withdrawn; to the Committee on Armed Services.

By Mr. OWENS (for himself and Mr. MCDERMOTT):

H.R. 5375. A bill to amend the Tariff Act of 1930 relating to de minimis entries; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself, Mr. KILDEE, Mr. HARE, Ms. FUDGE, Mr. TONKO, Ms. VELÁZQUEZ, Ms. RICHARDSON, and Mr. LARSON of Connecticut):

H.R. 5376. A bill to amend the Workforce Investment Act of 1998 to provide for the establishment of Youth Corps programs and provide for wider dissemination of the Youth Corps model; to the Committee on Education and Labor.

By Mr. SESSIONS:

H.R. 5377. A bill to require Amtrak to discontinue passenger rail service on certain long distance routes that operate at a loss; to the Committee on Transportation and Infrastructure.

By Mr. MCGOVERN:

H.R. 5378. A bill to make certain members of the royal families of the United Arab Emirates ineligible for visas or admission to the United States and to revoke visas and other entry documents previously issued to such family members until Sheikh Issa bin Zayed al-Nahyan has been tried in accordance with international legal norms and human rights standards, and for other purposes; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 5379. A bill to delist the polar bear as a threatened species under the Endangered Species Act of 1973; to the Committee on Natural Resources.

By Ms. HIRONO:

H.R. 5380. A bill to provide for the expansion of Hakalau Forest National Wildlife Refuge, Hawaii County, Hawaii; to the Committee on Natural Resources.

By Mr. WAXMAN (for himself, Mr. RUSH, Mr. DINGELL, Mr. STUPAK, and Mr. BRALEY of Iowa):

H.R. 5381. A bill to require motor vehicle safety standards relating to vehicle electronics and to reauthorize and provide greater transparency, accountability, and safety authority to the National Highway Traffic Safety Administration; to the Committee on Energy and Commerce.

By Mrs. BACHMANN (for herself and Mr. CANTOR):

H.R. 5382. A bill to provide for a temporary freeze on the pay of civilian employees of the Federal Government; to the Committee on Oversight and Government Reform.

By Mr. BAIRD:

H.R. 5383. A bill to match the boundaries of Lewis and Clark National Historic Park and Cape Disappointment and Fort Columbia State Parks in the State of Washington, and for other purposes; to the Committee on Natural Resources.

By Mr. CAPUANO (for himself, Mr. BACA, Ms. RICHARDSON, Mr. DOYLE, Ms. MOORE of Wisconsin, Mr. RUPPERSBERGER, Ms. LORETTA SANCHEZ of California, Ms. MCCOLLUM, Mr. BRADY of Pennsylvania, Mr. GRAYSON, Mr. BLUMENAUER, Mr. JACKSON of Illinois, Mr. SHULER, Ms. PINGREE of Maine, Ms. GIFFORDS, Ms. HARMAN, Mr. RODRIGUEZ, Mrs. MALONEY, Mrs. CHRISTENSEN, Mr. DEFAZIO, Mr. MCGOVERN, Mr. KAGEN, Mr. COHEN, Mr. GRIJALVA, Ms. NORTON, and Mr. STUPAK):

H.R. 5384. A bill to require air carriers to refund passenger baggage fees if such baggage is lost, delayed, or damaged, and require air carriers and ticket agents to include the actual cost of checked baggage when quoting an airfare; to the Committee on Transportation and Infrastructure.

By Mr. CARNEY (for himself and Mr. KIRK):

H.R. 5385. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish a toll-free hotline to assist mental health professionals at institutions of higher learning, to provide training to mental health professionals at institutions of higher learning, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CROWLEY:

H.R. 5386. A bill to ban the sale, manufacture, distribution, and use in public facilities of drop-side cribs in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUTIERREZ (for himself, Ms. MOORE of Wisconsin, and Mr. ELLISON):

H.R. 5387. A bill to amend the Consumer Credit Protection Act to provide for regulation of debt settlement services, and for other purposes; to the Committee on Financial Services.

By Mr. HEINRICH (for himself and Mr. LUJÁN):

H.R. 5388. A bill to expand the boundaries of the Cibola National Forest in the State of New Mexico; to the Committee on Natural Resources.

By Mr. HEINRICH:

H.R. 5389. A bill to amend title XVIII of the Social Security Act to provide for coverage of clinical pharmacist practitioner services under part B of the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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.

By Mr. KUCINICH (for himself, Mr. DRIEHAUS, Mrs. SCHMIDT, Mr. TURNER, Mr. JORDAN of Ohio, Mr. LATTA, Mr. WILSON of Ohio, Mr. AUSTRIA, Ms. KAPTUR, Ms. FUDGE, Mr. TIBERI, Ms. SUTTON, Mr. LATOURETTE, Ms. KILROY, Mr. BOCCIERI, Mr. RYAN of Ohio, and Mr. SPACE):

H.R. 5390. A bill to designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the ''David John Donafee Post Office Building''; to the Committee on Oversight and Government Reform.

By Mr. HENSARLING (for himself, Mr. BACHUS, and Mr. GARRETT of New Jersey):

H.R. 5391. A bill to revise the requirements regarding congressional testimony for the Federal Housing Finance Oversight Board; to the Committee on Financial Services.

By Mr. KENNEDY (for himself and Mr. SULLIVAN):

H.R. 5392. A bill to establish a Council on Integration of Health Care Education, to provide for implementation of the recommendations of the Council, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, 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.

By Mr. KISSELL (for himself, Mr. JONES, Mr. SPRATT, Mr. COBLE, Mr. BOUCHER, Mr. HARE, Mr. SCHAUER, Mr. CARNEY, Mr. DUNCAN, Mr. MCHENRY, Mr. MICHAUD, Mr. ADERHOLT, Mr. MCINTYRE, Mr. ETHERIDGE, Mr. ROGERS of Alabama, Mr. MCCOTTER, Ms. FOXX, Mr. INGLIS, Ms. SUTTON, Mrs. MYRICK, Mr. LIPINSKI, Ms. LINDA T. SÁNCHEZ of California, Ms. KAPTUR, and Mr. HOLDEN):

H.R. 5393. A bill to provide U.S. Customs and Border Protection with authority to more aggressively enforce trade laws relating to textile or apparel articles, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, 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.

By Mr. MEEKS of New York (for himself, Ms. CLARKE, Mr. CLAY, Ms. MOORE of Wisconsin, Mr. GUTIERREZ, Mr. RUSH, Mr. BUTTERFIELD, Ms. FUDGE, and Mr. WATT):

H.R. 5394. A bill to provide for the establishment of an American Enterprise Fund for Haiti and to ensure effective oversight of United States Government earthquake recovery and redevelopment activities in Haiti; to the Committee on Foreign Affairs.

By Mr. MICA (for himself, Mr. BILIRAKIS, Mr. BOYD, Ms. CORRINE BROWN of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. BUCHANAN, Ms. CASTOR of Florida, Mr. CRENSHAW, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. GRAYSON, Mr. KLEIN of Florida, Ms. KOSMAS, Mr. MACK, Mr. MEEK of Florida, Mr. MILLER of Florida, Mr. POSEY, Mr. PUTNAM, Mr. ROONEY, Ms. ROS-LEHTINEN, Mr. STEARNS, Mr. YOUNG of Florida, Ms. WASSERMAN SCHULTZ, and Mr. HASTINGS of Florida):

H.R. 5395. A bill to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the ''Paula Hawkins Post Office Building''; to the Committee on Oversight and Government Reform.

By Mr. PASCRELL (for himself, Mr. LARSON of Connecticut, Mr. HERGER, Mr. HELLER, Ms. VELÁZQUEZ, Mr. NUNES, and Mr. GUTHRIE):

H.R. 5396. A bill to amend the Internal Revenue Code of 1986 to provide for the depreciation of certain roof systems; to the Committee on Ways and Means.

By Mr. PASCRELL (for himself, Ms. DELAURO, and Mr. ROHRABACHER):

H.R. 5397. A bill to amend the Immigration and Nationality Act to reform and reduce fraud and abuse in certain visa programs for aliens working temporarily in the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and Labor, 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.

By Mr. PAUL:

H.R. 5398. A bill to amend the Internal Revenue Code of 1986 to allow the first-time homebuyer credit for the purchase of a principal residence to replace a principal residence damaged or destroyed in a Federally declared disaster, and for other purposes; to the Committee on Ways and Means.

By Mr. SABLAN:

H.R. 5399. A bill to establish a National Remote Teacher Corps, and for other purposes; to the Committee on Education and Labor.

By Mr. WALZ (for himself and Mr. BOOZMAN):

H.R. 5400. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans; to the Committee on Ways and Means, and in addition to the Committee on Armed Services, 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.

By Mr. RANGEL (for himself, Mr. CONYERS, Mr. COBLE, and Mr. SAM JOHNSON of Texas):

H.J. Res. 86. A joint resolution recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance; to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Veterans' Affairs, 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.

By Mr. MCINTYRE (for himself, Mr. PITTS, Mr. COLE, Mr. VAN HOLLEN, Mr. FORTENBERRY, Mr. THOMPSON of Pennsylvania, Mr. GOHMERT, Mr. KING of Iowa, Mr. WILSON of South Carolina, Mr. SHIMKUS, Mr. FRANKS of Arizona, Mr. HARPER, Mr. NEUGEBAUER, Mr. DONNELLY of Indiana, Mr. MOORE of Kansas, Mr. CHANDLER, Mr. HOLDEN, Mr. SCOTT of Georgia, Mr. BISHOP of Georgia, Mr. DAVIS of Tennessee, Mr. BISHOP of Utah, Mr. BROUN of Georgia, Mrs. BACHMANN, Mr. GARRETT of New Jersey, Mr. BOOZMAN, Mrs. MILLER of Michigan, Mr. MITCHELL, Mr. ADERHOLT, Mr. FORBES, and Mrs. CAPITO):

H. Res. 1389. A resolution recognizing the immeasurable contributions of fathers in the healthy development of children, supporting responsible fatherhood, and encouraging greater involvement of fathers in the lives of their children, especially on Father's Day; to the Committee on Education and Labor.

By Mr. BAIRD:

H. Res. 1390. A resolution expressing the sense of the House of Representatives that the United States should use its position of global leadership to improve and strengthen whale conservation efforts and to ensure that commercial, scientific, and other lethal whaling does not occur for any purpose other than aboriginal subsistence; to the Committee on Foreign Affairs.

By Ms. ROS-LEHTINEN (for herself, Mr. CROWLEY, Mr. MCCOTTER, Mr. BERMAN, Mr. BURTON of Indiana, Mr. ACKERMAN, Mr. MORAN of Kansas, Mr. ENGEL, Mrs. MCMORRIS RODGERS, Ms. BERKLEY, Mr. WILSON of South Carolina, Mr. KLEIN of Florida, Mr. POE of Texas, Mr. COSTA, Mr. BLUNT, Mr. DEUTCH, Mr. FRANKS of Arizona, Mr. MCMAHON, Mr. MARIO DIAZ-BALART of Florida, Mr. TOWNS, Mr. KINGSTON, Mr. ROTHMAN of New Jersey, Mr. GARRETT of New Jersey, Mr. CARNAHAN, Mr. ROGERS of Alabama, Mr. SCHIFF, Mr. TIAHRT, Mrs. MALONEY, Mr. KIRK, Mr. GORDON of Tennessee, Mr. COBLE, Mr. SHULER, Mr. MARCHANT, Mr. CARNEY, Mr. MCCLINTOCK, Mr. COHEN, Mr. GRIFFITH, Mr. PETERS, and Mr. GARAMENDI):

H. Res. 1391. A resolution congratulating Israel for its accession to membership in the Organization for Economic Co-operation and Development; to the Committee on Foreign Affairs.

By Mr. CARDOZA (for himself and Mr. COSTA):

H. Res. 1393. A resolution welcoming the Portuguese ship Sagres to the United States; to the Committee on Foreign Affairs.

By Mr. CARNEY:

H. Res. 1394. A resolution recognizing and honoring the employees of the Department of Homeland Security who lost their lives in the line of duty in 2009 in protecting and securing our Nation; to the Committee on Homeland Security.

By Mr. KISSELL:

H. Res. 1395. A resolution urging the people of the United States to observe National Scots, Scots-Irish Heritage Month; to the Committee on Oversight and Government Reform.

By Mr. MCDERMOTT (for himself, Mr. RANGEL, Mr. ELLISON, and Ms. WOOLSEY):

H. Res. 1396. A resolution expressing the sense of the House of Representatives regarding the importance of increasing the funding of Job Corps, AmeriCorps, and the Peace Corps; to the Committee on Education and Labor, and in addition to the Committee on Foreign Affairs, 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.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

295. The SPEAKER presented a memorial of the Senate of the State of Arizona, relative to Senate Concurrent Memorial 1002 urging the Congress to ensure that any Federal Health Care Reforms legislation has a minimal fiscal impact on the States; to the Committee on Energy and Commerce.

296. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to Resolution memorializing the Congress to support a peaceful unification of Ireland; to the Committee on Foreign Affairs.

297. Also, a memorial of the House of Representatives of the State of Arizona, relative to House Concurrent Resolution 2001 notifying the Congress of the intent to claim sovereignty under the Tenth Amendment; to the Committee on the Judiciary.

298. Also, a memorial of the House of Representatives of the State of Arizona, relative to House Concurrent Memorial 2008 urging the Congress of the United States to enact H.R. 1034 to designate the Honor and Remember Flag; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. WAXMAN introduced A bill (H.R. 5401) for the relief of Allan Bolor Kelley; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 197: Mr. MCCARTHY of California and Mr. CUELLAR.
H.R. 211: Mr. CASTLE, Mr. OBERSTAR, Mr. BURTON of Indiana, and Mr. CONNOLLY of Virginia.
H.R. 333: Mr. FARR.
H.R. 442: Mr. MCCARTHY of California and Mr. SCHRADER.
H.R. 521: Mr. BOREN.
H.R. 564: Mrs. CAPPS.
H.R. 571: Mr. PETERSON.
H.R. 574: Mr. KAGEN.
H.R. 653: Ms. BALDWIN.
H.R. 734: Mr. LANGEVIN.
H.R. 896: Mr. MICA.
H.R. 953: Mr. LANCE and Ms. KAPTUR.
H.R. 1054: Mr. HERGER.
H.R. 1077: Mr. OLVER and Mr. ROTHMAN of New Jersey.
H.R. 1189: Ms. LEE of California, Mr. CUMMINGS, Ms. NORTON, and Ms. HERSETH SANDLIN.
H.R. 1240: Mr. THOMPSON of Pennsylvania.
H.R. 1359: Ms. ESHOO.
H.R. 1361: Mr. ELLISON.
H.R. 1428: Mrs. DAVIS of California.
H.R. 1521: Mr. GARY G. MILLER of California and Ms. BEAN.
H.R. 1523: Mr. KILDEE.
H.R. 1529: Mr. CLAY.
H.R. 1547: Mr. MACK and Mr. CASSIDY.
H.R. 1549: Mr. RANGEL.
H.R. 1587: Mr. KAGEN.
H.R. 1718: Mr. GOODLATTE.
H.R. 1751: Ms. LORETTA SANCHEZ of California.
H.R. 1770: Mr. FILNER and Mr. MATHESON.
H.R. 1806: Mr. BOUCHER.
H.R. 1826: Mr. MEEKS of New York.
H.R. 1895: Mr. ELLISON.
H.R. 1939: Mr. KAGEN.
H.R. 1972: Mr. MITCHELL and Mr. WHITFIELD.
H.R. 2057: Mr. KAGEN.
H.R. 2142: Mr. WELCH.
H.R. 2209: Mr. DEUTCH and Mr. KAGEN.
H.R. 2246: Mr. CONNOLLY of Virginia.
H.R. 2262: Ms. CHU.
H.R. 2296: Mr. LAMBORN.
H.R. 2378: Mr. GRIFFITH.
H.R. 2381: Mr. PETERSON.
H.R. 2443: Mr. CONNOLLY of Virginia.
H.R. 2455: Mr. KILDEE, Mr. THOMPSON of California, Mr. WU, Mr. ACKERMAN, and Mr. POLIS.
H.R. 2483: Mr. KILDEE.
H.R. 2531: Ms. LINDA T. SÁNCHEZ of California.
H.R. 2565: Mr. MARSHALL.
H.R. 2578: Ms. NORTON.
H.R. 2746: Mr. CARSON of Indiana, Mr. TIBERI, Mr. DINGELL, Mr. SERRANO, Ms. CHU, and Ms. WATSON.
H.R. 2855: Mr. LUJÁN, Mr. TIERNEY, and Mr. CLAY.
H.R. 3024: Mr. GRAYSON and Mr. BRIGHT.
H.R. 3046: Mr. WITTMAN.
H.R. 3101: Mr. CONNOLLY of Virginia and Mrs. LOWEY.
H.R. 3108: Mr. LOEBSACK, Ms. RICHARDSON, and Mr. ELLSWORTH.
H.R. 3308: Ms. JENKINS.
H.R. 3355: Mr. KAGEN.
H.R. 3363: Mr. WOLF.
H.R. 3380: Mr. HASTINGS of Florida, Ms. RICHARDSON, Ms. FOXX, Mr. MCCLINTOCK, Mrs. CHRISTENSEN, Mr. KUCINICH, Mr. WEINER, Ms. LORETTA SANCHEZ of California, and Ms. ESHOO.
H.R. 3408: Mr. PASTOR of Arizona.
H.R. 3421: Ms. CORRINE BROWN of Florida, Ms. ROYBAL-ALLARD, Mr. JOHNSON of Georgia, Ms. SLAUGHTER and Mr. THOMPSON of Mississippi.
H.R. 3457: Ms. SPEIER.
H.R. 3554: Mr. MORAN of Virginia and Mr. COFFMAN of Colorado.
H.R. 3736: Mr. BACHUS.
H.R. 3764: Mr. CONNOLLY of Virginia.
H.R. 3813: Mr. SULLIVAN.
H.R. 3888: Ms. MOORE of Wisconsin and Mr. DEFAZIO.
H.R. 4085: Mr. GEORGE MILLER of California and Mr. HINCHEY.
H.R. 4128: Ms. EDWARDS of Maryland and Mr. INSLEE.
H.R. 4195: Mr. MOORE of Kansas.
H.R. 4241: Mr. MORAN of Kansas.
H.R. 4278: Mr. OLVER.
H.R. 4296: Mr. HARE.
H.R. 4302: Mr. NADLER of New York.
H.R. 4306: Mr. BOREN.
H.R. 4310: Mr. CLAY, Mr. HOLT, and Mr. MORAN of Virginia.
H.R. 4383: Ms. NORTON.
H.R. 4443: Ms. KILPATRICK of Michigan, Mr. ISRAEL, and Ms. CORRINE BROWN of Florida.
H.R. 4477: Mr. CONYERS and Mr. ARCURI.
H.R. 4530: Mr. RYAN of Ohio and Mr. MURPHY of Connecticut.
H.R. 4544: Mr. SABLAN.
H.R. 4555: Ms. HIRONO.
H.R. 4568: Mrs. NAPOLITANO.
H.R. 4645: Mr. CAPUANO and Mr. SPRATT.
H.R. 4674: Mr. BRALEY of Iowa.
H.R. 4690: Mr. KAGEN.
H.R. 4733: Mr. ELLISON and Mr. FILNER.
H.R. 4745: Mr. COBLE.
H.R. 4787: Mr. RUSH.
H.R. 4788: Mr. MITCHELL and Mr. LIPINSKI.
H.R. 4806: Mrs. CAPPS and Mr. OLVER.
H.R. 4818: Mrs. NAPOLITANO.
H.R. 4844: Mr. MICA.
H.R. 4846: Ms. BALDWIN.
H.R. 4850: Mr. FOSTER and Mr. MOORE of Kansas.
H.R. 4875: Mr. DENT.
H.R. 4888: Mr. FARR.
H.R. 4921: Mr. HIMES.
H.R. 4925: Mr. ROTHMAN of New Jersey, Mr. GONZALEZ, and Mr. GARAMENDI.
H.R. 4946: Mr. BISHOP of Utah.
H.R. 4958: Mr. STARK.
H.R. 4972: Mr. THORNBERRY.
H.R. 4980: Mr. ROYCE.
H.R. 4999: Mr. KLINE of Minnesota.
H.R. 5000: Mr. CONNOLLY of Virginia.
H.R. 5015: Mr. GEORGE MILLER of California.
H.R. 5028: Mr. JACKSON of Illinois, Ms. NORTON, Ms. JACKSON LEE of Texas, and Mr. ELLISON.
H.R. 5029: Mr. PENCE and Mrs. BLACKBURN.
H.R. 5040: Mr. SULLIVAN.
H.R. 5042: Ms. PINGREE of Maine.
H.R. 5044: Mr. YOUNG of Florida, Mr. TIERNEY, Mr. ARCURI, Mr. KISSELL, and Mr. BRIGHT.
H.R. 5058: Mr. KING of New York.
H.R. 5081: Mr. SHULER, Mr. CONNOLLY of Virginia, Mr. LEE of New York, and Mrs. LOWEY.
H.R. 5091: Mr. GUTIERREZ, Ms. LEE of California, Mr. ELLISON, Ms. WOOLSEY, Mr. COOPER, Mr. DELAHUNT, and Mr. YARMUTH.
H.R. 5092: Mr. MCMAHON, Mr. PERRIELLO, and Mr. HIGGINS.
H.R. 5093: Mr. MELANCON and Ms. NORTON.
H.R. 5111: Mr. THORNBERRY, Mr. GRAVES, Mr. SCHOCK, and Mr. SMITH of Nebraska.
H.R. 5112: Mr. CHANDLER.
H.R. 5142: Mr. PUTNAM, Ms. BALDWIN, and Mr. REICHERT.
H.R. 5156: Mr. THOMPSON of California.
H.R. 5175: Mr. THOMPSON of California, Mr. SHERMAN, Mr. LANGEVIN, and Ms. ESHOO.
H.R. 5177: Mr. POE of Texas and Mr. LUCAS.
H.R. 5206: Mr. MICHAUD.
H.R. 5211: Mr. CASTLE.
H.R. 5241: Mr. MORAN of Virginia and Ms. BALDWIN.
H.R. 5255: Mrs. MCCARTHY of New York.
H.R. 5268: Mr. MOORE of Kansas.
H.R. 5294: Mr. LAMBORN, Mr. CONAWAY, and Mr. COFFMAN of Colorado.
H.R. 5295: Mr. YOUNG of Florida.
H.R. 5298: Mr. OWENS, Mr. JONES, Mr. OLSON, Mr. KINGSTON, Mrs. MILLER of Michigan, Mr. DEFAZIO, Ms. KAPTUR, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCHOCK, Mr. GARAMENDI, Mr. BRADY of Pennsylvania, Mr. GONZALEZ, and Mr. ROONEY.
H.R. 5324: Ms. SCHAKOWSKY, Mr. HARE, Mr. CONYERS, and Mr. HINCHEY.
H.R. 5339: Mr. FLAKE.
H.R. 5351: Mr. BURTON of Indiana, Mrs. MCMORRIS RODGERS, and Mr. OLSON.
H.R. 5355: Ms. DEGETTE, Mr. GRAYSON, Mr. GUTIERREZ, and Ms. WATSON.
H.R. 5357: Mr. ROYCE and Mr. MARCHANT.
H.R. 5371: Mr. KLEIN of Florida, Mr. ACKERMAN, Mr. BRADY of Pennsylvania, Mr. BLUNT, and Mr. CLAY.
H.J. Res. 1: Mr. DJOU.
H.J. Res. 14: Mr. MINNICK.
H.J. Res. 79: Mr. CALVERT.
H. Con. Res. 200: Mr. MARCHANT.
H. Con. Res. 266: Mr. COSTELLO and Mr. BISHOP of Georgia.
H. Con. Res. 267: Mr. MCCOTTER.
H. Con. Res. 276: Mr. MARCHANT.
H. Res. 173: Mr. KLEIN of Florida, Ms. EDWARDS of Maryland, and Mr. POE of Texas.
H. Res. 584: Mr. HARPER.
H. Res. 767: Mr. HASTINGS of Florida and Ms. KILROY.
H. Res. 1052: Ms. LORETTA SANCHEZ of California.
H. Res. 1073: Mr. BOSWELL, Mr. BISHOP of Georgia, Mr. MOORE of Kansas, Ms. LINDA T. SÁNCHEZ of California, Mr. PETERSON, Mr. CARDOZA, Mr. MATHESON, Mr. HARE, Mr. WILSON of Ohio, Mr. MICHAUD, Mr. CARTER, Mr. LOEBSACK, Mr. CARNEY, Mr. ALTMIRE, Mr. SALAZAR, Mr. MCINTYRE, Mr. SPACE, Mr. GRIFFITH, Mr. PETERS, and Mr. CHILDERS.
H. Res. 1219: Mr. FILNER, Mr. GARY G. MILLER of California, Mr. SCOTT of Virginia, and Mr. BOREN.
H. Res. 1226: Mrs. BONO MACK and Mr. OWENS.
H. Res. 1241: Mr. BISHOP of Utah.
H. Res. 1245: Mr. POE of Texas.
H. Res. 1302: Ms. SPEIER.
H. Res. 1330: Mr. KUCINICH, Ms. ZOE LOFGREN of California, Mr. MCNERNEY, and Ms. WATSON.
H. Res. 1347: Mr. ALEXANDER, Mr. CAO, Mr. BOUSTANY, Mr. FLEMING, Mr. CASSIDY, Mr. TAYLOR, Mr. PAUL, Mr. HARPER, Mr. BARROW, Mr. BOREN, Ms. CORRINE BROWN of Florida, Mrs. MALONEY, Ms. MARKEY of Colorado, Mr. STUPAK, Mr. TANNER, Ms. DEGETTE, Mr. DONNELLY of Indiana, Ms. LINDA T. SÁNCHEZ of California, Mrs. NAPOLITANO, Mr. HOLDEN, Mr. KENNEDY, Mr. FRANK of Massachusetts, Mr. HILL, Mr. BUTTERFIELD, Ms. MATSUI, Mr. STARK, Mr. SCHIFF, Mr. PALLONE, Ms. NORTON, Mr. ROSS, Mr. HOLT, Mr. SCALISE, Mr. CULBERSON, Mr. OLSON, Ms. ROS-LEHTINEN, Mr. SESSIONS, Mrs. BLACKBURN, Mr. SHIMKUS, Mr. MATHESON, Mr. MINNICK, Mr. COOPER, Mr. CARNEY, Mr. MOORE of Kansas, Mr. DAVIS of Tennessee, Mr. PETERSON, Mr. BRIGHT, Ms. BERKLEY, Mrs. DAHLKEMPER, Mr. RUSH, Mr. AL GREEN of Texas, Mr. DOYLE, Mr. SHULER, Mr. SALAZAR, and Mr. PITTS.
H. Res. 1350: Mr. FALEOMAVAEGA.
H. Res. 1351: Mr. MARKEY of Massachusetts, Mr. HONDA, Mr. CARDOZA, and Ms. MOORE of Wisconsin.
H. Res. 1359: Mr. KLEIN of Florida, Ms. BERKLEY, Mr. ENGEL, Mr. MCMAHON, Mr.

SHULER, Ms. WASSERMAN SCHULTZ, Mr. SCHIFF, Mr. HASTINGS of Florida, Mr. DEUTCH, Mrs. MALONEY, Mr. LANCE, Mrs. CAPPS, Mr. GALLEGLY, Ms. SCHWARTZ, Mr. MURPHY of New York, Mr. WAXMAN, Mr. CARNEY, Mr. ISRAEL, Mr. PIERLUISI, Mr. PALLONE, Mr. COSTA, Mrs. KIRKPATRICK of Arizona, and Mr. ELLISON.

H. Res. 1365: Mr. GARY G. MILLER of California.

H. Res. 1366: Mr. CARNEY, Mr. TEAGUE, Mr. HOLDEN, and Mr. SIRES.

H. Res. 1368: Ms. WOOLSEY, Mr. MCGOVERN, Mr. KENNEDY, Mr. SESTAK, Mr. SKELTON, Mr. SPACE, Mr. NEUGEBAUER, and Mr. GARY G. MILLER of California.

H. Res. 1369: Ms. BORDALLO, Ms. CORRINE BROWN of Florida, Ms. CASTOR of Florida, Mr. CLYBURN, Mr. COHEN, Mr. GRIJALVA, Mr. JOHNSON of Georgia, Ms. MOORE of Wisconsin, Ms. LINDA T. SÁNCHEZ of California, Mr. SIRES, Ms. WOOLSEY, Mr. GONZALEZ, Mr. CUMMINGS, and Ms. JACKSON LEE of Texas.

H. Res. 1378: Mr. KINGSTON, Mr. ROGERS of Kentucky, Mr. LAMBORN, and Mr. BROUN of Georgia.

H. Res. 1385: Mr. HUNTER and Mr. MARSHALL.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative SKELTON, or a designee, to H.R. 5136, the National Defense Authorization Act for Fiscal Year 2011, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

The amendment to be offered by Representative BRADY of Pennsylvania, or a designee, to H.R. 5175, the Democracy is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

138. The SPEAKER presented a petition of Board of Supervisors, San Francisco, California, relative to Resolution No. 102-10 urging the Environmental Protection Agency to perform the appropriate research and experimentation to determine the effects of non-ionizing radiation on the health of adults and childern; to the Committee on Energy and Commerce.

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Vol. 156 WASHINGTON, TUESDAY, MAY 25, 2010 No. 80

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God of infinite goodness, confirm Your past mercies by empowering us to be faithful to Your commands. Help our lawmakers this day to use their understanding, affection, health, time, and talent to do what You desire. May the desire to please You with faithful service rule their hearts without a rival, guiding their thoughts, words, and works. By living to honor You, enable them to fulfill their duty to love You with all their heart, mind, soul, and strength. Lord, take possession of their hearts and order their steps by the power of Your loving providence.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 25, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will resume consideration of H.R. 4899, the emergency supplemental appropriations bill. The Senate will recess from 12:30 until 2:15 to allow for the weekly caucus luncheons. Rollcall votes are expected to occur throughout the day in relation to amendments to the supplemental appropriations bill.

SENATE WORKLOAD

Mr. REID. Madam President, as we look around the world, we have lots of issues that are extremely difficult ones. We have the Korean Peninsula situation that has drawn so much attention and rightfully so. We now have our Secretary of State in China working on this and other issues, and the Secretary of the Treasury is there. We have a situation where it appears a South Korean Navy ship was sunk for no reason; that dealt with the security of North Korea. We have the oil spewing into the gulf—thousands and thousands of barrels every day.

We have two wars we are watching closely, of course, in Iraq and Afghanistan. We have the situation in Europe, where governments are staggering because of financial problems. We have our own economy, which is doing better but certainly far from being where we want it to be. Then, on the floor this week we have two extremely important issues to deal with. One is the supplemental appropriations bill that we have combined with one given to us by the White House. We have the war spending, and then we have all the emergencies that came up during this year. Every year, this is something we always do.

We have to figure out a way to get through these in the next couple days. The House is going to act either tonight or tomorrow on an extenders bill—doing a lot of good things that our country and our economy needs very badly. We realize the efforts we have to undertake on the floor today, recognizing, of course, that we are not going to be dealing with all the issues I outlined, but we have important things to do this week. It will take the cooperation of both sides to get it done. I appreciate everybody's attention to the issues at hand but especially during this week.

I hope it is not necessary that we are going to be in session during the Memorial Day recess. There are a lot of issues we all have to take care of at home. When we go home, it is not a question of sitting around the pool, sipping cold drinks. We have a lot of work to do. The people we represent need to see us. Not everybody can come to Washington and meet with us. There are people out there whom we are fortunate to be able to meet with during the break. When we are stuck in Washington, many times they simply cannot afford to come here. We also have the Memorial Day observances that are important to everybody, including the families of those who have lost loved ones. I hope everyone recognizes we have to try to get a lot of things done in the next few days.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. BEGICH). The Republican leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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MEETING WITH THE PRESIDENT

Mr. MCCONNELL. Mr. President, I remind our Republican colleagues that the President will be meeting with us at noon. We look forward to seeing him. He is, of course, always welcome here. I am sure we will have a lively discussion.

HEALTH CARE

Mr. MCCONNELL. Mr. President, I wish to say a word about the administration's health care plan. Along with most Americans, the entire Republican conference opposed this legislation. We listened to the public and argued strenuously against its passage at every opportunity.

We also offered detailed reasons for our opposition, along with commonsense alternative reforms aimed at lowering the cost of health care without undermining the system we already have.

Since its passage, our arguments against the bill have been repeatedly vindicated, even as the administration's many promises about the bill have been called into question again and again. So Democrats may have passed this bill, but the debate is far from over. It is important that Americans know the ways in which the promises they heard aren't adding up.

The supporters of the bill said it would lower costs for families, taxpayers and small businesses and that the President would not support any plan that ''adds one dime to the deficit.''

As it turned out, Medicare's own experts say the bill will actually increase costs by more than $300 billion.

The pricetag Democrats used to sell the bill is dramatically lower than the revised estimates that are now coming in. Sometime in the next several days, Democrats in Congress plan to add tens of billions of dollars more in health care spending on top of that, which, if they had been honest about it, would have been included in the original bill.

Needless to say, all this extra spending is money we don't have, and it goes straight to the deficit.

Take all this together, and it is no wonder that an overwhelming majority of Americans continue to oppose this new law.

Tomorrow, Senator BARRASSO will be on the floor offering what he calls a second opinion on the bill. This is an important effort that I think deserves and will continue to receive considerable attention. Dr. BARRASSO is holding the supporters of the bill accountable for the assurances they gave the American people, who deserve to know the real effects and the real impact of this bill.

Related to all this, of course, are the methods the administration and its allies in Congress used to pass the bill. The cornhusker kickback may be a household phrase, but it is just one of the questionable methods that were used to force it through against the will of the public.

Another method was the stifling of critics, as was done by the Department of Health and Human Services.

I have spoken out repeatedly on the gag order HHS issued against private companies for doing nothing more than informing seniors about provisions of the bill that could affect their benefits.

Well, now you can add another layer of outrage to that unfortunate chapter in this debate because, just yesterday, I came across a recent flyer from the Department of Health and Human Services, which I am holding up, that does the very thing the administration didn't want private companies to do. They sent out a gag order against private companies saying you cannot express yourself about how this law would affect your beneficiaries. Now the government, at taxpayer's expense, is sending out—with our tax money—exactly the same thing to seniors that they would not let a private company do.

This flyer purports to inform seniors about what the health care bill would mean for them. Much of it directly contradicts what the administration's own experts have said about the law. This flyer—printed at taxpayers' expense and distributed to seniors—contradicts what the administration's own experts are saying about the health care bill. All this, as I said earlier, is bought and paid for by the American taxpayer.

This is a complete outrage. It is an absolute outrage. It is precisely the kind of thing that Americans are so angry about at the moment.

Here is the Federal Government telling a private business it can't communicate with its clients about important legislation and then doing the very same thing itself, paid for with our tax money.

The administration's own Actuary at the Centers for Medicare and Medicaid Services says seniors who use Medicare Advantage will lose benefits as a result of this bill. Yet the flyer they are putting out says absolutely nothing about that. Instead, it implies that nothing will change for seniors.

But perhaps most egregious is the claim that a bill which cuts Medicare by $½ trillion will actually ''preserve and strengthen'' Medicare. What nonsense.

This is nothing short of government propaganda, paid for by the taxpayer. I am sure Dr. BARRASSO will have more to say about this in the weeks ahead.

I commend to my colleagues a brochure that was put out by the Centers for Medicare and Medicaid Services and the message therein by the Secretary of Health and Human Services, Kathleen Sebelius—''Medicare and the New Health Care Law—What it Means for You.''

SUPPLEMENTAL APPROPRIATIONS

Mr. MCCONNELL. Mr. President, yesterday, the Senate began consideration of the supplemental spending bill to fund the surge of forces into Afghanistan and our ongoing efforts in Iraq.

President Karzai was recently here to talk about the situation in Afghanistan, and during that same week General McChrystal briefed the Armed Services Committee on the conduct of the overall campaign.

One message that came through from both visits is that the surge in Afghanistan is not yet complete and the counterinsurgency strategy General McChrystal has developed is still in its early stages. So it is impossible to overstate the importance of supporting our troops in the field.

In the coming year, the resolve of NATO forces in Afghanistan will be tested by the Taliban fighters. The Taliban leadership in Pakistan will be watching with interest to see if this Congress and our country stand firmly behind the counterinsurgency strategy and so will our Pakistani partners, elected governments in European capitals, and average citizens in Afghanistan.

Low-level Taliban fighters in Afghanistan will ultimately have to decide whether to side with a government that has yet to earn their trust or Taliban leaders. They will be watching our efforts as they weigh whether to side with the Taliban leaders or their current government in this fight. This is why we must keep up the pressure.

The stakes are as high as ever. We have seen that in recent weeks as the Pakistani Taliban has attempted to strike us here at home and as the Afghan Taliban has launched high visibility strikes at military installations in Kandahar and at Bagram. Afghan leaders who attend the coming peace talks will be waiting to see if the United States can be trusted to stay long enough to fulfill our promises of helping the security forces of Afghanistan become operationally effective.

American forces have brought great pressure on the Taliban in Afghanistan. That must continue if General McChrystal's strategy is to succeed. We must work together to help him ensure that the Taliban do not return to power in Afghanistan and that Afghanistan does not again become a sanctuary for terrorists.

In short, we must pass this bill with bipartisan support and resist the urge to slow it down or to use it as a mere vehicle for deficit spending on pet domestic projects that will only bog us down in a partisan fight.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4899, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid amendment No. 4174, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

Sessions/McCaskill amendment No. 4173, to establish 3-year discretionary spending caps.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have conferred with the distinguished chairman of the Appropriations Committee, Senator INOUYE. There is no objection that I ask unanimous consent to continue for a few minutes as in morning business. I make such a request.

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

ENDING DISCRIMINATION

Mr. LEAHY. Mr. President, I support congressional action to move past the policies that discriminated on the basis of sexual orientation against men and women serving and wanting to serve in our Nation's military.

I commend Admiral Mullen, the Chairman of the Joint Chiefs of Staff, Defense Secretary Gates, and the President for their leadership on this important issue. America is defended by the finest military in the world. There should be no place in America, including in our military, for discrimination.

While the country and Congress work to move the country forward and open the doors of opportunity to all Americans, some still choose to sow division and partisan conflict. How ironic that the policy of nondiscrimination that Elena Kagan sought to encourage while serving as the Dean of Harvard Law School is poised to become the law of the land, while those who oppose her nomination continue to distort her lawful actions to ensure that the school followed its nondiscrimination policy.

I support the reversal of the don't ask, don't tell policy. I hope all Senators will.

Two weeks ago, President Obama nominated Elena Kagan to succeed Justice John Paul Stevens as Associate Justice of the Supreme Court of the United States. Much has been written and said about this nomination during the last 2 weeks and more will be said over the next month, as we prepare for the Judiciary Committee's hearing, which will begin on June 28. So far, there has been far too much talk about the process and too much partisanship surrounding this important matter. Among the most serious constitutional duties entrusted to the Senate is the confirmation of Supreme Court Justices. So let us refocus on the qualifications of this extraordinary nominee, remembering that a Supreme Court Justice is there not to serve a Republican or a Democratic administration but all 300 million Americans.

When the President announced his choice back on May 10, he talked about Solicitor General Kagan's legal mind, her intellect, her record of achievement, her temperament, her fairmindedness. No one can question the intelligence or the achievements of this woman. She is at the top of the legal profession. She is no stranger to breaking glass ceilings. She was the first woman to be dean of the prestigious Harvard Law School. It was from Harvard Law School that she earned her law degree magna cum laude. Previously, she earned a degree from Oxford University and graduated summa cum laude from Princeton University. She clerked for two leading judicial figures—Judge Abner Mikva on the Court of Appeals for the District of Columbia Circuit and then on the Supreme Court for one of the most extraordinary lawyers and judges in American history, Justice Thurgood Marshall.

As an advocate, Thurgood Marshall helped change America for the better by bringing cases that challenged racial discrimination. He won an extraordinary 29 of the 32 cases he argued before the Court, one of the most outstanding records of advocacy before the Court, including the landmark case of Brown v. Board of Education which helped bring an end to racial segregation in education in America, a blot on our country that was finally removed by that case.

Despite his obvious legal qualifications, when Thurgood Marshall was nominated to the Second Circuit Court of Appeals by President Kennedy in 1961, his nomination was stalled by opponents in the Senate before he was eventually confirmed by a bipartisan vote of 54 to 16. He gave up that lifetime appointment when called upon by President Johnson to serve as Solicitor General of the United States, the top legal advocate for the United States. Now, 40 years later, it is Elena Kagan who is serving as the Solicitor General of the United States, the first woman in America's history to serve as Solicitor General.

Two score and 3 years ago, President Johnson nominated Thurgood Marshall to be the first African American to serve on the U.S. Supreme Court. President Johnson said that it was ''the right thing to do, the right time to do it, the right man and the right place.'' President Johnson was right, and that nomination helped move the country forward. The nomination was confirmed by a bipartisan Senate vote of 69–11.

The American people have now elected our first African-American President, a leader who is committed to the Constitution and rule of law. With his first selection to the Supreme Court, he named Justice Sonia Sotomayor, the first Hispanic to serve on the high Court. She was confirmed last year and has been a welcome addition to the Supreme Court. Now he has nominated only the fourth woman in the Court's history, a nominee who when confirmed will bring the Court to a new high water mark of three women serving as Justices. Yet Senate Republicans seem to want to shift the standard from when the Senate was considering President Bush's nominees to the Supreme Court—John Roberts and Samuel Alito—and to apply a new standard to President Obama's nomination of Elena Kagan.

I have long urged Presidents from both political parties to look outside what I have called the judicial monastery and not to feel restricted to considering only Federal appellate judges as potential Supreme Court nominees. When confirmed, Elena Kagan will be the only member of the Supreme Court who did not serve as a Federal appeals court judge. When confirmed, she will be the first nonsitting Federal judge to be confirmed to the Supreme Court in almost 30 years, since the appointment of Justice Sandra Day O'Connor.

When the President introduced Elena Kagan to the country, I was interested in him talking about learning from Justice Marshall that ''behind law, there are stories—stories of people's lives as shaped by the law, stories of people's lives as might be changed by the law.'' The President said that her understanding of law is not merely intellectual or ideological but how it affects the lives of people.

We heard Solicitor General Kagan earlier this month talk about the importance of upholding the rule of law and enabling all Americans to get a fair hearing. She said, ''law matters; because it keeps us safe, because it protects our most fundamental . . . freedoms; and because it is the foundation of our democracy.'' Like her, I believe law matters and matters in people's lives. The Constitution is our protection.

Since her nomination, Solicitor General Kagan has met with dozens of Senators. I understand she will conclude her meetings with the Senators serving on the Judiciary Committee in the coming weeks. We have each had a chance to meet with her, speak with her, ask her questions, and learn more about her. At our Judiciary Committee hearing next month, the American people will have the chance to see her, hear her, and get to know her.

Fourteen months ago, the Senate considered Elena Kagan's impressive legal credentials when we confirmed her in a bipartisan vote to be the Solicitor General of the United States, the Nation's top lawyer. The person filling that vital post is informally referred to as the ''tenth Justice,'' because the Solicitor General works so closely on significant cases before the Supreme Court. Solicitor General Kagan has

now argued a broad range of issues, including her successful defense of Congress's ability to protect children from pedophiles.

With this nomination, Elena Kagan follows in the footsteps of her mentor, Thurgood Marshall, who also was nominated to the Supreme Court from the position of Solicitor General. She broke the glass ceiling when she was appointed as the first woman to serve as Solicitor General, as she did when she was named the first woman to serve as dean of the Harvard Law School. They are historic accomplishments. In fact, as dean, Elena Kagan worked well with all ideological components of the faculty at Harvard. She took action to bring more conservative viewpoints to the institution and encouraged civil discourse. Those are skills that will be useful in what often appears to be a sharply divided Supreme Court.

Having counseled the President to look outside the judicial monastery, a recommendation I have made to every President since I have been here, beginning with President Ford, I was struck that the first wave of attacks by Senate Republicans to this nomination was that she lacked judicial experience. These attacks ignored Senate Republicans' own recent statements praising President Bush's nomination of Harriet Miers for being someone who had not served a judge, calling her a ''wonderful choice'' who would ''fill very important gaps in the Supreme Court.'' Now that a Democratic President is nominating, they reverse themselves to contend that lack of judicial experience is a matter for ''concern,'' is ''troubling,'' and a matter that ''warrants great scrutiny.'' Ralph Waldo Emerson once said that a foolish consistency is the hobgoblin of little minds. They are not suffering hobgoblins, but the Senate Republicans are moving the goalposts, and shifting the standard from when the Senate considered the Roberts and Alito nominations. Republicans should not apply a double standard to the nomination of this qualified woman.

Of course this Republican criticism ignores another key fact: They are themselves responsible for her lack of judicial experience. President Clinton nominated her to the DC Circuit in 1999 and it was Senate Republicans who refused to consider her nomination. Had they done so she would have more than 10 years of judicial experience.

Republican Senate leadership staff was recently quoted as admitting that these early attacks on Solicitor General Kagan's experience were really just a ploy in what they view as a partisan game. '''The lack of experience isn't the put-away shot,' the aide said. 'It's the door we use to get into her record.''' This is from Roll Call, May 12, 2010. I wish Senate Republicans would not approach our constitutional responsibilities with respect to judicial confirmations as a partisan game.

This feigned criticism of her that somehow she is unqualified because she lacks judicial experience is ignorant of our history and constitutional government. It is very recently that the path to the Supreme Court has become so narrow. Indeed, nearly half of our Supreme Court Justices were nominated to the Court from a position other than a judgeship. Fifty-four of our 110 Supreme Court Justices were not serving as judges when nominated. Forty-one justices had no judicial experience at all. Let me mention a few of the distinguished Justices without prior judicial experience: Chief Justice John Marshall, Justice Louis Brandeis, Justice Felix Frankfurter, Justice Byron White, Justice Robert Jackson, and Justice William Rehnquist.

Chastened after having been reminded of their recent support for President Bush's nomination of Harriet Miers, who had not been a judge, Senate Republicans abandoned this poll-driven line of attack. They are now trying a different tack. They contend that the President should not be nominating someone who has served in the government or his administration.

Of course, Senate Republicans did not voice any such concern before the American people elected President Obama. The most obvious example is, again, that of President Bush's nomination of Harriet Miers. Senate Republicans did not object to Ms. Miers' nomination because she had served in the government or because she was serving as counsel to the President. They did not object that she was too close to the President and could not be independent. To the contrary, they objected and joined with extreme right-wing activists to force the President to withdraw that nomination because they feared they could not count on her enough. She did not pass their ideological litmus test. They could not be certain how she would vote and whether she would carry out their judicial agenda.

Nor did Senate Republicans express any concern when President Bush made other nominations to the Federal courts from his close advisers and team. Senate Republicans supported his nominations of Brett Kavanaugh, who was serving as his Cabinet Secretary, Jim Haynes, the loyal general counsel of the Defense Department, and Jay Bybee from his Office of Legal Counsel. The issue I raised in connection with the nomination of Alberto Gonzales to be Attorney General was his unfettered loyalty to President Bush and his lack of independence. No Republican joined in my concern then, but most soon after had to acknowledge that many of us had been right when we investigated White House influence in the firing of U.S. attorneys for political reasons. I hope that Senate Republicans will not apply a new standard to Elena Kagan's nomination that was not applied when the Senate considered the nominations of those men.

Unlike these Republican critics, I have always championed judicial independence. I think it is important the judicial nominees understand that as judges they are not members of an administration, but they are judicial officers. They should not be political partisans but judges who uphold the Constitution and the rule of law for all Americans. That is what Justice Stevens did in Hamdan, which held the Bush administration's military tribunals unconstitutional, and tried to do in Citizens United, the Supreme Court's recent narrow decision in which five Justices opened the door for massive corporate spending on elections. That is why the Supreme Court's intervention in the 2000 presidential election in Bush v. Gore was so jarring and wrong.

I welcome questions to the Solicitor General about judicial independence. But let us be fair. Let us listen to her answers. Let us set this overheated rhetoric aside. Let us be fair to Solicitor General Kagan, fair to her distinguished record. There is no basis to question her integrity, no reason to presume she would not be independent.

Thurgood Marshall was the Solicitor General of the United States when President Johnson nominated him to the Supreme Court. Does anyone think Justice Marshall lacked independence? Earl Warren had been designated to be Solicitor General when President Eisenhower nominated him to be Chief Justice. Does anyone contend that Chief Justice Warren lacked independence? Robert Jackson was serving as Attorney General when President Franklin Roosevelt nominated him. Does anyone contend that Justice Jackson lacked independence? Justice Byron White was serving as the Deputy Attorney General when President Kennedy nominated him. Does anyone contend that Justice White lacked independence? And, of course, John Marshall was serving as Secretary of State when President Adams nominated him to be Chief Justice. Does anyone contend that Chief Justice Marshall, the person who established the principal of judicial review, lacked independence? Chief Justice Roberts, Justice Alito and Justice Scalia all had significant experience working in the Justice Department but no Republican questioned their independence. In fact, Solicitor General Kagan is the 19th Supreme Court nominee to be named directly from a significant executive branch position.

Before someone questions the independence of this nominee, they should have a basis. I know of none. No one should presume that this intelligent woman who has excelled during every part of her varied and distinguished career lacks independence. I know of no basis for such contention.

I look forward to the beginning of the Judiciary Committee hearings. I was amazed, flabbergasted to hear concerns about the schedule I set for her nomination. I tried to set the same schedule as that I agreed on for Justice Roberts during the Bush administration and

Justice Sotomayor during the Obama administration.

I have to admit, I did not hit it exactly. We are taking a day longer to begin hearings for Elena Kagan than for John Roberts or Sonia Sotomayor. To do it exactly on the same day, we would have to start on a Sunday, and I did not think that would be fair. So we are adding a day, and we are starting on a Monday.

I only note that when a Republican President nominated a man to the Supreme Court, the schedule was fine. When a Democratic President nominated women to the Supreme Court with exactly the same schedule, suddenly it is not a fair schedule. Maybe I am old fashioned. Maybe I am influenced by my wife, my daughter, my three granddaughters. But I think the rules ought to be the same for men and for women. That is why her schedule is the same.

Let us stop the crocodile tears on the other side about schedules. They did not complain when it was a Republican man being nominated with that schedule. Do not complain when a Democratic President nominates a woman and it is the same schedule.

I look forward to these hearings. That is when Solicitor General Kagan will finally be given the opportunity to answer questions and will, based on all I know about her, give the American people and open-minded Senators confidence in her legal knowledge and abilities. I expect that after reviewing her record and hearing from her during the Judiciary Committee's hearing, Senators on both sides of the aisle and the American people will conclude that the President has nominated an outstanding future Justice.

Mr. LEAHY. Mr. President, I appreciate the never-ending courtesy of the Senator from Hawaii to a more junior Senator.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Sessions amendment is the pending question on the Supplemental Appropriations Act.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4173

Mr. INOUYE. Mr. President, this will be the fourth time this year the Senate has faced an amendment from the Senator from Alabama which seeks to constrain discretionary spending. Each one of the amendments has been similar.

The Senator from Alabama uses last year's budget resolution as his starting point. He argues that since Congress agreed to this level last year that we should stick with it.

His goal is to mandate that the Congress hold the line on discretionary spending at these levels.

I would remind my colleagues that the Budget Committee had the ability to make these caps binding when they passed this resolution last year, but they chose not to.

Instead they put these notional targets in the resolution.

However, since the last time the Senate defeated the amendment, one important change has occurred. The Budget Committee has now reviewed the President's budget request for fiscal year 2011 and has marked up a new budget resolution. They have changed their recommendation.

Since the committee has determined the levels that it believes should be adhered to, I am not sure what benefit the Senate would have in agreeing to the notional targets in last year's resolution.

Moreover, like the last three times, there simply is no justification for the rest of the amendment.

We all understand that discretionary spending is likely to be frozen this year as the President has proposed. Our Budget Committee recommends it be cut by an additional $4 billion.

This proposal goes way beyond what the President or the Senate Budget Committee recommends.

The President has proposed a modified spending freeze which caps non-security related spending.

The president's proposal allows growth in Homeland Security; this amendment does not assume growth.

The President has requested more than $732 billion in his budget for national defense for fiscal year 2011, including the cost of war. This amendment only allocates $614 billion.

While the proponents of this amendment note that it waives the $50 billion war allowance, why does the amendment not support the full request? Some interpret the provision to mean if we want to support our men and women deployed overseas we would need to get 60 votes.

Does the Senate really want national defense to be hostage to a 60-vote threshold?

This is not the same as President Obama's plan.

Over the three years in the Sessions amendment, the caps he would put into place are $141 billion below President Obama's 3-year plan, $50 billion below defense and $91 billion below non-defense spending. Moreover, this is not the Budget Committee's plan.

The Sessions amendment is $82 billion below the budget resolution which the committee adopted—including a cut of $50 billion from Defense over 3 years.

There can be no argument about this point.

The level in the Sessions amendment will require the Appropriations Committee to cut defense spending in fiscal year 2011 by $9.5 billion and nondefense spending by about $11 billion.

If you vote for this measure while seeking program increases this year, you can forget about such increases. Instead, in a budget that already freezes nondefense spending, we will cut another $20 billion.

If we adopt the Sessions caps we will not be able to fund the priorities of our colleagues, and we will have to gut the President's agenda for discretionary spending, including education, green jobs, and homeland security.

As I have said now several times before, the critical flaw in this amendment is it fails to do anything serious about deficits. It fails to address the two principal reasons why our fiscal house is out of balance.

It is a fact that the growth in the debt has resulted primarily from unchecked mandatory spending and massive tax cuts for the rich. This amendment fails to respond to either of those two problems. In short, this amendment is shooting at the wrong target.

Moreover, this amendment also wants to raise the threshold on discretionary spending increases to a 67-vote approval, allowing one-third of the Senate to dictate to the majority.

We already have a threshold of 60 votes required to increase discretionary spending above the budget resolution.

I, for one, cannot believe the Senate wants to let a mere one-third of the Senate dictate to the other two-thirds whether there is a bona fide need for increased spending.

This is the wrong direction for this institution. Mandatory spending has increased substantially the last few years.

Tax cuts for the rich have constrained revenues, but neither tax cuts nor mandatory spending increases would be subject to the 67-vote threshold.

The Senator from Alabama says this approach worked to help balance the budget in the 1990s; Well, that is only partially correct, and here is the difference.

In the 1990s our budget summits produced agreements to cap discretionary spending, but they also decreased mandatory spending and increased revenues at the same time.

It was only by getting an agreement on all three areas of the budget at the same time that we were able to achieve a balanced budget.

Let's be clear. Many of our colleagues on the other side of the aisle are happy to put a cap on discretionary spending, but they do not want to put policies in place to make sure we have enough revenues to reduce the deficit.

Any honest budget analyst can tell you we will never achieve a balanced budget just by freezing discretionary spending. We could eliminate all discretionary spending increases for defense, other security spending, and nondefense spending and still not balance the budget.

Moreover, if we cut discretionary spending without reaching an agreement on mandatory spending and taxes, we will find it very hard to get those who do not want to address revenues to compromise.

I want to remind my colleagues that the deficit reduction commission is tasked with helping us get our financial house in order. They will look at both revenue and spending and find the right balance to restore fiscal discipline.

They will make their recommendations to the Congress, and the Majority Leader has committed to bringing the recommendations of that Commission to the Senate for a vote.

Rather than rushing to address only one small portion of the issue, the Senate should await the judgment of the Deficit Reduction Commission, which will cover all aspects of the problem.

As chairman of the Appropriations Committee, I agree that everyone should tighten their belts.

The problem with this amendment is that all the tightening will be done on a small portion of spending, while revenues and mandatory spending will still be unchecked.

The Senate has already rejected this flawed plan three times this year. This amendment has not gotten any better in the intervening period.

However, we know that it is not only out of step with the administration, but it is also out of step with our Budget Committee.

It is still shooting at the wrong target. It still fails to address the real causes of our deficits and national debt. It would provide far less funding than either the President or the Senate Budget Committee.

I urge my colleagues once again to vote no.

I yield the floor.

APPOINTMENT OF CONFEREES—H.R. 4173

The PRESIDING OFFICER. Pursuant to the order of May 20, 2010, the Chair appoints Mr. DODD, Mr. JOHNSON, Mr. REED, Mr. SCHUMER, Mr. SHELBY, Mr. CRAPO, Mr. CORKER, Mr. GREGG; from the Committee on Agriculture, Nutrition and Forestry, Mrs. LINCOLN, Mr. LEAHY, Mr. HARKIN, and Mr. CHAMBLISS, conferees on the part of the Senate.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. I ask unanimous consent that the order for the quorum call be rescinded.

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

START TREATY

Mr. FRANKEN. I rise today to speak about the New START treaty that President Obama and President Medvedev signed in Prague on April 8. In fulfilling the Senate's constitutional responsibility to offer our advice and consent on the treaty, we must give it our diligent and timely consideration.

I have previously spoken about the fundamental justification for the New START treaty. It serves our national security interests. What I want to address in this and succeeding statements are some of the more significant specifics of the treaty and the arguments we are likely to hear about them. Today, I am going to focus on the strength of the treaty's monitoring and verification regime, which is established in the treaty itself, given more detail in the Protocol, and even more detail in the annexes.

The verification regime in the New START treaty is extensive, elaborate, and appropriate to the treaty's central limits and today's world. Secretary Gates has testified that when we hear from the intelligence community, they will tell us they are confident they can monitor it. The verification regime speaks strongly for ratification, and sooner rather than later.

Ronald Reagan once said, ''Trust but verify.'' The verification regime established by the treaty is the means for ensuring that Russia is complying with the limits on strategic nuclear arms in the treaty: 800 deployed or nondeployed intercontinental ballistic missile launchers, submarine-launched ballistic missile launchers, and heavy bombers equipped for nuclear weapons.

Within that limit, each side can have 700 deployed ICBM missiles, SLBMs, which are, again, the submarine-launched ballistic missiles, and heavy bombers. We can each have 1,550 total warheads on the deployed delivery vehicles.

The original START treaty, which expired in December, was widely valued for its verification regime. It effectively ensured that military significant violations of the treaty would be detected in a timely way, and therefore be deterred.

It also gave us real insight into the Russians' strategic forces and helped to establish a relationship of greater trust, transparency, cooperation, and confidence between our two nations.

The verification regime established by the New START treaty is modeled on the original one, but it is updated because the central limits of the treaty are different and because we are in different times. Our relationship with Russia is different. We are less suspicious of Russian intentions and much less uncertain about Russian capabilities.

But the bottom line is the same: the verification regime under the new treaty will ensure compliance and sustain a more stable, transparent, and cooperative relationship with the world's other great nuclear power.

A very strong foundation for monitoring and verification of the treaty limits is established by the provision on the use of and non-interference with National Technical Means of Verification, such as satellites and remote sensing equipment. The provision in the New START is virtually identical to that of the original START Treaty. Without the new treaty, we lose a major obstacle to Russian interference with National Technical Means of Verification; without this check, they might attempt to conceal their forces.

The New START treaty also provides for extensive exchanges of data on the numbers, locations, and technical features of weapons systems and facilities—including telemetry on up to five ICBM and SLBM launches per year. The U.S. and Russia will have to share large amounts of information on treaty-limited items, which has to be updated regularly. In addition, the Russians will be obligated to provide us notifications on the movements and production of their long-range missiles and launchers.

For the first time, Russia and the U.S. will also record and share unique identifiers on all ICBMs, SLBMs, and heavy bombers covered by the treaty—not just mobile missiles, as in the original START treaty. These unique identifiers—in effect, serial numbers—will go a long way toward enabling us to track both deployed and nondeployed Russian missiles. They also serve as a deterrent against treaty violation.

All the information we will receive forms the basis for further verification through on-site, short-notice inspections at Russian operating bases, storage facilities, test ranges, and conversion and elimination facilities. The treaty provides for 18 inspections per year.

If the inspections don't match the information that has been shared, that is a violation of the treaty. For instance, if we were to find a deployed missile that had been identified by the Russians as nondeployed, that would be a violation. Thus, the inspections can serve as a deterrent against cheating, as well as providing yet another, continuously updated source of information on Russian forces.

Finally, the Bilateral Consultative Commission set up by the treaty is a forum for the two nations to raise and address issues of compliance as well as implementation.

There can be little question that without these extensive verification measures, we will be less safe. To be sure, thanks to the verification regime of the original START treaty, we have extensive knowledge of Russian nuclear forces, and that will not disappear. We know far more than we did in 1991. But that knowledge will degrade much faster and more completely without the successor treaty's verification regime. Without the new treaty's verification regime in place, a major source of strategic stability, transparency and communication with Russia would be lost.

Some critics, however, have suggested that there are monitoring gaps in the verification regime that call the New START treaty into question. Two

issues in particular have been raised: the limitation on telemetry, and the loss of portal and perimeter monitoring at the Votkinsk missile assembly facility in Russia. I want to say a little about each of these. Both criticisms are, in my mind, misguided, though for different reasons.

The criticism of the treaty's provisions on telemetry appears to neglect relevant differences between the New START treaty and the old START treaty. Telemetry is the information generated and transmitted during missile test flights. In the original START treaty, each side was prohibited from encrypting or otherwise denying access to its telemetry. The telemetric data helped us understand, for verification purposes, the capabilities of the missiles tested. The article-by-article analysis of the original START treaty singled out missiles' throw-weight and the number of reentry vehicles as central items telemetry helped verify.

The New START treaty allows for a more limited exchange of telemetry, on no more than five ICBM and SLBM launches each year. Critics have seized on this reduction. The limited telemetric exchanges under the new treaty are an important source of ongoing transparency and confidence-building between our two countries.

However, the simple fact is, as Secretary Gates and Admiral Mullen have both testified, we don't need telemetry to monitor compliance with this treaty. Unlike the original START, the new treaty has no limits on missile throw-weight. Hence, we don't need to verify compliance with such limits. We also don't need telemetry to help attribute a number of warheads to a missile type. The new treaty doesn't use such an attribution rule the way the old treaty did. Instead, we actually count the number of warheads on a missile. This is both more precise and eliminates a problem we had run into with the old treaty's rule, which forced us to overcount the number of warheads that are actually on our missiles.

The other alleged monitoring gap has to do with the loss of the perimeter-portal continuous monitoring system—or PPCMS—at Russia's Votkinsk missile production facility. That loss is unfortunate, but probably inevitable after our previous administration expressed to the Russians its intention to bring the monitoring at Votkinsk to an end.

However, thanks to our existing knowledge of Russian missiles and launchers, the verification measures in the treaty, and our National Technical Means, the treaty makes up for the loss of the Votkinsk portal monitoring. In particular, the new treaty requires the Russians to notify us 48 hours in advance of any missile leaving the Votkinsk facility, which allows us to cue our National Technical Means.

They also must notify us when the missile arrives for deployment or storage. In this way, we can in fact achieve birth-to-death insight into their missiles. The unique identifiers and inspection system will also deter cheating. Finally, the Russians are producing few enough missiles, and their existing ones are few enough in number, that it is hard to envision a realistic breakout scenario.

The loss of the Votkinsk portal monitoring is thus unfortunate, but compensated for by other provisions of the treaty. And if Members are concerned about the loss of Votkinsk, think about how much worse it would be if we didn't ratify the New START treaty—that is, the loss of all monitoring and verification measures and the treaty's central limits themselves.

To sum up, our negotiators got a very good deal on verification, and I commend them. There simply are not monitoring gaps opened up by the treaty. On the contrary, the verification regime established by the treaty is a significant reason to support it. It serves to ensure compliance with the central limits in the treaty. It also will pay off by boosting transparency and confidence in our relationship with Russia and sustaining our insight into Russian forces.

What would open up a significant monitoring gap over time would be the failure to bring this treaty into force. For the same reason, we should move without delay in our consideration of the treaty. The old treaty expired last December. The longer we go before we establish the new verification regime, the more our insight into Russian forces will degrade. We need to diligently consider all the materials the administration has furnished us. We also need to do it without unnecessary delay. There is no question we are better off with the verification regime under the new treaty than without it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I ask unanimous consent that the order for the quorum call be rescinded.

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

THE CALENDAR

Mr. WYDEN. I ask unanimous consent that the Senate proceed to the following postal naming bills en bloc: Calendar Nos. 380, 384 through 387, and 389 through 395, and 397; S. 2874, S. 3200, H.R. 3250, H.R. 3634, H.R. 3892, H.R. 4017, H.R. 4095, H.R. 4139, H.R. 4214, H.R. 4238, H.R. 4425, H.R. 4547, H.R. 4628.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. WYDEN. Mr. President, I ask unanimous consent that the bills be read the third time and passed en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and that any statements relating to the bills be printed in the RECORD.

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

ROY RONDENO, SR. POST OFFICE BUILDING

The bill (S. 2874) to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Roy Rondeno, Sr. Post Office Building,'' ordered to be engrossed for a third reading, was read the third time, as passed, as follows:

S. 2874

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

SECTION 1. ROY RONDENO, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, shall be known and designated as the ''Roy Rondeno, Sr. Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Roy Rondeno, Sr. Post Office Building''.

ZACHARY SMITH POST OFFICE BUILDING

The bill (S. 3200) to designate the facility of the United States Postal Service located at 23 Genesse Street in Hornell, New York, as the ''Zachary Smith Post Office Building,'' ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3200

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

SECTION 1. ZACHARY SMITH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, shall be known and designated as the ''Zachary Smith Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Zachary Smith Post Office Building''.

PRIVATE FIRST CLASS GARFIELD M. LANGHORN POST OFFICE BUILDING

The bill (H.R. 3250) to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the ''Private First Class Garfield M. Langhorn Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

GEORGE KELL POST OFFICE

The bill (H.R. 3634) to designate the facility of the United States Postal

Service located at 109 Main Street in Swifton, Arkansas, as the ''George Kell Post Office,'' was ordered to a third reading, was read the third time, and passed.

E.V. WILKINS POST OFFICE

The bill (H.R. 3892) to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the ''E.V. Wilkins Post Office,'' was ordered to a third reading, was read the third time, and passed.

ANN MARIE BLUTE POST OFFICE

The bill (H.R. 4017) to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the ''Ann Marie Blute Post Office,'' was ordered to a third reading, was read the third time, and passed.

CONGRESSWOMAN JAN MEYERS POST OFFICE BUILDING

The bill (H.R. 4095) to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the ''Congresswoman Jan Meyers Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

SERGEANT MATTHEW L. INGRAM POST OFFICE

The bill (H.R. 4139) to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the ''Sergeant Matthew L. Ingram Post Office,'' was ordered to a third reading, was read the third time, and passed.

ROY WILSON POST OFFICE

The bill (H.R. 4214) to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the ''Roy Wilson Post Office,'' was ordered to a third reading, was read the third time, and passed.

W.D. FARR POST OFFICE BUILDING

The bill (H.R. 4238) to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the ''W.D. Farr Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

MARTIN G. 'MARTY' MAHAR POST OFFICE

The bill (H.R. 4425) to designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the ''Martin G. 'Marty' Mahar Post Office,'' was ordered to a third reading, was read the third time, and passed.

CAPTAIN LUTHER H. SMITH, U.S. ARMY AIR FORCES POST OFFICE

The bill (H.R. 4547) to designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the ''Captain Luther H. Smith, U.S. Army Air Forces Post Office,'' was ordered to a third reading, was read the third time, and passed.

SERGEANT CHRISTOPHER R. HRBEK POST OFFICE BUILDING

The bill (H.R. 4628) to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the ''Sergeant Christopher R. Hrbek Post Office Building,'' was ordered to a third reading, was read the third time, and passed.

CLARENCE D. LUMPKIN POST OFFICE BUILDING

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 398, H.R. 4840.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 4840) to designate the facility of the United States Postal Service located at 1979 Cleveland Avenue in Columbus, Ohio, as the ''Clarence D. Lumpkin'' Post Office.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment and an amendment to the title.

[Strike the part shown in black brackets and insert the part printed in italic.]

H.R. 4840

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

SECTION 1. CLARENCE D. LUMPKIN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at [1979]*1981* Cleveland Avenue in Columbus, Ohio, shall be known and designated as the ''Clarence D. Lumpkin Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Clarence D. Lumpkin Post Office''.

Amend the title so as to read: ''An Act to designate the facility of the United States Postal Service located at 1981 Cleveland Avenue in Columbus, Ohio, as the 'Clarence D. Lumpkin Post Office'.''.

Mr. WYDEN. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to; the bill, as amended, be read the third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table with no intervening action or debate; and any statements relating to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The title amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 4840), as amended, was passed.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010—Continued

AMENDMENT NO. 4183

Mr. WYDEN. Mr. President, at this time I ask unanimous consent to set aside the pending amendment and call up amendment No. 4183, the Wyden-Grassley amendment to end secret holds in the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. GRASSLEY, proposes an amendment numbered 4183.

Mr. WYDEN. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

(Purpose: To establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter)

At the end of the amendment, insert the following:

SEC. ___. ELIMINATING SECRET SENATE HOLDS.

(a) IN GENERAL.—

(1) COVERED REQUEST.—This standing order shall apply to a notice of intent to object to the following covered requests:

(A) A unanimous consent request to proceed to a bill, resolution, joint resolution, concurrent resolution, conference report, or amendment between the Houses.

(B) A unanimous consent request to pass a bill or joint resolution or adopt a resolution, concurrent resolution, conference report, or the disposition of an amendment between the Houses.

(C) A unanimous consent request for disposition of a nomination.

(2) RECOGNITION OF NOTICE OF INTENT.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent to object to a covered request of a Senator who is a member of their caucus if the Senator—

(A) submits the notice of intent to object in writing to the appropriate leader and grants in the notice of intent to object permission for the leader or designee to object in the Senator's name; and

(B) not later than 2 session days after submitting the notice of intent to object to the appropriate leader, submits a copy of the notice of intent to object to the Congressional Record and to the Legislative Clerk for inclusion in the applicable calendar section described in subsection (b).

(3) FORM OF NOTICE.—To be recognized by the appropriate leader a Senator shall submit the following notice of intent to object:

''I, Senator _____, intend to object to _____, dated _____. I will submit a copy of this notice to the Legislative Clerk and the Congressional Record within 2 session days and I give my permission to the objecting Senator to object in my name.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date that the notice of intent to object is submitted.

(b) CALENDAR.—Upon receiving the submission under subsection (a)(2)(B), the Legislative Clerk shall add the information from the notice of intent to object to the applicable Calendar section entitled ''Notices of Intent to Object to Proceeding'' created by Public Law 110–81. Each section shall include the name of each Senator filing a notice under subsection (a)(2)(B), the measure or matter covered by the calendar to which the notice of intent to object relates, and the date the notice of intent to object was filed.

(c) REMOVAL.—A Senator may have a notice of intent to object relating to that Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

''I, Senator _____, do not object to _____, dated _____.'' The first blank shall be filled with the name of the Senator, the second blank shall be filled with the name of the covered request, the name of the measure or matter and, if applicable, the calendar number, and the third blank shall be filled with the date of the submission to the Congressional Record under this subsection.

(d) OBJECTING ON BEHALF OF A MEMBER.—If a Senator who has notified his or her leader of an intent to object to a covered request fails to submit a notice of intent to object under subsection (a)(2)(B) within 2 session days following an objection to a covered request by the leader or his or her designee on that Senator's behalf, the Legislative Clerk shall list the Senator who made the objection to the covered request in the applicable ''Notice of Intent to Object to Proceeding'' calendar section.

Mr. WYDEN. Mr. President, this is the fourth time in under 2 weeks that Senator GRASSLEY and I, with a large bipartisan coalition of Senators in the Senate—a coalition that spans the philosophical spectrum of membership in the Senate—has sought to pass this legislation to finally end the stranglehold of secret holds.

The American people want accountability from their elected officials, but there is simply no accountability when the Senate operates in secret. The fact is, this has gone on for years and years, and it has been done on a bipartisan basis. Right now there are scores of qualified nominees for important positions in the administration and the Federal courts who can't get a vote on the Senate floor—and it has also taken place on a bipartisan basis for years and years—as Senator GRASSLEY and I have tried to make the point over this decade that we have been attacking secrecy in the Senate and that this has gone on in a bipartisan fashion.

The fact is a secret hold is one of the most powerful tools a Member of the Senate has today. I would be the first to grant that the American people have no idea what secret holds are. The fact is a secret hold can effectively kill a nomination or piece of legislation, and it can be done without anyone—colleagues in the Senate or the public—knowing who did it or why.

One of the points I also wish to make—and it hasn't been explored in the discussion of secret holds—is a secret hold is a very powerful weapon that is also available to lobbyists. My guess is practically every Senator has gotten a request from a lobbyist asking if the Senator would put a secret hold on a bill or a nomination in order to kill it without getting any public debate and without the lobbyist's fingerprints appearing anywhere. In fact, if you can get a Senator to put an anonymous hold on a bill, it is almost like hitting the lobbyist jackpot. Not only is the Senator protected by a cloak of anonymity but so is the lobbyist. A secret hold can let lobbyists also play both sides of the street and can give lobbyists a victory for their clients without alienating potential future clients. Given the number of instances where I have heard of a lobbyist asking for secret holds, I am of the view that secret holds are a stealth extension of the lobbying world in Washington, DC.

In the Senate there has been an effort to improve the rules and have stricter ethics requirements with respect to lobbyists. It is something of an irony if the Senate—which it has in the past—adopts a variety of changes to curtail lobbying without doing away with what, in my view, is one of the most powerful tools that is available to lobbyists, and that is the secret hold. So what Senator GRASSLEY and I have been working on over the past decade—and with this bipartisan coalition we have been able to assemble in the Senate—is the desire, once and for all, to permanently eliminate the use of secret holds.

I also believe that given the Wall Street reform bill that was just passed in the Senate to bring greater openness and accountability to financial institutions, it seems to me for the Senate to be telling Wall Street it has to operate in a more transparent, open way, this is a pretty darn good time for the Senate to reform the way the Senate does its business. If we are going to set about the task of telling folks on Wall Street to be more open and more accountable, certainly the rules in the Senate ought to be changed to abolish the secret hold.

Under current Senate rules, it is still possible for Senators to use a secret hold to block legislation or a nomination from coming to the floor without having to give any reason. There is no openness or accountability to anybody when a Senator places a secret hold. My view is the Senate shouldn't have a double standard where we are passing laws and rules to require greater openness and accountability of others, and particularly American institutions such as Wall Street, while tolerating a practice that keeps both the public and colleagues in the Senate in the dark without accountability to anyone.

Under the proposal Senator GRASSLEY and I have sought to pass—and I see my good friend from Iowa here, and I noted that this is our fourth such effort in about 2 weeks to finally bring some sunlight to the way the Senate does business—under our proposal, somebody—a Senator—is going to have to own a hold publicly within 2 days. That is a key change because we have looked at the Executive Calendar, we have looked at all of the places where we might see someone actually publicly own up to having a hold, and Senator GRASSLEY and I haven't seen that kind of transparency and accountability.

So under our proposal which we are seeking to pass this morning, every hold—every hold—is going to have to have a public owner within 2 days.

Let me give an example of how this would work. Let's say a Senator objects to bringing up a nomination on behalf of a colleague. If the Senator behind the hold who, in effect, is kind of the culprit in all of this secrecy doesn't go public by putting a notice in the CONGRESSIONAL RECORD within 2 days, then the Senator who objected on the floor on behalf of this culprit is going to be listed in the Executive Calendar as having placed the hold. The Senator who is in effect covering up for the colleague will get the blame if the real culprit—the real Senator who is trying to protect secrecy—would not come clean.

So, in effect, what Senator GRASSLEY and I are seeking to do is put public pressure and peer pressure to get Senators to reveal their hold. If Senators keep objecting to legislation or nominations on behalf of other colleagues, pretty soon that Senator can get identified as responsible for dozens of holds. We think—Senator GRASSLEY and I and Senators INHOFE, COLLINS, UDALL, BENNET and MERKLEY, a big group that is involved in this on a bipartisan basis—with this approach we are going to create public pressure because nobody here in the Senate is going to want to go down in history as being ''Senator hold.''

In my view, it will also create peer pressure on Senators to come clean about their holds. Let's say Senator GRASSLEY is on the floor or I am on the floor when a unanimous consent is made and one of us has to object on behalf of a colleague. We will go tell that colleague that he or she better come clean because we are not interested in having our names put on the Executive Calendar as the one who is supporting this secret hold.

I also believe the Grassley-Wyden approach cures other problems with the current holds policy by shortening the time period before a hold must be made public from the current 6 session days to 2 days. Our view is that 2 days is plenty of time for a Senator to determine whether to continue objecting

and make the objection public or to withdraw the objection.

Our bipartisan proposal also includes reforms that make it harder for Senators to place revolving holds on a nomination or bill. Senator GRASSLEY and I have seen this problem, over this decade we have been involved in this. Senator GRASSLEY mentioned the fact that we have always said this is being done in a bipartisan way that there is a very serious problem of revolving holds, where in effect a hold is passed on to another Member of the Senate. First, we eliminate the ability of a Senator to lift a hold before the current 6-day period expires and never has to disclose it. Under our proposal, if a Senator places a hold—even for 1 day, even for just a minute—that hold would have to be disclosed. Second, by shortening the time period, it will be even more difficult to keep finding new Senators to place new holds every 48 hours.

I want to close by expressing my appreciation to Senator GRASSLEY, Senators INHOFE, COLLINS, and others on the other side who have worked for this badly needed reform, to bring sunshine to the Senate. Senator GRASSLEY and I have put more than a decade into this effort.

I also thank my colleagues on this side of the aisle, particularly Senators BENNET, UDALL, and MCCASKILL, who have brought a tremendous amount of new energy and passion to this cause.

Finally, after all this time, let us eliminate secret holds. Let's require public disclosure of all holds and ensure that there will be consequences if the Senator fails to disclose secret holds. I ask for our colleagues' support. It is a bipartisan effort that Senator GRASSLEY and I have pursued for many years to bring greater transparency and accountability to the Senate by eliminating secret holds once and for all.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank my colleague from Oregon for keeping up the fight. We have been at it for a long period of time. There has been a dry spell recently when this has not been a major issue. So we didn't feel, when there wasn't an interest in getting rid of secrecy within the Senate, like bringing this up. But now there is all this concern about what is going on with so many holds in the Senate—either bills or nominations—and that it is influencing the productivity of the Senate.

There has been a lot of discussion on the floor of the Senate about this issue, so the opportunity is ripe once again. This is the fourth or fifth time in the last couple weeks we have been at it. I thank my colleague from Oregon for keeping up the fight. I am glad to work with him as a Republican, and a lot of other Republicans who support this effort of making the public's business more public, the Senate's business more public.

Senator WYDEN went into the details of the legislation, so I am not going to repeat that. But I want people to know that, from my side of the aisle, he has given an accurate representation, through his explanation, of the intent of our amendment. Without repeating that, I have made it a practice for a long period of time—I don't know, it has been 10 or 12 years—that when I put a hold on a bill or put a hold on a nomination, I have put a statement in the public record so that they know the Senator from Iowa has done this and my reason for doing it.

I want to tell my colleagues who think we ought to maintain the adjective before the word ''hold,'' it hasn't done any harm to me. There has been no retribution because of it. It has given people on a different side of the fence on the issue that I am—with my having a hold on—the opportunity to know it is me, and they can come to me for whatever reasons they want, and see whatever arrangements we can make, or whatever compromises were necessary to move things along; and they knew it was this Senator from Iowa and my rationale behind it. It gives us an opportunity to work out differences. That is what the Senate, being a deliberative body, is all about.

On the other hand, when this Senator from Iowa finds that somebody puts a hold on a nominee or a bill I have an interest in, and it is secret, then this Senator can't go to the other Senator and say, what is the problem? What can we do to work out our differences? Then that impedes the deliberative work of the Senate.

We feel there is nothing wrong with the process of a hold, except for the adjective ''secret,'' which can legitimately be put in front of the word ''hold.'' We want to preserve the deliberative aspect of the Senate. We don't want anybody to pull a quick one on anybody. The hold prevents that from happening. But we ought to know who you are and why you are doing it.

This legislation the Senator from Oregon and I have put forth will do exactly that. It is all about transparency and, with transparency, I think you get accountability. That is what representative government is all about—accountability. The public ought to have a right to know where Senators take a stand. This legislation will permit that.

In the final analysis, if you are a Senator who has guts enough to put a hold on a bill, you ought to have guts enough to let us know who you are. I hope that from now on the word ''secret'' is never anything that is used in the Senate except on things dealing with privacy or national security. Beyond that, the other 99.5 percent of the Senate's business ought to be totally open to the public.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I commend my colleagues Senators GRASSLEY and WYDEN for wanting to solve a problem. I appreciate them being willing to put some solutions forth.

I think it is important that we talk about the bigger picture when we talk about secret holds. I want to make it clear that I am not interested in holding anything in secret. As a matter of fact, whenever we do it as part of Steering, we let the cloakroom know we are holding a bill.

I think it is important that America knows what we are talking about here. At this point in the Senate, 94 percent of all of the bills are passed by unanimous consent. So this is hardly a lack of productivity. What this means is that 94 percent of the bills that pass the Senate have no debate, no vote, no amendments, no reading of the bill, no online disclosure and, very often, no score from the Congressional Budget Office.

When I first took over the Steering Committee, one of the things I learned quickly is that whenever we are having a break—if we are going for a week, such as we are after this week—on my way to the airport I would get a call from staff telling me there were dozens of requests to pass bills by unanimous consent. They knew we were going out of town. A lot of them had pretty big pricetags on them. You don't get $13 trillion in debt when you are doing things right. Part of the problem is that 94 percent of the bills that pass the Senate pass in secret. The problem is not secret holds; it is the secret passing of bills, when often we don't even know who is requesting passage. If we didn't have staff available at night when they run their so-called hotlines—which means the phone in your office rings and they ask if you will agree to pass a bill, and you have not read it and you don't know what it costs, but if you don't agree to pass it by unanimous consent, you are holding the bill.

If you ask to read it for a day or so, it is likely that some association is getting e-mails from either the Republican or Democrat side saying that Senator DEMINT is holding this desperately needed piece of legislation, which nobody else has read.

I would be glad to work with my colleagues on dealing with this issue if they believe secret holds are a problem. I think that passing 94 percent of the bills without anybody reading them or knowing they are being passed is not a good way to do business. I think it is fair to have some system where, first, you cannot secretly ask for a bill to be passed by unanimous consent. That is what goes on today.

We should look at the Coburn-McCaskill measure where, if you want something passed by unanimous consent in the dark of night, you have to put it on the Internet for at least 3 days, with a cost from the Congressional Budget Office, so that we know what we are getting into.

Again, I remind you that we don't have a problem in Washington of not

passing enough bills or spending enough money. The problem we have is we are passing bills that we don't even read that have pricetags that are running our country into a crushing debt. Again, I want to work with my colleagues. But if you are opposed to secret holds, which are really not a problem—and I am not aware of one where we don't know who is holding it. I have a problem with people asking that bills be passed in secret, and that 94 percent of the bills in this place get passed that way.

There are a lot of pressing issues we face as a country, but one of them is not secret holds. If we want to spend floor time debating it, I want to be involved with that debate. We have no problem here with things that are being slowed down. The problem we have is that every week—like this week—we are adding to our spending and borrowing more money as a country, increasing our national debt, and we are expanding the Federal Government. This is not something we need to speed up. We need Members of the Senate to read bills. We don't need to be talking about holding a bill when someone innocently asks to read a bill and to let you know tomorrow.

Let's work on this. If you want bills to go through quickly, let's get rid of the secret passing of bills that have never been on the Internet or seen the light of day. This is something where I know my colleagues are well intended, but the real problem is the secret bills and Members secretly asking to pass them. I will be glad to let you know I am holding them.

Mr. WYDEN. Will the Senator yield for a question, without losing his right to the floor?

Mr. DEMINT. I will in a moment.

I will ask this: Could we include in your legislation the idea that whenever somebody wants to pass a bill by unanimous consent, they have to come to the floor and say: I, Senator JIM DEMINT, want to pass this bill, a bill I have not read, which has not been online for 3 days, which has no score from the CBO, and I desire to pass this bill with no debate and no rollcall vote? If we would do that as individuals, I will be glad to give up my right to any secret hold.

I will yield to the Senator.

Mr. WYDEN. Mr. President, I think the Senator and I are making some progress because I was about to pose almost the same question to my colleague.

I believe the Senator from South Carolina is talking about the Coburn-McCaskill proposal To make sure Senators have actually read legislation. I have already indicated to Senators COBURN and MCCASKILL that I am interested in being a cosponsor of this legislation. I think it is a constructive idea.

In effect, we are asking each other the same questions. I think the measure the Senator from South Carolina is talking about, the Coburn-McCaskill measure, is an important one. I have indicated I will be a cosponsor.

By way of saving some time, would my colleague be willing now to let Senator GRASSLEY and me advance our proposal to eliminate secret holds today, given the fact that we have gotten more than a decade's worth of work, now that I have publicly acknowledged that I think the point the Senator from South Carolina has made, which is very much in line with the Coburn-McCaskill measure, is a valid one? My hope would be that, after putting more than a decade into this effort, the Senator from South Carolina would let us finally get a vote on this bipartisan effort to eliminate secret holds, with this public acknowledgment, at least on my part, that I think the Senator's point is valid with respect to Senators reading bills and I intend to be a cosponsor of the Coburn-McCaskill legislation.

Mr. DEMINT. Mr. President, I thank the Senator for being willing to work with colleagues. It is unfortunate that he has spent a decade on this bill and missed the main point. The main problem is secret bills, not secret holds. But if the Senator is willing to modify his amendment with the Coburn-McCaskill language and if it includes revealing who is trying to pass the bill, along with putting it online with a Congressional Budget Office score, I will be glad to support the Senator's efforts for this amendment. But I will not support the adoption of his amendment a la carte without the language being modified to include the Coburn-McCaskill language and the revealing of whoever is asking that bill be passed.

Again, I will enjoy working with my colleagues if this is important to them to get this amendment adopted. Again, I think there are certainly more pressing issues, but I am not interested in holding anything secretly. If the Senator will work with us on modifying his language, I think we can get this adopted and maybe even by unanimous consent.

Mr. WYDEN. Mr. President, will the Senator yield again without giving up his right to the floor?

Mr. DEMINT. Yes, I will.

Mr. WYDEN. My understanding from the sponsors—Senators COBURN and MCCASKILL is they are not yet ready. In other words, we have been talking with them. I have already indicated to Senator COBURN that I would be a cosponsor of his proposal. We now have what amounts to not just a private acknowledgment that the point of the Senator from South Carolina is valid but a public one on the floor of the Senate.

I say to my colleague, my understanding from the sponsors is that they are not yet ready to bring this before the Senate, and that is why I am hopeful that—given the acknowledgment that the Senator from South Carolina has a valid point with respect to making sure bills are actually read, my hope would be that the Senator from South Carolina would let Senator GRASSLEY and me go forward, finally have that vote, given the fact we have spent more than a decade laying the groundwork, and that we could at least make some progress today in the Senate.

Mr. DEMINT. Mr. President, I thank the Senator. I think if we waited a decade for this amendment, we can spend another day or two to get it right. If the Senator is certainly supportive of their language, I know their legislative staff well enough that we can get this incorporated with the language of the Senator from Oregon probably in a few hours and get this amendment done. I will be happy to help with that effort.

I thank the Senator for his interest in cooperating. I thank the Presiding Officer. I yield the floor.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withdraw his request?

Mr. INOUYE. I do.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I find myself agreeing with the Senator from South Carolina. I find myself agreeing—I am glad my colleague Senator WYDEN also agrees. I raise this point, and I raise it for a point of discussion and consideration, not to challenge the purpose of the Senator from South Carolina.

It seems to me that if we all agree the Wyden-Grassley amendment is a good approach and at least Senator WYDEN and I and Senator MCCASKILL and Senator COBURN and Senator DEMINT believe the McCaskill-Coburn measure is a good measure, why would you want to hold up the Grassley-Wyden amendment? Is there a feeling that maybe the McCaskill-Coburn measure cannot rise and fall on its own? Then I think you might leave the impression that there is some subterfuge to see that the Wyden-Grassley bill does not get adopted.

Since there is a consensus on all these points, I think we ought to be able to move forward in a separate way and not use one good idea to leverage another good idea because if they are both good ideas, they can stand on their own. In the process, we do not have to then raise any questions about the legitimacy of the second idea, which would be the McCaskill-Coburn idea on reading legislation and making sure we have a score and making sure it is brought up in an environment where there is not secrecy. Again, what I said about secrecy in this body, it should only affect national security and people's personal privacy. Everything else ought to be the public's business. It is the public's business, and it ought to be public.

I raise the point that each item ought to stand by itself and that the five of us—and there are more than five of us, but at least on the Wyden-Grassley amendment, there seem to be at

least three people in this body speaking this morning who think it ought to move forward, and there are at least three in this body, plus two others who are not here, MCCASKILL and COBURN, who feel the other idea ought to move forward. We ought to move forward separately with the help of everybody involved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, let me speak very briefly on secret holds and then make a unanimous-consent request.

I express again my appreciation to the distinguished Senator from Iowa, Mr. GRASSLEY. He very often seems too logical for some of these debates. I very much share his view.

The point is, we do have a great deal of consensus. We have had three Senators, in effect, talking over the last 20 minutes with no substantive disagreement. The reality is, eliminating secret holds and shining some sunlight in the Senate on how we do business, it is ready to go. It has been ready to go now four times in the last 10 days.

I very much appreciate Senator GRASSLEY's comments today. We ought to have a vote on it. I have tried to show my good will, as the distinguished Senator from Iowa has this morning, in saying that we happen to think Senators COBURN and MCCASKILL and Senator DEMINT's comments reflect this—have a very good idea as well. I have told them privately and again I state publicly this morning that it is my intent to be a cosponsor of the legislation. It is not yet ready to go, which is, in effect, what Senator GRASSLEY has touched on.

Efforts to reform the Senate and do our business in public when the American people are as angry as they are at the way Washington, DC, does business—one ought to have, as Senator GRASSLEY says, the guts to go public when one is trying to object to a bill or nomination.

My thanks to Senator GRASSLEY for our decade-long push—10 years-plus in trying to do it—and also for the very constructive way he has tried to reach out to colleagues on both sides of the aisle. That is what I have tried to do again this morning with my comments to Senator DEMINT.

I note that the chairman of the Appropriations Committee is also in support of the effort to get rid of secret holds. I thank him for his indulgence and for giving us this opportunity to speak on the floor of the Senate this morning.

Senator GRASSLEY and I are going to come back again and again until this secret hold, which is an indefensible violation of the public's right to know, is finally buried. I thank him.

RECESS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. this afternoon.

There being no objection, the Senate, at 12:11 p.m., recessed until 2:15 p.m., when called to order by the Presiding Officer (Mrs. GILLIBRAND).

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010—Continued

The PRESIDING OFFICER. The Senator from New Jersey.

UNANIMOUS-CONSENT REQUEST—S. 3305

Mr. MENENDEZ. Madam President, I rise to talk about the oilspill in the gulf and the continuing challenges it presents to us. I know some of my colleagues are going to be joining me in a few moments to talk about this. I will ask consent for a colloquy. But I am going to make a few comments about it and then, in recognition of Senator INHOFE's need to move to another commitment, I will ask unanimous consent at that time.

I want to make absolutely certain that big oil polluters pay for oilspills and not the taxpayers—not small business owners, not States or the Federal Government, which means the Federal taxpayers.

We have seen things get worse on the spill over the weekend. Unfortunately, things are, frankly, getting much worse than we would have imagined when we first introduced this legislation. Today the United States declared a fishing disaster in three gulf States—in Louisiana, Mississippi, and Alabama. Louisiana's fishing industry alone is $2.4 billion of seafood and supplies up to 40 percent of all the U.S. seafood in our country. It is, in my mind, a growing and continuing environmental and economic disaster.

Tragically, it seems to me, a $10 billion cap—we originally thought, based upon the Exxon Valdez experience, where there were close to $4 billion in claims 20 years ago, that was a cap that may have been an appropriate one. But in fact it seems to me the only way to ensure that oil companies are held accountable for all of their potential damages, for the proposition that a polluter pays at the end of the day, is to agree with the administration's statement and to raise from a cap of $75 million to an unlimited cap. I will be asking that in my unanimous consent motion in a few minutes.

We heard already the objections to our legislation. We have even heard some claim that it is ''un-American'' to hold a multibillion dollar corporation accountable for the very disaster it caused. It boggles my mind, at least as one Senator, that there are those who believe that holding BP accountable for the disaster they created in the gulf is un-American.

This is a chance to show if we stand with big oil companies or with small businesses, with fisheries, with coastal communities, with tourism, with hotels—with all of those individuals, fellow Americans who are being hurt by this disaster. It is an opportunity to say do we stand with the American taxpayer or with corporate shareholders.

It seems to me the choice is pretty clear. Miles of coastline have already been affected. Environmentally sensitive wetlands are increasingly being under threat. We have seen that, despite the fact that the rig was ''state of the art,'' it obviously was not too safe to fail.

Now the damage to the environment, to the economy of the gulf, to the fishermen, to the small businesses, to the Nation is mounting. I hope my colleagues are ready to act, especially when we have the statements of BP, that have been reiterated, that they are going to subject themselves—even though there is a legal cap of $75 million—not for the cleanup, not for all the efforts that are underway—yes, that clearly is their responsibility—but a legal cap of $75 million for all of the liability, for all of those coastal communities and fishermen and seafood fishermen, shrimp fishermen, and commercial seafood processing plants, tourism, and a whole host of other elements that may be affected, that they be limited to $75 million—less than 1 day of BP's profit. BP was making at the rate of $94 million a day. Seventy-five million dollars would be less than 1 day of BP's profits.

If they say they are going to be responsible—and any companies similarly situated should be fully responsible, accountable and subject to that liability—what is the objection to raising the cap?

I hope everyone in the Chamber will do the right thing to hold big oil accountable for the damages they caused. Damages are mounting. They still have not stopped the leak. While BP says they will pay all ''legitimate claims,'' their word is not legally binding. As a matter of fact, when they were before the Energy Committee, colleagues of mine asked them, clearly, questions and they began to equivocate as to what is a legitimate claim.

Today I asked the Assistant Attorney General of the United States, who was before the Energy Committee, is there a consent agreement between the government and BP, that holds them—legally binding—to the proposition that they will be subject to all the liabilities they have caused? And the answer was no. There is some letter, but even that letter is rather amorphous.

When I hear they are equivocating before the committee, and when I see the experience we already had with Exxon—that made all similar types of statements and then litigated for 20 years—it seems to me this clearly raises concerns that they will try to find a convenient loophole, a convenient way out once the public relations nightmare is over, a way to say no, as many of my colleagues seem to want to say no and stand on the side of big oil companies and stand in the way of legislation that would raise the liability

caps to ensure that big oil polluters pay for the damage they caused.

I see, by example, one company, BP, made nearly $6 billion in profits—not proceeds, profits—in 3 months of this year; when the top 5 oil companies made nearly $25 billion in profits—not proceeds, profits—in 3 months, and that somehow we are worried about them even when they caused the type of potentially enormous consequences that BP has actually caused in this case, and we are not worried about those communities, our taxpayers, and our fragile ecosystem. It is a failure that now threatens the entire gulf coast. It could go all the way to the Florida Keys.

I appreciate the administration earlier today embraced the idea of unlimited liability. I commend them for that. I want to make sure BP ends up committing to pay for this disaster, not by their words but by a legal obligation to do so, and that is what we can create today. There should be no legal wiggle room for oil companies that devastate coastal businesses and communities now or in the future.

In view of that goal, I now ask unanimous consent that the Environment and Public Works Committee be discharged of S. 3305, the Big Oil Bailout Prevention Unlimited Liability Act of 2010, that the Senate proceed to its consideration, that the only amendment in order be the substitute amendment that is at the desk, that the substitute amendment be agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. Is there an objection?

The Senator from Oklahoma.

Mr. INHOFE. Reserving the right to object, first let me say I agree with most of what the Senator from New Jersey is saying. He mentioned the profits of the top five oil companies—Shell, BP, ConocoPhillips, ExxonMobil, and Chevron. They are the giants.

If we will recall, last week when I objected to the arbitrary figure, the cap of $10 billion, it was because it was arbitrary. I quoted a lot of people in the administration saying we do not want to have—it should not be an arbitrary cap. One of the complaints I had was, if you do have an arbitrary cap and that was at $10 billion, that would mean only the big five plus the national oil companies—Venezuela, China, certainly—would be in a position to do this work offshore.

It is my feeling if you take the $10 billion off and make it totally unlimited, that could very well shut out even the five and leave nothing but national oil companies in a position to be doing it.

I believe we should increase the cap. I know there is unanimity in that notion. We have to do it. The Secretary of Interior said this about the $10 billion cap:

> [I]t is important that we be thoughtful relative to that, what that cap will be, because you don't want only the BP's of the world essentially to be the ones that are involved in these efforts.

I agree with 90 percent of what the Senator says, and with the Secretary of Interior, what he has said about this—that we need to determine how high that cap should be. It should be much higher. We have plenty of time to do that. Let me emphasize there is no cap in terms of the cleanup damages. We are only talking about economic damages here. There is no cap on cleanup damages. I think there should be. At some point we have to arrive at a cap. A lot of people are working on it. The administration is working on it, the Department of Interior is working on it, and we are working on it. I think we need to increase that. For that reason we need to have the time to get that done, and I do object.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, first, I am disappointed because I appreciate what the distinguished Senator from Oklahoma said, but the reality is, the administration has been thoughtful. They have thought about it. Today they announced, as well as was verified by the Assistant Attorney General at a hearing, that it is their view that in fact there should be an unlimited cap. So they have not equivocated about an amount. They have now said it should be an unlimited cap; unlimited, just as BP has suggested that they are going to accept unlimited responsibility for the liability they have created as a result of the spill in the gulf.

I have difficulties understanding, when we begin to talk about sizes—that if you are smaller but conduct yourself with the same potential risky consequences that end up polluting the gulf or anyplace else as it is being polluted right now—that simply because you are smaller but you take the same risks that you should have less liability, which means that then all of us as taxpayers—and I know a lot of people here do not want to see the Federal Government more involved. They want to see the Federal Government less involved until they need the Federal Government and then they come clamoring to this Chamber for money.

It seems to me if these companies—and the Senator only mentioned the top five, but there are more that have good profits, but certainly the top five. If they made $25 billion in 3 months, why in God's name should I give them any of the taxpayers' money when they mess up, when they pollute?

What Representative of what State is going to come here and say give us money because, by the way, we were harmed in this way or that way or the other when in fact they are unwilling to hold the oil companies responsible—with record profits? It is not acceptable.

If we say if you are not one of the big 5 but we are worried about the next 10—they may be smaller but some of these entities that get referred to as independents—you know, there is one that actually owns a 25-percent stake in the well that is spilling in the gulf. They are valued at $40 billion. I don't think for the average American that is a mom-or-pop.

The reality is, regardless of the size, the fundamental public policy question, if you take an activity that is risky, shouldn't you be responsible for the consequences of your risky activity or do we shift the responsibility to the general public and the taxpayer?

It is like what we just went through in the Wall Street debate. So when they hit it big on the oil well and everything goes well, they keep the money. But when something goes wrong, the rest of us pay for the consequences. I do not think the American taxpayers want to see that. That is not what they have in mind as being responsive to their interests.

So I know my colleague from New Jersey wanted to enter into a colloquy with me. I would be happy to yield to him now.

Mr. LAUTENBERG. I thank my friend and colleague from New Jersey. When we hear the objection, as we have heard it, we have now three times offered legislation to lift the $75 million liability cap for oil companies, and I have to shake my head as I hear what is being said. The land that is drilled on is Federal land. It is land that everybody owns. It is our land. It is not their land. If you come into my yard and destroy my house, you pay for it because it is not the person who did the damage who owns it.

It is shocking when I hear things such as ''arbitrary test''—arbitrary. Whatever damage is caused ought to be paid for, very simply. So we on this side, our side of the aisle, are united that we need to do away with this cap. The liability is extensive. It ought to be paid for, especially by people who can afford to pay.

When you think about it, these companies have to be reminded they are not selling lawnmowers; they are extracting oil from our property. They are making billions and billions of dollars on it, almost shamefully. I look at it and I remember that one time there was an excess profits tax in America. It was during World War II. It said companies that profited as a result of the war, as a result of the crisis, had to pay an extra tax on the profits they made. That is what we ought to be doing now. These profits they make and the damage they create are an unconscionable twosome.

So those on the other side object each time we try to do something that enables our country, the people, to recover the damage that was put upon

them by either careless or reckless behavior by three companies united: BP, Transocean, Halliburton.

So there is no doubt about it. Shamelessly, they want to stick with big oil while people across the country suffer from either damage or costs that are moved over to them. Evidence continues to mount that big oil cannot be trusted. BP's CEO said this spill is not very serious, a very tiny amount, and the environmental impact would be very modest. He said it publicly.

Well, they want to downplay the damage, but they cannot hold it. They cannot make the public believe, they cannot make those who are responsible for the measurement believe it. They do not want to pay the full cost even though they are responsible for the full damage.

Transocean—it is amazing—tried to go to court citing an 1851 maritime law to limit their liability. At the same time, we face billions in monetary damages, far more than the Exxon Valdez spill, and damage to industry is growing as tourism suffers. Twenty-two percent of gulf fisheries have been closed. Those responsible for messing it up must be responsible fully for cleaning up—just like families do, just like neighborhoods do, just like communities do.

With billions and billions of profits, we know big oil can afford to bail itself out, and they ought to pay for it, period. So we are standing here once again asking our Republican colleagues a simple question: Whose side are you on? I think it is pretty evident. They are on the side of big oil while we stand up for ordinary Americans trying to eke out a living in these very difficult times.

I hope there will be a reconsideration, and they will agree those who do the damage ought to pay for the damage they created.

Mr. MENENDEZ. Reclaiming my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. I appreciate my distinguished colleague from New Jersey who has been a stalwart on this issue, as well as in the past, on the whole question of the environment. The Senator is a member of the Environment and Public Works Committee. I appreciate his comments.

I know the Senator from Florida wanted to join us in a colloquy, as well as the Senator from Illinois. So let me ask unanimous consent to continue the colloquy with first Senator NELSON, then Senator DURBIN, and then I will yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. I object.

Mr. MENENDEZ. I still have the floor?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. MENENDEZ. Let me ask the Chair if, as I have the floor, if I yield to a colleague for a question, is that not permissible?

The PRESIDING OFFICER. It is permissible to yield for a question.

Mr. MENENDEZ. I would be happy to yield to my colleague from Florida for a question.

Mr. NELSON of Florida. If I may ask the Senator from New Jersey a question, can the Senator believe once we got up the live feed, 5,000 feet below the surface of the Gulf of Mexico, that once experts, specialists, professors, were able to see what, in fact, had been told to us was only 1,000 barrels a day, was revised to 5,000; that many experts in the country revised upwards, that it may be up as much as ten times as much as 5,000 barrels a day?

Would the Senator acknowledge that those statements have been made?

Mr. MENENDEZ. I not only acknowledge that those statements have been made, but I know the Senator and others, including myself, have raised the fact that BP's credibility in this respect is not credible. In fact, scientists have gone into the gulf and made the determination that at the rate that spill is taking place, it is far beyond what BP told us. As a matter of fact, we have an interest in this regard not only, of course, because of the environmental consequences but also because of the royalties we should be claiming on all of that oil that is being let out.

So the Senator is correct. This is one of the issues we are facing.

Mr. NELSON of Florida. If the Senator would yield for a further question.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, my question additionally to the Senator from New Jersey would be, given the fact of the pictures we now see of the devastation occurring in some of the marshlands in Louisiana, along with the shots of the few beaches that are now covered and the effect upon the wildlife, as well as the marine life—would the Senator say there is a great deal of concern among people all along the gulf coast, as well as the eastern seaboard of the United States, of what possibilities there are if there is that much oil in the gulf and what that could do to the economies of these coastal communities?

Mr. MENENDEZ. Well, I appreciate the Senator's question. The Senator himself has at various times informed this body of something that he has referred to as the loop current, which is, in essence, a natural current that could very well take the oilspill from the region of the gulf and move it along the Senator's State in Florida and beyond.

This is an enormous concern. Already, as I said earlier, the U.S. Government has banned fishing products from three States, and the consequences of that just in one dimension in terms of the seafood that part of the country generates for us domestically, both in terms of the billions of dollars as well as the consumption of seafood is now one that has been barred by the U.S. Government.

So we are increasingly seeing the consequences of this damage. There is real concern this could move in a direction that would be consequential to other States as well.

Mr. NELSON of Florida. One final question, Madam President, if I may——

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. To the Senator from New Jersey.

Can the Senator from New Jersey believe the fact that we hear people being apologist for BP? It is clear we hope and pray this ''kill'' of the well that is going to be attempted in the morning is going to be successful. But on all the safety devices that did not work—and why was the well not attempted to be killed 5 weeks ago? Yet would the Senator believe there are people out there who are actually being an apologist for BP with the threat to the economy of the Southeastern United States as it is now?

Mr. MENENDEZ. Well, I appreciate the Senator's question and his concern. I think it is the concern of many. The reality is, I have heard comments that to hold BP accountable is un-American. Well, I think it is un-American to allow BP to go ahead, pollute the natural resources of the United States and not be held accountable in an unlimited fashion, which is the administration's position because they have created enormous consequences which we have yet to fully understand—we have yet to fully understand.

I know the Senator from Illinois was just on a trip to the gulf.

Mr. DURBIN. If the Senator would yield for a question.

Mr. MENENDEZ. I would be happy to yield for a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I would like to ask a question of the Senator from New Jersey through the Chair. I know the Senator from New Jersey has been a leader on the whole question of liability and the damages that should be paid by BP for what they have done as a result of this Deepwater Horizon rig blowing up, 11 innocent people killed. We should always remember that as the first casualty and now the ongoing damage.

I would ask the Senator from New Jersey, having just gone to the Gulf of Mexico yesterday with five of our Senate colleagues on a bipartisan trip—the Secretary of the Interior, Ken Salazar; Secretary of Homeland Security, Janet Napolitano—is it not true that in the first 3 months of this year, British Petroleum reported profits of $5½ billion, up 135 percent over the first quarter of last year?

Mr. MENENDEZ. Yes. British Petroleum made about $5.6 billion in the first 3 months in profits—not proceeds, profits. Right now the liability cap that exists under the law is $75 million, 1 day of BP's profits, based on the first quarter's $94 million. So it is less than 1 day's profit.

Mr. DURBIN. If I can ask another question through the chair of the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Yesterday, during the course of this visit to Louisiana, there was a very compelling moment when we met with those oystermen and fishermen and shrimpers and charter boat proprietors who were directly affected by the BP oilspill.

I would like to ask the Senator from New Jersey if he would comment or reflect on the following: There are approximately 20,000 shrimpers, crab and oyster fishermen in Louisiana alone. If the $75 million in damages were dedicated only to those seafood industry workers in that one State, it would equate to roughly $3,500 per person.

I would like to ask the Senator from New Jersey, can there be any justice in that outcome; that BP would be limited in the amount they would pay out, the $75 million, when we look at the fact that there are those in similar professions in Alabama, in Mississippi, in Florida, and other States who are not even included in this calculation, if such a small amount was all that was paid to those who have clearly been directly damaged by this spill?

Mr. MENENDEZ. Well, the Senator's question is well put. Justice could not be achieved under the present cap. As a matter of fact, as I said earlier, today the United States declared a fishing disaster in three Gulf States: Louisiana, Mississippi, and Alabama. Louisiana itself has a $2.4 billion seafood industry, and it supplies up to 40 percent of all of the U.S. seafood.

Clearly, just that figure alone gives us a sense that all of those individuals and communities and entities would not receive justice.

Mr. DURBIN. My last question to the Senator from New Jersey: How much should the taxpayers of America pay for the negligence and wrongdoing of British Petroleum, this multibillion-dollar corporation?

Mr. MENENDEZ. Absolutely nothing. The only way to ensure the U.S. taxpayer pays absolutely nothing, not just for the cleanup but in terms of consequences to communities that would exceed the liability cap that exists right now under the law and for which BP has made statements but no commitment, such as a consent agreement, which would be binding upon BP—the taxpayers should pay absolutely nothing—the way to do that is to raise it to an unlimited cap.

I yield the floor.

Mr. McCAIN. I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. What is the parliamentary situation at the moment?

The PRESIDING OFFICER. The pending question is the Wyden amendment No. 4183.

Mr. McCAIN. I understand the Senator from Louisiana wants to speak and then the Senator from Wisconsin. I ask unanimous consent that following the Senator from Louisiana, following the Senator from Wisconsin, that I be put in line to speak for purposes of offering an amendment.

Mr. LAUTENBERG. Reserving the right to object, Madam President, I ask my colleague from New Jersey, was the floor relinquished?

The PRESIDING OFFICER. The Senator from New Jersey relinquished the floor.

Is there objection to the unanimous-consent request of the Senator from Arizona?

Mr. CORNYN. Reserving the right to object, I would propound a slight modification and ask to be recognized for purposes of offering an amendment following the Senator from Arizona.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. MENENDEZ. Reserving the right to object, I do not believe I will object, if there is a unanimous-consent request pending, any of the Members who are going to speak in the following order, as the Senator from Arizona suggested, it would be appropriate then to be recognized to object, would it not?

The PRESIDING OFFICER. Could the Senator restate his question?

Mr. MENENDEZ. The Senator has propounded a series of Members to speak or offer amendments. If one of those Members offers a unanimous-consent request during their presentation, then there would be an opportunity to object notwithstanding the unanimous-consent request before us?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. Reserving the right to object, I want to clarify, Senator INOUYE just left the floor and said he would return shortly. Before we set aside any pending amendment, I would like to have his assent to that happening. If the Senator from Arizona would like to ask for recognition and each of the Members to speak to their amendments, I have no objection. But if that includes setting aside the pending amendment and filing a new amendment, I would like to have Senator INOUYE on the floor before that decision is made.

Mr. McCAIN. I amend my unanimous-consent request that the Senator from Louisiana, followed by the Senator from Wisconsin, followed by me, followed by the Senator from Texas, all to speak, and if the Senator from Hawaii agrees, for purposes of proposing amendments which requires setting aside the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, they would be speaking for debate only until Senator INOUYE returns on the question of offering amendments. Will the Senator accept that language?

Mr. FEINGOLD. Reserving the right to object, if the Senator from Hawaii consents to having the pending business set aside so that one of the speakers can offer an amendment, I assume that would be acceptable.

Mr. DURBIN. Absolutely.

Mr. FEINGOLD. Then I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona?

Without objection, it is so ordered.

The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST—S. 3410

Mr. VITTER. Madam President, I am overjoyed that I have been let into this discussion considering that heavy oil is now getting into Louisiana marshland and is impacting my State and the State of Senator LANDRIEU more than any other in the country. It is an ongoing crisis. I would like to spend a few minutes to get us out of Washington politics and back into focus on that real and ongoing crisis. Those fishermen from south Louisiana Senator DURBIN talked about, that is what they are focused on, that is what they are dealing with. Their way of life and their livelihood is absolutely threatened. That is what I would like us to focus on and deal with in a constructive way.

I agree with Senator MENENDEZ and Senator LAUTENBERG and others that the liability cap for economic damages which was set decades ago is way outdated. I have offered a permanent change to that to go into the future. In fact, my bill would set a cap for BP in this instance of $20 billion because it is based on the last four quarters of the responsible party's profits. For this instance, that is double the liability cap of the Menendez original bill.

Talking about UCing a permanent change of the law is, quite frankly, politics. That isn't going to pass the Senate by unanimous consent. I would like my version to pass by unanimous consent. I think it is a better approach, with all due respect, than the approach of the Senator from New Jersey. It would double the cap on BP than his original version would. But that is going to get objected to as well.

In light of that, I have what I think is a constructive alternative which is to propose something to address this ongoing crisis. Oil is still flowing in the gulf, more and more heavy oil getting beyond the Louisiana barrier islands, infiltrating the Louisiana marsh. How about trying to deal with this ongoing crisis that the people of Louisiana face?

With that in mind, I have introduced a liability proposal that is at the desk, that has been introduced, that could and should garner unanimous consent support. Let me outline what it is.

Several of the speakers—Senators DURBIN, LAUTENBERG, and others—alleged that somehow there are folks in this Chamber who are being shrills for BP, who are defending BP. Personally, I didn't hear that. Certainly, that is not me. I represent the State of Louisiana, and we are dealing with this ongoing crisis and disaster much more than any other State in the Union. But let's attack this directly and try to address—and I think we could and should

be able to do it by unanimous consent—this particular event.

My bill, S. 3410, does that. My bill mandates that the cap on economic damages for BP for this event be lifted and that there be no cap. BP has said publicly that not once, not twice, but on numerous occasions, and has even put it in writing that they will disregard any cap. My bill would say: Fine, that is a contract offer, and we are going to accept it. That will be binding under legislation, under the law. Under S. 3410, we would remove any cap on BP for this incident.

In addition, the other half of this bill establishes an expedited claims process because in this ongoing crisis in Louisiana, where people continue to hurt because of this ongoing spill, ongoing flow, they not only need their claim eventually paid in full, they need it to begin to be paid immediately. In this bill we establish an administrator to quickly and fairly resolve claims for economic damages. We establish an office of deepwater claims compensation to expedite that consideration. We set up offices within the gulf region to allow that claimant assistance, to advise people how to properly file their claim and expedite getting a claim. The other half of the bill, besides lifting the liability cap for economic damages on BP for this incident, expedites that claim process.

With that in mind, in the spirit of actually trying to act with regard to this ongoing crisis in the gulf that certainly affects my State, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3410, my acceptance of liability and expedited claims bill; that the bill be read a third time and passed and that the motion to reconsider be laid upon the table.

Ms. MURKOWSKI. Will the Senator yield for a question before the ruling is made?

Mr. VITTER. Certainly.

Ms. MURKOWSKI. I wanted to tell the Senator from Louisiana, because we had an opportunity yesterday when we went to his home State, traveled there with the Secretary of the Interior and the Secretary of Homeland Security, we saw the spill from the air. We were at Port Fourchon. We heard the testimony from fishermen. We heard the testimony from those who are in the charter business. We heard testimony from the oystermen. We heard from parish mayors and heard their concerns about what will happen to them, their futures, their economic futures and that of their families. The concerns that were raised, of course, were that they be fully and fairly compensated.

Is it the Senator's intention, then, that the statements that have been made by the executives from British Petroleum, the sworn testimonies we have had in the Energy Committee, and I know they have testified in other committees, that the commitments from British Petroleum would be codified as waivers of the liability caps which the Senators from New Jersey have talked about? Is it correct, then, that it is the intention of the Senator from Louisiana that these commitments would then be made enforceable under law so that the heart of this debate is understandably about not whether BP will pay but how long it will take for the victims to be compensated?

Mr. VITTER. That is absolutely my intention. That is what this bill would do. Several Senators on the other side correctly pointed out that we should not depend on the goodwill of BP. So let's not depend on the goodwill of BP. Let's fix it here. Let's fix it now. BP has made this offer. They have even put it in writing. My bill would direct the Secretary of the Interior to accept that offer and codify this in the law so that with regard to BP and with regard to this ongoing crisis, there is no cap on economic damages.

The second half of the bill would set up an expedited claims process to ensure that the folks hurting on the ground in Louisiana and perhaps eventually elsewhere are helped in a timely way.

Ms. MURKOWSKI. If I may follow up with the Senator from Louisiana on the expedited claims process, this is something we heard yesterday, the concerns from those saying they don't believe the claims process is transparent, is efficient, is easy enough. Are there the translators necessary to help those, for instance, Vietnamese shrimpers? Do we have the processes in place? If I understand the intention of the Senator from Louisiana with the expedited claims process, it is designed to not only make it more transparent but make it more readily accessible in terms of multiple resource centers; also establishes an advisory committee that consists of representatives of claimants of the responsible parties. We heard yesterday that people who have been affected want to know they are dealing with somebody in a position of authority to answer their questions, address their concerns. We understand that within this advisory committee on Deepwater Horizon compensation, these individuals will advise the administrator.

There are also other provisions that are designed to protect the interests of the claimants, one of which I think is very important; that is, that those who may have filed incomplete claims because they simply were not aware of all the information that is needed, are notified by the administrator and allow the administrator to conduct hearings in a manner that best determines the rights of the parties.

I think it is critically important that these processes be put in place. I stand with my colleague from Louisiana in supporting this effort, this measure, and ensuring that through this, BP is held directly accountable, and to make sure there is an accelerated path to recovery for the growing number of victims in the gulf.

The PRESIDING OFFICER. Does the Senator from Louisiana wish to renew his unanimous-consent request?

Mr. VITTER. Yes. I renew my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I appreciate the Senator came up with a proposal. It is 40 pages. I just saw it. I look forward to reading it and seeing whether it truly achieves the goal we mutually have. We are moving the ball forward because both the Senator from Louisiana and the Senator from Alaska, who I understood originally opposed lifting the cap to an unlimited amount, now both believe the cap, at least in this instance, should be lifted to an unlimited amount.

But reading the last 2 pages of the proposal we just got, and listening to the words of the Senator from Louisiana, there is a suggestion here that BP has, in essence, made a commitment or a contract, yet we have nothing before us other than testimony about a supposed willingness to pay all legitimate claims. They have equivocated when they have been asked before the committee, What does ''legitimate'' mean, and several members asked them a series of different elements of ''legitimate,'' and they would not commit to that.

Secondly, the letter the Senator has in his legislation that he wants to propound to pass right now says BP is ''prepared'' to pay above $75 million. It does not say it ''shall'' pay above $75 million. It does not say ''will'' pay. There is no legal obligation for them to do it. So to consume that and say that is the basis under which we are making some contractual relationship is a problem.

Finally, I think there is a problem between having legislation on a specific incident versus raising the cap in general. What happens when, God forbid, the next oilspill comes and a company is not taking the same position? It seems to me what we want to do is raise the cap in an unlimited fashion against any major oil company so we do not simply have to listen to their allegations that they are willing to pay any claims but that, in fact, they have a legal obligation to do so.

So for all these reasons, and the fact that we just got this legislation, and because of the concerns that I do not think it reaches what we need to accomplish, I will have to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

Mr. VITTER. Madam President, reclaiming my time, I am obviously disappointed. I think we are seeing that maybe there is a difference when your State is in the nexus of this and your State is under attack from this oil. I want to fix a problem, not just make a

speech. We are not going to pass by unanimous consent a permanent change to the liability cap. I have a version that I think should pass, and I am going to keep fighting for it. Senator MENENDEZ has a different version, and I am sure he will keep doing the same. I think mine is superior, but we can have that debate.

But as oil continues to gush from this well, as heavy oil continues to get behind the barrier islands of Louisiana and starts to infiltrate our marsh—which is an ecosystem issue 100 times worse than simply hitting our barrier islands and beaches—I would actually like to solve the problem and not just come here to the floor and give a speech. My bill does that by focusing on this event and this company, BP, in a way that we should all be able to agree on.

I commend the details of the bill to my colleagues. It does not depend on the language of any BP letter. It takes that as a starting point, and it removes all caps on economic damages for this event for this company. Why don't we do that by UC? We should be able to.

In addition, it fixes a real ongoing problem by establishing an expedited claims process. That is necessary too. Because it is great to tell these fishermen that your full claim will be paid eventually in the long run, but as the old saying goes: We are all dead in the long run. And they are looking to their next month's boat payment, their next month's house payment.

So I commend this serious legislation, which we should pass immediately, to my colleagues. Let's solve a problem. It is an ongoing problem. It is an ongoing crisis that sure as heck affects my State. Let's just not make a speech.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, what is the pending business?

The PRESIDING OFFICER. The Wyden amendment.

AMENDMENT NO. 4204

Mr. FEINGOLD. Madam President, I ask unanimous consent to set aside that amendment for the purpose of calling up an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Sorry. I was hoping Senator INOUYE would give consent to this. As I said, I am filling in. He left the floor. If the Senator could withhold offering his amendment until he comes back.

Mr. FEINGOLD. Madam President, if I can respond to the Senator from Illinois, I will make my remarks, but I spoke to the Senator from Hawaii prior to this, and I believe there is no objection. If I could, I will proceed and then at the conclusion I will renew my request.

Mr. DURBIN. I object at this moment, but I hope we can work it out very shortly.

I just received word from staff that Senator INOUYE approves of the Senator offering his amendment, so I withdraw my objection.

Mr. FEINGOLD. Then, Madam President, I renew my unanimous-consent request to set aside the pending amendment for the purpose of calling up an amendment.

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

Mr. FEINGOLD. It is amendment No. 4204, which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mrs. BOXER, Mr. DURBIN, and Mr. MERKLEY, proposes an amendment numbered 4204.

Mr. FEINGOLD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require a plan for the safe, orderly, and expeditious redeployment of the United States Armed Forces from Afghanistan)

At the end of chapter 10 of title I, add the following:

PLAN FOR SAFE, ORDERLY, AND EXPEDITIOUS REDEPLOYMENT OF THE UNITED STATES ARMED FORCES FROM AFGHANISTAN

SEC. 1019. (a) PLAN REQUIRED.—Not later than December 31, 2010, the President shall submit to Congress a report setting forth a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces and non-Afghan military contractors from Afghanistan, together with a timetable for the completion of that redeployment and information regarding variables that could alter that timetable.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

Mr. FEINGOLD. Madam President, I rise to offer an amendment on behalf of myself, Senator BOXER, Senator DURBIN, and Senator MERKLEY, that would require the President to provide a flexible timetable for the responsible drawdown of U.S. troops from Afghanistan. The amendment is based on legislation I have introduced in the Senate, as I mentioned, with Senator BOXER, and also that Representative MCGOVERN and Representative JONES have introduced in the House.

Our amendment would require the President to be clear about his timeframe in Afghanistan. The President has already indicated that his surge strategy in Afghanistan is time limited and he will begin redeploying troops in July 2011. All we are asking is that the President provide further details about how long he intends to leave our troops in Afghanistan, and about what variables could lead him to change his mind about this timetable.

Before I go on, I want to explain what my amendment does not do. It does not set a specific date for the withdrawal of U.S. troops. It does not require the President to actually redeploy troops. And it does not place any restrictions on funding.

Rather, it simply requires the President to provide a timeline for the redeployment of U.S. troops. That timeline is not binding. In fact, the amendment directs the President to identify, as I said, what variables, if any, would warrant the alteration of that timeline. Secretary Clinton has already testified that she anticipates it will take 3 to 5 years to transition control to Afghan security forces.

My bill would simply require the President to lay this out clearly and specifically, and to spell out what, if any, conditions would warrant a longer U.S. military presence. It allows him to provide some of this information in a classified annex, if that is appropriate.

Congress needs information about expected troop levels in order to properly plan and pay for the war and to avoid future unpaid-for supplemental spending bills such as the one we are now considering. Frankly, I had hoped the days of budget-busting supplemental war spending bills were in the past. We have already spent hundreds of billions of dollars on this war and hundreds of billions more on Iraq. At a time of massive deficits, economic upheaval, and major domestic needs going unfilled, that level of deficit spending is simply unsustainable.

In fairness, unlike his predecessor, President Obama has attempted to provide realistic budget estimates for war costs in the current and next fiscal years. But beyond fiscal year 2011, the President's budget numbers are unrealistically low. It would likely cost the American taxpayer $300 billion to $500 billion to conduct the President's strategy over and above the $300 billion we have already spent in Afghanistan.

I have serious concerns about this strategy, and I would be more than happy to discuss those concerns with my colleagues on the floor. It is about time we had a real debate in the Senate about this war. But I hope even those who support the administration's surge agree it should be paid for. We cannot continue to do what the last administration did and add this massive cost to the national credit card.

Al-Qaida's stated goal is to bankrupt the United States of America. If we keep running up debt to pay for the war, al-Qaida may well achieve its goal. If Congress cannot provide the will to pay for this war, then we need to seriously ask ourselves, How much longer can we keep fighting it?

By requiring the administration to provide its exit strategy, we can also help to provide our men and women in uniform with greater certainty about their deployments. After almost a decade of war, our servicemembers deserve to know how much longer our military operations in Afghanistan are expected to continue and, frankly, so do the American people.

We have many priorities and many pressing needs, both domestically and abroad. The American people deserve more information about the administration's plans in Afghanistan so they can evaluate those plans and weigh them against other priorities, including and especially the need to target growing al-Qaida affiliates around the world.

Moreover, a timetable will help make clear to our partners in Afghanistan that our support is not unconditional and that we will not continue to bear the burden of our current military deployment indefinitely. That is an important message that the current flawed Afghan leadership needs to hear.

While I am disappointed by his decision to expand our military involvement in Afghanistan, I commend the President for setting a start date for redeployment, namely, July 2011. Our allies have stated that it has helped ''focus the minds'' of our partners in Afghanistan and around the world. Having a start date is essential, but alone it is insufficient. It should be accompanied by an end date too.

The President should convey to the American and Afghan people how long he anticipates it will take to complete his military objectives. So long as our large-scale military presence remains open-ended, al-Qaida will have a valuable recruiting tool and our partners in Afghanistan will have an incentive to take a back seat, leaving U.S. troops and U.S. taxpayers on the hook.

Again, my amendment is not about whether one of us supports the President or the troops. All of us support the troops and hope and wish the President has success in Afghanistan. But no matter how we feel about the President or about his approach in Afghanistan, I hope we can agree on the need for an exit strategy, as we approach the 9-year anniversary of a war that is showing no signs of winding down.

As I said before, I, for one, have serious doubts about the administration's approach. In light of our own domestic needs, rising casualty rates in Afghanistan, and the emergence of al-Qaida safe havens around the world, an expensive, troop-intensive, nation-building campaign just does not add up for me. But my amendment does not dictate a particular strategy for Afghanistan. All it does is require the President to inform Congress and the American people about how long his military strategy is expected to take.

I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 4214

Mr. MCCAIN. Madam President, I ask unanimous consent that the pending amendment be set aside and call up amendment No. 4214. And I thank the distinguished managers of the bill.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. CORNYN, proposes an amendment numbered 4214.

Mr. MCCAIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for National Guard support to secure the southern land border of the United States)

At the end of chapter 3 of title I, add the following:

NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES

SEC. 309. (a) ADDITIONAL AMOUNT.—For an additional amount under this chapter for the deployment of not fewer than 6,000 National Guard personnel to perform operations and missions under section 502(f) of title 32, United States Code, in the States along the southern land border of the United States for the purposes of assisting U.S. Customs and Border Protection in securing such border, $250,000,000.

(b) OFFSETTING RESCISSION.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $250,000,000 in order to offset the amount appropriated by subsection (a).

Mr. MCCAIN. Madam President, the amendment would fund the immediate deployment of 6,000 National Guard troops to the U.S.-Mexico border to provide additional security since the situation on the border has greatly deteriorated during the last 18 months. The National Guard troops would remain on the border until the Secretary of Defense, in consultation with the Governors of Arizona, California, New Mexico, and Texas, determines that the Federal Government has achieved ''operational control'' of the border.

Since I put this amendment together, we have been informed that the President will be asking for an additional $500 million to support border security and up to 1,200 National Guard to be sent to the border. I appreciate that. I think it is a recognition of the violence on the border which has been really beyond description in some respects, particularly on the Mexico side.

I appreciate the additional 1,200 Guard being sent, as well as an additional $500 million, but it is simply not enough. We need 6,000. We need 3,000 across the border and an additional 3,000 National Guard troops on the Arizona-Mexico border. I say that because of my many visits to the border, my conversations with the Border Patrol, and the time it will take to train an additional 3,000 troops just for the Arizona-Mexico border.

I have colleagues waiting with other amendments, but I hope my colleagues appreciate the extent of the violence on the Mexican border and the dramatic increase in that violence that has taken place over the last several years. There was a time not that long ago that someone who wanted to come across our border illegally could do so if they were fortunate and would come across by themselves. That is no longer possible. We now have highly organized human smuggling rings and drug cartels that are working together. They are using the same routes, and unfortunately the so-called central corridor, the Arizona-Mexico border, has been where a great degree of violence and certainly a preponderance or a majority of human smuggling and drug smuggling has taken place.

I would refer two numbers to my colleagues. Last year, in the Tucson sector of the Arizona-Mexico border, there were over 1.2 million pounds of marijuana intercepted on that border, to the point where I was told that the U.S. attorney didn't prosecute anything less than 500 pounds of marijuana intercepted. One other number: Last year on the Tucson sector of the Arizona-Mexico border, 241,000 illegal immigrants were apprehended trying to cross the Mexico-Arizona border. If you figure we catch one out of four, one out of five illegal immigrants who are coming across, that is about a million people, a million illegal immigrants coming across the Tucson sector, destroying people's property, destroying our wildlife refuges, and causing an environment of total insecurity amongst the citizens who live in the southern part of my State.

I understand the controversy associated with the legislation that was passed by the Arizona Legislature and signed by the Governor. By the way, that legislation is less severe than Federal law—certainly nothing like the Mexican law regarding treatment of illegal immigrants—and it has been badly mischaracterized by administration officials who have admitted they haven't even read the bill. But the important aspect here is that I support that legislation because the Arizona Governor and Legislature acted in frustration because of the Federal Government's failure to carry out its responsibilities to secure our border.

Again, 1.2 million pounds of marijuana, 241,000 illegal immigrants, and then the situation is compounded by the incredible violence—22,000 Mexican citizens have been murdered on the Mexican side of the border in the last 3 years in the struggle between the Mexican Government and the drug cartels. It was predicted by many of us, as we saw this violence increase, that sooner or later it was going to spill over the border or affect American citizens. Three American citizens were killed on the Mexican side of the border as they made their way home to the United States. In March, a third-generation Arizona rancher was found dead on his property near the Mexican border, reportedly shot by a suspect who may have illegally entered our country. So the point is, this violence is at such a level that it makes a compelling argument for us to secure our border.

I understand the liberal media and the mainstream media who have talked about our situation in Arizona. Most of them have never been within about 100 miles of the border. But the point is that the citizens in my State deserve the right to live a secure existence—not to be threatened, not to have their property overrun, not to have their homes broken into. A mother came to me at a townhall meeting and said: I am afraid to drop my children off at the school bus stop.

This violence on the border is unspeakable. It is one of the least reported aspects of this whole issue, and I still am puzzled as to why. People are beheaded and their bodies hung at the overpass in Tijuana. A wedding took place not long ago, and the drug people came in and took the groom, his brother, and a nephew, and their bodies were found a few hours later. A young man who was part of the capture of one of these drug lords was lionized by the Mexican Government, and his whole family was murdered. This is a degree of brutality that threatens the very existence of the Mexican Government.

I am proud we are working with the Mexican Government. I hope all of our colleagues understand we have spent over $1 billion. The corruption level that exists in Mexico today reaches to the highest levels of government. So really the only institution the government can rely on is the army.

When we send the Guard to the border, we are told the presence of the Guard has an effect on these drug cartels. By the way, the drug cartels are watching everything on the border. They have the most sophisticated communications. They have sophisticated intelligence capability, and they are very efficient in their organization. So the Guard troops on the border in the past have had a very salutary effect. That is why we need 6,000 of them until such time as we can train additional Border Patrol and customs people to address this issue.

So I wish to emphasize to my colleagues that we should not forget, to start with, that it is the United States of America that is creating the demand for these drugs, and at some point we have to address that issue too. But in the meantime, this violence that is taking place in Mexico on the Mexican side of the border, which has spilled over on our side, can only get worse until these drug cartels are brought under control and the human smugglers are brought under control, and that will only take place when our border is secure.

We can secure the border. The Yuma sector, as my colleague from Arizona has pointed out, has taken measures, including incarceration of illegal immigrants, including increased fencing and surveillance. By the way, UAVs are a very important part of this equation. So we have been able to drastically reduce the illegal activity, both drug and human smuggling, in the Yuma sector of the border. My colleague from Texas will testify that in, I believe it is the McAllen sector of Texas, there has been significant and dramatic improvement. In San Diego, there is dramatic improvement. So those who feel we can't secure our border, there are great examples of our ability to do so with people, with fences, and with technology. We can do these things.

We have to get an additional 6,000 troops to the border before there are more tragedies such as happened with Rob Prince, the rancher from Arizona, or the deputy all the way up in Pinal County, some 50 miles from the border, who was shot in the stomach, in pursuit of one of these drug people, with an AK–47.

So I urge my colleagues and I urge all Americans to understand that we in Arizona didn't want to have this law passed by the legislature. It was done out of frustration because of the Federal Government's failure to exercise its responsibility. It is a Federal responsibility, something that the Secretary of Homeland Security emphasized in a letter, when she was Governor of the State of Arizona, on March 11, 2008. It says: Clearly, Operation Jump Start has been highly effective—on and on about how important the help in insuring the border and bringing the Guard to the border has been. That is true today.

So the Arizona Legislature and Governor did not wish to pass this legislation. It was enacted because the people of Arizona had an insecure border and live, in many cases, in an insecure environment. An obligation we have to all of our citizens is to allow them to live in a secure environment.

By the way, this law the Arizona Legislature passed is far less severe in many respects than the Federal law and certainly far different from the law in Mexico, which is very stringent in its provisions and penalties for illegal immigration.

So we need relief in our State. We need relief in many places across the border. The drug cartels have to be stopped. Working with Mexico, I believe we can, over time, bring the border under control and rid the scourge of these drug cartels and these human smugglers.

Let me finally say, because I know my colleagues are waiting, that the treatment of human beings by these coyotes, these human smugglers, is atrocious, unspeakable. They take them and they pack them into—well, the other day, a U-Haul rental truck was apprehended. Sixty-seven human beings were packed inside. They take them to these drop houses. They hold them for ransom, and then after they are ransomed, sometimes they mistreat them even further. The human rights abuses that are taking place in these human smuggling rings is atrocious beyond description. That alone should compel us to get our borders secure and to provide for a legal system of immigration into our country.

We welcome immigrants. We welcome our Hispanic heritage. We cherish it. Spanish was spoken in our State of Arizona before English. But we have to get the human smuggling and drug cartels under control because the security of our citizens and our Nation depends on it. So I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent, I believe with the approval of the bill managers, to call up my amendment No. 4202, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, I have not seen this amendment and I am not familiar with what it would do, so for the moment I would object until I have that opportunity.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Madam President, this has been cleared by the majority bill manager, by Senator INOUYE and his staff, I believe. Certainly the ranking member has no objection. I didn't know I had to clear amendments with all 100 Members of the Senate before I could even get them called up. I am prepared to call it up so we can then consider it and then we can debate it and vote on it. But this does not seem like a way to make any progress on this important underlying legislation.

Well, I guess I will talk about it for a while.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I once more ask unanimous consent to call up my amendment No. 4202, as modified, for consideration, and I ask that the pending amendment be set aside for that purpose.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, I will state the same objection. I have not seen the amendment, and while I appreciate that the bill managers may have agreed to it, the reality is, as I understand it, any Member of the Senate can rise to object.

I hope not to be compelled to object. But at this point, I will object.

Mr. MCCAIN. Madam President, I reserve the right to object too. I have been here a long time. That is the first time I have seen that from the Senator from New Jersey. If that is the way we are going to do business here, this place will grind to a halt. I think it is discourteous of the Senator from New Jersey to do that. This place exists and runs mostly on comity. I hope that does not become a practice here or it will be practiced on this side as well.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, as you have heard, the President came to speak to Republicans at lunch. We have talked about a lot of issues, including immigration reform and the like. Subsequent to that meeting, we were informed by e-mail that the President

has made a major announcement with regard to the deployment of National Guard along the border.

This amendment, which deals with border security and will help the Federal Government live up to its responsibility for border security, is exactly the kind of response I think the President and certainly all of us who care about border security would find helpful.

Let me tell you what this amendment does. I know the Senator from New Jersey is looking through the amendment, and perhaps we can have a further consideration of the amendment when he is through.

This amendment would strengthen border security along our southwest border. While I appreciate the needs of States such as Arizona, we have a number of States that share a common border with Mexico. We have to make sure we have the human resources, tactical infrastructure, and technology employed in order to protect Americans along the border and help contain the terrible drug violence—drug war, literally—that is being fought within a short distance of American cities.

According to the El Paso Times, two young men were shot over the weekend in Juarez, one a nursing student at the University of Texas at El Paso, and another was a former student—an engineering major—from that same institution. Some news reports indicated that the two young men were returning from a Boy Scout camp when they were confronted by a shooter with an AK–47, who shot both of them multiple times, killing one of them.

I am really not sure my colleagues understand how close these killings in Juarez are to the United States. It is like Minneapolis being across the river from St. Paul or Manhattan being across the river from Brooklyn. That is the proximity of the 1,000 deaths that have occurred so far this year in Juarez, on the Mexican side of the common border with El Paso. This may not capture headlines like those of other college campuses, but these deaths represent a terrible loss to our families, our communities, and our Nation. That is a reminder of just how dangerous this war is that is going on just across our border.

It also raises the issue of what is going to be necessary in order for us to deal with our broken immigration system. I think the problem we have with our immigration system is that it is simply not credible when it comes to border security. We know that last year the Department of Homeland Security reported that some 540,000 people were detained coming across our border. We don't know how many made it across without being stopped and detained. All we can tell you is how many people actually were detained. It is commonly thought that between two and three people are missed for every one who is caught and detained. That is not anyone's definition of border security.

What we need is more resources deployed along the border. The President's 2011 budget, for example, is a flat-line budget when it comes to actually providing more boots on the ground, when it comes to adding to the Border Patrol and the various Federal agencies whose job it is to protect our country and secure the border.

The first thing my amendment does is it provides some help in the form of grants to State and local law enforcement, especially to those areas within 100 miles of the border. When the Federal Government doesn't do its job, when they fail to employ sufficient resources in order to secure the border, that burden falls on State and local law enforcement officials, particularly those within 100 miles of the border who feel the brunt of that absence of the Federal Government.

Under this $300 million grant program, these funds could be used to purchase equipment, particularly so they can have interoperable communications, hire additional investigators, detectives, and other law enforcement personnel, and they could be used to cover salaries and expenses associated with border enforcement for the State and local officials who are stepping up and doing the job the Federal Government is not doing.

Second, my amendment supports the southwest border task forces. It provides $140 million to increase personnel and funding for the so-called HIDTA Program, or the High Intensity Drug Trafficking Area Program, mainly in southwest border States. It also provides $44.7 million to the National Guard Counterdrug Program in the southwest border States.

Third, my amendment provides additional support for U.S. Customs and Border Protection. It provides $144 million for the purchase of six additional Predator B unmanned aerial vehicles and ground control stations and funding for UAV pilots and support staff. It provides $49.4 million to allow Customs and Border Protection to purchase 10 additional helicopters for border enforcement. It allocates $180 million for border surveillance equipment and vehicles. It provides $200 million to hire 500 Customs and Border Patrol officers to staff southwest border ports of entry, as well as to fund infrastructure improvements at high-volume ports of entry.

Fourth, my amendment provides additional support to the Drug Enforcement Administration. I had the opportunity the other day to have a classified briefing from the DEA which I will not go into here, but suffice it to say the Drug Enforcement Administration is fighting the good fight both here and in Mexico trying to help fight and beat the cartels. But they need more help. This amendment provides $30.4 million to hire an additional 180 intelligence analysts and support personnel for the DEA, and it would create four additional special investigative units.

It provides $72 million to hire 281 special agents and investigators at the Bureau of Alcohol, Tobacco, Firearms and Explosives to help investigate and track illegal firearms. One of the things you will recall we heard from President Calderon is his concern about the weapons that are purchased in the United States and then bundled and trafficked south of the border into Mexico and used by the cartels. These ATF agents need additional help, and this amendment would provide the money to hire 281 additional ATF agents in order to help prevent the flow of weapons to the cartels south of the border.

Finally, my amendment supports U.S. Immigration and Customs Enforcement. It provides $375 million to fund 500 additional investigators, 400 additional intelligence analysts, and 500 additional detention and removal officers. It provides $151 million to increase detention capacity by 3,300 beds. It allocates $180 million for equipment and border enforcement technology. It provides $89 million to expand repatriation programs that return illegal aliens to their home countries.

The total pricetag for this amendment, which, as you can see, is rather detailed and breaks down into six different areas, is $2 billion. That is a lot of money. But the first responsibility of the Federal Government is to keep our Nation safe, protect it. That is the No. 1 job of the Federal Government. The Federal Government is not getting the job done now. The brave men and women who, day-in and day-out, fight the cartels, the human smugglers, people who smuggle weapons illegally, need help. They need technology, training, and equipment, so they can get the job done.

So that it is not necessary for other States to take matters into their own hands in the absence of the Federal Government living up to its responsibilities, I believe it is absolutely imperative that we spend this money for the security of our country, for the security of our border.

The good news is that, unlike a lot of spending that has happened here in recent months and years, this is not deficit spending. I am not proposing that we spend it using borrowed money; rather, that we use funds that were already appropriated by the stimulus package early in 2009 in order to pay for this amendment. This is not spending our children's inheritance.

I believe this is acting responsibly in responding to the first obligation of the Federal Government, which is to keep our people safe, to protect our borders and our national sovereignty.

I thank my colleagues who signed on as original cosponsors, including Senators HUTCHISON, KYL, and MCCAIN. I hope all of my colleagues will support this amendment.

I see both the bill manager and the Senator from New Jersey. I don't know whether he has had an opportunity to review the amendment. There is nothing particularly exotic or complex about it. It is rather straightforward and deals with a real problem.

Mr. MENENDEZ. Will the Senator yield before he offers the request?

Mr. CORNYN. I will yield for a question.

Mr. MENENDEZ. I appreciate that. I look at the Senator's proposed amendment, and am I to understand that the Senator has $3.1 billion of rescissions to cover what he wants to do in his amendment?

Mr. CORNYN. Responding to my colleague through the Chair, we were told that it would take $3.1 billion in rescission authority to come up with the $2 billion that would pay for the various provisions of the bill. I would be happy to explain that further, with our staffers present, to further satisfy the Senator from New Jersey.

Mr. MENENDEZ. If my colleague will further yield, I understand what he just said. There is $3.1 billion in rescission in the amendment; is that fair to say?

Mr. CORNYN. Madam President, that is correct.

Mr. MENENDEZ. I thank my colleague for yielding.

AMENDMENT NO. 4202, AS MODIFIED

Mr. CORNYN. At this time, I ask unanimous consent to set aside the pending amendment, and I call up my amendment No. 4202, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. MCCAIN, proposes an amendment numbered 4202, as modified.

Mr. CORNYN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make appropriations to improve border security, with an offset from unobligated appropriations under division A of Public Law 111–5)

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY ENHANCEMENTS.

(a) ADDITIONAL AMOUNT FOR COUNTERDRUG ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Drug Enforcement Administration, $30,440,000, of which—

(1) $15,640,000 shall be available for 180 intelligence analysts and technical support personnel;

(2) $10,800,000 shall be available for equipment and operational costs of Special Investigative Units to target Mexican cartels; and

(3) $4,000,000 shall be available for equipment and technology for investigators on the Southwest border.

(b) FIREARMS TRAFFICKING ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Bureau of Alcohol, Tobacco, Firearms and Explosives, $72,000,000, of which—

(1) $68,000,000 shall be available for 281 special agents, investigators, and officers along the Southwest border; and

(2) $4,000,000 shall be available for equipment and technology necessary to support border enforcement and investigations.

(c) NATIONAL GUARD COUNTERDRUG ACTIVITIES.—For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'' for high priority National Guard Counterdrug Programs in Southwest border states, $44,700,000.

(d) HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—For an additional amount for Federal Drug Control Programs, ''High Intensity Drug Trafficking Areas Program'' for Southwest border states, $140,000,000.

(e) LAND PORTS OF ENTRY.—For an additional amount to be deposited in the Federal Buildings Fund, for construction, infrastructure improvements and expansion at high-volume land ports of entry located on the Southwest border, $100,000,000.

(f) BORDER ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Customs and Border Protection, $334,000,000, of which—

(1) $100,000,000 shall be available for 500 U.S. Customs and Border Protection officers at Southwest land ports of entry for northbound and southbound inspections;

(2) $180,000,000 shall be available for equipment and technology to support border enforcement, surveillance, and investigations;

(3) $24,000,000 shall be available for 120 pilots, vessel commanders, and support staff for Air and Marine Operations; and

(4) $30,000,000 shall be available for additional unmanned aircraft systems pilots and support staff.

(g) UNMANNED AIRCRAFT SYSTEMS AND HELICOPTERS.—For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' of U.S. Customs and Border Protection, $169,400,000, of which—

(1) $120,000,000 shall be available for the procurement, operations, and maintenance of at least 6 unmanned aircraft systems; and

(2) $49,400,000 shall be available for helicopters.

(h) IMMIGRATION ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Immigration and Customs Enforcement, $795,000,000, of which—

(1) $175,000,000 shall be available for 500 investigator positions;

(2) $75,000,000 shall be available for 400 intelligence analyst positions;

(3) $125,000,000 shall be available for 500 detention and deportation positions;

(4) $151,000,000 shall be available for 3,300 detention beds;

(5) $180,000,000 shall be available for equipment and technology to support border enforcement; and

(6) $89,000,000 shall be available for expansion of interior repatriation programs.

(i) STATE AND LOCAL GRANTS.—For an additional amount for ''State and Local Programs'' administered by the Federal Emergency Management Agency, $300,000,000, which shall be used for—

(1) State and local law enforcement agencies or entities operating within 100 miles of the Southwest border; and

(2) additional detectives, criminal investigators, law enforcement personnel, equipment, salaries, and technology in counties in the Southwest border region.

(j) OFFSETTING RESCISSION.—

(1) IN GENERAL.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $3,100,000,000 of the amounts appropriated or made available under division A of such Act that remain unobligated as of the date of the enactment of this Act are hereby rescinded.

Mr. CORNYN. Madam President, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 4175

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the pending amendment be set aside and I be permitted to call up amendment No. 4175.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 4175.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that parties responsible for the Deepwater Horizon oil spill in the Gulf of Mexico shall reimburse the general fund of the Treasury for costs incurred in responding to that oil spill)

On page 79, between lines 3 and 4, insert the following:

(b) REIMBURSEMENT.—

(1) DEFINITION OF RESPONSIBLE PARTY.—In this subsection, the term ''responsible party'' means a responsible party (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) with respect to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico.

(2) LIABILITY AND REIMBURSEMENT.—Notwithstanding any limitation on liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) or any other provision of law, each responsible party—

(A) is liable for any costs incurred by the United States under this Act relating to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico; and

(B) shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for the costs incurred under this Act relating to the discharge of oil described in subparagraph (A), as well as the costs incurred by the United States in administering responsibilities under this Act and other applicable Federal law relating to that discharge of oil.

(3) FAILURE TO PAY.—If a responsible party fails to pay a demand of the Secretary of the Treasury pursuant to this Act, the Secretary of the Treasury shall request the Attorney General to bring a civil action against the responsible party (or a guarantor of the responsible party) in an appropriate United States district court to recover the amount of the demand, plus all costs incurred in obtaining payment, including prejudgment interest, attorneys fees, and any other administrative and adjudicative costs.

Mr. LAUTENBERG. Madam President, this amendment is simple. It says that the parties responsible for the gulf oilspill must reimburse the government for every Federal dollar in this bill that goes to the oilspill response. To me, it is just a statement of pure logic. I thank Senator MURRAY for joining me in cosponsoring this amendment.

It has been 36 days since BP's blowout well began spewing damage from

hundreds of thousands of barrels of oil uncontrollably into the Gulf of Mexico, and there is no end in sight. The spill is causing unimaginable devastation to wetlands, wildlife, and the way of life across the gulf. The prospect of oil entering the Loop Current in Florida, hitting the east coast of Florida, is becoming more likely.

Now, President Obama—in addition to the funding provided for the wars in the supplemental and the Haiti disaster—has dispatched the Coast Guard, the Interior Department, the EPA, the Defense Department, and NOAA to the gulf to contain and clean up this disaster. Now we are about to provide millions of dollars in emergency supplemental funding for these efforts.

The question for us today is simple: Who should pay for this effort? Should the American taxpayers be asked to pay for it or should big oil, the companies that caused this disaster, pay for it? I say it is the responsibility of these companies. They were unprepared to deal with this catastrophe. It was not our taxpayers. Therefore, the companies should pay all the bills, as expected.

In the emergency supplemental, we often provide funds to deal with natural disasters. When a flood, hurricane, or tornado hits, Americans are accustomed to lending a hand to their neighbors, whether in their State or other States. But the oilspill in the gulf is not a natural disaster. It was caused either by neglect, recklessness, or otherwise by BP, Transocean, and Halliburton, all of which worked or had a large part of that drilling effort in the gulf. That is why my amendment requires reimbursements by the oil companies, the parties responsible, for any and all taxpayer funds spent on this response. It allows us to respond in the gulf without delay while making clear that the money in the bill is an advance, not a handout, for the oil companies.

The oil companies can afford to pay the taxpayers back. BP made more than a $5 billion profit—more than $5 billion—in the first quarter of this year alone. Although BP first avowed to pay all claims, they then added a modifier, ''legitimate claims,'' and they are the ones who will determine the legitimacy of these claims.

Every single day it becomes clearer that BP stands for ''broken promises.'' If the taxpayers are left with the tab for cleaning up BP's, Transocean's, and Halliburton's mess, funds for other vital services will simply dry up. It is common sense: Polluters must pay for their damage, not American taxpayers.

I urge my colleagues to support this amendment.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4173

Mr. LEAHY. Madam President, I wish to speak about the Sessions amendment to the supplemental appropriations bill. This is the amendment that would cap discretionary spending this year and for future years, irrespective of the needs of the government and the American people.

I know our distinguished chairman, Senator INOUYE, has already spoken about it. I note this is the fourth time the Senate has been asked to vote on this amendment. The last three times it was defeated. Now we have to vote on it again. Perhaps we should have a rule here that after three strikes you are out.

The amendment uses last year's budget resolution as its starting point. It will cut over $20 billion from the President's fiscal year 2011 budget request.

I share the goal of the sponsors of this amendment to limit Federal spending. Since I have been in the Senate, I have voted for billions of dollars in cuts in Federal spending. But the way this amendment is done, using a sledgehammer instead of a scalpel, it arbitrarily affects every Federal program in ways that most certainly will come back to haunt us.

Not only will critical programs from defense to education to foreign policy be cut, the amendment requires a vote of three-fifths of the Senate for emergency spending, and in a mere 14 pages it seeks to basically do away with the role of the Budget Committee.

I would hate to see a situation where, if we have a flood in Mississippi, and for some reason or another a minority of Senators say: Our states didn't have a flood, so why should we vote for this? Or if there were an earthquake in California and they need three-fifths, but a minority of Senators has other priorities. That's not the way it should work.

I must admit, I take a somewhat long view of it. I have not been here as long as our distinguished chairman has or our distinguished former chairman, Senator BYRD. But I have been here longer than everybody else in this body. I urge people to be careful what they wish for. It appears that requiring 60 votes and the gridlock we are currently experiencing is not enough. The sponsors of this amendment want the body to be held hostage to a minority of two-fifths. As the chairman of the Appropriations Committee said earlier, it is the wrong direction for the Senate to be going.

Let me focus my brief remarks specifically on the effect the Sessions amendment would have on important national security programs funded in the State and foreign operations budget for fiscal year 2011 which begins on October 1.

The amendment would cut $1.1 billion from the President's State and foreign operations budget request. A cut of that size would have significant and, I suspect, unintended consequences.

I hope the proponents of this amendment or their constituents are not among those who want travel overseas and want their passports processed in a timely manner.

I hope they do not mind that our embassies are not fully staffed and cannot properly represent Americans abroad. I hope if something happens to them or their constituents in Mexico, Kenya, Turkey, or any other foreign place and there is not an American consular officer who can help them in an emergency, that they will not complain because their amendment cut the funding for that consular officer's salary.

I hope it does not matter that we would only be able to fund a portion of the global health and food security initiatives which, among other things, provide funds for maternal and child health and to prevent and respond to outbreaks of deadly contagious diseases, such as cholera, Ebola, and the Asian flu.

I point out that these are not just threats in places halfway around the world, they are only a plane trip away from our shores.

I hope the sponsors of this amendment are not concerned that it may mean we have to cut funding for exchange programs for students of predominantly Muslim countries where we are trying to show a different face of America, or democracy programs in the former Soviet Union or training programs for Iraqi police officers. There is a price for everything, and the funding for State and foreign operations is one of the best bargains in the Federal budget.

Contrary to what some may believe, it consists of barely 1 percent of the entire budget. Aside from the U.S. military, it is how the United States exerts its influence around the globe. As we are trying to show in many parts of the globe, it is not just our military might that defines America, it is our global reach in humanitarian emergencies and diplomacy.

At a time when China is sharply increasing its spending for these same types of activities and extending its sphere of influence to our hemisphere and around the world because they know it is in their Nation's best interest to do so, do we really want to cut the funding that enables the United States to compete? It makes no sense.

I note that even though it is in the State Department budget, top officials at the Pentagon understand this very well. Secretary Gates and Admiral Mullen, Chairman of the Joint Chiefs of Staff, have both urged the Congress to fully fund the State and foreign operations budget. They know these are areas where our diplomats can handle things better at far less cost and with longer lasting effects.

The sponsors of this amendment have supported the deployment of our troops in Afghanistan and Iraq. They have voted to borrow the money—the only

time, certainly, in my lifetime, that we have gone to war anywhere and not paid for it. But military force alone, even though it is exerted through great sacrifice by the very brave men and women in our military, can only provide the conditions for longer term economic and political stability in those countries. The State and Foreign Operations budget provides the funds to build that economic growth and political stability.

I ask unanimous consent the letters from both Secretary Gates and Admiral Mullen be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. No one disagrees that we need to control spending. The distinguished chairman of the Senate Appropriations Committee and the distinguished ranking member of the Senate Appropriations Committee work very hard to control spending. As a member of that committee I know the votes I have cast to substantially cut spending. We need to eliminate programs that are wasteful or can no longer be justified. We need to be frugal about what new programs we fund.

But just as we are in a different world today than when I came to the Senate 35 years ago, the things we need to do to respond to the challenges of today are different than they were 35 years ago. The way we respond to those challenges is different than when the distinguished Appropriations chairman was gallantly fighting to protect our Nation in World War II—something which we all honor and the Nation has honored when he received the Congressional Medal of Honor. But he, like so many others, tried to make the world safe for democracy, but I think he also wanted to make it a world where America could achieve its goals through the strength of its ideas and not just through its military might.

This amendment is not going to make a dent in the Federal deficit by cutting $1.1 billion from the State and Foreign Operations budget. The amendment, however well intentioned, would permit a small minority of the Senate to dictate to the majority. It would limit the global influence of the United States. It would cede more of our influence to China. It would diminish our ability to develop and access export markets that are vital to our economy and vital to increasing jobs here in the United States. At worst of all, it would weaken our security alliances.

I urge Senators to reject it.

I yield the floor.

EXHIBIT 1

SECRETARY OF DEFENSE,
PENTAGON,
Washington, DC, Apr 21, 2010.

Hon. KENT CONRAD,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my strong support for full funding of the President's FY 2011 foreign affairs budget request (the 150 account) which, along with defense, is a critical component of an integrated and effective national security program.

I understand this year presents a challenging budget environment, with competing domestic and international pressures. However, I strongly believe a robust civilian foreign affairs capability, coupled with a strong defense capability, is essential to preserving U.S. national security interests around the world.

State and USAID partners are critical to success in Afghanistan, Pakistan and Iraq. Our military and civilian missions are integrated, and we depend upon our civilian counterparts to help stabilize and rebuild after the fight. As U.S. forces transition out of war zones, the U.S. government needs our civilian agencies to be able to assume critical functions. This allows us, for example, to draw down U.S. forces in Iraq responsibly while ensuring hard-fought gains are secured. Cuts to the 150 account will almost certainly impact our efforts in these critical frontline states.

In other parts of the world, the work performed by diplomatic and development professionals helps build the foundation for more stable, democratic and prosperous societies. These are places where the potential for conflict can be minimized, if not completely avoided, by State and USAID programs—thereby lowering the likely need for deployment of U.S. military assets.

In formulating his request for FY 2011, the President carefully considered funding needs for the budget accounts for both foreign affairs and national defense, taking into account overall national security requirements as well as economic conditions. I believe that full funding of these two budget accounts is necessary for our national security and for ensuring our continued leadership in the world. I hope you will take this into account when acting upon the President's FY 2011 budget request.

Sincerely,

ROBERT M. GATES.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 21, 2010.

Hon. HARRY REID,
Senate Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. MAJORITY LEADER: As the Congress moves to finalize the budget for FY 2011, I want to offer my strong support for fully funding the Department of Defense and related agencies. I also want to reinforce the views expressed in Secretary Gates' letter of April 21 and Secretary Clinton's letter of April 20 (copies attached) to Senator Kent Conrad, requesting full funding of the Department of State and USAID. We are living in times that require an integrated national security program with budgets that fund the full spectrum of national security efforts, including vitally important pre-conflict and post-conflict civilian stabilization programs.

Diplomatic programs are critical to our long-term security. I have been on record many times since 2005 expressing my views of the importance of fully funding our diplomatic efforts. As Chief of Naval Operations, I said that I would hand over part of my budget to the State Department, ''in a heartbeat, assuming it was spent in the right place.'' Diplomatic efforts should always lead and shape our international relationships, and I believe that our foreign policy is still too dominated by our military. The diplomatic and developmental capabilities of the United States have a direct bearing on our ability to shape threats and reduce the need for military action. It is my firm belief that diplomatic programs as part of a coordinated strategy will save money by reducing the likelihood of active military conflict involving U.S. forces.

I am told that the Senate Budget Committee reduced the international affairs budget by $4 billion, and I respect and appreciate the tough choices the committee had to make. I would ask that as you finalize the spending outlines for FY 2011, you underscore the importance of our civilian efforts to the work of the Defense Department, and ultimately, to our Nation's security. Because of the increasingly integrated nature of our operations, a $4 billion decrement in State and USAID budgets will have a negative impact on ongoing U.S. military efforts, leading to higher costs through missed diplomatic and developmental needs and opportunities. A fully-integrated foreign policy requires a fully-resourced approach. Our troops, Foreign Service officers and development experts work side-by-side in unprecedented and ever-increasing cooperation as they execute our strategic programs. We need to continue to grow the important capabilities that are unique to our non-military assets, ensuring they have the resources to enhance our security and advance our national interests, in both ongoing conflicts as well as in preventative efforts.

As always, I appreciate your strong support of our men and women in uniform, and appreciate your considering my perspective as you finalize the FY 2011 budget.

The more significant the cuts, the longer military operation will take and more and more lives are at risk.

M. G. MULLEN
Admiral, U.S. Navy.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent I be added as a cosponsor of amendment No. 4179, offered by the distinguished Senator from Louisiana, Ms. LANDRIEU.

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

The Senator from Maine.

Ms. COLLINS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending amendment is 4175 offered by the Senator from New Jersey.

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection? The Senator from Hawaii.

Mr. INOUYE. Mr. President, reluctantly I object. I suggest the absence of a quorum so I may discuss this matter with Senator COLLINS.

The PRESIDING OFFICER. The Senator does not have the floor.

Objection is heard.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 4218

Ms. COLLINS. Mr. President, I am not going to call up my amendment at this time because I understand there is an objection on the other side. But I

am going to take advantage of this opportunity to discuss my amendment, which is No. 4218. This is an amendment I have offered on behalf of myself and Senators INHOFE, ALEXANDER, BROWN, BROWNBACK, GREGG, SNOWE, COBURN, BOND, MURKOWSKI, VOINOVICH, BURR, BEGICH, and CORKER.

On April 22, a new Environmental Protection Agency regulation regarding lead paint abatement went into effect. Lead paint has been of great concern to me for a number of years. I actually joined with the Senator from Rhode Island, Senator REED, in holding field hearings on the dangers of lead paint in older houses several years ago. It has long been a concern of mine. I support the purpose of this rule because we want to continue our efforts to rid toxic lead-based paint from our homes.

I am deeply concerned, however, as are many of my colleagues, that the EPA has completely botched the implementation of this rule. The rule requires that contractors who were hired to do work in homes that have lead paint must first be certified to perform this work. We put the cart before the horse with this rule and the result is that the EPA has not ensured that there is a sufficient number of trainers to provide the training and the certification for these contractors. That means many contractors simply cannot get the necessary certification in most States.

The result is that small business men and women are losing out on jobs at a time when many of them are in desperate need of work. Ironically, it also means that lead paint that homeowners want removed or mitigated will not be.

In my State of Maine, for example, as of last week we have only three EPA trainers in the entire State to certify contractors. Just over 10 percent of the State's contractors have been certified. Hundreds of Maine's contractors have signed up for the training but they have been forced to wait. Their names are languishing on waiting lists, some for as long as 2 months.

It is hard to envision how much worse a job EPA could have done in rolling out this regulation and it is not as if EPA did not know this was coming. EPA has had years to plan for the proper implementation of this regulation. Unfortunately, the EPA's rule carries a big penalty for contractors who do not get the required training. If contractors who perform work in homes built before 1978 are not EPA certified, they face fines of up to $37,500 per violation per day. Many of the painters in my State doing this work don't earn $37,000 in an entire year. How unfair it is when it is the EPA's fault in many cases that they are not certified. The lack of training and the EPA fines are creating a no-win situation. If contractors who have not received the EPA training work in these older homes, they face the possibility of literally losing their businesses, of being fined out of existence, due to the severity of the EPA fines. Meanwhile, the lead paint remains, raising the threat of lead poisoning and its significant health impacts.

I have been trying to work with EPA officials since this problem first became evident to me in early March, but they have offered absolutely no reasonable accommodations, no reasonable solutions. In fact, it took the EPA 7 weeks to even offer any ideas for getting more trainers to the State of Maine—and even then the EPA's proposals were unworkable.

I come to the floor to offer a common sense solution to a problem created by Washington's poor planning. My bipartisan amendment, which is cosponsored by so many of my colleagues—and let me give the list again. Senators ALEXANDER, INHOFE, BROWN, BROWNBACK, GREGG, SNOWE, COBURN, BOND, MURKOWSKI, VOINOVICH, BURR, BEGICH, and CORKER—would prohibit the EPA from imposing fines against contractors who have signed up for the required training classes by September 30 of this year. This delay will allow, I hope, adequate time for contractors to comply with the law and to get the required training without fear of a fine that could well put them out of business.

To be clear, our amendment does not stop the EPA from punishing those who willingly break the law and endanger a child's well-being. It simply gives the EPA more time to ensure that there is a sufficient number of trainers in each State, and it simply protects that small painter, that small businessman, that small contractor, from unfairly being fined when it is the EPA's fault he or she cannot get the required training.

Inconceivably, I have heard the EPA say it has trained an adequate number of people in Maine, so let me give you the statistics for my State, because they are typical of many States. First, EPA estimates that there are only 1,400 contractors in Maine. In fact, however, there are more than 20,000 contractors in our State; not 1,400, but 20,000 people who need to be trained.

EPA makes another erroneous assumption. It assumes that all of these people are part of large businesses and that only one person at each business needs to be certified.

EPA also assumes that contractors specialize in doing just old homes or new homes. Completely false. That makes no sense at all in a rural State such as Maine, which has some of the oldest housing stock in the country and most painters are small shops, usually just an individual who is self-employed. At most, he might be part of a small business where there are two or three people who are doing the work. In addition, these individuals work in mixed communities which have older homes and newer homes. This is typical of every community in my State.

We cannot ask them to give up working in older homes simply because an economist at the EPA does not understand what our housing stock looks like in Maine. Furthermore, most of the EPA's classes have been held in the southern part of the State. It is not feasible for people to have to travel hundreds of miles in order to obtain this training. I have heard that criticism and that problem from my colleagues in other States as well, that the EPA is offering the classes only in cities and has completely neglected the rural parts of their states.

My home State of Maine is not the only State trapped in this bureaucratic dilemma. An EPA evaluation from early May shows, for example, that Hawaii only has two trainers. I cannot imagine how that can work in Hawaii given the islands. That is not feasible. Mississippi has only one trainer in the entire State. Three States—Louisiana, Wyoming, and South Dakota—do not have a single EPA-certified trainer.

This is just not fair. It is not fair that these small contractors live under the threat of these onerous fines that would put many of them out of business, when it is not their fault they cannot obtain the training—it is EPA's fault.

All of us understand that lead is a dangerous toxin and we must work to do whatever we can to keep our homes and our children safe. But the burden should not fall upon the shoulders of small contractors and construction professionals, painters and others, who are trying their best to comply with EPA's rule.

Spring is home renovation season in most States. The small business men and women of Maine are just gearing up for the spring and summer months, and they are trying to recover from the great recession which has been so hard on their businesses. The onerous and unfair fines of more than $37,000 per day could put many of them out of business even as they wait for an EPA training class to become available.

As they are waiting, if they choose not to do this work, they are losing income as well, and that is unfair. All I am attempting to do with this amendment is provide the EPA with more time in order to increase the number of certified trainers and the offering of these classes.

With enough trainers, we can eventually ensure the success of this program. But without enough trainers, we are guaranteeing its failure and penalizing innocent contractors who are simply trying to make a living and who have been unable to secure the training required by the EPA.

I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. I ask unanimous consent to speak as in morning business.

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

KAGAN NOMINATION

Ms. KLOBUCHAR. I rise today to discuss the President's nomination of Solicitor General Elena Kagan to be an

Associate Justice on the U.S. Supreme Court. The Supreme Court confirmation hearing for Solicitor General Kagan will begin on June 28. But my consideration of her will not begin then. As so many of my colleagues, I began considering her the day her nomination was announced because I want to learn as much as I can about President Obama's choice to fill one of the most important jobs in the land, a job as a Supreme Court Justice.

Even though there are many questions we all still need to ask this nominee, and we do that in the hearings, I would like to speak today on how she appears to me based on her initial job interview, the interview I had in my office, and the work that has been done so far to gather information about this nominee.

After meeting with her and hearing about her, I can tell you that I am very positive about her nomination. Solicitor General Kagan is an intellectual heavyweight who brings an incredibly broad variety of legal experiences to this nomination. In so many of the legal jobs that she has had, she has been a trailblazer.

In 2003 Kagan became the first woman in Harvard Law School's 186-year history to serve as dean. It is hard enough to manage lawyers, as I know from my former job as county attorney, much less manage law professors. She did it with much aplomb.

In 2009 she became the first woman to serve as Solicitor General, the chief lawyer representing the interests of the American people before the Supreme Court. One particularly interesting aspect of her background is that she has worked in all three branches of government. She served as a Supreme Court clerk, as an adviser to then-Senator BIDEN when he was the chairman of the Senate Judiciary Committee, and, of course, she has worked in two different Presidential administrations: in the White House Counsel's Office as a domestic policy adviser and now as Solicitor General.

When I look at her resume, I notice two things: One, she has an appreciation of how the law impacts the lives of ordinary Americans. When you are involved in considering the nitty-gritty details of different policies, when you have to figure out where to compromise to protect Americans, and where to hold firm on a piece of legislation or a position you take, you have to know exactly what the consequences of your recommendations will be. You have to think about the lives that will be impacted.

The second thing I notice is she has a track record of listening to different viewpoints and bringing people together, whether it was her track record of recruiting law talents while dean, whether it was conservative law professors or liberal law professors, or working with Senators from both parties on tobacco legislation. She has practical experience reaching out to and working with people who have very different beliefs and views than she does. That is increasingly important on a very divided Supreme Court.

Some of my colleagues have questioned whether she is fit to be a Supreme Court Justice because she has never been a judge. First, I have to wonder whether these same colleagues would have objected to putting, say, Chief Justice Rehnquist on the Supreme Court—he was not a judge before—or Justice Brandeis or Justice Frankfurter because they did not have any judicial experience. Would that have been the excuse, because they were not nominated?

In fact, more than one-third of all Supreme Court Justices in the history of this great country were not judges before. If we think about the Court right now, every single one of them came from what has been called the judicial monastery.

I think it is great that we actually have a nominated candidate that came from a different part of the world, someone who was in the private sector, someone who has worked in the U.S. Government, who has managed people, who has had to make tough decisions. I think that is a good thing. But, additionally, I think it is important that we bring someone with that kind of perspective.

Solicitor General Kagan brings so many interesting legal experiences to the table. Beyond that, her current job, Solicitor General, is actually referred to as ''the Tenth Justice'' because it is such an important position. She represents the American people before the Supreme Court. That is incredibly important training for an individual nominated to serve on the Court.

It is worth noting that the last Solicitor General who subsequently became a Supreme Court Justice was no other than Thurgood Marshall, Elena Kagan's mentor and former boss. So I hope we can put to rest this idea that only judges are qualified to be Justices because if that were the rule in this country, one-third of our Justices, so many of them great ones, as noted by people from both sides of the aisle, would never have gotten to the Court.

I also want to talk about one other issue that has come up in the 2 weeks since Elena Kagan was nominated. I wish I did not have to talk about this issue because it is not worthy of discussion in this great Chamber. It is not something we would be normally talking about with a Supreme Court Justice.

But I learned last year, during Justice Sotomayor's hearings, that Supreme Court nominations truly bring out the ''silly season'' in Washington, DC. Last year, for example, there were stories and comments, mostly anonymous it is worth noting, that questioned Justice Sotomayor's judicial temperament.

According to one news story about the topic, ''[Judge Sotomayor] develop[ed] a reputation for asking tough questions at oral arguments and for being sometimes brusque and curt with lawyers who were not prepared to answer them.'' As I said last year, where I come from asking tough questions and having very little patience for unprepared lawyers is the very definition of being a judge. As a lawyer, you owe it to the bench and to your clients to be as well prepared as you can be.

As Nina Totenberg said on National Public Radio:

> If Sonia Sotomayor sometimes dominates oral argument at her court—if she's feisty, even pushy—then she should fit right in at the U.S. Supreme Court!

I think it was Justice Ginsburg during that time who commented: Well, look at Breyer. Look at Scalia. She will fit right in.

This became an issue at our hearings and she was questioned about this. I thought we had come to a time in our country where we could confirm as many gruff, to-the-point female judges as we have confirmed male judges.

Well, this year is no different. There was a lengthy article this weekend in one of our major newspapers about Elena Kagan's clothing, describing it as—I will say in rather critical terms, it talked about at length her leg-crossing style. Now I have to say, I took note of this since it was compared to my leg-crossing style.

I have to say I never thought I would be discussing this in this Chamber. But, in fact, this was a major article that stirred much commentary all over the blogs. I do not think such an article was ever written about Chief Justice Roberts. I am trying to picture this, if he was in a meeting with Senator HATCH, if there was a major article written about the two of them and who was crossing their legs and who was crossing their ankles and how they were facing each other. I do not think that happened.

Was such an article written about Justice Alito or was such an article written about Justice Rehnquist when he was being considered by this great body? It is my 50th birthday today, and I must admit, I thought we were somewhat beyond what happened to me when I was 10 years old in Beacon Heights Elementary School and decided one day to wear bell-bottom pants, flowered bell-bottom pants to fourth grade, and was kicked out of my class by Mrs. Quady. I was told: At Beacon Heights Elementary School girls only wear dresses. I had to go home and change my clothes.

Well, a lot has happened since those days in fourth grade. Now on my 50th birthday, it is my hope that as we consider the Solicitor General of the United States, Elena Kagan, she will be considered on her merits, she will be asked tough but fair questions; the questions should not be where does she shop, but, rather, does she have the first-rate intellect, unimpeachable character, and judicial temperament to join the highest Court in the land.

That should be what we are talking about at the hearing. That should be

what the press is focused on. That should be what my colleagues are to decide on. Just think about how far we have come. When Sandra Day O'Connor graduated from law school 50-plus years ago, the only offer she got from a law firm was for a position as a legal secretary.

Justice Ginsburg faced similar obstacles. When she entered Harvard in the 1950s, she was one of only 9 women in a class of more than 500, and one professor actually asked her to justify taking a place that could have gone to a man. Later she was passed over for a prestigious clerkship despite her impressive credentials. In the course of more than two centuries, 111 Justices have served on the Supreme Court. Only three have been women. If confirmed, Elena Kagan would be the fourth and, for the first time in its history, three women would take places on the bench when arguments are heard this fall. Let's focus on what matters. Let's focus on the credentials, on the qualifications, on how she answers the questions, not on how she crosses her legs.

I yield the floor.

AMENDMENT NO. 4175, AS MODIFIED

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I ask unanimous consent the Lautenberg amendment No. 4175 be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

On page 79, between lines 3 and 4, insert the following:

(b) REIMBURSEMENT.—

(1) DEFINITION OF RESPONSIBLE PARTY.—In this subsection, the term ''responsible party'' means a responsible party (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) with respect to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico.

(2) LIABILITY AND REIMBURSEMENT.—Each responsible party—

(A) is liable for any costs incurred by the United States under this Act relating to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon in the Gulf of Mexico; and

(B) shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for the costs incurred under this Act relating to the discharge of oil described in subparagraph (A), as well as the costs incurred by the United States in administering responsibilities under this Act.

(3) FAILURE TO PAY.—If a responsible party fails to pay a demand of the Secretary of the Treasury pursuant to this Act, the Secretary of the Treasury shall request the Attorney General to bring a civil action against the responsible party (or a guarantor of the responsible party) in an appropriate United States district court to recover the amount of the demand, plus all costs incurred in obtaining payment, including prejudgment interest, attorneys fees, and any other administrative and adjudicative costs.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I had intended to ask unanimous consent to set aside an amendment in order to offer amendment 4191, but I understand there are certain Senators who want to review that amendment before that request is made. That is certainly a reasonable suggestion. I will withhold my request to offer the amendment. I hope I will have a chance to offer it later. I want to let my colleagues know what I intend to do.

This amendment would reestablish the moratorium on offshore oil and gas drilling in the North Atlantic, Mid-Atlantic, the South Atlantic and the Straits of Florida Planning Areas. As I am sure colleagues are aware, several weeks ago the President indicated he would lift the moratorium on offshore drilling along the Atlantic from the New Jersey-Delaware border south all the way to the Florida Keys, that he would also lift the moratorium on parts of Alaska, but that he would maintain a moratorium on the Pacific coast and on the North Atlantic. Since that announcement has been made we all know what has happened in the Gulf of Mexico. We have seen what happened with the BP oilspill—the loss of life and the horrific impact it has had on the environment.

When the President announced his policy of additional offshore drilling sites, he stated, through the Secretary of the Interior, that there are places in the United States that are environmentally too sensitive to consider for new oil and gas exploration and production. He cited the entire west coast of the continental United States and the North Atlantic. Those who are familiar with the mid-Atlantic know it is also too sensitive an area from an environmental point of view to take the risk on new offshore drilling. I mention this specifically because there is a lease sale site—220—50 miles off the Virginia coast and 50 miles due east of the entrance to the Chesapeake Bay, and just 60 miles from the border of the Assateague Island National Seashore that is actively being considered for oil exploration. Recently, the Department of Defense weighed in with objections to that because naval operations use a large part of that area. It is about 2.9 million acres.

My point is that expected reserves there are minuscule compared to our national needs and the risk factors are significant. If we were to have anywhere near the type of spill that happened in the gulf 50 miles off the entrance to the Chesapeake Bay, it would have a catastrophic impact for generations to come on the Chesapeake Bay and on the beaches not only in Maryland and Virginia but in Delaware and New Jersey. According to the National Oceanic and Atmospheric Administration, the prevailing winds in our region blow toward the shore or along the shore 72 percent of the time, making it much more likely that any spill that short a distance from the shore would end up affecting our coastal areas. I say that knowing full well there is not much oil to drill for out there.

It is interesting to point out that 79 percent of our recoverable offshore oil and 82 percent of our recoverable offshore natural gas is already open to drilling. The mineral companies already have significant areas where they can drill. There is only a small amount left. More important, if we go after all of our known oil reserves we have in this country, we have less than 3 percent of the world's oil reserves, known reserves. But we consume 25 percent of the world's oil. It is clear to all of us that we need to develop an energy policy that makes us energy secure, that helps us create and save jobs in America and is friendly toward the environment. The best investment we can make is in conservation, alternative and renewable energy sources, and safely developing resources on existing leases in order to accomplish that.

For many years, there was a moratorium on offshore drilling. That moratorium was imposed by Congress and by Executive Orders. But we were unable to extend the Congressional moratorium in 2008 and because of the actions of the previous administration, that moratorium no longer exists. The purpose of this amendment is to say that none of the funds made available in this act—and there are funds made available in this bill to deal with the oil spill issue—can be used for pre-leasing, leasing or any other activity off the Atlantic coast or the Straits of Florida. The west coast is protected; the administration did not propose drilling there. So, too, is the North Atlantic. But to be as emphatic as possible, I included the North Atlantic Planning Area in my amendment to send a message that we don't want drilling anywhere from Maine to the Florida Keys. Alaskans have their opinions on the way that they believe drilling should be handled there. We can get to that legislation separately. Certainly, with BP Oil currently under investigation, I hope it will be the unanimous view of this body that we don't want to see any new areas drilled until after we have had a full investigation into what happened in the Gulf of Mexico, to find out why we didn't have the regulatory system in place to protect our environment and protect public safety, to protect small businesses and property owners, and to protect taxpayers, why that regulatory system was not in place.

Before we consider new areas, we certainly want to make sure we have reviewed the regulatory structure that is in place and taken the steps necessary to fix it. This amendment would express our intention that until that is done, we don't want to see any new offshore drilling sites along the Atlantic coast.

I hope we go further. Quite frankly, I hope we go further and say we should

not be doing any new drilling anywhere in this country until we find out what went wrong so that we have corrected that. I am talking about offshore drilling. We should at least be able to correct what was the mistake with regard to BP Oil and the Deepwater Horizon rig. But at a minimum, these areas along the Atlantic coast where we currently don't drill should be off limits until we have completed the full review. That is the purpose of my amendment. I hope the chairman and ranking member will give me an opportunity to offer this amendment. I have heard from the Parliamentarian's Office that it would not be subject to a Rule XVI point of order and I believe it is germane. I believe we have a responsibility to act on this issue on this supplemental appropriations bill, because this truly is an urgent issue that has become much more urgent as a result of the spill in the gulf.

Mr. INHOFE. Will the Senator yield for a question?

Mr. CARDIN. I am glad to yield.

Mr. INHOFE. For clarification, I know he expressed his sentiment that he wishes to stop all drilling offshore. But for the purpose of this amendment, it is confined to two areas, and it is only until such time as the investigations underway are completed; is that correct?

Mr. CARDIN. This amendment deals with the three Atlantic Planning Areas (North, Mid, and South) and the Straits of Florida Planning Area only, and it only becomes operational as long as this supplemental appropriations bill is in effect—through the end of the current fiscal year.

Mr. INHOFE. It is a 1-year moratorium. It is not tied to the investigation?

Mr. CARDIN. No, it is not tied to the investigation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me make a couple comments about the comments of my friend from Maryland concerning the opportunities we might have to exploit our resources in the United States. I hear quite often people say that we only have 3 percent of the world's reserves. The only reason that figure is so low is because we can't go ahead and go after and define our recoverable reserves. CRS came out about 2 months ago with a report that we are No. 1 in the world in recoverable reserves of gas, oil, and coal. We have done a study, not a part of any formal study, but to determine where we would be if we, like every other country in the world, would exploit our own resources, where we would be in terms of our dependency on the Middle East for the ability to provide the energy we need. In a short period, just on this North American continent, Mexico, Canada, and ourselves, if we would lift all restrictions we currently have, we would be able to be independent of the Middle East.

A lot of people who are concerned about the national security ramifications of our dependency on the Middle East are concerned about the Middle East. They are not concerned about Canada or Mexico. They are not concerned about the North American continent.

For those people who don't want to drill offshore, certainly now is the time to stand up and say: Look what happened down here, a horrible disaster. But those people who have never wanted, at least in the 20 years I have been here, to drill offshore or even in some of the other areas that are now off limits are people who don't think fossil fuels have a place in our energy mix. Quite frankly, I am glad President Obama has changed his position and is now recognizing that fossil fuels, more clean coal technology and therefore more coal, more gas, more oil is something he would support. It is nice to talk about renewables. It is wonderful. We have more windmills in Oklahoma than any State right now. But until technology gets to the point where we can efficiently produce energy from renewables, we still have to run this machine called America. We can't do it without fossil fuels.

I am a little bit prejudiced. I come from Oklahoma. We are one of the largest producing States. Ours are mostly marginal wells, shallow wells. They are not the giant ones. That is the reason I have been on the floor several times objecting to the Menendez limits or caps they are talking about putting on something that would be unrealistic, that would shut down any opportunities for independents and confine all offshore drilling to the five majors plus the NOCs. That is the national oil companies, mostly talking about China.

I am concerned about that. I know right now we would be in a position to do something, and we could become energy sufficient in the North American continent within 5 years, if we would exploit our own energy resources.

AMENDMENT NO. 4218

That is not the reason I am here this afternoon. I just happened to come in. I wish to comment on amendment No. 4218 by Senator COLLINS. She was here a little while ago. I had an amendment that would do essentially the same thing. It was the Inhofe-Collins amendment. This is the Collins-Inhofe amendment. It takes a slightly different approach. I support both amendments, although I am withdrawing mine in her favor.

This is the problem we have. On April 22, the EPA came out with a rule that made the statement that in the event you disturb any 6 square feet of a building structure that is older than 1978, then you have to have a permit from the EPA to become certified to work on such a building. If you don't do it, there is a penalty provision of some $37,500 a day. Realistically, we know they would not fine somebody $37,500 a day. But unfortunately, a lot of the contractors who do that kind of work are individuals who don't know that is nothing but a bluff to keep people from doing things. We very much want to participate in this dialog.

I think there may be a procedural problem that someone is whispering about here; is that correct? OK, I am sorry. I forgot to ask to be considered as in morning business. I ask unanimous consent at this time.

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

Mr. INHOFE. This is a problem. I used to be in this business on some scale. The smaller contractors are the ones who do the renovation business. That means if they try to go out there and even replace one window, you can't replace the window without disturbing 6 square feet. Therefore, you would come under the provisions of this new rule, and you would be subjecting yourself to a fine of $37,500.

So my bill that would have resolved the problem was not quite as good as the Collins bill, but it would have merely said that until such time as there are adequate numbers of people who are certified to do this work, we would not enforce the law.

Well, the problem we are having right now is—and I have a list of the different States—in my State of Oklahoma, there is only one certified instructor. We have all these people wanting to take the course but they cannot get in, and they cannot do the work because of the heavy fine provisions.

So what Senator COLLINS has done in her amendment is say that the penalty provision—the $37,500 a day—would be waived until September 30. That would allow the EPA to get certified instructors into all the States so the people who want to become certified can become certified—in the meantime, not miss this summer's construction season. It is a very simple thing. I can assure you, this is a huge jobs bill because right now these people are not working. We are talking about thousands and thousands, in just my State of Oklahoma, of subcontractors who do this kind of work.

I strongly support the Collins-Inhofe amendment No. 4318. It is a jobs bill. It is a bill of fairness.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. INHOFE. Mr. President, for clarification, I knew people were walking around talking. I apologize to Senator CARDIN. I have no objection to him offering his amendment. I would say, I was wanting to get clarification on the amendment so I would know how I wanted to vote. That is all.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business.

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

FINANCIAL REGULATORY REFORM

Mr. KAUFMAN. Mr. President, we are about to go to a conference on the financial reform bill for Wall Street reform. I want to spend a few minutes to talk about some of the provisions that I think are extremely important to survive in conference.

What brought my attention to speak today is what is going on in Europe right now. You will hear people talk about this bill, and they will say: Well, there is no problem anymore. We have straightened out the mortgage problem. This all happened. Some kind of a typhoon came through here and wrecked the housing business. If we get that straightened out, we can move right on.

I do not see it that way. I do not look at it as some kind of natural disaster. Clearly, the housing bubble was a big part of it, but there were still systemic problems in our financial system which have been around for quite a while. If you go back and look at the 1929 Depression, in 1933, the Senate of the United States and the House and the President got together and we made rules and we made laws to correct it so it would never happen again. We passed a bill such as Glass-Steagall which basically said if you want to be a commercial bank, that is fine. But if you want to be a commercial bank, you cannot be an investment bank. We put in the uptick rule on short selling. We put in margin requirements. We created the FDIC. The Congress of the United States legislated because it was such a serious problem.

For 50, 60 years we did not have a major problem. We had problems, but not major problems. Think about before 1929. The 19th century was full of bank panics. What happened? Why did we go through 50 or 60 years without a problem?

I think when you look at it, you have to say we made some major mistakes during the late 1990s and into the 2000s in the way we carried on our business in the financial market. One by one, we stripped away these protections. It culminated in 1999 with the Graham-Leach-Bliley Act, which did away with Glass-Steagall. We allowed commercial banks to get into all kinds of businesses, all kinds of risky businesses. We allowed them to get into derivatives. Our regulators went home and said: Hey, look, we didn't need regulation. Let the free market work it out. Alan Greenspan and others were saying: Let the market work it out.

This was not just about housing. Housing is what set it off, but what really set it off was we basically said, we do not need any regulators. We decided to do play football, and we said: Do you know what. Those referees on our football field keep blowing the whistle. How can we keep playing when we have the referees blowing the whistle all the time, closing things down? Let's get these referees off the field and let the people play. We all know what happens in football, and we all saw what happened here.

What concerns me the most is—I think we have done some good things to deal with the housing market and eliminating the housing bubble—what we see happening in Europe should send a real chill through the spine of everyone in this body. We have seen the EU and the IMF scramble to put together an almost $1 trillion emergency package to forestall a full-blown series of sovereign debt crises in one country after another. Sound familiar? Lehman Brothers, Bear Stearns, AIG, and on. Greece, Spain, Portugal. Sound familiar? We see what is happening there.

German and French banks alone have more than $900 billion in exposure to Greece and other vulnerable Euro countries, including Ireland, Portugal, and Spain. Meanwhile, our top five banks have an estimated $2.5 trillion in exposures to Europe.

On the front page of today's Wall Street Journal there is an article on how European banks are saddled with higher funding costs because of skepticism on whether the EU-IMF bailout plan will work.

I am a person who believes in the market. Look at what the market is saying. The market is saying: You are going to have to pay a higher funding cost. Do you know why? Because we are at risk. That is a sign. It is not for people to sit around. We are at risk. Just like right now, our major banks borrow at lower rates than every other bank in America because people believe 75 basis points or 80 basis points—because people believe the market sends a clear message that they think those banks are still too big to fail. So this is an example of what is going on in Europe and why we must make sure the bill that comes out of conference is strong and why we must make sure we have done away with too big to fail.

There are five issues I wish to talk about on the floor and go over them. No. 1 is Merkley-Levin. People on the floor know that is a good amendment, the President of the United States. The Volcker rule: Folks have come to this floor and said the Volcker rule is already in this bill. Well, this bill says the Rocker rule is in here. The Volcker rule, as you will remember, says that commercial banks, banks, should not be involved in proprietary trading.

If you want to be a commercial bank, be a commercial bank. That is what we set up when we set up Glass-Steagall. We said be a commercial bank. That is going to be a low-risk business. You may not get as high a return if that is what you want to do, but do not get into these risky things, do not get into this investment banking. Basically, what this says is, do not get into the proprietary trading because proprietary trading can be risky. If you want to be a commercial bank, be a commercial bank. So what the present bill says is that it supports the Volcker rule. It says you can do proprietary trading, but then it sends it to the regulators, and says to the regulators, you can modify this.

First of all, what is the Congress of the United States doing saying to regulators, you can modify this? The buck stops here with us. We should lay down what the rules are. That is what we did in 1929. We passed laws. We made what the laws were. We do not turn them over to regulators. By the way, many of these regulators—not the people but the people who were in those positions—were the reason why we got to where we are today, because they are the ones who pulled the referees off the field.

So one of the things we should look at clearly coming out of this conference is a strong Volcker rule, not one that can be modified by the regulators, and that is basically the Merkley-Levin amendment.

The second thing is the provision by Senator LINCOLN, the provision on swaps dealers. The conference report should include Senator LINCOLN's provision to prohibit banks with swap dealers from receiving emergency Federal loans. Again, if you want to be a bank, be a bank. Do not get into these high-risk businesses.

By forcing megabanks to spin off their swap dealer into an affiliate or separate company, section 716 of the Senate bill would help restore the wall between the government-guaranteed part—the FDIC-insured part—of the financial system and those financial institutions, entities, that remain free to take on greater risk.

If you want to have risk, become an investment bank. Go into risky business. Do not do that with commercial banks. Do not be luring our commercial banks with up to, potentially, $2.5 trillion in exposure to Europe. How many derivatives? How much are they still in derivatives? That is what this is about. Let's get them out of the risky business of derivatives.

Allowing massive derivatives dealers to be housed within banks creates a moral hazard. Forcing banks to spin off large derivatives dealers would end this moral hazard and force swaps dealers to adequately price and capitalize the risks associated with these activities. Again, commercial banks should be commercial banks. They should not be in high-risk businesses.

Senator COLLINS' capital standards amendment. The conference report should include some form of the Collins

amendment to ensure that bank holding companies and systemically significant nonbank financial institutions are subject to capital and leverage requirements as stringent as those that insured depository institutions face under existing prompt corrective action regulations. That just makes good sense. Set up the same regulations.

This amendment would, therefore, raise the capital bar for our largest financial institutions, requiring them to hold more committed and reliable forms of capital, namely, common equity and retained earnings. This makes good sense.

Representative KANJORSKI's systemic risk amendment. The conference report should include Representative KANJORSKI's amendment to require the council, following consultation with applicable prudential regulators, to take action against a financial institution that poses a ''grave threat'' to U.S. financial stability. This just makes good sense.

These actions might include the imposition of enhanced capital and other prudential standards, activity restrictions, and the sale of assets or business lines, among others. This is what the regulators should be doing. Hence, this amendment gives regulators added tools and authority to impose strict standards and take preemptive actions against financial institutions that pose outsized risks to the overall system before a full-blown financial crisis occurs.

We cannot do what we have done before. We cannot say: Oh, everything is going great, and then one day wake up with this incredible hangover. We cannot wait for a full-blown financial crisis. That is key. Resolution is one thing—how to resolve it once you get there—but we have to spend our time on prevention to make sure this never happens again, we never get to that point.

Finally, Representative SPEIER's leverage amendment. The conference report should include Representative SPEIER's amendment to require the Federal Reserve to set a minimum leverage level of 15 to 1 on all systemically significant financial institutions. This is good financial practice.

A statutory leverage limit of this kind will ensure a capital floor for our largest banks and help ensure that regulators do not miss the forest for the trees as they calibrate risk-based capital standards.

These are five important pieces to the puzzle that we should include in this financial regulatory reform when it comes back from the conference. This is our way to assure that never again do millions of Americans find themselves out of work, millions of Americans find themselves without a house, and that American taxpayers never again—never again—will have to bail out the large banks.

I yield the floor.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARDIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4191

Mr. CARDIN. Madam President, I ask unanimous consent that the pending amendment be set aside so that I may offer amendment No. 4191.

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

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 4191.

Mr. CARDIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for leasing activities in certain areas of the outer Continental Shelf)

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. None of the funds made available by this Act shall be used by the Secretary of the Interior for the conduct of offshore preleasing, leasing, and related activities in the North Atlantic, Mid-Atlantic, South Atlantic, and Straits of Florida Planning Areas of the outer Continental Shelf described in the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998.

Mr. CARDIN. Madam President, first, I thank the chairman and ranking member for allowing me the opportunity to offer this amendment. It imposes a moratorium on offshore drilling along the Atlantic coast and the Straits of Florida. I have already talked about the amendment. I thank my colleagues for allowing it to be introduced.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KYL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KYL. Madam President, in a moment, I am going to ask for the regular order with respect to the Cornyn amendment for the purpose of offering a second-degree amendment to the Cornyn amendment with one additional request for appropriations—namely, about $200 million for some court personnel and related facilities to accommodate taking illegal immigrants who have violated the law by coming into the country illegally and, after processing through the court system with lawyers available, incarcerating those people for 2 weeks or, if it is multiple offenses coming into the country illegally, for 30 days in most cases.

Where this has been done on the border, illegal immigration has already come to a stop because going to jail represents a real deterrent. To illustrate the difference between two sectors of the border in Arizona, we can see how we could really make a difference for a relatively small amount of money in controlling the border. It can be done.

Arizona is divided into two halves. The eastern half is the Tucson sector; the western half, going into California for about 30 or 40 miles, is the Yuma sector. Both have had huge problems with illegal immigration.

In the last 5 years, illegal immigration in the Yuma sector has been cut by 94 percent. That is huge. There is one other sector on the border somewhat similar, the Del Rio, TX, sector, where this Operation Streamline is also in effect. It has been cut dramatically there as well.

In the other Arizona sector, Tucson, where Operation Streamline has not been fully implemented, there are still about a quarter of a million people per year crossing the border who are apprehended. Nobody knows how many get across and are not apprehended. Estimates range from three to four to five times as many. So in all likelihood, there are about 1 million people crossing the border every year in the Tucson sector, about a quarter of whom are apprehended. We need to provide a deterrent for those people so they realize they should not cross.

About 17 percent of the people who are apprehended when they try to cross illegally we find are criminals in the United States. They have criminal records in the United States or are wanted for crimes here. Obviously, those people do not want to be incarcerated when they are caught. The remainder, the 83 percent, want to come here to work. They just want jobs. But they cannot be providing for their families back in Mexico, El Salvador, or wherever they might be from if they are in jail.

The Yuma sector experience has found that as a result, if they know for a certainty that they are going to go to jail if they are caught, they stop trying because it is simply not worth it to them, and they go someplace else on the border to try to come across. The number in Yuma is staggering. Five years ago, we were apprehending 118,500 immigrants. So far this year, it is about 5,000.

I was there about 6 weeks ago. I talked with the head of the Border Patrol.

I said: What is it like just today?

He said: There is no activity.

I said: There has to be some.

He said: No. Most days, nobody tries to cross.

I said: That is pretty remarkable. Why?

He said: Three factors. We have 11 miles of double fencing in the Yuma urban area, we have enough Border Patrol, and we have Operation Streamline.

There are some other assets. They have cameras. There are lights. The Marine Corps, which helps in the far eastern part of this sector near the Barry Goldwater gunnery range, a place where jet airplanes fly and drop bombs for practice, takes care of that. They have had pretty good luck there. But there are no pedestrian fences. It is all vehicle barriers in that area. And there is some radar out there.

The bottom line is, with a combination of these things, what they have found is they can secure the border. It is relatively inexpensive—I say ''relatively.'' You do have to have a defense lawyer, a prosecuting lawyer, a court clerk, a judge, a courtroom, and then you have to lease the jail space. Those things can be done.

What we are hoping is that we can begin to apply this same concept to other sectors of the border and that in a relatively short period of time, we can demonstrate that we can secure the border. When we do that, not only will we have done what we are supposed to do as the people who are in charge of enforcing the law, but then I think people will have a much more open mind to consider other issues, such as elements of comprehensive immigration reform. As I have said, we do not need comprehensive reform to secure the border, but we do need to secure the border to get comprehensive immigration reform. And this is a good-faith effort to do it.

We have provided the funding. I will read it. It is very brief. This is an additional amount to fully fund—it is called multiagency law enforcement initiatives; ''multi'' because it is both the Department of Homeland Security and Department of Justice.

These are already authorized under title II of the public law, but this would be $200 million, $155 million available for the Department of Justice and the remainder, $45 million, available for the judiciary. That is for courthouse renovation, administrative support, including hiring additional judges. The first part is hiring additional deputy U.S. marshals, constructing or leasing temporary detention space, and related needs of the Department of Homeland Security or Attorney General.

At this time let me ask unanimous consent to return to regular order for the Cornyn amendment, if that is the appropriate procedure for offering my amendment as a second-degree thereto.

AMENDMENT NO. 4202

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 4228 TO AMENDMENT NO. 4202

Mr. KYL. Madam President, I then send to the desk amendment No. 4228. This is a Kyl-McCain amendment that would be offered as a second-degree amendment to the Cornyn amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant bill clerk read as follows:

The Senator from Arizona [Mr. KYL] for himself and Mr. MCCAIN, proposes an amendment numbered 4228 to amendment No. 4202.

Mr. KYL. I ask unanimous consent further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To appropriate $200,000,000 for a law enforcement initiative to address illegal crossings of the Southwest border, with an offset)

At the end of the amendment, add the following:

(j) OPERATION STREAMLINE.—For an additional amount to fully fund multi-agency law enforcement initiatives that address illegal crossings of the Southwest border, including those in the Tucson Sector, as authorized under title II of Division B and title III of Division C of Public Law 111–117, $200,000,000, of which—

(1) $155,000,000 shall be available for the Department of Justice for—

(A) hiring additional Deputy United States Marshals;

(B) constructing additional permanent and temporary detention space; and

(C) established and other related needs of the Secretary of Homeland Security and the Attorney General; and

(2) $45,000,000 shall be available for the Judiciary for—

(A) courthouse renovation;

(B) administrative support, including hiring additional clerks for each District to process additional criminal cases; and

(C) hiring additional judges.

(k) OFFSETTING RESCISSION.—

(1) IN GENERAL.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $200 million of the amounts appropriated or made available under Division A of such Act that remain unobligated as of the date of the enactment of this Act are hereby rescinded.

Mr. KYL. I see another colleague here wishing to speak. I have already explained the amendment, but I will summarize it by saying we need to control the border. I believe it can be done. The Yuma sector represents a good example of how it can be done.

I understand the President will be requesting some additional funding for some additional personnel and so on. The Cornyn amendment would provide funding specifically for some of the personnel who are needed on the border and some of the related activity, both Federal and State. Our second-degree amendment, offered for Senator MCCAIN and myself, would simply add the funding necessary to implement the Operation Streamline portion of this that would provide the deterrent so people would not want to cross the border illegally because if they got caught, there would be a virtual certainty they would be incarcerated for a relatively short period of time but more, obviously, than any of them want to spend in jail.

For this deterrent to work we need this additional funding. I hope when we have an opportunity to vote my colleagues will ask any questions. I am willing to discuss this on the Senate floor or privately if they like. There is a lot of other information we can provide that describes this. I think it is a reasonable approach and certainly on this supplemental appropriation legislation—which helps to fund the military needs of our country, even the National Guard if that is to be funded. This is a complement to that which I think is totally appropriate in this particular legislation.

I appreciate my colleagues' indulgence and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

IN PRAISE OF STEVE SHACKLETON

Mr. KAUFMAN. Madam President, I rise once again to recognize one of our Nation's great Federal employees.

This weekend, Americans will be observing Memorial Day, which also marks the unofficial start of summer. It is a tradition for families to gather at picnics and spend time together outdoors. Many will be visiting parks, trails, and historical sites administered by the National Park Service.

Every year, when Americans travel to our national parks—as many will do this weekend they often take for granted the outstanding work performed by National Park Service rangers.

The men and women who protect our National Park System and watch over the safety of its visitors come from diverse backgrounds, yet they share a dedication to public service and an abiding love for the land we all so cherish.

The parks they administer on our behalf showcase the diversity of our country's splendid natural geography. From Yellowstone to the Shenandoah, from the gates of the Arctic to the Great Smoky Mountains, these parks provide a refuge for wildlife and preserve our natural and cultural heritage.

The experience of visiting these parks is often awe-inspiring. Surely all who have ever stood at the rim of the Grand Canyon or at the foot of a giant California Redwood felt their majesty and the stirrings of tranquility they inspire.

These parks, trails, and historic sites are an excellent place to take children, where they can learn firsthand about nature and the importance of conservation.

This is why I have been working with Senator CARPER to establish the first State national historical park in Delaware, which would preserve sites important to our State's colonial history. Currently, Delaware is the only State without a national park.

Indeed, our great national parks, with their pristine natural beauty and vast expanses of solitude, have stirred their souls of millions.

We have so much to learn from these parks, and so much to experience. True remain the words from Shakespeare, who wrote of the wilderness that in it we may ''find tongues in trees, books

in running brooks, sermons in stones, and good in every thing.''

Today, as my great Federal employee of the week, I have chosen to honor one of the dedicated rangers who keep visitors to our national parks safe, informed, and able to experience the parks' wonders.

Steve Shackleton has been a national park ranger for over a quarter-century. He began his service in the 1980s at the Grand Teton National Park in Wyoming, where he worked in the areas of search and rescue, emergency medicine, and law enforcement. During that time, he spent six summers fighting fires in California's Sierra National Forest.

Steve spent 14 years in Hawaii and Alaska working on resource protection management. He holds bachelor's and master's of science degrees in criminology from California State University in Fresno and a master's of public administration from the University of Alaska, Anchorage.

In the late 1990s, Steve came to Washington, where he spent 3 years working in the National Park Service's legislative office and undertaking a fellowship right here in the U.S. Senate. Afterward, Steve became the superintendent of the Pinnacles National Monument in California's central coast region.

From 2004–2005, he participated in the OPM's Federal Senior Executive Candidate Development Program, which included study at Harvard's Kennedy School of Government and Stanford's Graduate School of Business.

For the last 7 years, Steve served as the chief ranger at Yosemite National Park. In that role, he directed the park's programs in law enforcement, wilderness management, fire prevention, search and rescue, and remote medicine.

This February, Steve was asked to return to Washington, where he now serves as the National Park Service's Associate Director for Visitors and Resource Protection.

Steve's love of nature and America's natural heritage can be traced to his father, Lee Shackleton, who himself had a long career as a park ranger. Steve and his wife, Jane, have passed along this tradition of caring for nature to their daughter, Dana, who is studying veterinary medicine at the University of California, Davis.

I hope my colleagues will join me in recognizing the great work of Steve Shackleton and all of America's national park rangers. This summer, they will continue to watch over the safety of visitors and serve as their guides to the splendor of our national parks.

The men and women of the National Park Service are all truly great Federal employees.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) Without objection, it is so ordered.

AMENDMENT NO. 4232

Mr. COBURN. Mr. President, I wanted to spend a few minutes talking about the bill before us and also call up two amendments. I will call up the amendments first and get that out of the way.

I ask unanimous consent that the pending amendment be set aside and that amendment No. 4232 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself and Mr. MCCAIN, proposes an amendment numbered 4232.

Mr. COBURN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To pay for the costs of supplemental spending by reducing Congress' own budget and disposing of unneeded Federal property and uncommitted Federal funds)

At the end of the bill, add the following:

TITLE IV—PAYMENT OF COSTS OF SUPPLEMENTAL APPROPRIATIONS

SEC. 4001. REDUCING BUDGETS OF MEMBERS OF CONGRESS.

Of the funds made available under Public Law 111–68 for the legislative branch, $100,000,000 in unobligated balances are permanently rescinded: *Provided,* That the rescissions made by the section shall not apply to funds made available to the Capitol Police.

SEC. 4002. DISCLOSING COST OF CONGRESSIONAL BORROWING AND SPENDING.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SEC. 4003. DISPOSING OF UNNEEDED AND UNUSED GOVERNMENT PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''§ 621. Definitions

''In this subchapter:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term 'expedited disposal of a real property' means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

''(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

''(4) REAL PROPERTY.—

''(A) IN GENERAL.—The term 'real property' means—

''(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

''(I) excess;

''(II) surplus;

''(III) underperforming; or

''(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

''(ii) a building or other structure located on real property described under clause (i).

''(B) EXCLUSION.—The term 'real property' excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''§ 622. Disposal program

''(a) The Director of the Office of Management and Budget shall dispose of by sale or auction not less than $15,000,000,000 worth of real property that is not meeting Federal Government from fiscal year 2010 to fiscal year 2015.

''(b) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

''(c) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the program and notify the recommending agency accordingly.

''(d) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

''(1) be updated routinely; and

''(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

''(e) The Director may transfer real property identified in the enactment of this section to the Department of Housing and Urban Development if the Secretary of Housing and Urban Development has determined such properties are suitable for use to assist the homeless.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''Sec. 621. Definitions .

''Sec. 622. Disposal program.''.

SEC. 4004. AUCTIONING AND SELLING OF UNUSED AND UNNEEDED EQUIPMENT.

(a) Notwithstanding section 1033 of the National Defense Authorization Act of 1997 or any other provision of law, the Secretary of Defense shall auction or sell unused, unnecessary, or surplus supplies and equipment

without providing preference to State or local governments.

(b) The Secretary may make exceptions to the sale or auction of such equipment for transfers of excess military property to state and local law enforcement agencies related to counter-drug efforts, counter-terrorism activities, or other efforts determined to be related to national defense or homeland security. The Secretary of Defense may sell such equipment to State and local agencies at fair market value.

SEC. 4005. RESCINDING UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available uncommitted unobligated Federal funds, $80,000,000,000 in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

(c) EXCEPTION.—This section shall not apply to the unobligated Federal funds of the Department of Defense or the Department of Veterans Affairs.

AMENDMENT NO. 4231

(Purpose: To pay for the costs of supplemental spending by reducing waste, inefficiency, and unnecessary spending within the Federal Government)

Mr. COBURN. I ask unanimous consent that the pending amendment be set aside and amendment No. 4231 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself and Mr. MCCAIN, proposes an amendment numbered 4231.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. COBURN. We have before us almost a $60 billion emergency supplemental appropriations bill. This is about the eighth supplemental bill we have discussed since I have been in the Senate—some appropriate, some not.

But the thing that I think the American people need to know, given the fact that this week our debt will be $13 trillion—this week—and that does not count what we owe trust funds inside the government, account money we have stolen from Social Security that will have to be paid back; it does not count money that has been taken from the oil recovery fund that will have to be paid back; it does not count the money from the inland waterway trust fund and all of these other trust funds. That is $13 trillion outside of what we have borrowed from ourselves—$13 trillion.

So we have before us a bill that is an emergency supplemental appropriations bill, and I thought it would be interesting for the American people to see what the rules of the Senate say about what is an ''emergency'' because nobody can say the war is an emergency. Since September 11, 2001, there has been no emergency other than the fact that we knew we were going to war. And the fact is, we have known that at least for the last 5 or 6 years. Nobody can say that.

But when you look at the definition we are supposed to follow—our own rules—about emergency designations, there are five characteristics, and those five characteristics are, one, it is necessary, it is essential, and it is vital. Well, some of this bill is necessary, some of it is essential, and some of it is vital—not all of it is by any means.

No. 2: Sudden, quickly coming into being, and not building up over time. Well, this bill certainly does not meet that requirement, except for a very small section of it.

An urgent, pressing, and compelling need requiring immediate action. There is no immediate action here on anything, except maybe the FEMA portion for both the upper Northeast and the flooding and Nashville, TN, and its flooding. But we have $900 million sitting in FEMA right now that has not been spent that we can start spending, so we don't have to pass $5 billion right now.

Unforeseen, unpredictable, and unanticipated. Well, the war certainly wasn't unforeseen, it certainly wasn't unpredictable, and it certainly wasn't unanticipated. We have known it. So it certainly doesn't meet that definition.

It is not permanent, it is not temporary in nature.

So we have what we are supposed to be following, and I would portend that 98 percent of this bill doesn't meet the requirements of being an emergency designation. Yet why are we calling it an emergency designation? There is one real reason for that; that is, we don't have to confine it in with the total amount we are authorized to spend. This is outside of what we are going to spend. It is $60 billion that we are going to borrow. We are going to borrow it. We are going to borrow it from the children of the people who are in Afghanistan and Iraq who are fighting this war. The people in this body aren't going to pay it back. We are going to kiss it goodbye and we are going to say: Here is your present, grandchildren. Here is a present for the kids of the warfighter who is over there today, who is sacrificing, his family is sacrificing, her family is sacrificing. But we are going to borrow it from them.

And it is not that we haven't done it. We made a big fanfare about that we were going to institute pay-go; that we were not going to violate pay-go; that pay-go was going to force discipline on us. So we passed a statute, and the President had a big signing—except here is what has happened since we have signed it.

It was signed into law on February 12.

On February 24, we violated pay-go. We said the rule doesn't apply; we have a need; we are going to spend $46 billion. So we spent $46 billion outside of the budget. We borrowed $46 billion. Oops.

March 2. We don't have the courage to eliminate lower priority parts of the government. We borrowed another $10 billion.

All of a sudden, on March 3, then we borrowed $99 billion. Pay-go didn't count. We just said: We waive pay-go. Sixty votes of the Senate. We have no fiscal discipline—$99 billion.

April 14. We borrowed $18 billion. Did it again.

So if you add those up—and that doesn't count the last one we did. I will bring a more accurate chart tomorrow when I talk about the rest of these amendments. But so far, we have borrowed $173 billion, when we said we are not going to borrow money anymore because we are going to have pay-go that says that will force the discipline on us to put lower priorities off the spending line, to put higher priorities on.

So just since February 12—it is now late May—we have borrowed $173 billion. We are going to add $60 billion here, and we have a tax extender package that is coming with another $230 billion. That is $563 billion since February 12 that we are going to spend money—I understand the majority leader is on the floor. Would you like time, Mr. Leader?

Mr. REID. I appreciate my friend yielding. I am here. Why don't you proceed, and when I get the necessary—

Mr. COBURN. I will be happy to yield to the leader.

Mr. REID. Thank you very much.

Mr. COBURN. So $½ trillion since we famously passed pay-go, and we are going to waive it six times, and when we haven't waived it, we have declared something an ''emergency'' so we do not have pay-go law applying. The budget rules go out the window because it is an emergency—except we do not meet the criteria for emergencies by our own definition.

So what is this all about? Is it about playing a shell game with the American people, to say we are going to do one thing and then turn around and, before July 1, in 5 months—less than 5 months—we are going to borrow another $½ trillion after we tell the American people: Oh, no, we are not going to do that anymore.

We have an emergency. There is no question this country has an emergency. Do you know what it is? It is a $13 trillion debt we have today that is going to be $23 trillion 8 years from now. We have a debt that is going to suppress our GDP by 1½ to 2 percent in what we could normally grow because the government's debt is such a burgeoning hangover on the capital markets. Yet we don't have the ability to do what we promised the American people we would do.

You know, I feel as if I ought to read the signing statement of President Obama when he signed pay-go and the statements of all of my colleagues that said: This is the answer. Except that will not do any good. The only answer is for the American people to hold us accountable. I obviously can't. For 5½ years, I have been trying to tamp down spending, to have us make a position that we are going to go to the lowest priority, cut the lowest priority out so we can fund the highest priority, and we have refused to do that.

So does it have real consequences, what we are doing today? There is no question this bill is going to pass. There are votes in this body to pass and add another $60 billion. What are the consequences? Well, the consequences come about to our children.

You have seen this sign before. This is Madeline. This photo was shot of Madeline as she walked around Capitol Hill. I actually had a visit with her and her parents. When we first put this up here, she was only $38,000 in debt. That was less than 6 months ago. Less than 6 months ago, she only owed $38,000—per man, woman, and child in this country. She is at $42,000 now. When we finish what we do before July 1, she will be close to $50,000—per person in this country. If you extrapolate what the budgets are going to be over the next 8 years, she is going to be close to $200,000 in debt. And that does not count the unfunded liability.

When this little lady is 28 years old, her responsibility, both in terms of debt and unfunded liability, will be $1,113,000. We never think about it in terms of young lives and how we are impacting them. We can always rationalize away the ability to make hard choices. That is what we are doing. Does anybody in this body not think we couldn't squeeze $60 billion out of $3 trillion? Could we not do that? Are there things less important than fighting the war? Are there things that are more important about our future and less important about irritating some special interest group because their program did not get funded? Which is it? I vote with the kids and the grandkids. They supposedly have a voice, except we routinely ignore it. That is what we are doing with this bill.

I am not saying we should not fund the war. I am not saying we should not create the money for FEMA for the projects we need. I am not even saying we should not help Haiti where we can. What I am saying is that we ought to pay for it by making hard choices that every family right now is making. They are having to make choices between what is an absolute must and everything else that is not. They don't have the luxury of an unlimited debt service because their credit card company has already said: You can't have any more. Their bank has already said: No, you can't borrow any more. Their house and its equity has been maxed out. They don't have any other choices. So they make the hard choices.

We are kidding ourselves if we think we have another choice. We don't have another choice. We are just delaying the time at which we make the choice. The pain associated with delay is going to be twice as great as the pain of doing it now.

JOHN MCCAIN and I are offering two amendments. The whole purpose of the amendments is to give the body a couple of choices on how to pay for this. It is not easy, it is not fun. But is it necessary? Is it necessary for the health of our Nation? Is it necessary that we start acting in the way the American people expect us to, which means we are going to get rid of the things that are not as important as the things in this bill?

I understand that is novel because the Congress has only had one net rescission in the last 16 years. It occurred with the 1996 appropriations bill where we actually cut total government spending in 1996. We had the will to do it. The appropriators had the will to do it. But we don't have that will anymore. The environment we face as a country is three or four times more severe for our future than it was in 1996.

So what is the disconnect? What is the disconnect that we would not make hard choices? I am not going to say my choices are the best choices; they are just my choices. But it ought to be rolled back to the appropriators that this bill should have never come to the floor unpaid for. They know more about spending than anybody in this body. They are more qualified to make the cuts. But they chose not to make the cuts in lower priority items to pay for this bill.

What is the choice? The choice is to indenture our children and grandchildren. That is the choice we are making. When we choose not to do it, we are choosing proactively to indenture our children and grandchildren. We are better than that.

What is so sacrosanct? Do you realize in 2 weeks in December we found 640 instances of duplicate programs that had exactly the same goals with multiple sets, 70 programs for food and nutrition for hungry people. Why do we have 70 programs to help poor people get food? Nobody can rationally explain why. We just have it. The reason we have 70 is because we used to have 40. We didn't have any metrics on it so somebody thought we ought to have another program for feeding hungry people. So we put another program together. Then we funded it. But we didn't have any metrics on it. So then we did it again, and we continue to do it.

There are 640 different instances just like that, 70 programs to feed the hungry across 6 different agencies—not just 1 but 6, none of them with metrics, none of them working to see if they actually work, no oversight hearings by the Appropriations Committee to see if they work or the authorizing committee to see if they work. We have 70.

There are 105 to incentivize kids to go into math, engineering, science, and technology, 105 programs across 9 agencies. That is just 2 examples out of the 640 sets of duplication we found.

Where are we going to eliminate some of that? When are we going to accomplish what the American people are asking us to do? It is not about eliminating food for the hungry. It is not about eliminating incentives. It is about eliminating the management structure for 70 programs or 105 programs so we can have one or two good ones, and we can have metrics on them.

I yield to the majority leader.

CLOTURE MOTIONS

Mr. REID. Mr. President, I have two cloture motions at the desk. I ask that they be reported.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the clerk will report the motions to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee-reported substitute amendment to H.R. 4899, an act making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010.

Harry Reid, Richard Durbin, John D. Rockefeller, IV, Patty Murray, Debbie Stabenow, Benjamin L. Cardin, Sherrod Brown, Kirsten E. Gillibrand, Mark Begich, Robert P. Casey, Jr., Jack Reed, Patrick J. Leahy, Carl Levin, Amy Klobuchar, Kay R. Hagan, Roland W. Burris, Charles E. Schumer.

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The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. We now have cloture filed on a $60 billion bill. I don't know what the intentions of the majority leader are but the fact is, we are going to limit debate. We have been on this bill about a day or a day and a half, $60 billion. We are going to cut off debate. We are going to attempt to limit amendments and limit the debate. This is a debate this country ought to be having. This is an opportunity for us to do what the American people want us to do.

So 30 hours from now we will have a vote on cloture on this bill. We also have cloture to end debate filed as well. What does that mean? That means the American people are not going to get to hear everything that is in the bill, No. 1. That means there will be a very limited number of amendments that will be actually voted on.

By rule, we are going to close off our responsibility to Madeline. We are going to say: Madeline, you don't count. We have to get out of here. Don't you know Memorial Day vacation is coming? So we don't want to be here. We have codels leaving Saturday morning. That has to be more important than saving the Republic so we don't end up like Greece.

We are only about 4 or 5 years behind them. We are only 4 or 5 years behind Greece. We are going to see this tremendous money flow come into this country because people are worried about Europe. We are going to see it come in from Japan because people will be worried about Japan being able to pay their debts. We will feel all good and fuzzy for about 2 years. After they inflate their currency or debase it or default, the money is going to flow right back out. Guess who is going to be looking over the abyss. The United States of America. We will be at the same point. What is the problem? The problem is their spending as a percentage of their GDP creates an environment where they can't pay for their debt. That is where we are going to be.

My first degree was in accounting. I had a business career for 9 years before medical school. I can tell my colleagues, if we truly accounted for the liabilities of this government, including Fannie Mae and Freddie Mac—we refuse to recognize their liability—our debt would be far in excess of $13 trillion. So what we are going to do is say Senators' comfort is much more important than Madeline's future.

Let's talk for a minute about what the word ''indentured'' means. That means you are under the control of somebody else. Your ability to have free choice becomes limited because you are indentured. Is there any wonder why we have trouble bringing hard core sanctions against Iran, when the Chinese own $900 billion of our debt and the Russians have $800 billion? Our debt affects our foreign policy. Our ability to support our military is jeopardized by the very fact that we are making a decision today to pay $33 billion for the war effort in Afghanistan by not paying for it. We are jeopardizing our long-term future.

The other ironic thing in this bill, this body just passed a financial regulatory reform bill, but we created a commission called the Financial Inquiry Commission. In this bill we are appropriating on an emergency basis $1.8 million for that inquiry commission that is going to give us what went wrong and what we need to do about it in December. We have already figured out we don't need them; We passed a bill without that knowledge, without that look, without that in-depth analysis of what went wrong because we had to get it done. Yet we are going to continue to fund a Financial Inquiry Commission that we are not going to do anything with the results of, and we are going to call it an emergency.

How ludicrous is that? The whole purpose of the Financial Inquiry Commission was to guide Congress in what to do. We have already ignored them. We have already decided what we are going to do. That bill is in conference. We are going to pass a financial regulatory reform bill ultimately that is devoid of the recommendations of that commission. But we are going to do the typical Washington thing. We are going to continue to fund the commission, even though we are not going to use its results. Why is that?

What does just $1.8 million out of a $60 billion bill, what does that mean for her? Multiply that times thousands of times every year, the stuff that we are doing that isn't a priority. Nobody can agree it is still a priority that we ought to borrow $1.8 million to fund that commission. You can't argue that is still a priority because we have already made up our minds on financial regulation reform. But that happens thousands of times a year, billions and billions and billions of dollars.

These two amendments are tough amendments. I am not deceiving myself to think that all of a sudden grown-ups are going to show up in the Senate. They are not. Let me tell my colleagues what they do. The first amendment will reduce our own budget. We gave ourselves a nice stellar raise, not salarywise but for our own budgets. We are going to reduce that budget for Members of Congress.

We are going to disclose on the Senate Web site the cost of borrowing money and how many times we violate our own rules, pay-go. There should be nobody who voted for pay-go who votes against that because if it is good enough for us to use, it is good enough for the American people to see.

We are going to dispose of unneeded and unused Federal Government property, whether it is military, whether it is buildings, whether it is lands—things we do not use, do not need but we are spending $8 billion a year taking care of. We can get tremendous savings from that. That is what any other right-minded person would do. They would get rid of the stuff they are not using so they do not continue to send money down a rat hole.

We are going to rescind uncommitted and unspent Federal funds. We have hundreds of billions of dollars setting that are not even in the pipeline, and we are going to borrow more rather than more efficiently use money we have. That is the first amendment; it is $60 billion, $60.5 billion.

The second amendment is $59.6 billion. It is a 1-year freeze on bonuses and raises and other salary increases for Federal employees. They make 45 percent more than everybody else in this country doing exactly the same thing, on average. We are going to cap the total number of Federal employees. We have added 180,000 Federal employees in the last 18 months—180,000.

We are going to collect unpaid taxes from Federal employees. We have Federal employees who are working today who owe the Federal Government $3 billion. We ought to collect that money. It ought to come out of their paychecks. That is undisputed debt; that is not the disputed portion. That is the undisputed portion of what they owe the IRS. For everything except DOD we are going to ask for a 5-percent efficiency gain in administration. Do more with less. Everybody else in this country is doing more with less, except the Federal Government. We are going to say: No, we cannot do that? Why not? It is interesting, on the Debt Commission we had a good discussion with Dave Cote, who is the CEO of Honeywell, explaining that every year they do more with less. They spend less dollars to get more out. They have less people to produce the same amount. It is called efficiency. It is called productivity—except we will not apply that to our own government employees.

We are going to reduce nonessential government travel. It is billions of dollars a year. If we are in a financial pinch—and I would love for somebody to debate me that we are not—why would we not limit travel to that which is only essential?

We are going to rescind money that Chairman OBEY in the House recognized on the WIC Program is not being used. We are going to strike $68 million in U.N. emergency funding for the next fiscal year. Most of the Members of this body voted for an amendment that required transparency in the U.N. We give them over $6 billion a year. Twenty-six percent of the budget for U.N. peacekeeping is ours; we pay for it. Yet with an audit of their moneys, half of their moneys—over 60 percent of it—was found to be fraudulent. So we passed an amendment out of the Senate, unanimously, that required transparency from the U.N., except when it got to the conference committee it was not there anymore.

I will tell you, the American people deserve to know where their money is being wasted at the U.N. So we ought to clip that. We ought to cut that back. We ought to say: You give us transparency; we will give you money. You do not give us transparency; we will not give you money.

We are going to eliminate bonuses for poor contractor performance. Do you realize the Federal Government pays bonuses for companies that never complete their contracts? Two years ago, the Pentagon paid out $4 billion in bonuses to contractors who did not meet the standards for the bonus, but they paid them anyway. Well, that makes a joke of the contracting process. It also makes a joke out of us that we would allow that to continue to happen.

So on these two amendments you will have plenty of opportunity with which to make a decision on whether you want to be on the side of Madeline or on the side of the elitism in Washington—the group that does not care what America thinks. We know better. The group that says: We are not in an emergency. We are not in a problem. We can continue to spend money and not make hard choices.

There is an emergency, and the emergency is our very survival, our economic survival, our survival as a republic.

I will close with the following: If you study the Roman Empire or if you study the Athenian Empire, you will find common threads among both. The No. 1 common thread is they fell after they became indentured in their own fiscal policies. They could no longer support their military. Their elected bodies refused to make tough choices.

We are sitting here saying: Europe, you have to make tough choices. You have to get your spending in line with your productivity. We are talking with a hollow ring to our voice because if there is anybody who needs to get their spending in priority, it is us. I am not against paying for the war. I am not against supporting our troops. I am not against the FEMA money we need. I am against us not paying for it, and I am very disappointed we have cloture filed this evening because what that means is the American people are not going to see how we as individual Members vote on tough choices.

I am going to have two tough choices out there. It remains to be seen whether we get a chance to vote on them through the majority's ability to cut off debate. But we ought to. We ought to do what is the best, right thing for the country. We ought to be able to come together and agree we should not abuse the emergency designation; that we should not abuse pay-go; that, in fact, we should not delay making the hard choices because the choices are just going to get harder. They are going to get harder every year we do not do this.

Now is the time to start doing it. If we choose not to, then what we are saying is: Madeline, as to your future, we are going to steal it from you. We are going to steal opportunities for a future like we have had. We are going to take those, and we are going to indenture her to an economy that does not grow, with opportunities for an education that will be limited, including the ability to own her own home. All those things will come around.

We only have three ways to get out of the problem we are in. The first way is we can default. Everybody says: Oh, no, you cannot say that. You cannot talk about that. Well, when Moody's is getting ready to downgrade our bonds from AAA, that is the first sign we are moving in that direction.

The second thing we can do is have the Federal Reserve inflate our way out of it to where that means the life savings of everybody are going to be debased, and their purchasing power is going to go away or markedly be reduced.

Or we can do the third thing: Not let either of those two bad things happen by making hard choices ourselves on what we need to be doing—by eliminating the junk, the waste, the duplication, and the fraud in the Federal Government. It is there. It is there to the tune of $300 billion a year.

So when this extender package comes—whether it comes this week or next week or the week when we come back—there is plenty of money to pay for it, too, if we will just stand and be counted, not as Senators but as Americans who would like to see the future bright for their Madelines.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

BIG OIL BAILOUT PREVENTION ACT

Mrs. MURRAY. Mr. President, I come to the floor today to strongly support the legislation called the Big Oil Bailout Prevention Act. With all we have seen in the gulf coast over the past several weeks, I have to say I am more committed than ever in moving forward on three fronts to protect our taxpayers, our families, and all of our workers across the country.

First of all, I am going to keep working to hold BP accountable and make sure taxpayers in Washington State and across the country are not left holding the bag for this devastation. This is exactly what the Big Oil Bailout Prevention Act is going to do.

Secondly, I am going to fight to guarantee that what we are seeing in the gulf coast is never allowed to happen on the west coast.

Third, I am going to make sure BP, Transocean, and all industry owners and operators are doing everything possible to protect their workers and make sure tragedies like this do not ever happen again. Here are the facts:

On April 20, 2010, there was a massive blowout and explosion on a BP oil platform in the Gulf of Mexico. Eleven workers are still missing and presumed dead, and 17 more were injured. That explosion caused a gushing spill that has now poured hundreds of thousands of barrels of oil into the gulf and threatens still to spill millions more. It has, as we all know, created an environmental and economic tragedy the magnitude of which we are only just beginning to comprehend.

It is threatening entire communities and industry, and now the oil and chemical dispersants that are being sprayed into the gulf have the potential to kill underwater wildlife and create underwater ''dead zones'' for decades to come.

Those are the facts. Now, the questions are: Who should be responsible for this cleanup? Who should bear the burden for big oil's mistakes? Should it be the taxpayers, families, and small business owners who are already being asked to bear so much today or should it be the companies responsible for this spill, including BP—a company, by the way, that made $6.1 billion in profit in the first 3 months of 2010 alone.

I cosponsored the Big Oil Bailout Prevention Act because, to me, the answer is pretty clear: I believe BP needs to be held accountable for the environmental and economic damage of this spill. I am going to fight to make sure taxpayers do not end up losing a single dime to pay for the mess this big oil company created.

To me, this is an issue of fundamental fairness. If an oil company causes a spill, they should be the one to clean it up and pay for it—not taxpayers. This bill I am talking about this evening eliminates the current $75 million cap on oil company liability so taxpayers will never be left holding the bag for big oil's mistakes.

This is straightforward, it is common sense, and it is fair. I have to say, I am extremely disappointed this commonsense bill continues to be blocked by some Republicans every time we bring it up. But I want you to know, I am going to keep fighting for the Big Oil Bailout Prevention Act to pass, and I am going to keep fighting so families and taxpayers in Washington State and across the country do not end up holding the bag.

The bottom line is this: If oil companies are going to make billions of dollars in profits when times are good, they should not be allowed to leave taxpayers hanging when they create a problem.

The Big Oil Bailout Prevention Act writes this commonsense policy into law, and I urge every Senator to side with our taxpayers and support this important legislation. But I do not think that is enough. I have always been opposed to drilling off the coast of my home State of Washington, and this tragedy is just one more very painful reminder of the potential consequences of opening up our west coast to drilling.

The economic and environmental devastation that was caused by the Exxon Valdez disaster 20 years ago is now still impacting industry in my home State of Washington. Our coastal region supports over 150,000 jobs, and it generates almost $10 billion in economic activity, all of which would be threatened if drilling were to happen off our west coast.

That is why I am going to keep fighting for legislation that bans drilling off the west coast and makes sure big oil companies are never allowed to roll the dice with Washington State's economy and our environment.

We need to hold big oil accountable and we need to make sure that disasters such as this never happen again, but we also have to remember the workers who were killed and injured in this horrible tragedy. We cannot forget this is an issue that is larger than this one tragedy. The entire oil and gas industry has a deplorable record of worker and workplace safety. We have to make sure every worker is treated properly and protected, and that companies that mistreat their workers are held accountable.

We know the oil industry is able to operate under stricter safety standards

and regulations because they are already doing just that in Europe and in Australia, and even in Contra Costa County, CA, where the county has a set of stricter guidelines that have now reduced injuries and fatality rates. But we also know that worker safety should not be measured just by injury rates. We should be looking at reducing dangerous conditions—conditions such as fires or hazardous spills or releases of toxic gases. Then when accidents do happen, we have to record them, we need to learn from them, and we need to build on a program to prevent them from ever happening again; and we need to make sure our workers are treated with respect and their rights are protected.

That is exactly why I am so concerned about the recent reports of very callous and unacceptable treatment of Transocean workers in the hours following that April 20 explosion. Those reports suggest that Transocean put their bottom line above safety standards, above environmental impact, and the well-being of their workers. I have called on the company to release copies of legal waivers that surviving crew members of the Deepwater Horizon were reportedly forced to sign following that oil rig explosion. I am going to stay on top of this to make sure that Transocean produces those requested documents so we can get to the bottom of exactly how this situation was handled.

Workers everywhere ought to be confident that their employers are putting their safety first, and companies that betray that trust have to be held accountable. So I am going to work to make sure that happens, and I am going to continue fighting to keep drilling away from the Washington State coastline. I am going to keep pushing for this bill to make sure taxpayers don't have to pay for big oil's mistakes.

Anyone deciding whether to support this legislation ought to ask themselves a few simple questions: Who are you fighting for? Who are you trying to help? Are you here to protect and shield big oil companies or are you going to fight for our families and our taxpayers? I support this legislation because, to me, the answer is pretty clear. I urge all of our colleagues to allow this bill to pass so our taxpayers in my home State of Washington and across the country can be protected.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Senate Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4179

Ms. LANDRIEU. Mr. President, I come to the floor to offer some amendments and to call up several amendments regarding the emergency disaster loan program and SBA disaster loan relief on the underlying bill.

I ask unanimous consent that the pending amendment be temporarily set aside to call up amendment No. 4179, which should be at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4179.

Ms. LANDRIEU. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To allow the Administrator of the Small Business Administration to create or save jobs by providing interest relief on certain outstanding disaster loans relating to damage caused by the 2005 Gulf Coast hurricanes or the 2008 Gulf Coast hurricanes)

On page 74, between lines 12 and 13, insert the following:

CHAPTER 12

INDEPENDENT AGENCIES

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

From unobligated balances in the appropriations account appropriated under this heading, up to $100,000,000 shall be available to the Administrator of the Small Business Administration to waive the payment, for a period of not more than 3 years, of not more than $15,000 in interest on loans made under section 7(b) of the Small Business Act (15 U.S.C. 636(b)): *Provided*, That funds made available under this heading may be used for any business located in an area affected by a hurricane occurring during 2005 or 2008 for which the President declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170): *Provided further*, That the Administrator shall, to the extent practicable, give priority to an application for a waiver of interest under the program established under this heading by a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) with not more than 50 employees or that the Administrator determines suffered a substantial economic injury as a result of the Deepwater Horizon oil spill of 2010: *Provided further*, That the Administrator may not approve an application under the program established under this heading after December 31, 2010: *Provided further*, That if a disaster is declared under section 7(b) of the Small Business Act (15 U.S.C.636(b)) during the period beginning on the date of enactment of this Act and ending on December 31, 2010, and to the extent there are inadequate funds in the appropriations account under this heading to provide assistance relating to the disaster under section 7(b) of the Small Business Act and waive the payment of interest under the program established under this heading, the Administrator shall give priority in using the funds to applications under section 7(b) of the Small Business Act relating to the disaster: *Provided further*, That the amount made available under this heading is designated as an emergency for purposes of pay-as-you-go principles and, in the Senate, is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: *Provided further*, That the amount made available under this heading is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

Ms. LANDRIEU. Mr. President, I have a series of amendments that will, I believe, give some direct relief and support to individuals and businesses that are struggling with the disaster that is going on in the gulf area, as the Presiding Officer and everyone is aware. We have a terrible situation on our hands. I know the Federal Government, particularly the Coast Guard and the Department of the Interior, the Department of Homeland Security, and others are doing everything they can to stop the flow of this oil and to cap this well. While it is BP's responsibility, it is also our responsibility to make sure it gets done as soon as possible, and I know that is being worked on at many different levels.

But in the meantime, as the Presiding Officer can imagine, there is a tremendous amount of angst on behalf of the families and businesses along the gulf coast. Many have already, unfortunately, been directly affected in a very negative way.

So many of us have been working now for weeks thinking about what things we could do that could give some direct relief and support and help that didn't cost the Federal Government a huge amount of money, because we understand we are in fiscal times of constraint, but we also need to give help to people, and some confidence, now knowing that BP has said, and under the law will be required, to pick up the full tab on this.

The first amendment will allow the Small Business Administration—and they already have funding to do this and are supportive of this amendment—to provide relief of up to $15,000 of interest on current loans that are outstanding from previous disasters. Because when we think about it, one of the most troubling aspects of this is that this emergency is happening in the same place that Katrina and Rita took place—along the gulf coast—so businesses that are still trying to pay off loans from the last disaster are now, unfortunately, having to contemplate the idea that they may have to take out additional economic injury loans to help them through this. What I think we can do is allocate some money we already have allocated in that budget for this purpose, and it would be a tremendous help.

That is what the first amendment does. It would also require the SBA to prioritize applications for businesses with fewer than 50 employees or less, and businesses impacted by this recent Deepwater Horizon spill. It gives some targeted relief, and it could be significant. Some of these businesses could waive basically almost all of their interest associated with their loans which could cut their payments either

in half or by three-quarters. According to some of the analyses we have done, there are about 11,700 loans outstanding in the gulf, so that would be a great help.

AMENDMENT NO. 4180

Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside to call up another amendment that is at the desk, amendment No. 4180, disaster loan referral.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4180.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To defer payments of principal and interest on disaster loans relating to the Deepwater Horizon oil spill)

On page 79, between lines 3 and 4, insert the following:

SEC. 2002. DISASTER LOANS.

For any loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) made as a result of the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, the Administrator of the Small Business Administration shall defer payments of principal and interest for not longer than 1 year after the date of disbursement of the loan. For a loan described in this section, the Administrator shall accept as collateral, where practicable, the interest of the applicant in a claim against British Petroleum relating to the discharge of oil.

Ms. LANDRIEU. Mr. President, this amendment is another tool we can use to give help to these businesses along the gulf coast. It would actually set up a relatively new procedure but based on past action.

This procedure would allow the SBA, in giving out an economic damage loan, to substitute the collateral that is normally required, which would be a house or some asset—a boat or something else—to substitute that for the pending BP claim, so that it is technically a loan, but it is acting as a cash advance, to keep businesses in business, to keep lights on, to keep mortgages being paid. I understand the SBA is looking closely at this and may very well want to do it, and this would authorize it.

That is the essence of this amendment, which is to give up to $2 million in what would be technically a loan, but with these changes I am proposing would actually act as more of an advance, because no interest or principle would be due for a year. Then, of course, we hope that by then, and maybe even before then, BP meets all of its obligations and all of its claims. A year may be enough time and, if not, we have language that would extend it.

AMENDMENT NO. 4184, AS MODIFIED

With that, I ask unanimous consent that the pending amendment be temporarily set aside to call up amendment No. 4184.

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

Ms. LANDRIEU. I ask unanimous consent that my amendment No. 4184 be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4184, as modified.

Ms. LANDRIEU. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To require the Secretary of the Army to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico at full Federal expense)

On page 30, between lines 6 and 7, insert the following:

SEC. 4____. (a) The Secretary of the Army may use funds made available under the heading''OPERATION AND MAINTENANCE'' of this chapter to place, at full Federal expense, dredged material available from maintenance dredging of existing Federal navigation channels located in the Gulf coast region to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico.

(b) The Secretary of the Army shall coordinate the placement of dredged material with appropriate Federal and Gulf Coast State agencies.

(c) The placement of dredged material pursuant to this section shall not be subject to a least-cost-disposal analysis or to the development of a Chief of Engineers report.

Ms. LANDRIEU. Mr. President, this is a very important amendment, and it is something that our delegation has actually been working on for quite some time, and we have actually passed it before in the Senate, which is a happy circumstance.

This language has been unfortunately taken out in conference on several occasions by the Corps of Engineers, so I am thinking now that this disaster has maybe helped them to rethink the worthiness of this amendment, because, again, it doesn't add any money to the Federal budget. This amendment will allow beneficial use of dredged material, so when the Corps of Engineers spends the $170 million we give it every year to dredge our channels, to keep our navigation channels open, they can take that dredged material and use it for a beneficial use. That might be restoring a marsh. It might be building a levee, and it might be stopping oil from hitting the coastline, which would be a very good use, in my mind, of that beneficial dredge material.

Right now, our State has a pending request to the Corps of Engineers to try to help us build—not provide—well, we want them to provide boom, but the boom isn't working very well, to be honest. We need them to do some dredging, potentially a long number of miles, but strategic dredging and building sand barriers to keep that oil from these precious marshlands and estuary areas. This does not meet that full request, but it does allow the Corps of Engineers in the budget authority they already have to use some of that dredge material in a very strategic way, and if we can pass this bill this week and get this language to the President's desk very soon, which I hope we can, within a few weeks it is possible this could go right to work in the gulf.

That is the essence of that amendment. It will help protect our wetlands, again, within the budget constraints already in the President's budget.

AMENDMENT NO. 4213

Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside to call up amendment No. 4213.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4213.

Ms. LANDRIEU. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide authority to the Secretary of the Interior to immediately fund projects under the Coastal Impact Assistance Program on an emergency basis)

On page 81, between lines 23 and 24, insert the following:

SEC. 30___. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended by adding at the end the following:

''(e) EMERGENCY FUNDING.—

''(1) IN GENERAL.—In response to a spill of national significance under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), at the request of a producing State or coastal political subdivision and notwithstanding the requirements of part 12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary may immediately disburse funds allocated under this section for 1 or more individual projects that are—

''(A) consistent with subsection (d); and

''(B) specifically designed to respond to the spill of national significance.

''(2) APPROVAL BY SECRETARY.—The Secretary may, in the sole discretion of the Secretary, approve, on a project by project basis, the immediate disbursal of the funds under paragraph (1).

''(3) STATE REQUIREMENTS.—

''(A) ADDITIONAL INFORMATION.—If the Secretary approves a project for funding under this subsection that is included in a plan previously approved under subsection (c), not later than 180 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary any additional information that the Secretary determines to be necessary to ensure compliance with subsection (d).

''(B) AMENDMENT TO PLAN.—If the Secretary approves a project for funding under

this subsection that is not included in a plan previously approved under subsection (c), not later than 180 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary for approval an amendment to the plan that includes any projects funded under paragraph (1).

''(C) LIMITATION.—If a producing State or coastal political subdivision does not submit the additional information or amendments to the plan required by this paragraph by the deadlines specified in this paragraph, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivisions until the date on which the additional information or amendment to the plan has been approved by the Secretary.''.

Ms. LANDRIEU. Mr. President, this is another I think smart action this Congress could take to help the gulf coast and particularly the State of Louisiana.

Before the Presiding Officer got to the Senate, in one of our last energy bills we were able to fund a very important program called the Coastal Impact Assistance Program. It is a precursor to the revenue-sharing program I helped to implement some years ago, although the money from that program hasn't yet started to flow. This was almost like a downpayment. It took some money from the Federal budget that we had made available, actually quite a bit—$1 billion—and divided it on a formula based on production and miles of coastline to the four gulf coast States that are bearing the brunt of this production, which is very obvious, painfully obvious today.

The happy news is we got that program passed and the money has been funded to the agency. The sad news is, it is still tied up in red tape. So my amendment would expedite the dispersal of these funds, particularly to States where programs have already been approved by the Federal agencies in charge and when these programs can be shown to be of use in fighting this current oilspill. The Presiding Officer knows, because he has heard me give this speech 10 times in committee and at least 25 times on the floor, if Louisiana and Mississippi and Alabama and Texas had had some of this money from offshore oil and gas that has gone almost all to the Treasury of the United States, we could have before now done some things to build up our barrier islands, protect our coastlines, protect our marshes, but we have been shortchanged year after year after year. This amendment is not going to fix that problem, but it will say that for the money Congress has already appropriated for this program, it could be expedited to the States that have their programs already approved, and that would be the State of Louisiana which is in, unfortunately, the eye of this storm as well.

AMENDMENT NO. 4182

Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside so that I may call up an amendment No. 4182.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4182.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(Purpose: To require the Secretary of the Army to use certain funds for the construction of authorized restoration projects in the Louisiana coastal area ecosystem restoration program)

On page 30, between lines 6 and 7, insert the following:

SEC. 4___. LOUISIANA COASTAL AREA.

Of the amounts appropriated or otherwise made available under this chapter, the Secretary of the Army shall use $19,000,000 for the construction of authorized restoration projects under the Louisiana coastal area ecosystem restoration program authorized under title VII of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1270).

Ms. LANDRIEU. This amendment will cost $19 million, but in some ways it is simply advancing what the President already has in his budget for these very important projects. President Obama should get a tremendous amount of credit for being the first President in the last decade or more—actually, the last 15 or 16 years—to actually fund a construction project on Louisiana's coast—a wetlands construction project. All we have been doing for the last 35 years is studying the situation. It has been very difficult for our delegation, and maybe it won't be so difficult, now that people have watched us go through Katrina and Rita, and now the oilspill, to understand the impact we have been talking about.

It is hard to even say this, but neither President Clinton nor President Bush—although we had many plans that had been approved—ever sent any money for construction and for new programs for the wetlands. We finally got President Obama, to his credit, to send in his budget to us this year $19 million for the purpose of protecting vulnerable coastal wetlands and strengthening the resiliency of that coast. So while we have a score of $19 million—and I know we are trying to keep the bill to a minimum—it is almost as if we might spend it now, and save it later, as long as we don't respend the $19 million. It is in the President's budget. It would be good to get that signal now from the Congress that these programs can go forward.

I hope the administration will take a strong look at this. They have already gotten a tremendous amount of credit, as they deserve, from the people of Louisiana for even putting in the President's budget this $19 million, because we definitely need it. This would help us accelerate that. I hope we can get that done.

AMENDMENT NO. 4234

Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may call up a final amendment, No. 4234.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4234.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish a program, and to make available funds, to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico)

Beginning on page 74, strike line 13 and all that follows through page 79, line 3, and insert the following:

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Economic Development Assistance Programs'', to carry out planning, technical assistance and other assistance under section 209, and consistent with section 703(b), of the Public Works and Economic Development Act (42 U.S.C. 3149, 3233), in States affected by the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $10,000,000, to remain available until expended, of which not less than $5,000,000 shall be used to provide technical assistance grants in accordance with section 2002.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', $13,000,000, to remain available until expended, for responding to economic impacts on fishermen and fishery-dependent businesses: *Provided*, That the amounts appropriated herein are not available unless the Secretary of Commerce determines that resources provided under other authorities and appropriations including by the responsible parties under the Oil Pollution Act, 33 U.S.C. 2701, et seq., are not sufficient to respond to economic impacts on fishermen and fishery-dependent business following an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', for activities undertaken including scientific investigations and sampling as a result of the incidents related to the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $7,000,000, to remain available until expended. These activities may be funded through the provision of grants to universities, colleges and other research partners through extramural research funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', Food and Drug Administration, Department of Health and Human Services, for food safety monitoring and response activities in connection with the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $2,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Office of the Secretary, Salaries and Expenses'' for increased inspections, enforcement, investigations, environmental and engineering studies, and other activities related to emergency offshore oil spill incidents in the Gulf of Mexico, $29,000,000, to remain available until expended: *Provided*, That such funds may be transferred by the Secretary to any other account in the Department of the Interior to carry out the purposes provided herein.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $10,000,000, to remain available until expended, for litigation expenses resulting from incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'' for a study on the potential human and environmental risks and impacts of the release of crude oil and the application of dispersants, surface washing agents, bioremediation agents, and other mitigation measures listed in the National Contingency Plan Product List (40 C.F.R. Part 300 Subpart J), as appropriate, $2,000,000, to remain available until expended: *Provided*, That the study shall be performed at the direction of the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Commerce and the Secretary of the Interior: *Provided further*, That the study may be funded through the provision of grants to universities and colleges through extramural research funding.

GENERAL PROVISION—THIS TITLE

DEEPWATER HORIZON

SEC. 2001. Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence:

(1) by inserting '': (1)'' before ''may obtain an advance'' and after ''the Coast Guard'';

(2) by striking ''advance. Amounts'' and inserting the following: ''advance; (2) in the case of discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain one or more advances from the Oil Spill Liability Trust Fund as needed, up to a maximum of $100,000,000 for each advance, the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9509(c)(2)), and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance; and (3) amounts''.

SEC. 2002. OIL SPILL CLAIMS ASSISTANCE AND RECOVERY.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Commerce (referred to in this section as the ''Secretary'') shall establish a grant program to provide to eligible (as determined by the Secretary) organizations technical assistance grants for use in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico (referred to in this section as the ''oil spill'').

(b) APPLICATION.—An organization that seeks to receive a grant under this section shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary shall require.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds from a grant provided under this section may be used by an eligible organization—

(A) to support—

(i) education;

(ii) outreach;

(iii) intake;

(iv) language services;

(v) accounting services;

(vi) legal services offered pro bono or by a nonprofit organization;

(vii) damage assessments;

(viii) economic loss analysis;

(ix) collecting and preparing documentation; and

(x) assistance in the preparation and filing of claims or appeals;

(B) to provide assistance to individuals or businesses seeking assistance from or under—

(i) a party responsible for the oil spill;

(ii) the Oil Spill Liability Trust Fund;

(iii) an insurance policy; or

(iv) any other program administered by the Federal Government or a State or local government;

(C) to pay for salaries, training, and appropriate expenses relating to the purchase or lease of property to support operations, equipment (including computers and telecommunications), and travel expenses;

(D) to assist other organizations in—

(i) assisting specific business sectors;

(ii) providing services;

(iii) assisting specific jurisdictions; or

(iv) otherwise supporting operations; and

(E) to establish an advisory board of service providers and technical experts—

(i) to monitor the claims process relating to the oil spill; and

(ii) to provide recommendations to the parties responsible for the oil spill, the National Pollution Funds Center, other appropriate agencies, and Congress to improve fairness and efficiency in the claims process.

(2) PROHIBITION ON USE OF FUNDS.—Funds from a grant provided under this section may not be used to provide compensation for damages or removal costs relating to the oil spill.

(d) PROVISION OF GRANTS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall provide grants under this section.

(2) NETWORKED ORGANIZATIONS.—The Secretary is encouraged to consider applications for grants under this section from organizations that have established networks with affected business sectors, including—

(A) the fishery and aquaculture industries;

(B) the restaurant, grocery, food processing, and food delivery industries; and

(C) the hotel and tourism industries.

(3) TRAINING.—Not later than 30 days after the date on which an eligible organization receives a grant under this section, the Director of the National Pollution Funds Center and the parties responsible for the oil spill shall provide training to the organization regarding the applicable rules and procedures for the claims process relating to the oil spill.

(4) AVAILABILITY OF FUNDS.—Funds from a grant provided under this section shall be available until the later of, as determined by the Secretary—

(A) the date that is 6 years after the date on which the oil spill occurred; and

(B) the date on which all claims relating to the oil spill have been satisfied.

Ms. LANDRIEU. Mr. President, this is an amendment that will provide some additional funding for technical assistance grants—disaster assistance—for the gulf coast. The President had a fairly robust package represented in this bill—I think $118 million. I hope I am correct about that. It was a good package of aid. I think it needs to be made more robust.

In one section in particular, the President suggested that we spend $5 million along the gulf coast giving technical assistance to organizations and nonprofits to help these individuals, many who cannot afford, as you know, to hire a lawyer to process paperwork or hire an accountant to process the paperwork. After Katrina and Rita, we found it was very helpful to spend a little bit of money and give grants to some of these nonprofit groups that can work with large communities of people who are affected—the Vietnamese fishing community is a good example—so that each of the 100 fishermen don't have to go out—I am not trying to put lawyers out of business, and I don't want to get in trouble with them, but it is not necessary, and it can be a waste of money to hire lawyers and accountants to process what should be a simple claim. Even simple claims can be complicated in some of these situations. That is basically what this amendment does. I think it would provide more funding for claims across the gulf coast. I think we can use $5 million across Louisiana alone. My amendment would raise that number to $20 million.

Those are basically what these four or five amendments will do.

I ask unanimous consent to speak as in morning business for 5 minutes.

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

HAITI

Ms. LANDRIEU. Mr. President, I know my good friend BOB CASEY is here to speak, so I will be just a few more minutes. This is on a separate subject, but one that is very important.

We have several disasters going on in this country and around the world. One is the one I just spoke about—most important to me and the one that has captured the world's attention as oil continues to flow in the gulf. We have to do more and we have to be more focused. We have to hold BP's feet to the fire to get this well shut off. The best

scientists in the world need to be working on this. I have assurances from Secretary Salazar that they are.

New technologies need to be deployed quickly, and the cleaning process needs to be expedited and streamlined so that not one person, one boat owner, or one business goes out of business, or one fisherman goes broke because of this situation.

Across the ocean, in Haiti, a great disaster occurred not that long ago, as you will remember. So many things have happened since then, and sometimes the world's attention gets turned. I wish to turn it back for a minute. The people of Haiti live in one of the poorest countries in the world and the Western Hemisphere. It is a country that is close culturally to many of us in the United States—particularly people I represent in Louisiana. We have many Haitian families in New Orleans. We have a close tie with Haiti. We are not a Caribbean state, but we feel a little Caribbean and tropical at times, since we are in the South. We have a lot of business with Haiti and with many of our southern neighbors. We have longstanding musical and art connections. Our heart has gone out to Haiti, plus the people of Louisiana and the gulf coast, who have experienced tremendous disasters. We can empathize with what they are going through in the aftermath of the earthquake.

I will make three points about this Haiti rebuilding. In New Orleans, when my brother was sworn in as mayor a few weeks ago, he said: Ladies and gentlemen, citizens of New Orleans, the day of recovery and restoration needs to be over. The day of creating needs to begin. We need to create a new city—a new city that is more fair, just, and open. He said that we have to think about using the opportunity of the revenues that have come to create something new and better that wasn't here before for the people who deserve it. I think that is a great call of a very visionary leader.

The same is true for Haiti. While Haiti, for a time, will recover and try to stabilize itself, at some point it needs to think about creating a new kind of Haiti. In my view, and in the view of many Senators and Members of Congress, many NGOs and many members of the Haitian Diaspora, one of the most important cornerstones that should be laid down is a free, universal, publicly funded school system for the children of Haiti, which represents 50 percent of its population today and 100 percent of its future. I will repeat that. Fifty percent of the population today—one of the youngest nations on Earth—and 100 percent of Haiti's future. The shame of it is, before the earthquake, less than 50 percent of the children went to school. They didn't have an opportunity to go to school. Of that 50 percent who were enrolled in school, the shame of it is that the enrollment fees and the tuition fees ate up anywhere from 50 percent to 60 percent of the household income.

So when people say where is the capital in Haiti, the capital was being spent on poorly run, poorly licensed, nonquality schools that were too expensive and not doing the job. We need to help them create a new Haiti with the money the Americans have already given and donors have pledged. We are not required or expected to fund it and our taxpayers cannot do that. But we can put up our support and voice and use a portion of the money we are going to give and say if you are going to spend American taxpayer dollars, spend it well, creating a new, more just Haiti and begin by building a school system.

That is what one of my amendments tomorrow will do—when I lay it down—for Haiti and what some of us are working on.

The second thing is a little more sensitive and maybe not as popular a subject. I will say a word about it anyway. In Haiti, there is a terrible and very unjust system that exists. I am not an expert, but I have learned a lot in the last few weeks as I have studied it. It is called the restavec system. It is a system of domestic servitude, where poor children are basically given up by their families to go work for a slightly wealthier family. Restavec children have no rights. They are forced to work very long hours. Most restage children have never seen the front door of a school. It is a system that has gone on in Haiti for too long, and it needs to come to an end. I hope that the Senate of the United States will not pass up the opportunity to express a strong voice to the Government of Haiti, to our partners around the world, to good people of good will everywhere, to put pressure on the Haitian government. To some, it may not be that necessary. Many people there want this to change. It is a system that people are not comfortable talking about, but it exists. There are a lot of studies on it, and we will talk about it in the days to come. We must make a strong statement on that while this bill is on the floor.

I see my colleague, the Senator from Pennsylvania, here. I yield the floor and look forward to discussing and offering these amendments on the disaster in New Orleans, in Louisiana, and the Gulf Coast, and on the disaster in Haiti tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. Mr. President, first, I commend the work of Senator LANDRIEU, who always brings passion and commitment to so many issues. Of course, those that relate to our State of Louisiana are always at the top of the list. We are grateful for that and for her speaking out on the people of Haiti. We are honored to be able to hear that tonight.

I ask unanimous consent to speak as in morning business.

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

POTENTIAL OF CHILDREN

Mr. CASEY. Mr. President, I think if there is one way to describe, summarize, or encapsulate the feelings that are not only I think prevalent in the Senate or in the Congress but throughout the country, when we think of our children and all children, I think we have a basic belief that every single child in America is born with a light inside them. For some children, of course, because of their circumstance, the family they come from, the situation into which they are born, that light is as bright as it can be; it is incandescent. You cannot see the limits of it. It is blinding that they are so full of potential and ability and they don't need as much help. They are going to be fine because of the brightness of that light—the measure of their potential.

For other children, they are born with a bright light, but it doesn't shine quite as brightly, because of all kinds of circumstances. We have all experienced this in our lives and in our own families and with people we have encountered. Many elected officials have talked to their constituents about this. I have always believed that the obligation of a public official, no matter where you are, no matter what level of government, or no matter what degree of responsibility you have, has a basic obligation to make sure that the light inside of every child is realized, or the potential that that light indicates is realized. We have to do that every day one way or another.

We had a hearing today in the Health, Education, Labor, and Pensions Committee on early education. As a country, we have not met the obligation I believe we should meet to provide children with learning at the early stages of their lives. First grade and second grade are really too late. They need to be exposed to early learning opportunities earlier.

A lot of States are doing this. There are a lot of good examples out there. But we have not made a national commitment to providing early learning opportunities. That is one thing we should do for a child to make sure the light of his or her potential is realized, to make sure they learn at a young age. It is determinative of their whole life. It actually has an impact on the skill of our workforce many years later.

Secondly—not in this order—we should make sure they have enough to eat and get proper nutrition. Again, this happens to be what we are working on. The Child Nutrition Act is up for reauthorization. We are going to have a chance to enact another piece of legislation that will continue that commitment to making sure more and more of our children have access to nutritious foods in school and otherwise.

We have made a lot of progress. Among the three I just mentioned, maybe the one we made the most progress on is health care for children. You cannot say the light inside a child

will reach its potential if that child does not have health care.

Fortunately, we are at a point now where we not only have 7 million children covered under the children's health insurance program, but that is going to grow to 14 million in just a couple of years. That is a remarkable achievement, but it is not enough if we cover 14 million. There still will be millions more, depending on what estimate is out there, but many millions more who will not be covered even as a result of the health care bill we passed. We have more work to do on health care.

If we are doing the right things as public officials, no matter where we are, whether it is at the level of the Federal Government or all the way down to local, county, and State governments, we should make sure we are doing the job on health care for children. We are not there, but we have made a lot of progress.

Make sure we are providing children with enough to eat, nutrition—we have a long way to go on that issue, but we have made progress.

Thirdly, we will make sure every child has early learning opportunities. We have made a lot of progress and still have a ways to go.

There actually is a fourth, at least the way I analyze it. The fourth is so fundamental that we sometimes forget about it. It is not just health care and nutrition and early learning; the fourth is basic safety, protecting children from the horrors of this Earth, from people who prey upon them in so many different ways, from the so many horrific ways children are abused and neglected and left behind and are victims of violence.

Unfortunately and increasingly, that degree of violence, as it relates to children or young people, even through the high school years, is becoming more and more apparent and more and more egregious in our schools. We are talking about this whole concept of bullying about which we are hearing a lot. I realize some will say: That has been happening for years. Every generation has had kids picked on in school. So why is this any different?

It is different today. The numbers are up, but the degree of cruelty and violence, in my judgment, is way up. We had a terrible example of that in Massachusetts a couple of months ago. I can point to several other States and many examples. It is true in my home State of Pennsylvania as well. In Pennsylvania and throughout the country, violence, bullying, and harassment in schools is a growing problem for all children. It is not restricted to one State or one locality or one situation.

It is true for all children but especially—and the evidence on this part of the problem is overwhelming and really disturbing—the violence and bullying as it relates to children who happen to be gay, lesbian, bisexual, or transgender. We all know about the acronym GLBT. That is happening in greater numbers. We cannot just lament it and say: That is too bad, but it happens over time. It has been happening for generations. It is too bad there is not a lot we can do about it.

The adults—and especially the adults who happen to be public officials who have the opportunity to vote or appropriate dollars or take action—have to do something.

Some would say: That is a State and local school district issue. The Federal Government does not need to get involved.

We have seen in the past where sometimes, if we do not take action or at least demonstrate leadership or at least create conditions where we diminish the likelihood that a child, especially a child who happens to be gay or lesbian, for example—they will not be the victims of violence if we do something about it. There is no one bill we can pass that will eliminate it. I understand that. But I think the idea that we can't do anything about it is really dishonest, at best. We ought to do something about it.

According to the Department of Education—just listen to these numbers—one in three schoolchildren is affected by bullying or harassment in grades 6 through 10. That is one number.

According to a separate study by the Gay, Lesbian, and Straight Education Network—known by the acronym GLSEN—less than half—and this relates to Pennsylvania only—less than half of Pennsylvania students said they felt safe in school. It is a problem across the board for all children but especially and most disturbingly for children who happen to be gay, lesbian, bisexual, or transgender.

Relentless bullying results in long-term consequences for the well-being of its victims. Just as before when I talked about the long-term impact of no health care or no nutrition or no early learning, this, too, has long-term consequences for that child, for that school, for that child's family, for that community, and, guess what, long term for all of us because it will affect whether that child reaches their potential, whether they have a skill level that is commensurate with their ability and their potential or whether they fall short of that because they were beaten or bullied when they were a child and they could not learn, and because they could not learn they did not do as well in school, and because they did not do well in school, they did not get the job or have the skill level they could have had. If only we had acted and tried to do something about this situation.

Here are some of the long-term consequences for that child:

Students who are bullied have a decreased interest in school. Some of these are self-evident, but we need to remind ourselves what they are. That is obvious, but it is a big problem.

Students who are bullied may be absent from school. It makes sense. Why would you want to go to school if you are getting beaten up and harassed every day and nobody is helping? That is part of the problem.

When they are in the classroom, they have a harder time concentrating. I cannot even imagine. We talk about how hard it is to concentrate when a child does not have enough to eat. The pain of not having enough to eat prevents them from learning and growing as a student. If you are a victim of violence, you are literally in pain at just the anticipation of when you leave that classroom to walk down the hallway, that same guy or group of people is going to make you the victim, yet again, of harassment or bullying. It does not even have to be physical. Just the verbal abuse, just the intimidation is enough to have an impact on that child.

We know bullying and the threat of violence is a common experience for young people who identify themselves as gay, lesbian, bisexual, or transgender, or who are perceived to be by their peers. People make comments about someone, and then they attack them, and then they become a victim.

These are not just children or young people who are someone else's child or someone else's problem; these are God's children. No matter who they are, they are God's children.

It is the ultimate form of betrayal—just like domestic violence is—when someone who lives in a home and is supposed to love the person is beating them up. That is an easy example to remember about what betrayal means.

Even in the context of a school, a child goes to school to learn. The implication is that while they are learning, they will be safe and actually nurtured, especially if they are very young, that they will be surrounded by people who will help them and educate them but also protect them. Yet they go into that environment to learn and to grow, and they are the victims of violence, and no one in that institution helps them or they help them too late or they say: It is not my problem or it is the parents' problem or the school district's problem or someone else's problem. That would be one of my definitions of betrayal of a child in that circumstance.

A recent study of LGBT teens reported that 9 in 10 reported harassment in the last year. Mr. President, 9 in 10. I don't care if it was 1 in 10 or if it was 5 in 10 or 6 in 10—that would be bad enough. But 9 in 10 in this one survey. And 3 out of 5 students reported feeling unsafe in school. When I was a kid, I never felt unsafe in school. I have no recollection of ever having that feeling in my life. These kids feel it every day. One-third of students said they skipped school in the last month because they felt unsafe coming to school. Talk about consequences—missing school because they feel they are going to be beaten up or harassed.

Perhaps one of the most disturbing statistics is a third of all students said teachers and administrators rarely intervened in these cases. Some will say

it is a generalization. I understand it is a generalization, but apparently it is happening out there in far too many cases. Of course, one case is enough. It is one thing to feel intimidated, scared, and fearful. It is another one to feel that no one around you in positions of authority will help you.

We often talk in this country—and, of course, in Washington as well—about freedom, the great freedoms we have in America: the freedom to make your own way, to be an entrepreneur, to find your way in life, to start your own business, to make your own money, to travel where you want, to say what you want, freedom of speech—all these great freedoms we have, and thank goodness we have them. Thank goodness people were willing to die for those freedoms in our history and up to the present day. Men and women are serving in combat to preserve our freedoms.

We talk about freedom, but sometimes we forget another element of the issue of freedom. Just like adults have the right to free speech and the right to assembly and all the constitutional rights we celebrate, young people have rights, too, or at least they should. One of the rights, one of the freedoms they should be allowed to enjoy is the freedom from fear. We have heard that expression before, ''the freedom from fear.'' These children I just described do not have that freedom. They are not free, even in this land where we celebrate freedom every day of the week. We have an obligation to take action to make sure that basic right is protected against those who would deny them that freedom—the freedom to be free from fear.

We have to do something about this problem. We cannot do everything. Not one bill will solve this problem. But I think we can enact a couple pieces of legislation which will have a positive impact.

Tomorrow, I will be introducing the Safe Schools Improvement Act. It will do a couple of things for this problem. It will give schools and districts the resources to do at least three things. They ought to do a lot more than this, but we are going to try to help them with at least these three:

First, develop comprehensive student conduct policies that prohibit bullying and harassment. If you do not have a conduct policy in place, you have to do it if we pass this Federal legislation.

Secondly, it will help to implement prevention strategies and professional development. We have to do more in prevention, and we have to make sure those in charge, those who have authority are, in fact, trained to identify and to deal with and then to punish those who are guilty of this kind of bullying and harassment.

Thirdly, the Safe Schools Improvement Act will require that schools and districts maintain and report data regarding incidents of bullying and harassment. It is very important to document this, to keep good records so we know exactly what is happening, so when a parent shows up at a school and says: Well, before my child was beaten and harassed, was it happening before? We shouldn't have the school saying: Well, we are not sure. We had some reports. They should document those incidents and there should be a uniform way of documenting what is an example or a reportable act of violence.

There is other legislation as well that many others and I are cosponsoring—the Student Nondiscrimination Act. That is a bill introduced last week by Senator FRANKEN to expand Federal civil rights statutes to include a right for students against discrimination in school on the basis of sexual orientation or gender identity.

It is almost hard to believe that we would have to enact either of these bills, that we would have to even introduce them, but we need both. We need to insist that schools do a better job, and adults at the local level do a better job, and that we are all working on this problem.

We also need to make sure that discrimination laws are enforced as it relates to children and young people—students—in our schools. We have to do this because it is a real problem.

Young people who happen to be gay or lesbian or bisexual or transgender need help from all of us. They need our support. I, and I know many others, will continue to work to protect every child so that at a minimum they feel safe and supported while they are in school, a place where they should have a reasonable expectation of safety and security. We are not talking about every moment of their life. We are not talking about when they are on the street alone. Those are situations where we worry as well. But at least—at least—we ought to be able to say that when a child or a young person is in school they will be protected from bullying or harassment or violence. That is the least we ought to be able to say, and we are a long way from saying that.

Again, I will conclude by saying that I will go back to the original point I made, which was that every child born in this country has a light inside them, and there is no way the light of that child can shine to its full potential if they do not have the basic protections and the basic freedom from fear we are talking about here. No child should have to go through their day, no matter who they are, to being a victim of this kind of bullying and harassment and violence. It is the ultimate, or certainly one of the ways our society betrays children.

We can put a stop to it. We can raise awareness, we can put a spotlight on this issue and do all we can to protect our children—our young people in grade school and in high schools—across America.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

FINANCIAL REGULATORY REFORM

Mr. LEVIN. Mr. President, a year and a half ago, the Permanent Subcommittee on Investigations began a review of the causes of the financial crisis. The subcommittee, which I chair, sought to answer a fundamental question about a crisis that was, at that moment, threatening to bring on a second Great Depression, and that has cost millions of Americans their jobs, their homes, their businesses and their savings. The question we sought to answer: How did this happen? And we asked that question so that we could inform our colleagues and the public on steps we might take to protect ourselves from the danger of future crises.

The subcommittee examined millions of pages of documents, interviewed hundreds of witnesses, and conducted four hearings with more than 30 hours of testimony. What we learned was sobering:

We learned that mortgage lenders such as Washington Mutual Bank sought to boost their short-term profits by making increasingly risky mortgage loans to borrowers increasingly unlikely to be able to repay them. WaMu, as it was known, made hundreds of billions of dollars of loans, many of which were laced with fraudulent borrower information, and then packaged and sold these loans, dumping toxic assets into the financial system like a polluter dumping poison into a river.

We learned that regulators such as the Office of Thrift Supervision identified problems at WaMu on many occasions but failed to act against them, and in fact hindered other Federal regulators like the Federal Deposit Insurance Corporation from taking action.

We learned that credit rating agencies, institutions that investors depended upon to make accurate, impartial assessments of the risks that assets carried, failed completely in this task. This failure was caused by faulty risk models and inadequate data, and by competitive pressures as the credit rating agencies sought to obtain or enlarge their market share and please the investment banks that were paying them for their credit ratings. Because credit rating agencies were paid by the financial institutions selling the financial products being rated, conflicts of interest undermined the ratings process and led to a slew of inflated AAA ratings for high-risk products whose ratings were later downgraded, many to junk status.

We also learned that investment banks such as Goldman Sachs helped feed the conveyor belt of toxic assets that nearly brought economic ruin.

Goldman Sachs repeatedly put its own interests and profits ahead of the interests of its clients and our communities. Its misuse of exotic and complex financial structures helped spread toxic mortgages throughout the financial system. And when the system finally collapsed under the weight of those toxic mortgages, Goldman profited from the collapse.

The lesson of our findings is that this disaster was manmade. And yet perhaps the most stunning finding came from our hearings themselves, when top executives from institutions that collectively destroyed millions of jobs and billions of dollars' of wealth repeatedly dodged responsibility, saying the mistakes were someone else's, that they had done nothing wrong, that those who questioned their actions simply failed to understand how the financial system worked. Mr. President, if Wall Street refuses to take responsibility for its actions, it is incumbent on us to take responsibility for putting a cop back on the beat on Wall Street.

The bill we approved last week contains many important provisions that directly address the problems revealed in our investigation. Begin with the lenders. The Consumer Financial Protection Bureau this legislation will create is an important tool to protect borrowers and the financial system from the abusive lending at banks such as WaMu that helped bring about the crisis. Thanks to an amendment offered by Senator MERKLEY, which I was proud to cosponsor, lenders will no longer be able to pocket a quick profit by selling a ''liar loan,'' requiring no documentation of wages or the ability to repay. Under Senator MERKLEY's amendment, borrowers will be required to provide reliable evidence of their income, either through a W–2, tax return, or other such record. The amendment would also require lenders to verify borrower income.

Together, those provisions essentially impose a ban on so-called stated-income loans, which is exactly what is needed. Negative amortization loans, in which borrowers can spend years making payments so small that they end up owing thousands of dollars more than the original loan amount, should also become rare. Putting a cop on the beat means protecting all of us from the consequences of reckless behavior by those who seek short-term gain at the expense of financial stability.

It is also significant that lenders will be required to retain some of the risk they create by keeping a portion of the mortgages they securitize on their own books, ending the current situation in which lenders can make risky loans and then dump all that risk into the financial system. Under the Senate bill, securitizers of high-risk mortgages will have to retain at least a 5 percent interest in any mortgage-backed securities they issue. Mortgages that are very safe—such as 30-year, fixed-rate mortgages with a historical default rate of 1 to 2 percent—will be exempted from this credit risk retention requirement. Securitizers using mortgages with a credit risk that is above the 1- to 2-percent default rate for traditional mortgages, but below the 5-percent or more default rate associated with high-risk mortgages, will have some risk retention requirement but one that is less than the 5-percent requirement for high-risk mortgages. These risk retention requirements are essential to rebuild investor confidence in our mortgage-backed securities markets. This bill also addresses many of the regulatory failures our investigation identified. The Office of Thrift Supervision, which failed so badly in its oversight responsibilities, is dissolved under this bill. The Federal Reserve would be given important authority to oversee the largest financial institutions, regardless of their legal status as bank holding companies, investment banks or other entities, offering powerful protection against risks to the stability of the financial system that went unrecognized through the web of Federal regulation during this crisis. The Consumer Financial Protection Bureau would be charged with ending high-risk mortgages that not only hurt consumers, but undermined the safety and soundness of U.S. banks and mortgage lenders.

This legislation includes substantial reform of credit rating agencies. These agencies will now be liable to civil suits by private parties for the quality of their analytical process, and required to institute internal controls, devote sufficient resources, and improve training and competence to improve the accuracy of their ratings. The Securities and Exchange Commission will establish a new office to oversee the agencies, another example of how we would put a cop back on the beat. And thanks to the amendment offered by Senator FRANKEN, which I cosponsored, the bill has addressed the dangerous conflict of interest under which the supposedly impartial analysis of financial instruments is paid for by the issuers of those financial instruments. While it would have been cleaner also to strike the existing statutory ban on SEC oversight of the substance of ratings and the procedures and methodologies used to produce those ratings, the Senate bill as written essentially overrides that ban and enables the SEC to exercise the oversight needed to ensure credit ratings are derived in a reasonable and impartial manner.

We had an opportunity as well to address the issues identified in our investigation with the actions of investment banks such as Goldman Sachs. This legislation makes some progress there. Importantly, the legislation will bring the shadowy derivatives market into the light, requiring virtually all derivatives to be disclosed to regulators, that most undergo a standardized clearing process, and that derivatives dealers meet capital requirements that ensure, if their risky bets fail, they can cover the losses from their own accounts, and not—as, for instance, AIG did—come to taxpayers for a bailout.

One major failing during the debate on the bill was the Senate's failure to approve Senator DORGAN's amendment to ban ''naked'' credit default swaps, the ultimate gamble in the casino that Wall Street has constructed in recent years. That amendment included a provision I had sought to ban synthetic asset backed securities that magnify risk without providing any economic benefit. The Dorgan amendment would have reduced the high-risk, conflicts-ridden practices that too often are a part of Wall Street today and would have rebuilt investor confidence in our markets. I regret that the Senate did not see fit to add that provision to the bill.

Of course, I wish the Senate had been allowed to consider the amendment that Senator MERKLEY and I offered to rein in proprietary trading and address the conflicts of interest that have become business as usual on Wall Street. We had offered our amendment to a Brownback amendment that was already pending on the floor. I am very disappointed that Senator BROWNBACK decided to withdraw his amendment, which meant the Merkley-Levin amendment could not get a vote. The Dodd bill includes a provision requiring regulators to study and implement restrictions on proprietary trading, which is a step in the right direction. But we have missed an opportunity to strengthen that provision by putting in a statute, without the ability of agencies to modify, prohibitions on risky trading by banks, and strict limits on such trading by nonbanks. Of prime importance, our amendment would have ended the conflicts of interest that now allow financial institutions to assemble and sell complex financial instruments—even instruments with a significant possibility of failure—and then bet that those instruments will fail, profiting from bets against the very instruments they constructed and from the clients they convinced to purchase those products.

Mr. President, I do not understand how Senators can be shown the damaging conflicts of interest identified by our investigation and not see the need to address those conflicts. If we do not address them, we will have poorly served our constituents and missed a chance to make a future financial crisis less likely.

I have some additional regrets about the legislation. Amendments I had drafted to impose a 1-year cooling off period before financial regulators can take jobs at the financial institutions they regulated, and to repair damage from a Supreme Court decision known as Gustafson had been included in a planned managers' amendment, but that amendment never received a vote. Important amendments to strengthen the authority of the FDIC, close the London loophole that allows foreign trading terminals to be established in the United States to trade U.S. commodities without complying with U.S. trading rules, require registration of

private equity and venture capital funds, reverse the Stoneridge decision barring shareholder suits against those who aid and abet financial fraud, and other important issues were also not acted upon or given a vote. I hope these issues will be addressed in conference.

Still, taken as a whole, the legislation we approved is an important step toward policing Wall Street and rebuilding Main Street's defenses from Wall Street's excesses. The millions of pages of documents and long hours of testimony gathered by the Permanent Subcommittee on Investigations present a detailed history of the financial crisis. But all that complexity tells a pretty simple story, really, one of unbridled greed that created unheeded risk, risk that exploded into the worst recession in decades. Wall Street may not have learned the lessons of that story, but the rest of the country has. We must act. We must put the cop back on the Wall Street beat, or once again suffer the consequences of Wall Street's greed. Hopefully, the Senate-House conference will get us closer to that goal.

Mr. VOINOVICH. Mr. President, I rise today to explain my opposition to the Restoring America's Financial Stability Act, which the Senate passed last week. It is now clear that over the past decade or so, certain factors played a critical role in leading our Nation into the financial crisis that first reached critical mass and arrested the credit markets in 2007, subsequently leading to the collapse of some of our largest financial services firms, and culminated with a crash of the stock market in late 2008 and again in early 2009. These underlying factors and resulting events produced a widespread crisis and a devastating recession with massive job loss and sustained record unemployment, all of which continue to be felt by families throughout Ohio and States across America. In response, we in Congress have taken up legislation that supposedly aims to correct what went wrong and restore safety, soundness, and stability to our financial markets to foster recovery and fortify the foundation for a strong economy.

Why, then, have I opposed the passage of this legislation? Simply put, because it does not get the job done. This legislation fails to address the root causes of our current crisis, while severely overreaching in its expanded regulation of businesses large and small throughout the economy. While I was disappointed that a bill this large, technical, and consequential was not properly and carefully vetted through the committee process, and was then subject to political abuse by the majority, I voted to bring the bill to the Senate floor because I believe the American people wanted us to debate the issues surrounding the financial collapse and bring forth legislation that would work to minimize the possibility of a future collapse caused by the same weaknesses. Although I was pleased with the debate process on the Senate floor—Senators were allotted time to offer amendments, debate was substantial, and amendments were germane—this reform legislation ignores the root causes of the collapse and ultimately fails to repair and strengthen our financial system.

First, the bill fails to address the main catalysts of the financial meltdown, Fannie Mae and Freddie Mac, whose push to acquire subprime mortgages—spurred by Congress—helped produce a bubble that burst and sent shockwaves across global financial markets, sending the U.S. and global economies into a tailspin. These now-government-owned institutions, which failed in the midst of the financial crisis, continue to drain taxpayers for billions of dollars. Just this month, Fannie and Freddie requested an additional $19 billion of taxpayer moneys to fund operations, bringing the total government assistance to roughly $145 billion, or an average of $7.6 billion per month. Moreover, the nonpartisan Congressional Budget Office recently estimated that over the next decade, Fannie and Freddie could cost taxpayers almost $400 billion. Yet these two giant, systemically risky institutions, whose bailouts far outsize any of those given to other financial institutions, are ignored in this bill.

Second, at the heart of this crisis were residential home loans written to borrowers who did not have the ability to pay their mortgages. When these borrowers defaulted on a massive scale, widespread investment securities based on their mortgages lost significant value, sending investors panicking and retreating while portfolios collapsed and credit froze. These loans were made in large part because of poor underwriting standards and a failure by many lenders and brokers to ensure that buyers had the means to repay their loans. During the debate on this bill, my colleague Senator BOB CORKER offered a commonsense amendment to establish sound underwriting standards, including a minimum down payment, full documentation, and proof of income and ability to pay back the mortgage. Amazingly, my colleagues rejected this amendment, and thus virtually nothing in this bill addresses this problem.

Third, the new consumer protection bureau created by this bill is too wide in its regulatory scope and I believe it will saddle businesses with new and often unnecessary burdens. It is granted authority to reach its tentacles like an octopus into various sectors of the economy and pull businesses that were not part of the problem under new government regulation. Attempts by some of my colleagues to curtail the largely unchecked reach of this new regulator were rejected.

Finally, new regulations related to over-the-counter derivatives fail to adequately protect businesses across Ohio and other States that use these risk management tools. Some of these businesses could be forced to divert capital away from investments and job creation and instead post margins with the clearinghouses that will oversee these contracts. I have also heard many of these companies complain that they will now be forced to use less customized derivative products, which would result in more—rather than less—risk to these companies. As businesses sideline more capital, they become less liquid; as they face more risk, they become less creditworthy, and in turn have less access to credit. I am fearful that these new burdens on businesses will do little or nothing to prevent future collapses, and serve only to slow any eventual economic recovery. In addition, under the Senate bill, banks that commonly provide these financial products for businesses would be prohibited from doing so any longer, and I am concerned that the unintended consequence of this ban could be that businesses will seek these products from foreign financial firms, which operate beyond the scope of U.S. regulation.

In sum, not only does the Restoring America's Financial Stability Act fail to address the root causes of the problem, it also overreaches in its regulation, which will cost Ohioans jobs, hurt businesses that are not connected with the meltdown, and harm credit at a time when job recovery is still just inching forward. I am disappointed that many of the amendments offered by my colleagues that would have addressed these issues, as well as my other concerns with the bill, were not adopted. I hope that this Senate bill will be improved in the conference committee before it is returned to the Senate.

REMEMBERING COLONEL JOHN KELLEY SPRINGER

Mr. GREGG. Mr. President, today I wish to honor a resident of the Granite State who was respected by his friends and family for his devotion to service, his devotion to country, and his devotion to his fellow citizens. Kathy and I wish to express our deepest sympathies to those who knew COL John Kelley Springer. Our thoughts and prayers are with those that are mourning this loss.

John Kelley Springer passed on February 4, 2010, at the age of 78, and today, in Rollins Chapel at Dartmouth College, his friends and family will gather to conduct a memorial service in his honor. I hope that memories of John and his efforts to advance the health and safety of this Nation can provide comfort during this difficult time.

A resident of Sunapee, New Hampshire, John was the President of the Dartmouth Class of 1953. Upon graduation, he joined the U.S. Marine Corps, serving 5 years on Active Duty as a jet and helicopter pilot, and many more in the Marine Corps Reserve before retiring with the rank of colonel.

John was also a longtime contributor in the health care field. Serving in various capacities—from hospital administrator to chief executive—John left his indelible mark throughout New England. For his outstanding community involvement, John was presented with the Award of Honor from the American Hospital Association and the Tree of Life Award from the Jewish National Fund. And as if these contributions to country and community weren't already enough, John was also a diligent philanthropist and genuinely goodhearted person, dedicating time and energy to various church boards and committees, and making everyone he encountered feel appreciated.

John Kelley Springer is survived by his beloved wife Jane; his daughters Kelley, Dana, Susan, and Nellie; his brother Wilbur; his sister Elizabeth; and 10 grandchildren. May his memory and devotion live on in each of them.

REMEMBERING SERGEANT BRANDON PAUDERT AND OFFICER BILL EVANS

Mr. PRYOR. Mr. President, it is with a heavy heart that today I honor two brave policemen from West Memphis, Sergeant Brandon Paudert and Officer Bill Evans, and pay tribute to their lives and service to their community.

Sergeant Paudert and Officer Evans lost their lives in the line of duty doing what they loved most: protecting their community. They were both part of the West Memphis Police Department's drug interdiction team, a specialized unit that fought drug trafficking on Arkansas's highways. They were on the front lines in the war against drugs, fighting to keep our streets clean and our children safe.

Sergeant Paudert's sense of duty was in his blood—his father, Bob Paudert, is West Memphis's police chief. Sergeant Paudert's loved ones described him as a kind, honorable man, devoted to his family and the force. He married his high school sweetheart, Kim, whom he had dated since they were just 14 years old, and had three children whom he loved dearly. He was always there for friends and fellow officers, lifting up their spirits and lending a hand when one was needed.

Officer Evans shared Sergeant Paudert's call to serve; he was a fourth-generation law enforcement official, with both his father and his grandfather serving in the Crittenden County Sheriff's Department. He was the team's ''maintenance man'' with an ability to fix anything he encountered, and had a wonderful sense of humor, always able to get a laugh out of his colleagues and friends. A father of two with a fiancé, those who knew him said Evans lived his life by a simple code: ''Enjoy your life. Love your family. Enjoy your work.''

I join all Arkansans in lifting up the family and friends of Sergeant Paudert and Officer Evans during this difficult time. In a fitting tribute, a sign on the fence of the West Memphis High School's football field says: ''Fallen, so we can stand.'' These two heroes may have fallen, but we will continue to stand for the values and principles for which they so selflessly gave their lives.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. MORRIS W. SELF

• Mr. BENNET. Mr. President, today I wish to honor the heroic service of Dr. Morris W. Self of Pagosa Springs, CO. Dr. Self, a retired civil engineer, was recently honored by France for his brave service during World War II. This past month, the French Consul General in Los Angeles bestowed on him the National Order of the Legion of Honor, France's highest award, in the rank of Chevalier, or Knight, in appreciation for his distinguished service.

Morris was born in St. Paul, MN, in December 1921. During high school, he was active in several sports and served as president of the student government. At 18, Morris joined the Minnesota National Guard and trained with the 101st Coast Artillery Unit. After the U.S. entered the war in 1941, he enrolled in the Engineer Officer Candidate School. He was commissioned as a combat engineer with the rank of 2nd lieutenant in July 1942. Lieutenant Self was deployed to the United Kingdom in November 1943 with the 348th Combat Engineering Battalion to prepare for the Normandy landings.

On D-day, Lieutenant Self's unit landed on Omaha Beach at 7:30 a.m. under intense enemy fire. He was 23 years old at the time. Lieutenant Self led an infantry unit in clearing beach areas of enemy fortifications. His reconnaissance patrol cleared mines and located booby traps under enemy fire.

On June 7, Lieutenant Self continued to clear the beach of mines. That day, he saw several landing crafts hit by enemy fire begin to sink. After quickly assessing the situation, Lieutenant Self swam 200 yards from shore to look for survivors. On this first trip, he helped three men to shore with lifejackets and by creating a makeshift raft. Then he went back to save more. After finding a long rope and attaching it to shore, Lieutenant Self and Lieutenant Walter Sidlowksi of Brooklyn, NY, found a rubber raft and ferried three more groups of survivors to safety. They were in the frigid water of the English Channel for about 2 hours.

Lieutenant Self and his unit continued to clear beach areas for the next several months. In December 1944, the 348th was moved to the Ardennes area in Belgium to fight back against the German offensive during the Battle of the Bulge and to help rebuild the community. He returned to the U.S. in September 1945 and was discharged that December.

Prior to this most recent award, Lieutenant Self was awarded the Bronze Star Medal for heroic actions at Omaha Beach, the French Croix de Guerre with Bronze Star, and the Presidential Unit Citation. Lieutenant Self later attended the University of Minnesota and earned a civil engineering degree, a master's, and a doctorate in civil engineering. He was married to Ruth Mar in 1947, and they have three children: Ted Alan, Douglas, and Jenann.

I would like again to congratulate Dr. Self on his receipt of the esteemed Legion of Honor award and thank him for his selfless service to our country. His bravery, on D-day, and for months after, is a testament to the courage and conviction that American soldiers brought to a dreadful war. We are humbled by his service.•

RECOGNIZING HOWE MILITARY SCHOOL CLASS OF 2010

• Mr. LUGAR. Mr. President, I am pleased to take the opportunity today to congratulate the Class of 2010 at Howe Military School upon this weekend's commencement ceremonies. This class has achieved the remarkable result of having each cadet gain acceptance to college an achievement in which all cadets and their families can take great pride.

The Class of 2010 also has the distinction of being the final class to graduate as alumni of the Howe Military School. The board of trustees has chosen to change the school's name to The Howe School beginning in the fall. Throughout the school's distinguished 126 year history it has prepared young men, and since 1988 young women, for academic excellence and leadership. This tradition will continue in the years to come as the school embarks upon a new chapter as The Howe School.

I am privileged to recognize the faculty and staff of the Howe Military School and the cadets who are graduating to pursue new challenges in college and beyond. I look forward to opportunities to learn about the many achievements of the Howe Military School Class of 2010 in the years ahead.•

MESSAGE FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1017. An act to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 and title 38, United States Code, to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers and to expand access to such care and services.

H.R. 5330. An act to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 137. Concurrent resolution expressing the sense of the Congress that the lack of adequate housing must be addressed as a barrier to effective HIV prevention, treatment, and care, and that the United States should make a commitment to providing adequate funding for developing housing as a response to the AIDS pandemic.

H. Con. Res. 278. Concurrent resolution expressing the sense of Congress that a grateful Nation supports and salutes Sons and Daughters in Touch on its 20th Anniversary that is being held on Father's Day, 2010, at the Vietnam Veterans Memorial in Washington, the District of Columbia.

MEASURES REFERRED ON MAY 24, 2010

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1177. An act to require the Secretary of the Treasury to mint coins in recognition of 5 United States Army 5-Star Generals, George Marshall, Douglas MacArthur, Dwight Eisenhower, Henry ''Hap'' Arnold, and Omar Bradley, alumni of the United States Army Command and General Staff College, Fort Leavenworth, Kansas, to coincide with the celebration of the 132nd Anniversary of the founding of the United States Army Command and General Staff College; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5327. An act to authorize assistance to Israel for the Iron Dome anti-missile defense system; to the Committee on Foreign Relations.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1017. An act to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 and title 38, United States Code, to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers and to expand access to such care and services; to the Committee on Veterans' Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 137. Concurrent resolution expressing the sense of the Congress that the lack of adequate housing must be addressed as a barrier to effective HIV prevention, treatment, and care, and that the United States should make a commitment to providing adequate funding for developing housing as a response to the AIDS pandemic; to the Committee on Banking, Housing, and Urban Affairs.

H. Con. Res. 278. Concurrent resolution expressing the sense of Congress that a grateful Nation supports and salutes Sons and Daughters in Touch on its 20th Anniversary that is being held on Father's Day, 2010, at the Vietnam Veterans Memorial in Washington, the District of Columbia; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 3410. A bill to create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, and to direct the Secretary of the Interior to renegotiate the terms of the lease known as ''Mississippi Canyon 252'' with respect to claims relating to the Deepwater Horizon explosion and oil spill that exceed existing applicable economic liability limitations.

S. 3421. A bill to provide a temporary extension of certain programs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5905. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Silver Nitrate; Exemption from the Requirement of a Tolerance'' (FRL No. 8824–9) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5906. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility (75 FR 24820)'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5907. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Antarctic Marine Living Resources; Use of Centralized-Vessel Monitoring System and Importation of Toothfish; Re-export and Export of Toothfish; Applications for Krill Fishing; Regulatory Framework for Annual Conservation Measures'' (RIN0648–AX80) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5908. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Correction'' (RIN0648–AY37) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5909. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; West Coast Salmon Fisheries; 2010 Management Measures'' (RIN0648–AY60) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5910. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska'' (RIN0648–XV80) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5911. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries'' (RIN0648–AY82) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5912. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled ''Virginia Graeme Baker Pool and Spa Safety Act; Interpretation of Unblockable Drain'' (16 CFR Part 1450) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5913. A communication from the Assistant General Counsel for Legislation and Energy Efficiency, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program: Web-Based Compliance and Certification Management System'' (RIN1904–AC10) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Energy and Natural Resources.

EC–5914. A communication from the Assistant General Counsel for Legislation and Energy Efficiency, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Consumer Products: Determination Concerning the Potential for Energy Conservation Standards for Non-Class A External Power Supplies'' (RIN1904–AB80) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Energy and Natural Resources.

EC–5915. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM–10; Determination of Attainment for the Coso Junction Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements'' (FRL No. 9153–3) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Environment and Public Works.

EC–5916. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (FRL No. 9152–8) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Environment and Public Works.

EC–5917. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Nonpersonal Use Vehicles'' (RIN1545–BH65) received in the Office of the President of the Senate on May 19, 2010; to the Committee on Finance.

EC–5918. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tidewater, Inc.,

and Subsidiaries v. United States'' (AOD 2010–22) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Finance.

EC–5919. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Sections 7701(a) and 7805—Definition of Foreign Partnership'' (Notice No. 2010–41) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Finance.

EC–5920. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''James R. Thompson v. United States Court of Federal Claims No. 06–211 T'' (AOD 2010–14) received in the Office of the President of the Senate on May 20, 2010; to the Committee on Finance.

EC–5921. A communication from the Assistant Secretary for Special Education and Rehabilitation Services, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers (RRTCs)—Employer Practices Related to Employment Outcomes Among Individuals with Disabilities Catalog of Federal Domestic Assistance (CFDA) Number: 84.133B–3'' received in the Office of the President of the Senate on May 19, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5922. A communication from the Assistant Secretary for Special Education and Rehabilitation Services, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Capacity Building Program for Traditionally Underserved Populations—Technical Assistance for American Indian Vocational Rehabilitation Services Projects Catalog of Federal Domestic Assistance (CFDA) Number: 84.406'' received in the Office of the President of the Senate on May 19, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5923. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Annual Report to Congress on Targeted Grants to Increase the Well-Being of, and to Improve the Permanency Outcomes for, Children Affected by Methamphetamine or Other Substance Abuse''; to the Committee on Health, Education, Labor, and Pensions.

EC–5924. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Canoga Avenue Facility, Los Angeles County, California, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–5925. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the 2009 Annual Report of the Pension Benefit Guaranty Corporation; to the Committee on Health, Education, Labor, and Pensions.

EC–5926. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditor's Review of Compliance with Certified Business Enterprises Requirements Pursuant to the Compliance Unit Establishment Act of 2008''; to the Committee on Homeland Security and Governmental Affairs.

EC–5927. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Auditor's Review of Environmental Standards Requirements Pursuant to the Compliance Unit Establishment Act of 2008''; to the Committee on Homeland Security and Governmental Affairs.

EC–5928. A communication from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, the Commission's financial statement for the period of October 1, 2008, to September 30, 2009; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 469. A resolution recognizing the 60th Anniversary of the Fulbright Program in Thailand.

S. Res. 532. A resolution recognizing Expo 2010 Shanghai China and the USA Pavilion at the Expo.

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 3248. A bill to designate the Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

*Michael P. Meehan, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2010.

*Dana M. Perino, of the District of Columbia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2012.

*Michael James Warren, of the District of Columbia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2011.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*Foreign Service nominations beginning with Judith Hinshaw Semilota and ending with Gregory S. Stanford, which nominations were received by the Senate and appeared in the Congressional Record on April 14, 2010.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*S. Leslie Ireland, of Massachusetts, to be Assistant Secretary for Intelligence and Analysis, Department of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. FEINGOLD:

S. 3407. A bill to improve the quality of care in nursing homes, help families make informed decisions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 3408. A bill to provide for the conveyance of certain public land in and around historic mining townsites located in the State of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 3409. A bill to make certain adjustments to the price analysis of propane prepared by the Secretary of Commerce; to the Committee on Energy and Natural Resources.

By Mr. VITTER (for himself, Ms. MURKOWSKI, and Mr. LEMIEUX):

S. 3410. A bill to create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, and to direct the Secretary of the Interior to renegotiate the terms of the lease known as ''Mississippi Canyon 252'' with respect to claims relating to the Deepwater Horizon explosion and oil spill that exceed existing applicable economic liability limitations; read the first time.

By Mrs. GILLIBRAND (for herself, Mr. INHOFE, and Ms. LANDRIEU):

S. 3411. A bill to provide for the adjustment of status for certain Haitian orphans paroled into the United States after the earthquake of January 12, 2010; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. MENENDEZ, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. BROWN of Ohio, Mr. REED, and Mrs. GILLIBRAND):

S. 3412. A bill to provide emergency operating funds for public transportation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD:

S. 3413. A bill to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. HATCH):

S. 3414. A bill to ensure that the Dietary Supplement Health and Education Act of 1994 and other requirements for dietary supplements under the jurisdiction of the Food and Drug Administration are fully implemented and enforced, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 3415. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs and to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THUNE (for himself and Mr. BEGICH):

S. 3416. A bill to amend the Fair Credit Reporting Act to provide for an exclusion from Red Flag Guidelines for certain businesses; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. VITTER:

S. 3417. A bill to prohibit offshore aquaculture until 3 years after the submission of a report on the impacts of offshore aquaculture and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MERKLEY (for himself, Mr. JOHANNS, Mr. CASEY, and Mr. BROWN of Ohio):

S. 3418. A bill to amend the Public Health Service Act to specifically include, in programs of the Substance Abuse and Mental Health Services Administration, programs to research, prevent, and address the harmful consequences of pathological and other problem gambling, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MERKLEY (for himself, Mr. DORGAN, Mr. SCHUMER, Mr. MENENDEZ, Mr. DURBIN, and Mr. HARKIN):

S. 3419. A bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY:

S. 3420. A bill to provide a temporary extension of certain programs, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 3421. A bill to provide a temporary extension of certain programs, and for other purposes; read the first time.

By Mr. WYDEN:

S. 3422. A bill to require the provision to members of the reserve components of the Armed Forces upon their mobilization and demobilization of a comprehensive statement of the medical care to which they are entitled as a result of mobilization; to the Committee on Armed Services.

By Mr. KERRY:

S. 3423. A bill to provide the President with expedited consideration of proposals for cancellation of certain budget items; to the Committee on the Budget.

By Mr. DURBIN (for himself and Mr. VITTER):

S. 3424. A bill to amend the Animal Welfare Act to provide further protection for puppies; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. WEBB, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 504

At the request of Mr. ROBERTS, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. CASEY), the Senator from California (Mrs. FEINSTEIN), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Nebraska (Mr. NELSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 1425

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1425, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 1567

At the request of Mr. BROWNBACK, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1567, a bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp.

S. 1709

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1709, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1740

At the request of Mrs. MURRAY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1740, a bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes.

S. 1770

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 1770, a bill to recognize the heritage of recreational fishing, hunting, and shooting on Federal public lands and ensure continued opportunities for these activities.

S. 2737

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2737, a bill to relocate to Jerusalem the United States Embassy in Israel, and for other purposes.

S. 2755

At the request of Mr. MENENDEZ, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2755, a bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes.

S. 2781

At the request of Ms. MIKULSKI, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2781, a bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability.

S. 2858

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2858, a bill to amend the Public Health Service Act to establish an Office of Mitochondrial Disease at the National Institutes of Health, and for other purposes.

S. 2885

At the request of Ms. LANDRIEU, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2885, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide adequate benefits for public safety officers injured or killed in the line of duty, and for other purposes.

S. 2913

At the request of Ms. COLLINS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2913, a bill to establish a national mercury monitoring program, and for other purposes.

S. 2947

At the request of Mr. CARPER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2947, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 3197

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3197, a bill to require a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces from Afghanistan.

S. 3206

At the request of Mr. HARKIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3206, a bill to establish an Education Jobs Fund.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3262

At the request of Mr. MENENDEZ, the name of the Senator from Mississippi

(Mr. WICKER) was added as a cosponsor of S. 3262, a bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities.

S. 3296

At the request of Mr. INHOFE, the name of the Senator from North Carolina (Mr. BURR) was withdrawn as a cosponsor of S. 3296, a bill to delay the implementation of certain final rules of the Environmental Protection Agency in States until accreditation classes are held in the States for a period of at least 1 year.

S. 3305

At the request of Mr. MENENDEZ, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Vermont (Mr. LEAHY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 3305, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 3306

At the request of Mr. MENENDEZ, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3306, a bill to amend the Internal Revenue Code of 1986 to require polluters to pay the full cost of oil spills, and for other purposes.

S. 3326

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3341

At the request of Mr. CARDIN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 3341, a bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act.

S. 3393

At the request of Mr. BROWN of Ohio, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 3393, a bill to provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from North Carolina (Mr. BURR) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

AMENDMENT NO. 4174

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 4174 proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4175

At the request of Mr. LAUTENBERG, the names of the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Nebraska (Mr. NELSON), the Senator from California (Mrs. BOXER), the Senator from Oregon (Mr. MERKLEY), the Senator from Minnesota (Mr. FRANKEN) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of amendment No. 4175 proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4179

At the request of Mr. COCHRAN, his name was added as a cosponsor of amendment No. 4179 proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4181

At the request of Ms. LANDRIEU, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 4181 intended to be proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4183

At the request of Mr. WYDEN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 4183 proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 4190

At the request of Mr. CARDIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 4190 intended to be proposed to H.R. 4899, a bill making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. ENSIGN):

S. 3408. A bill to provide for the conveyance of certain public land in and around historic mining townsites located in the State of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to introduce the Nevada Mining Townsite Conveyance Act of 2010. The residents of the towns Ione and Gold Point in Nevada have asked for our help in settling longstanding trespass issues that have seriously affected these communities for decades. This bill would convey 682 acres managed by the Bureau of Land Management's, BLM, Tonopah Field Office to clear up decades old confusion over property ownership in these two historic mining towns.

Ione and Gold Point were founded in central Nevada during the last half of the nineteenth century. Like other early towns in Nevada, they endured the boom and bust cycle so common to mining camps. A very long time ago both of these towns were surveyed and approved for townships, but through some misfortune the proof of patent was never recorded by the U.S. Government Land Office and title for the land was never transferred. Nevertheless, these towns have been continuously occupied for over 100 years.

Many residents in Ione and Gold Point live on the same land that their families settled on decades earlier. These citizens have paid their property taxes and made improvements to their properties. They have rehabilitated historic structures and built new ones. Regrettably, the historical documents by which these citizens claim possession do not satisfy modern requirements for demonstrating lawful ownership of their properties. Because these documents are legally insufficient and have been deemed invalid, the BLM retains legal ownership of the land. Thus, the BLM has determined that these residents of Ione and Gold Point and their homes are in trespass on Federal land.

This situation is untenable. Local residents, the counties, and the BLM recognize that many of these citizens have substantial rights to the lands in question; however, there is no readily available procedure by which the BLM can adjudicate their claims. This puts the BLM at odds with the local residents and the county governments. It also impedes efforts to improve basic community services such as fire protection, and water supply and treatment facilities.

In the simplest terms, our legislation will convey any unencumbered property rights in the contested townsites to the counties and in turn the counties will use the procedures outlined in the 2001 state mining townsite law to consider residents' property claims and pass these lands to the rightful owners.

In order to accomplish the transfer of the townsites, this bill establishes a process for the BLM to determine the validity of any existing mining claims in Ione and Gold Point and to convey to the counties all surface ownership rights and any subsurface rights not subject to valid mining claims. Valid mining claims will not be conveyed to the counties, but they will be subject to various restrictions designed to protect the home owners in Ione and Gold Point.

I would like to thank Nye and Esmeralda counties, the Nevada State Legislature, the Bureau of Land Management, and the residents of Ione and Gold Point for their cooperation and hard work in resolving this complex problem. We are pleased to bring this legislation to the committee and we look forward to working with Chairman BINGAMAN, Ranking Member MURKOWSKI and the other distinguished members to move this bill through the legislative process.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3408

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nevada Mining Townsite Conveyance Act''.

SEC. 2. DISPOSAL OF PUBLIC LAND IN MINING TOWNSITES, ESMERALDA AND NYE COUNTIES, NEVADA.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government owns real property in and around historic mining townsites in the counties of Esmeralda and Nye in the State of Nevada;

(2) while the real property described in paragraph (1) is under the jurisdiction of the Secretary, some of the real property has been occupied for decades by individuals—

(A) who took possession by purchase or other documented and putatively legal transactions; and

(B) the continued occupation by whom constitutes a trespass on the title held by the Federal Government;

(3) as a result of the confused and conflicting ownership claims, the real property described in paragraph (1)—

(A) is difficult to manage under multiple use policies; and

(B) creates a continuing source of friction and unease between the Federal Government and local residents;

(4)(A) all of the real property described in paragraph (1) is appropriate for disposal for the purpose of promoting administrative efficiency and effectiveness; and

(B) as of the date of enactment of this Act, the Bureau of Land Management has identified the mining townsites for disposal; and

(5) to promote the responsible resource management of the real property described in paragraph (1), certain parcels should be conveyed to the county in which the property is situated in accordance with land use management plans of the Bureau of Land Management so that the county may, in addition to other actions, dispose of the property to individuals residing on or otherwise occupying the real property.

(b) DEFINITIONS.—In this Act:

(1) CONVEYANCE MAPS.—The term ''conveyance maps'' means—

(A) the map entitled ''Original Mining Townsite Ione Nevada'' and dated October 17, 2005; and

(B) the map entitled ''Original Mining Townsite Gold Point'' and dated October 17, 2005.

(2) MINING TOWNSITE.—The term ''mining townsite'' means real property—

(A) located in the Gold Point and Ione townsites within the counties of Esmeralda and Nye, Nevada, as depicted on the conveyance maps;

(B) that is owned by the Federal Government; and

(C) on which improvements were constructed based on the belief that—

(i) the property had been or would be acquired from the Federal Government by the entity that operated the mine; or

(ii) the individual or entity that made the improvement had a valid claim for acquiring the property from the Federal Government.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(c) MINING CLAIM VALIDITY REVIEW.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out an expedited program to examine each unpatented mining claim (including each unpatented mining claim for which a patent application has been filed) within each mining townsite.

(2) DETERMINATION OF VALIDITY.—With respect to a mining claim, if the Secretary determines that the elements of a contest are present, the Secretary shall immediately determine the validity of the mining claim.

(3) DECLARATION BY SECRETARY.—If the Secretary determines a mining claim to be invalid, as soon as practicable after the date of the determination, the Secretary shall declare the mining claim to be null and void.

(4) TREATMENT OF VALID MINING CLAIMS.—

(A) IN GENERAL.—Each mining claim that the Secretary determines to be valid shall be maintained in compliance with the general mining laws and subsection (d)(2)(B).

(B) EFFECT ON HOLDERS.—A holder of a mining claim described in subparagraph (A) shall not be entitled to a patent.

(5) ABANDONMENT OF CLAIM.—The Secretary shall provide—

(A) public notice that each mining claim holder may affirmatively abandon the claim of the mining claim holder prior to the validity review; and

(B) to each mining claim holder an opportunity to abandon the claim of the mining claim holder before the date on which the land that is subject to the mining claim is conveyed.

(d) CONVEYANCE AUTHORITY.—

(1) IN GENERAL.—After completing a validity review under subsection (c) and notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the appropriate county, without consideration, all right, title, and interest of the United States in and to mining townsites (including improvements on the mining townsites)—

(A) identified for conveyance on the conveyance maps; and

(B) that are not subject to valid mining claims.

(2) VALID MINING CLAIMS.—

(A) IN GENERAL.—With respect to each parcel of land located in a mining townsite subject to a valid mining claim, the Secretary shall reserve the mineral rights and otherwise convey, without consideration, the remaining right, title, and interest of the United States in and to the mining townsite (including improvements on the mining townsite) that is identified for conveyance on a conveyance map.

(B) PROCEDURES AND REQUIREMENTS.—Each valid mining claim shall be subject to each procedure and requirement described in section 9 of the Act of December 29, 1916 (43 U.S.C. 299) (commonly known as the ''Stockraising Homestead Act of 1916'') (including regulations).

(3) AVAILABILITY OF CONVEYANCE MAPS.—The conveyance maps shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(e) RECIPIENTS.—

(1) ORIGINAL RECIPIENT.—Subject to paragraph (2), the conveyance of a mining townsite under subsection (d) shall be made to the county in which the mining townsite is situated.

(2) RECONVEYANCE TO OCCUPANTS.—

(A) IN GENERAL.—In the case of a mining townsite conveyed under subsection (d) for which a valid interest is proven by 1 or more individuals, under the provisions of Nevada Revised Statutes Chapter 244, the county that receives the mining townsite under paragraph (1) shall reconvey the property to the 1 or more individuals by appropriate deed or other legal conveyance as provided in that chapter.

(B) AUTHORITY OF COUNTY.—A county described in subparagraph (A) is not required to recognize a claim under this paragraph that is submitted on a date that is later than 5 years after the date of enactment of this Act.

(f) VALID EXISTING RIGHTS.—The conveyance of a mining townsite under subsection (d) shall be subject to valid existing rights, including any easement or other right-of-way or lease in existence as of the date of the conveyance.

(g) WITHDRAWALS.—Subject to valid rights in existence on the date of enactment of this Act, and except as otherwise provided in this Act, the mining townsites are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(h) SURVEY.—A mining townsite to be conveyed by the United States under subsection (d) shall be sufficiently surveyed as a whole to legally describe the land for patent conveyance.

(i) CONVEYANCE OF TERMINATED MINING CLAIMS.—If a mining claim determined by the Secretary to be valid under subsection (c) is abandoned, invalidated, or otherwise returned to the Bureau of Land Management, the mining claim shall be—

(1) withdrawn in accordance with subsection (g); and

(2) conveyed to the owner of the surface rights covered by the mining claim.

(j) RELEASE.—On completion of the conveyance of a mining townsite under subsection (d), the United States shall be relieved from liability for, and shall be held harmless from, any and all claims arising from the presence of improvements and materials on the conveyed property.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act.

By Mr. DODD (for himself, Mr. MENENDEZ, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. BROWN of Ohio, Mr. REED, and Mrs. GILLIBRAND):

S. 3412. A bill to provide emergency operating funds for public transportation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, millions of Americans rely on transit to go about their daily lives.

Many of them are poor, elderly, or disabled.

For some, transit is more than a convenience—it is absolutely vital.

Unfortunately, in communities across the Nation, transit has become a casualty of the economic downturn.

Service cuts, fare increases, and layoffs—the result of tight budgets nationwide—have become an epidemic, disconnecting people from their jobs, placing huge burdens on already disadvantaged populations, and reducing quality of life for millions of American families.

The American Public Transportation Association recently found that 84 percent of transit systems either have enacted or are contemplating fare hikes or reductions in service.

The transit crisis is having an impact on the American people.

In 2008, transit ridership reached 10.7 billion riders, the highest level since 1956 and a 38 percent increase since 1995.

But last year, ridership fell by half a billion.

This has serious implications for national priorities like reducing traffic congestion, addressing climate change, enhancing our energy security, and restoring our economic competitiveness.

Of course, it has serious implications on the lives of ordinary Americans.

Young people are finding it harder to get to school.

Low-income families, forced to pay more for less service, are losing what is often their only option for getting to work.

The elderly and disabled, robbed of their mobility, can't access health care facilities.

Many who have long relied on transit are being forced to purchase cars, adding to congestion on our roads, pollution in our skies, and the economic burden already weighing heavy on working families.

We need more transit service, not less.

Now, my preference would be to pass a significant infrastructure and jobs bill, one that would invest billions in our infrastructure, our roadways, and our transit systems.

That approach would create hundreds of thousands of good construction jobs while simultaneously making critical long-term investments in our nation's future productivity and economic growth.

But even if we can't do that, we can't afford to turn our backs on the transit crisis.

Therefore, today I rise to introduce the Public Transportation Preservation Act of 2010.

This legislation will provide $2 billion in emergency funding to transit agencies across the nation so that we can minimize disruptions in service, fare increases, and layoffs.

It is not nearly enough money to give America the transit system it needs and deserves.

But I hope it will be enough to stop the bleeding and allow millions of Americans who rely on transit to maintain their ability to go to work, get to the doctor, and go about their daily lives without significant disruption.

Senators MENENDEZ, DURBIN, SCHUMER, LAUTENBERG, BROWN of Ohio, REED, and GILLIBRAND have joined this bill as original co-sponsors.

I thank them for their commitment to public transportation.

I urge my colleagues to join us on behalf of those who rely on transit.

By Mr. HARKIN (for himself and Mr. HATCH):

S. 3414. A bill to ensure that the Dietary Supplement Health and Education Act of 1994 and other requirements for dietary supplements under the jurisdiction of the Food and Drug Administration are fully implemented and enforced, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am joining with the distinguished senior Senator from Utah, Senator HATCH, to introduce the Dietary Supplement Full Implementation and Enforcement Act of 2010. Forty percent of Americans regularly take supplements—and I am one of them. We are taking charge of our own health. We are developing healthier habits. We are waking up to the fact that we don't live to eat, we eat to live—and we need to be mindful of what we put into our bodies.

Countless people have told me how they have been helped by dietary supplements. Consumers want alternatives. They want less invasive, less expensive options. They don't want to just cure disease, they want to prevent disease. They want to feel good—and to look good.

As you know, I have long championed the cause of health prevention, and I strongly believe that safe, properly labeled dietary supplements can be an important part of a healthy lifestyle. In 1994, I introduced the Dietary Supplement Health and Education Act—DSHEA—along with my good friend Senator HATCH, and we revolutionized the way that supplements are regulated and sold in the United States.

DSHEA struck an important balance. On the one hand, it recognized the importance of enhancing consumer access to vitamins, minerals, and other dietary supplements, and it recognized the virtues of scientific research and education on the benefits and risk of supplements. On the other hand, it recognized the need for important regulatory safeguards to protect consumer health, including new safety standards, penalties for mislabeling or adulterating dietary supplements, and rules to ensure the scientific substantiation of claims regarding dietary supplements. As a result, over the last 15 years, Americans have enjoyed unprecedented access to a range of safe products that help improve their health.

In 2006, Congress identified a need for additional regulatory safeguards, and we passed a law that requires manufacturers, packers, and distributors of dietary supplements to report to FDA serious adverse events associated with the use of supplements. Dietary supplement manufacturers are also now required to register their businesses with FDA under the BioTerrorism law we passed in 2002. S. 510, the food safety legislation approved by the Senate HELP Committee last year, which I hope will soon be considered on the Senate floor, contains additional provisions that apply to dietary supplements. The legislation gives FDA the authority to revoke the registration of a dietary supplement facility in certain instances, and it authorizes FDA to initiate a mandatory recall of any food, including a dietary supplement, that will cause serious adverse health consequences or death.

In short, Congress has been active in passing laws that promote access to dietary supplements, but also ensure those products are safe for their intended uses. I am proud of our record on this issue, and I believe we have established a regulatory framework that is in the best interest of the American people and their long term health.

I am concerned, however, that not enough is being done to fully implement and enforce these dietary supplement laws. I am very pleased that FDA recently issued final regulations on current Good Manufacturing Practice for dietary supplements, but it took them nearly 15 years to get those rules on the books. In the fall of 2004, FDA opened a docket and held a public meeting on new dietary ingredients, but it has still not produced guidance on that issue. Perhaps most alarming, there are still scores of illegal products being sold in this country that masquerade as dietary supplements. Some bad actors simply slap a dietary supplement label on illegal products in the hopes that the supplement label will help those products evade notice by FDA or the label will help promote sales. These products are clearly not dietary supplements and both consumers and the legitimate dietary supplement industry have a right to be upset about their sale. I am encouraged that President Obama's FDA has been sending Warning Letters on some of these illegal products, but more needs to be done. Part of the problem is that FDA's dietary supplement program has been under-resourced. But part of the problem is that enforcement of DSHEA has not been made a priority.

That is why I am proud to introduce the Dietary Supplement Full Implementation and Enforcement Act of 2010. This is an updated version of a bill that Senator HATCH and I introduced in

the 108th Congress. I am grateful that the Senator from Utah joins me again today in introducing this important legislation. Its basic goal is to give FDA the resources it needs to fully implement and enforce our dietary supplement laws, but also to hold FDA accountable for what it does with those resources.

According to FDA, full implementation of the laws governing the regulation of dietary supplement will require substantial additional resources. My bill authorizes FDA to receive the necessary sums to implement and enforce the law. It also authorizes the Office of Dietary Supplements at NIH to receive additional sums to expand research and development of consumer information on dietary supplements.

On the implementation front, the bill requires FDA to issue guidance that clarifies for consumers and industry FDA's expectations with regard to its new dietary ingredient premarket notification program.

On the enforcement front, the bill directs FDA to inspect facilities to ensure compliance with the new dietary supplement good manufacturing practice regulations; to use the authority under DSHEA to protect the public from unsafe dietary supplements; and to ensure that claims made for dietary supplements are truthful, non-misleading and substantiated. It also requires FDA to notify the Drug Enforcement Administration if FDA objects to a new dietary ingredient notification because the product may contain an anabolic steroid or an analogue of an anabolic steroid.

On the accountability front, the bill requires the Secretary of the Health and Human Services to submit an annual report to Congress that lists, among other things, how many people at FDA worked on supplement-related issues in the prior years; the number of times FDA inspected dietary supplement facilities; the number of times FDA issued a warning letter or initiated an enforcement action because a manufacturer was not in compliance; the number of times FDA objected to the marketing of a new dietary ingredient; and the number of dietary supplement claims the FDA determined to be false, misleading, or not substantiated.

The bottom line is that dietary supplements offer tremendous health benefits to Americans, but it is not fair to consumers, the FDA, or the people who make supplements if we don't take action to clarify our current regulatory requirements, to better inform everyone about the benefits and risk of these products, and to clear the market of the clearly illegal or spiked products that masquerade as supplements. The bill that Senator HATCH and I have developed is an important and measured response to these challenges. I am heartened that a number of organizations that are deeply concerned about these issues have endorsed our bill, including, among others, the United Natural Products Alliance, the Natural Products Association, the Council for Responsible Nutrition, the Consumer Healthcare Products Association, the American Herbal Products Association, the Major League Baseball Players Association, and the NFL Players Association. The bill recognizes the need to implement and enforce current law in this area rather than simply discard the important balance we struck in 1994. And it is grounded in the firm belief that safe, properly labeled dietary supplements remain a vital part of our collective effort to help all Americans improve their health.

Mr. HATCH. Mr. President, today Senator TOM HARKIN, Chairman of the Senate Health, Education, Labor and Pensions Committee and I are introducing the Dietary Supplement Full Implementation and Enforcement Act of 2010, which is similar to the legislation we introduced in the 108th Congress.

Our goal in introducing this commonsense bill is to ensure that the Food and Drug Administration properly implements and enforces existing dietary supplement laws—namely the 1994 Dietary Supplement Health Education Act, DSHEA, and the Dietary Supplement and Nonprescription Drug Consumer Protection Act of 2006. This is important to protect the 150,000,000 Americans who regularly take dietary supplements and to remove ''bad actor'' companies from the marketplace.

This issue is extremely important because the laws already on the books are sufficient if the FDA has the resources and the will to fully enforce them. Indeed, previous FDA commissioners—Dr. Jane Henney, Dr. Mark McClellan, Dr. Lester Crawford and Dr. Andy von Eschenbach—have all stated as much in Senate hearings and in my meetings with them. Moreover, current FDA Commissioner Dr. Margaret Hamburg has assured me that she will work with me to ensure these laws are enforced.

Bottom line: the FDA already has the regulatory authority it needs under current law.

That is why I will not support any changes to existing dietary supplement laws until the legislation we are introducing today has been approved by both the House and the Senate and signed into law by the President. We also need to ensure this legislation is fully funded by this Congress and enforced by the FDA with the full backing of this Administration. It is important to give FDA the resources it needs to accomplish both tasks. The legislation that we are introducing today will do just that.

Senator HARKIN and I have asked our colleagues on the Senate Appropriations Committee to provide the FDA with the funds it needs to fully implement DSHEA. We will continue to work diligently to help them succeed in that task.

As you know, DSHEA clarified the FDA's regulatory authority over dietary supplements while ensuring that Americans will continue to have access to safe dietary supplements and helpful information about these products. It passed the Senate twice by unanimous consent. The legislation we are introducing today includes a Sense of the Congress and outlines the methods the FDA should use to better implement and enforce laws related to dietary supplements. It further requires the dietary supplement industry to redouble its efforts to comply with the law and cooperate with the FDA.

To provide the FDA with the resources necessary to regulate compliance with dietary supplement laws, this bill directs the agency to use part of its 2010 Fiscal Year Budget for that purpose. It also authorizes the National Institutes of Health's Office of Dietary Supplements to expand research and develop more consumer information on dietary supplements.

Furthermore, the legislation requires the Secretary of Health and Human Services (HHS) to submit an annual report to Congress, starting no later than January 31, 2011, regarding HHS activities on dietary supplements. Finally, it directs the FDA to issue its New Dietary Ingredient (NDI) guidance, as recommended by the General Accountability Office, within 180 days and requires the FDA to share any information on tainted NDI with the Drug Enforcement Agency.

It is my sincere hope that all my colleagues will support this effort to ensure that dietary supplement consumers and manufacturers are protected and properly regulated. Our constituents deserve no less.

This legislation is supported by the Major League Baseball and NFL players associations, the Natural Products Association, the United Natural Products Alliance, Council for Responsible Nutrition, American Herbal Products Association and the Consumer Health Care Products Association.

I hope that each of you will see the wisdom in supporting this measure.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NFL PLAYERS ASSOCIATION,
Washington, DC, May 24, 2010.

Hon. TOM HARKIN, *Chairman*,
Hon. ORRIN G. HATCH,
Committee on Health, Education, Labor & Pensions, Washington, DC.

DEAR CHAIRMAN HARKIN AND SENATOR HATCH: The issue of the public disclosure—and regulation—of dietary supplements remains a critically important concern to the NFLPA. As for all professional athletes, professional football players rely on supplement label information to educate themselves on the nature of the ingredients contained therein. Without complete and precise label disclosure of all ingredients contained in a particular supplement, players can face sanctions—and even career-ending sanctions—if unlisted ingredients would violate League-Player drug-testing regimes.

Thus, the Association welcomes the introduction of the Dietary Supplement full implementation and enforcement act of 2010,

which focuses on providing the FDA with sufficient resources to play its role in overseeing the supplement marketplace.

We endorse your legislation, salute your leadership, and will work with you to realize enactment of this important measure.

Sincerely,

DEMAURICE F. SMITH,
Executive Director.

MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION,
New York, NY, May 24, 2010.

Hon. TOM HARKIN, *Chairman*,
Hon. ORRIN HATCH,
Committee on Health, Education, Labor and Pensions, U.S. Senate, 428 Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN HARKIN AND SENATOR HATCH: Over the last several years, the Major League Baseball Players Association has shared with you our concerns about the federal government's regulation of dietary supplements. There are still far too many supplements available in the United States that contain pharmaceuticals, steroids and other dangerous ingredients. And, too often, what is actually inside the bottle is not listed on the label. This unfortunate reality is especially problematic for professional athletes. Players have been suspended, their careers jeopardized, for doing nothing more than taking a supplement purchased at a national nutrition store, only to learn later that the product contained an ingredient not listed on the label that violated drug testing protocols.

The Dietary Supplement Full Implementation and Enforcement Act of 2010 will address one of the biggest obstacles to improved safety—an overall lack of enforcement. We understand your concern that imposing new obligations and requirements on legitimate supplement companies alone will not rid the marketplace of adulterated products. By providing the FDA with both additional resources and increased accountability, your legislation should help make possible a goal we all share—a reliable supplement marketplace.

The Association endorses the bill, and we look forward to working with you throughout the legislative process on additional measures to improve enforcement and ensure product safety and label accuracy. Users of dietary supplements, be they professional athletes or not, deserve the same promise made to those who consume traditional food—the assurance that the products they take, that are sold without restriction to adults and children throughout the country, are safe and the products' labels can be trusted.

Sincerely,

MICHAEL S. WEINER.

NATURAL PRODUCTS ASSOCIATION™,
Washington, DC, May 25, 2010.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATORS HARKIN AND HATCH: On behalf of the Natural Products Association (NPA), I commend your leadership and bipartisan efforts to craft sensible legislation that will strengthen the Food and Drug Administration's (FDA) ability to fully enforce the current laws governing the regulation of dietary supplements. Founded in 1936, NPA is the nation's largest and oldest trade association dedicated to the natural products industry, representing more than 10,000 retail, manufacturing, wholesaler, and distribution outlets of natural products, including dietary supplements, foods, and health/beauty aids.

NPA supports the Dietary Supplement Full Implementation and Enforcement Act of 2010 as it appropriately recognizes that the Dietary Supplement Health and Education Act (DSHEA) of 1994 grants the FDA more than adequate statutory authority to regulate supplements. While some have called for new regulations on supplements, you understand that the real need to fully enforce the statutes already on the books.

Historically, concurrent with the passage of DSHEA, the FDA experienced budget cuts, and lacked the resources to effectively regulate all the industries under its watch. To ensure that the FDA is able to carry out the law as Congress intended, this legislation authorizes an increase in funding for FDA to implement DSHEA. The Dietary Supplement Full Implementation and Enforcement Act of 2010 strengthens FDA's ability to enforce DSHEA, tightens product-specific enforcement, requires the release of the long-awaited New Dietary Ingredient (NDI) guidance, and holds the FDA accountable for filing annual reports to Congress about how they are regulating dietary supplements.

Additionally we are supportive of the doubling of funding given to the Office of Dietary Supplements (ODS) to expand research and consumer information about dietary supplements. An increase in funding for ODS is especially important because dietary supplements come from natural ingredients and cannot be patented. While this ensures that these products are readily and affordably available, it takes away the ability of manufacturers to recoup research costs.

Again, we applaud your introduction of the Dietary Supplement Full Implementation and Enforcement Act of 2010, and look forward to working with you in enacting this important piece of legislation.

Sincerely,

JOHN GAY,
Executive Director and Chief Executive Officer.

UNITED NATURAL PRODUCTS ALLIANCE,
Salt Lake City, UT, May 24, 2010.

Hon. TOM HARKIN,
Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.
Hon. ORRIN G. HATCH,
Member, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HARKIN AND SENATOR HATCH: The United Natural Products Alliance (UNPA), an association of dietary supplement and functional food companies that share a commitment to providing consumers with natural health products of superior quality, benefit, and reliability, wishes to express its appreciation to you for your work to develop the Dietary Supplement Full Implementation and Enforcement Act of 2010. We are very supportive of this legislation and of your continued hard work to ensure that consumers have access to safe, high-quality dietary supplements and information about those products.

In 1994, you both led the effort to enact legislation that would establish in law a rational and transparent framework for the regulation of dietary supplements. As documented by the Committee on Labor and Human Resources in the report accompanying your bill, the Dietary Supplement Health and Education Act (DSHEA) (S. 784), the Food and Drug Administration had shown an animosity toward supplement products through a series of divergent regulatory actions and unpublished policies that consumers rightly concluded threatened their access to supplement products. The tremendous citizen reaction to those policies supported your conclusion that the Federal Food, Drug and Cosmetic Act needed to be amended.

DSHEA was passed, not once, but twice, by the Senate, and once by the House of Representatives, all by unanimous consent—testimony to the significance of this legislation. In fact, when President Clinton signed DSHEA into law in 1994, he noted that ''In an era of greater consciousness among people about the impact of what they eat on how they live, indeed, how long they live, it is appropriate that we have finally reformed the way government treats consumers and these supplements in a way that encourages good health.''

DSHEA had several important components, a few of which I will mention in the context of your new legislation. First, it established the simple principle that all dietary supplements on the market in the United States at the time of enactment would be presumed to be dietary supplements in the future, unless there were violations of other parts of the law. For new ingredients sold after that date, a manufacturer was required to submit a ''New Dietary Ingredient'' (NDI) notification to the FDA in advance of marketing. Second, as part of DSHEA's numerous provisions to ensure the safety of supplement products, the law authorized issuance of current Good Manufacturing Practice (cGMPs) regulations specific to supplements. The law established the requirements for labeling, product claims and supporting substantiation. And, it established at the National Institutes of Health an Office of Dietary Supplements (ODS) to conduct research, provide consumer information on supplements and act as an advisor to other federal agencies.

In the years following enactment of DSHEA, by any objective measure, FDA was slow to implement the law. Very few warning letters were issued. Very few enforcement actions were taken—despite the fact that for many years you worked together to provide FDA with additional resources to act against products that were clearly violations of the law. The cGMPs were not issued for 13 years—resulting in unwarranted criticism that dietary supplements are ''not regulated''. Likewise, uncertainty arose whether some products contained old or new ingredients under the law, and guidance on New Dietary Ingredients has not been forthcoming from FDA. This must change.

It has become clear that there has been a lack of enforcement against clear violations of the law and that this is largely due to two factors: a lack of focus by the agency; and a competition for resources that has drained funding into other areas. Your bill would rectify that situation and return needed attention to appropriate implementation of DSHEA and successor laws such as the 2006 Dietary Supplement and Non-Prescription Drug Consumer Protection Act. Specifically, we find beneficial the provisions that would provide Congress with a professional judgment estimate of the costs to implement the laws addressing dietary supplement regulation. This will allow Congress, and specifically the Appropriations Committees, the ability to evaluate the adequacy of the agency's funding and that of the Office of Dietary Supplements. We also highlight the need for provisions urging increased FDA efforts to conduct inspections under the new cGMPs, evaluate claims (prioritizing with those that are clear violations of the law), promptly issuing guidance on NDIs, and notifying the Drug Enforcement Administration if NDI notification suggests that the substance may contain anabolic steroids or their analogues which by definition are not dietary supplements. In addition, the Annual Accountability Report on the Regulation of Dietary

Supplements which your bill would require will yield valuable information showing the adequacy of dietary supplement regulatory efforts.

Finally, we recognize our responsibility as representatives of the regulated industry to comply fully with the laws regulating dietary supplements, and we pledge to continue our efforts to work cooperatively with the government to develop and implement rational policies that will assure American consumers the safe products upon which they have come to rely. As a central part of our mission, UNPA has made efforts to educate ingredient suppliers, manufacturers and retailers about key components of the dietary supplement laws and how they should be implemented. We always strive to partner with the government (including both the FDA and the Federal Trade Commission) in these activities. Good examples of these efforts are the numerous seminars we conduct, including five focused specifically on the new cGMP regulations. We invite you to review this in more detail at *www.UNPA.org*.

Thank you for your leadership role on behalf of the 150 million Americans who regularly use dietary supplement products.

Sincerely,

LOREN D. ISRAELSEN,
Executive Director.

COUNCIL FOR RESPONSIBLE NUTRITION,
Washington, DC, May 25, 2010.

Re S. 3414—Dietary Supplement Full Implementation and Enforcement Act

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. ORRIN HATCH,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS HARKIN AND HATCH: On behalf of the Council for Responsible Nutrition (CRN) and its members, I am writing to express our support for S. 3414, the Dietary Supplement Full Implementation and Enforcement Act of 2010 (DSFIEA). We want to thank you for your commitment to legislative and regulatory initiatives that would help to fully fund, implement and enforce the Dietary Supplement Health and Education Act (DSHEA) of 1994, and this legislation is an example of your commitment to consumers and the dietary supplement industry to assure access to safe and beneficial supplement products. The work that you and your colleagues have devoted to providing FDA with tools and resources to reinforce its authority in regulating the supplement industry under DSHEA is commendable and CRN stands in support of your efforts.

This legislation will help to ensure that the agency has sufficient focus and resources at its disposal to implement a law—DSHEA—which already provides FDA with ample authority to ensure consumer safety, while still providing consumers access to the products they seek. It will provide increased funding for FDA, and in particular to the dietary supplement programs within the Center for Food Safety & Applied Nutrition (CFSAN). The legislation also directs the agency to provide annual reports to Congress making itself accountable for enforcing key provisions of the law, just as the industry is responsible for complying with them. While some critics of the dietary supplement industry have called for new laws to change the way dietary supplements are regulated, this legislation acknowledges that DSHEA carefully balanced consumer access with consumer protection and seeks to make the existing law work through real efforts to implement it. Having more laws, without enforcement, only disadvantages the responsible members of industry who do comply with the law because it is the law and because it's the right thing to do for their consumers, and gives rogue companies more laws to violate. The better approach is to have a robust and accountable FDA empowered and staffed to enforce the current law that will level the playing field for all members of the marketplace. As previous FDA Commissioners have testified to Congress, DSHEA provides more than adequate authority for government while still allowing consumers appropriate access to the products and health information they demand.

More than 150 million Americans use dietary supplements, and these consumers demand a strong industry that is appropriately regulated. We hope Congress will give this legislation expedient and thoughtful consideration on its way to passage. CRN stands ready to work with you and Congressional leadership to deliver a strong bill to the President.

Please don't hesitate to contact me at SMister@crnusa.org or 202.204.7676 if CRN can be of any assistance in your endeavors.

Best regards,

STEVE MISTER,
President and CEO.

AMERICAN HERBAL PRODUCTS ASSOCIATION,
Silver Spring, MD, May 25, 2010.

Senator ORRIN HATCH,
Hart Office Building, Washington, DC.
Senator TOM HARKIN,
Hart Office Building, Washington, DC.

DEAR SENATORS HATCH AND HARKIN: This letter is to thank you for introducing the Dietary Supplement Full Implementation and Enforcement Act of 2010 and to express the support of the American Herbal Products Association (AHPA) for this important legislation.

AHPA recognizes that this bill will protect consumer access to dietary supplements by providing the Food and Drug Administration (FDA) with better resources to enforce the many regulations that govern this class of goods. The bill will also instruct FDA to provide guidance on existing rules that apply to new ingredients, and AHPA has long supported full implementation of this section of the law so that consumers are assured that all dietary supplements contain only safe ingredients.

Thank you again for your efforts in protecting the important health care choices now enjoyed by the millions of Americans who use dietary supplements.

Sincerely,

MICHAEL MCGUFFIN,
President.

CONSUMER HEALTHCARE PRODUCTS ASSOCIATION (CHPA),
May 25, 2010.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.
Hon. ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR SENATORS HARKIN AND HATCH: On behalf of the Consumer Healthcare Products Association (CHPA), representing the leading manufacturers of over-the-counter medicines and nutritional supplements, I am pleased to express our support for the ''Dietary Supplement Full Implementation and Enforcement Act of 2010.'' This bill is the most recent example of your continued leadership in support of dietary supplements.

The ''Dietary Supplement Full Implementation and Enforcement Act of 2010'' strengthens FDA's ability to enforce the Dietary Supplement Health and Education Act (DSHEA), expands research, calls for the release of the long-awaited New Dietary Ingredient (NDI) guidance, and requires the filing of an annual report to Congress on the implementation and enforcement of DSHEA.

Critically, your bill also authorizes the funds needed for the full implementation of DSHEA. In the years following passage of the act, chronic budget shortfalls took a toll on FDA, including funding for the Office of Dietary Supplements (ODS). Authorizing these funds is an important step in making sure ODS has the resources it needs.

Again, we applaud your introduction of the Dietary Supplement Full Implementation and Enforcement Act of 2010, and look forward to working with you to enact this important legislation.

Sincerely,

LINDA A. SUYDAM,
President.

By Mr. FEINGOLD:

S. 3415. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs and to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, today I am introducing the Fair Pricing for Prescription Drugs Act to help make prescription drugs more affordable for all Americans. This legislation endorses the excellent work that my colleague Senator DORGAN of North Dakota has done to promote importing prescription drugs from other industrialized countries. And it includes companion language to Congressman WELCH's bill to call on the Secretary of Health and Human Services to negotiate drug prices on behalf of Medicare Part D beneficiaries. Here in the Senate, several of my colleagues, most recently Senator BILL NELSON of Florida, have tirelessly pushed the need for negotiation of drug prices. I am proud to have stood with my colleagues on these issues over the last decade—and feel strongly that Congress must move quickly to ensure that all Americans—whether they purchase private health insurance or are enrolled in Medicare—have fairly priced prescription drugs.

Allowing for importation of prescription drugs and price negotiation for Medicare Part D are common sense policies, These are changes that Congress can make to drastically improve the affordability of prescription drugs for our constituents, save the government money, and further enhance the health reform law passed earlier this year. I was pleased to be a part of that historic effort, but the health reform law was not perfect and did not go as far as it could have to reduce prescription drug prices for consumers. I have heard from thousands of Wisconsinites about the need for health reform during my time in the Senate. The health reform law empowers consumers and small businesses for the first time in our history to demand more for their health care dollar. These changes will

improve the affordability of health insurance and medical care for individuals and families. But I also continue to hear from Wisconsinites about the burden of rising prescription drug costs. They need our help.

One of the fastest ways to reduce prescription drug costs is to allow for importation of FDA-approved prescription drugs from other industrialized nations like Canada, Japan, Australia, New Zealand, and European countries. Americans pay some of the highest prices for the same prescription drugs that are sold 33 to 55 percent less in other countries. Americans are now importing more than $1 billion in prescription drugs from Canada alone. In these tough economic times, and with equally safe but more affordable drugs just over the border, it is no wonder that Americans are going to such lengths to buy the prescriptions they need.

The Congressional Budget Office estimated in 2007 that allowing importation of prescription drugs would save consumers upwards of $50 billion. Just last year, the CBO reviewed their original estimate of government savings as a result of this policy, concluding that the government would nearly double its expected savings to over $19 billion.

We do a lot of things in Congress that leave our constituents scratching their heads. Well, now we have a chance to show them we are listening to them, that we understand their concerns, and that we want to bring down Federal spending while ensuring the prescriptions drugs they need are more affordable.

We can also do more to ensure affordable prescription drugs for Medicare beneficiaries by calling on the Secretary of Health and Human Services to negotiate drug prices for Medicare Part D enrollees. Mr. President, I opposed the legislation that created the Medicare Part D drug benefit because I did not believe the program would provide adequate financial relief for Medicare beneficiaries facing high prescription drug costs. This legislation actually included a provision which explicitly forbade the Secretary from negotiating with drug manufacturers on behalf of seniors' interests. We should have done better for our seniors. And they are living with the consequence of that decision today—with ever-rising prescription drug costs.

The health reform law will provide some relief, particularly for the dreaded ''donut hole'' of Medicare Part D. But health reform does not speak to the other glaring shortfall of the Medicare Part D program—that the government is prohibited from negotiating for better drug prices for beneficiaries.

Negotiating on behalf of beneficiaries is hardly a radical idea, Mr. President. The Department of Veterans Affairs, VA, negotiates on drug prices and spends considerably less than the Medicare program on the same drugs. The National Committee to Preserve Social Security and Medicare released a study that found that VA drug prices are, on average, 48 percent lower than Medicare Part D prices for the top 10 prescribed drugs. NCPSSM estimates that billions could be saved annually by requiring the Secretary to negotiate drug prices for Medicare Part D. With the government on the hook for over $50 billion in drug costs for Part D alone, it is simply irresponsible to not aggressively seek new savings from negotiating prices. Focusing on lowering the price of prescription drugs rather than subsidizing insurance and pharmaceutical companies will not only provide relief for the sick, but will save taxpayer dollars.

Changing how we purchase prescription drugs by allowing importation from industrialized countries and negotiation on pricing for Medicare Part D is a clear and simple way to reduce prescription drug costs, reduce government spending, and keep Americans healthier. I am thankful for the leadership that my colleagues have shown in introducing legislation on these topics, and add my voice, and my bill, to theirs in our combined effort to answer the demands of our constituents.

By Mr. MERKLEY (for himself, Mr. JOHANNS, Mr. CASEY, and Mr. BROWN of Ohio):

S. 3418. A bill to amend the Public Health Service Act to specifically include, in programs of the Substance Abuse and Mental Health Services Administration, programs to research, prevent, and address the harmful consequences of pathological and other problem gambling, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. MERKLEY. Mr. President, I rise today to discuss the Comprehensive Problem Gambling Act, a bill I introduced just moments ago with Senator MIKE JOHANNS. This bill would establish and implement programs targeted at preventing, treating, and researching problem gambling.

Currently, the Federal Government provides millions of dollars to treat alcohol and drug addiction, but does not dedicate resources to treat the effects of problem gambling, which can destroy a person's career and financial standing, disrupt marriages and personal relationships, and encourage participation in criminal activity.

Over the past decade, gaming and gambling has grown significantly in the United States. According to the National Council on Problem Gambling, approximately 6 to 9 million American adults are problem gamblers.

The recent economic downturn only compounds this situation as many States consider relaxing gaming laws in an effort to raise state revenues. At the same time, the Federal Government and most states have devoted very little, if any, resources to the prevention and treatment of compulsive gambling. In fact, no Federal agency is currently responsible for coordinating efforts for treatment and prevention. Prevention and treatment programs have been proven to save money by decreasing the severity and prevalence of problem gambling, but cash-strapped states are struggling just to maintain funding for pre-existing programs.

I believe that if State governments benefit from gambling and lottery proceeds, then those governments have an obligation to provide assistance to those suffering from a gambling addiction. I am proud that the State of Oregon understands this concept and has one of the most comprehensive treatment systems in the country.

Through Oregon's Gambling Treatment Fund, one percent of Oregon Lottery revenues are transferred to the Oregon Department of Human Services for the administration of problem gambling services. However, decreasing lottery revenues has resulted in reduced treatment dollars.

I'd like to share the story of one of my constituents. For Toni, gambling started out as a fun trip to Reno or Las Vegas. She began playing video poker on occasion, and when she ran out of money, she would simply go home. But then the casinos brought in ATM machines, and she no longer had to leave the facility to access money. She could stay for hours, and did. Gambling quickly went from being a fun activity to an escape from problems and stresses in her life.

Before long, gambling had consumed Toni's life. She gambled away her life savings and went through credit card after credit card, racking up the cash advance limits and borrowing money from family members to pay it off. She tried to quit numerous times, but, as she describes it, the urge to gamble was much stronger than she was. Eventually, she couldn't do it anymore. She couldn't stop thinking about how she was going to get her next ''fix''. She ''felt about as low as you can go.'' She knew she had to get help.

Toni sought treatment in May 2009, and will soon reach the one year goal she set with her counselor to be gambling-free. However, she continues to face the long-term impacts of her gambling. Toni and her family live paycheck to paycheck and she worries that the debt she has accrued could cause her family to lose their house if the bank decides to raise interest on their mortgage. But Toni sees hope in her future because she had access to treatment and critical support services. While Toni has been able to start her own recovery, thousands of individuals across the country continue to struggle with their gambling addictions because there are so few prevention and treatment resources in place.

Unfortunately, the lack of education and research surrounding this issue has made it difficult to allot the appropriate resources to address these problems. The Comprehensive Problem Gambling Act would provide $14.2 million in competitive grants annually for 5 years to non-profits, universities, state agencies, and tribal governments

for prevention, research, and treatment of problem gambling.

Recent studies show conclusively that every $1 spent on treatment saves more than $2 in social costs. This legislation is a minimal investment with life-changing returns.

I urge my colleagues to join me in supporting Toni and the countless other individuals who struggle without supports by cosponsoring the Comprehensive Problem Gambling Act of 2010.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3418

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Problem Gambling Act of 2010''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Problem gambling is a public health disorder characterized by increasing preoccupation with gambling, loss of control, restlessness or irritability when attempting to stop gambling, and continuation of the gambling behavior in spite of mounting, serious, negative consequences.

(2) Over 6,000,000 adults met criteria for a gambling problem last year.

(3) The estimated social cost to families and communities from bankruptcy, divorce, job loss, and criminal justice costs associated with problem gambling was $6,700,000,000 last year.

(4) Problem gambling is associated with higher incidences of bankruptcy, domestic abuse, and suicide.

(5) People who engage in problem gambling have high rates of co-occurring substance abuse and mental health disorders.

(6) In response to current budget shortfalls, many States are considering enacting or have enacted legislation to expand legal gambling activities with the intent of raising State revenues.

(7) The Substance Abuse and Mental Health Services Administration is the lead Federal agency for substance abuse and mental health services.

(8) There are no agencies or individuals in the Federal Government with formal responsibility for problem gambling.

SEC. 3. INCLUSION OF AUTHORITY TO ADDRESS GAMBLING IN SAMHSA AUTHORITIES.

Section 501(d) of the Public Health Service Act (42 U.S.C. 290aa(d)) is amended—

(1) by striking ''and'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; and''; and

(3) by adding at the end the following:

''(19) establish and implement programs for the identification, prevention, and treatment of pathological and other problem gambling.''.

SEC. 4. PROGRAMS TO RESEARCH, PREVENT, AND ADDRESS PROBLEM GAMBLING.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by redesignating part G (42 U.S.C. 290kk et seq.), relating to services provided through religious organizations and added by section 144 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–619), as enacted into law by section 1(a)(7) of Public Law 106–554, as part J;

(2) by redesignating sections 581 through 584 of that part J as sections 596 through 596C, respectively; and

(3) by adding at the end the following:

''PART K—PROGRAMS TO RESEARCH, PREVENT, AND ADDRESS PROBLEM GAMBLING

''SEC. 597. PUBLIC AWARENESS.

''(a) IN GENERAL.—The Secretary, acting through the Administrator, shall carry out a national campaign to increase knowledge and raise awareness within the general public with respect to problem gambling issues. In carrying out the campaign, the Secretary shall carry out activities that include augmenting and supporting existing (as of the date of the support) national campaigns and producing and placing public service announcements.

''(b) VOLUNTARY DONATIONS.—In carrying out subsection (a), the Secretary may—

''(1) coordinate the voluntary donation of, and administer, resources to assist in the implementation of new programs and the augmentation and support of existing national campaigns to provide national strategies for dissemination of information, intended to address problem gambling, from—

''(A) television, radio, motion pictures, cable communications, and the print media;

''(B) the advertising industry;

''(C) the business sector of the United States; and

''(D) professional sports organizations and associations; and

''(2) encourage media outlets throughout the country to provide information, aimed at preventing problem gambling, including public service announcements, documentary films, and advertisements.

''(c) FOCUS.—In carrying out subsection (a), the Secretary shall target radio and television audiences of events including sporting and gambling events.

''(d) EVALUATION.—In carrying out subsection (a), the Secretary shall evaluate the effectiveness of activities under this section. The Secretary shall submit a report to the President and Congress containing the results of the evaluation.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $200,000 for each of fiscal years 2011 through 2015.

''SEC. 597A. RESEARCH.

''(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish and implement a national program of research on problem gambling.

''(b) NATIONAL GAMBLING IMPACT STUDY COMMISSION REPORT.—In carrying out this section, the Secretary shall consider the recommendations that appear in chapter 8 of the June 18, 1999, report of the National Gambling Impact Study Commission.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for each of fiscal years 2011 through 2015.

''SEC. 597B. PREVENTION AND TREATMENT.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to States, local and tribal governments, and nonprofit agencies to provide comprehensive services with respect to treatment and prevention of problem gambling issues and education about problem gambling issues.

''(2) APPLICATION FOR GRANT.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary in such form, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

''(b) TREATMENT IMPROVEMENT PROTOCOL.—The Secretary shall develop a treatment improvement protocol specific to problem gambling.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,000,000 for each of fiscal years 2011 through 2015.''.

By Mr. MERKLEY (for himself, Mr. DORGAN, Mr. SCHUMER, Mr. MENENDEZ, Mr. DURBIN, and Mr. HARKIN):

S. 3419. A bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MERKLEY. Mr. President, I rise today to propose legislation to address the problem of medical debt and credit scores. While historic health reform legislation enacted this year sets us on a path towards ending the crushing problem of Americans who lack health insurance, the challenges of our health care billing system remain a work in progress. One of those problems arises when our system of third-party payment leads to errors in billing and payments that, through no fault of the borrower, nevertheless undermine a borrower's credit scores. The borrower then must pay more for a home, a car, or his or her credit card, and in some cases, cannot at all get the loan he or she needs and deserves. To address this unfair burden, I have introduced the Medical Debt Relief Act.

Unlike consumer debt, Americans do not get to choose when accidents or medical emergencies happen. Medical debt is not the result of irresponsible consumer spending and is a not an indicator of poor credit. According to the Commonwealth Fund, accrued medical debt plagued nearly 72 million adults in 2007, and over 28 million American consumers were harassed by collection agencies for unpaid medical bills that same year. Research done by the Federal Reserve has found that medical bills make up the majority of non-credit card related accounts in collection and found on credit reports.

Nor is the problem of medical debt in relation to credit scores simply a question of whether one has insurance or not. Rather, medical debt credit challenges are a direct function of the nature of our insurance system. Because of the third-party payment system of insurance, medical debt is far more likely to be in dispute, inconsistently reported, mired in the complex medical payment bureaucracy, or transferred to collections without the consumer's knowledge. It can often take months, if not years, to adjudicate these claims. Unfortunately, even one negative medical collection mark can damage a consumer's credit score, thereby costing the consumer higher interest rates on automobile loans, home loans, and credit cards. It can even block the consumer from making purchases entirely. Sadly, even after the consumer has

paid off or settled delinquent medical debt, the negative mark on the credit report continues to plague the consumer for years.

The Medical Debt Relief Act is a straight forward solution to this problem. It would require the removal from a consumer's credit report those medical-related debts that have been fully paid. Companion legislation has already been introduced in the House by Rep. MARY JO KILROY and presently enjoys the support of 70 cosponsors. This legislation is also supported by the Consumer's Union, National Consumer Law Center and the National Association of Consumer Advocates.

I am honored today to be joined by Senators DORGAN, SCHUMER, MENENDEZ, and HARKIN in this effort to fix this important problem in how Americans access credit. This is common sense legislation that will offer tangible relief to the ordinary Americans who work hard, pay their bills, and want to borrow money at reasonable rates to finance the next step in their American dream. I urge my colleagues to join us in the effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3419

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medical Debt Relief Act of 2010''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) medical debt is unique, and Americans do not choose when accidents happen or when illness strikes;

(2) medical debt collection issues affect both insured and uninsured consumers;

(3) according to credit evaluators, medical debt collections are more likely to be in dispute, inconsistently reported, and of questionable value in predicting future payment performance because it is atypical and nonpredictive;

(4) nevertheless, medical debt that has been completely paid off or settled can significantly damage the credit score of a consumer for years;

(5) as a result, consumers may be denied credit or pay higher interest rates when buying a home or obtaining a credit card;

(6) healthcare providers are increasingly turning to outside collection agencies to help secure payment from patients, coming at the expense of the consumer, because medical debts are not typically reported unless they become assigned to collections;

(7) in fact, medical bills account for more than half of all non-credit related collection actions reported to consumer credit reporting agencies;

(8) the issue of medical debt affects millions of consumers;

(9) according to the Commonwealth Fund, medical bill problems or accrued medical debt affects roughly 72,000,000 working-age adults in America; and

(10) in 2007, 28,000,000 working-age American adults were contacted by a collection agency for unpaid medical bills.

(b) PURPOSE.—It is the purpose of this Act to exclude from consumer credit reports medical debt that had been characterized as debt in collection for credit reporting purposes and has been fully paid or settled.

SEC. 3. AMENDMENTS TO FAIR CREDIT REPORTING ACT.

(a) MEDICAL DEBT DEFINED.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

''(y) MEDICAL DEBT.—The term 'medical debt' means a debt described in section 604(g)(1)(C).''.

(b) EXCLUSION FOR PAID OR SETTLED MEDICAL DEBT.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

''(7) Any information related to a fully paid or settled medical debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 days.''.

By Mr. GRASSLEY:

S. 3420. A bill to provide a temporary extension of certain programs, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3420

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Against Indebting our Descendants through Fully Offset Relief (PAID FOR) Temporary Extension Act of 2010''.

SEC. 2. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''July 7, 2010'';

(B) in the heading for subsection (b)(2), by striking ''JUNE 2, 2010'' and inserting ''JULY 7, 2010''; and

(C) in subsection (b)(3), by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''June 2, 2010'' and inserting ''July 7, 2010'';

(B) in the heading for paragraph (2), by striking ''JUNE 2, 2010'' and inserting ''JULY 7, 2010''; and

(C) in paragraph (3), by striking ''December 7, 2010'' and inserting ''January 11, 2011''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''July 7, 2010''; and

(B) in subsection (c), by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E) the following:

''(F) the amendments made by section 2(a)(1) of the Protecting Against Indebting our Descendants through Fully Offset Relief (PAID FOR) Temporary Extension Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 3. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3(a) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009.

SEC. 4. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) and as amended by section 5 of the Temporary Extension Act of 2010 (Public Law 111–144) and section 4 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) in subparagraph (A), by striking ''May 31, 2010'' and inserting ''June 30, 2010''; and

(2) in subparagraph (B), by striking ''June 1, 2010'' and inserting ''July 1, 2010''.

SEC. 5. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

SEC. 6. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''by substituting'' and all that follows through the period at the end and inserting ''by substituting June 30, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on February 28, 2010.

SEC. 7. EXTENSION OF SMALL BUSINESS LOAN GUARANTEE PROGRAM.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, $60,000,000, for an additional amount for ''Small Business Administration—Business Loans Program Account'', to remain available until expended, for the cost of fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) and loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF SUNSET DATE.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

SEC. 8. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $13,000,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, sections 2 through 7. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SEC. 9. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the House of Representatives, this Act, with the exception of section 4, is designated as an emergency for purposes of pay-as-you-go principles. In the Senate, this Act is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c) EMERGENCY DESIGNATION FOR STATUTORY PAYGO.—This Act, with the exception of section 4, is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

By Mr. GRASSLEY:

S. 3421. A bill to provide a temporary extension of certain programs, and for other purposes; read the first time.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3421

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Against Indebting our Descendants through Fully Offset Relief (PAID FOR) Temporary Extension Act of 2010''.

SEC. 2. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''July 7, 2010'';

(B) in the heading for subsection (b)(2), by striking ''JUNE 2, 2010'' and inserting ''JULY 7, 2010''; and

(C) in subsection (b)(3), by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''June 2, 2010'' and inserting ''July 7, 2010'';

(B) in the heading for paragraph (2), by striking ''JUNE 2, 2010'' and inserting ''JULY 7, 2010''; and

(C) in paragraph (3), by striking ''December 7, 2010'' and inserting ''January 11, 2011''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''July 7, 2010''; and

(B) in subsection (c), by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''November 6, 2010'' and inserting ''December 11, 2010''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E) the following:

''(F) the amendments made by section 2(a)(1) of the Protecting Against Indebting our Descendants through Fully Offset Relief (PAID FOR) Temporary Extension Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 3. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3(a) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009.

SEC. 4. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) and as amended by section 5 of the Temporary Extension Act of 2010 (Public Law 111–144) and section 4 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) in subparagraph (A), by striking ''May 31, 2010'' and inserting ''June 30, 2010''; and

(2) in subparagraph (B), by striking ''June 1, 2010'' and inserting ''July 1, 2010''.

SEC. 5. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

SEC. 6. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''by substituting'' and all that follows through the period at the end and inserting ''by substituting June 30, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on February 28, 2010.

SEC. 7. EXTENSION OF SMALL BUSINESS LOAN GUARANTEE PROGRAM.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, $60,000,000, for an additional amount for ''Small Business Administration—Business Loans Program Account'', to remain available until expended, for the cost of fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) and loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF SUNSET DATE.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''May 31, 2010'' and inserting ''June 30, 2010''.

SEC. 8. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $13,000,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, sections 2 through 7. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SEC. 9. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION FOR CONGRESSIONAL ENFORCEMENT.—In the House of Representatives, this Act, with the exception of section 4, is designated as an emergency for purposes of pay-as-you-go principles. In the Senate, this Act is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c) EMERGENCY DESIGNATION FOR STATUTORY PAYGO.—This Act, with the exception of section 4, is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

By Mr. KERRY:

S. 3423. A bill to provide the President with expedited consideration of proposals for cancellation of certain budget items; to the Committee on the Budget.

Mr. KERRY. Mr. President, today I am introducing the Veto Wasteful Spending and Protect Taxpayers Act of 2010 which establishes a constitutional line-item veto by creating an expedited rescissions process.

Yesterday, the Obama administration unveiled the Reduce Unnecessary Spending Act of 2010. This legislation is very similar to my proposal which I first introduced in 2006. They both provide for an expedited rescission process. The line-item veto is not a panacea for record level deficits, but it will provide the President with the necessary tool to reduce wasteful spending.

Both bills will give the President the ability to target projects that have been added in spending bills that benefit special interests or are not necessary. I applaud President Obama for addressing this issue.

I have been a long-time advocate of the line-item veto. It has been a successful tool at the state level and I think it can effectively reduce spending on the Federal level. We have made progress with earmark reform and I think expedited rescission would result in further spending reductions.

The major difference between my legislation and the Administration's proposal is that the Veto Wasteful Spending and Protect Taxpayers Act of 2010 would allow the President to suspend and propose cancellation for discretionary spending, new direct spending, and limited tax benefits. The Reduce Unnecessary Spending Act of 2010 focuses on discretionary spending. If we really want to tackle wasteful spending, I think we need to look at new entitlement spending and limited tax benefits, not just discretionary spending.

In 1996, the Congress passed and President Clinton signed into law the Line Item Veto Act, P.L. 104–130. Two years later, however, in Clinton v. City of New York the Supreme Court concluded that the method used to give the President line-item veto authority was unconstitutional. The Court noted that presidents may only sign or veto entire acts of Congress. The Constitution does not authorize presidents to enact, to amend or to repeal statutes.

We can restore the line item veto and be consistent with the Constitution. The key difference between what I am proposing and what the Supreme Court struck down is the legal effect of the President's actions. The Line Item Veto Act allowed the President to cancel provisions in their entirety, but the Supreme Court rejected this arrangement. My legislation will empower the President to suspend provisions until the Congress decides to approve or disapprove the suspension of that provision with an up or down vote. The provisions are not cancelled out of the legislation. I believe this change addresses the Supreme Court's concerns. My legislation also does not include a mechanism which allows a provision to be suspended for a lengthy time period.

Under the Veto Wasteful Spending and Protect Taxpayers Act of 2010, the President has 10 calendar days to submit to Congress a special message. The President may transmit two messages per bill, but a provision may only be proposed for suspension or cancellation one time. The House and Senate would consider the special message under a special process which does not allow for amendments or motions to strike.

I believe that the line-item veto is a valuable tool that should be made available to any President regardless of political party. For this reason, the Veto Wasteful Spending and Protect Taxpayers Act of 2010 is permanent, rather than sunsetting after a few years.

It is time to reinstate the line-item veto. I look forward to working with my colleagues on both sides of the aisle to return to the President the authority to rein in wasteful spending.

By Mr. DURBIN (for himself and Mr. VITTER):

S. 3424. A bill to amend the Animal Welfare Act to provide further protection for puppies; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3424

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Puppy Uniform Protection and Safety Act''.

SEC. 2. PROTECTION OF PUPPIES UNDER THE ANIMAL WELFARE ACT.

(a) HIGH VOLUME RETAIL BREEDER DEFINED.—Section 2 of the Animal Welfare Act (7 U.S.C. 2132) is amended—

(1) in subsection (l), by striking ''research.'' and inserting ''research;'';

(2) in subsection (m), by striking ''members.'' and inserting ''members;'';

(3) in subsection (n), by striking ''section 13(b); and'' and inserting ''section 13(b);'';

(4) in subsection (o), by striking ''experimentation.'' and inserting ''experimentation; and''; and

(5) by adding at the end the following:

''(p) HIGH VOLUME RETAIL BREEDER.—

''(1) DEFINITIONS.—In this subsection:

''(A) BREEDING FEMALE DOG.—The term 'breeding female dog' means an intact female dog aged 4 months or older.

''(B) HIGH VOLUME RETAIL BREEDER.—The term 'high volume retail breeder' means a person who, in commerce, for compensation or profit—

''(i) has an ownership interest in or custody of 1 or more breeding female dogs; and

''(ii) sells or offers for sale, via any means of conveyance (including the Internet, telephone, or newspaper), more than 50 of the offspring of such breeding female dogs for use as pets in any 1-year period.

''(2) RELATIONSHIP TO DEALERS.—

''(A) IN GENERAL.—For purposes of this Act, a high volume retail breeder shall be considered to be a dealer and subject to all provisions of this Act applicable to a dealer.

''(B) EXCEPTION.—The retail pet store exemption in subsection (f)(i) shall not apply to a high volume retail breeder.''.

(b) LICENSES.—Section 3 of the Animal Welfare Act (7 U.S.C. 2133) is amended—

(1) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'';

(2) in subsection (a) (as so designated), in the second proviso of the first sentence, by inserting ''(other than a high volume retail breeder)'' after ''any retail pet store or other person''.; and

(3) by adding at the end the following:

''(b) DEALERS.—A dealer (including a high volume retail breeder) applying for a license under subsection (a) (including annual renewals) shall include on the license application the total number of dogs exempted from exercise on the premises of the dealer in the preceding year by a licensed veterinarian under section 13(j)(2).''.

(c) EXERCISE REQUIREMENTS.—Section 13 of the Animal Welfare Act (7 U.S.C. 2143) is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively;

(2) by redesignating the second subsection (f) (as redesignated by section 1752(a)(1) of Public Law 99-198 (99 Stat. 1645)) as subsection (g); and

(3) by adding at the end the following:

''(j) EXERCISE REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate standards covering dealers that include requirements for the exercise of dogs at facilities owned or operated by a dealer, including exercise regulations that ensure that—

''(A) each dog that is at least 12 weeks old (other than a female dog with unweaned puppies) has daily access to exercise that—

''(i) allows the dog—

''(I) to move sufficiently to develop or maintain normal muscle tone and mass as appropriate for the age, breed, sex, and reproductive status of the dog; and

''(II) the ability to achieve a running stride; and

''(ii) is not a forced activity (other than a forced activity used for veterinary treatment) or other physical activity that is repetitive, restrictive of other activities, solitary, and goal-oriented;

''(B) the provided area for exercise—

''(i) is separate from the primary enclosure if the primary enclosure does not provide sufficient space to achieve a running stride;

''(ii) has flooring that—

''(I) is sufficient to allow for the type of activity described in subparagraph (A); and

''(II)(aa) is solid flooring; or

''(bb) is nonsolid, nonwire flooring, if the nonsolid, nonwire flooring—

''(AA) is safe for the breed, size, and age of the dog;

''(BB) is free from protruding sharp edges; and

''(CC) is designed so that the paw of the dog is unable to extend through or become caught in the flooring;

''(iii) is cleaned at least once each day;

''(iv) is free of infestation by pests or vermin; and

''(v) is designed in a manner to prevent escape of the dogs.

''(2) EXEMPTION.—

''(A) IN GENERAL.—If a licensed veterinarian determines that a dog should not exercise because of the health, condition, or well-being of the dog, this subsection shall not apply to that dog.

''(B) DOCUMENTATION.—A determination described in subparagraph (A) shall be—

''(i) documented by the veterinarian;

''(ii) subject to review and approval by the Secretary; and

''(iii) unless the basis for the determination is a permanent condition, reviewed and updated at least once every 30 days by the veterinarian.

''(C) REPORTS.—A determination described in subparagraph (A) shall be maintained by the dealer.''.

SEC. 3. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall promulgate any regulations that the Secretary determines to be necessary to implement this Act and the amendments made by this Act.

SEC. 4. EFFECT ON STATE LAW.

Nothing in this Act or the amendments made by this Act preempt any law (including a regulation) of a State, or a political subdivision of a State, containing requirements that provide equivalent or greater protection for animals than the requirements of this Act or the amendments made by this Act.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4200. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 4201. Mr. FRANKEN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4202. Mr. CORNYN (for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

SA 4203. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4204. Mr. FEINGOLD (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

SA 4205. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4206. Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. KYL, and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4207. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4208. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4209. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4210. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4211. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4212. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4213. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra.

SA 4214. Mr. MCCAIN (for himself, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. GRAHAM, Mr. ISAKSON, Mr. ROBERTS, Mr. CHAMBLISS, and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

SA 4215. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4216. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4217. Mr. MCCAIN (for himself, Mr. LEVIN, Ms. COLLINS, Mr. LIEBERMAN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4218. Ms. COLLINS (for herself, Mr. INHOFE, Mr. ALEXANDER, Mr. BROWNBACK, Mr. BROWN of Massachusetts, Mr. GREGG, Ms. SNOWE, Mr. COBURN, Mr. BOND, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. BURR, Mr. BEGICH, and Mr. CORKER) submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4219. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4220. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4221. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4222. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4223. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4224. Mr. WICKER submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4225. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4226. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4227. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4228. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4202 submitted by Mr. CORNYN (for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. MCCAIN) to the bill H.R. 4899, supra.

SA 4229. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4230. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4231. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

SA 4232. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra.

SA 4233. Ms. CANTWELL (for herself and Mr. HATCH) submitted an amendment intended to be proposed by her to the bill H.R. 4899, supra; which was ordered to lie on the table.

SA 4234. Ms. LANDRIEU proposed an amendment to the bill H.R. 4899, supra.

SA 4235. Mr. DODD (for himself, Mr. MENENDEZ, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. BROWN of Ohio, Mr. REED, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill H.R. 4899, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4200. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, line 5, strike ''prior'' and all through page 34, line 7, and insert the following: appropriations made available in Public Law 111–83 to the ''Office of the Federal Coordinator for Gulf Coast Rebuilding'', $700,000 are rescinded.

SA 4201. Mr. FRANKEN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle ____—Office of the Homeowner Advocate

SEC. 1091. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this subtitle referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this subtitle referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 1092. FUNCTIONS OF THE OFFICE.

(a) IN GENERAL.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this subtitle referred to as the ''Home Affordable Modification Program'');

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, to propose changes in the administrative practices of

the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) to identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) to implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) LIMITATIONS ON FORECLOSURES.—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this subtitle, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. 1093. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. 1094. REPORTS TO CONGRESS.

(a) TESTIMONY.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. 1095. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SA 4202. Mr. CORNYN (for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY ENHANCEMENTS.

(a) ADDITIONAL AMOUNT FOR COUNTERDRUG ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Drug Enforcement Administration, $30,440,000, to remain available until September 30, 2011, of which—

(1) $15,640,000 shall be available for 180 intelligence analysts and technical support personnel;

(2) $10,800,000 shall be available for equipment and operational costs of Special Investigative Units to target Mexican cartels; and

(3) $4,000,000 shall be available for equipment and technology for investigators on the Southwest border.

(b) FIREARMS TRAFFICKING ENFORCEMENT.—For an additional amount for ''Salaries and Expenses'' of the Bureau of Alcohol, Tobacco, Firearms and Explosives, $72,000,000, to remain available until September 30, 2011, of which—

(1) $68,000,000 shall be available for 281 special agents, investigators, and officers along the Southwest border; and

(2) $4,000,000 shall be available for equipment and technology necessary to support border enforcement and investigations.

(c) NATIONAL GUARD COUNTERDRUG ACTIVITIES.—For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'' for high priority National Guard Counterdrug Programs in Southwest border states, $44,700,000, to remain available until September 30, 2011.

(d) HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.—For an additional amount for Federal Drug Control Programs, ''High Intensity Drug Trafficking Areas Program'' for Southwest border states, $140,000,000, to remain available until September 30, 2012.

(e) LAND PORTS OF ENTRY.—For an additional amount to be deposited in the Federal Buildings Fund, for construction, infrastructure improvements and expansion at high-volume land ports of entry located on the Southwest border, $100,000,000, to remain available until September 30, 2011.

(f) BORDER ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Customs and Border Protection, $334,000,000, to remain available until September 30, 2011, of which—

(1) $100,000,000 shall be available for 500 U.S. Customs and Border Protection officers at Southwest land ports of entry for northbound and southbound inspections;

(2) $180,000,000 shall be available for equipment and technology to support border enforcement, surveillance, and investigations;

(3) $24,000,000 shall be available for 120 pilots, vessel commanders, and support staff for Air and Marine Operations; and

(4) $30,000,000 shall be available for additional unmanned aircraft systems pilots and support staff.

(g) UNMANNED AIRCRAFT SYSTEMS AND HELICOPTERS.—For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'' of U.S. Customs and Border Protection, $169,400,000, to remain available until expended, of which—

(1) $120,000,000 shall be available for the procurement, operations, and maintenance of at least 6 unmanned aircraft systems to allow for expanded operations of unmanned aircraft systems in Texas, New Mexico, Arizona, and California on a 7-day-a-week basis; and

(2) $49,400,000 shall be available for helicopters.

(h) IMMIGRATION ENFORCEMENT PERSONNEL.—For an additional amount for ''Salaries and Expenses'' of U.S. Immigration and Customs Enforcement, $795,000,000, to remain available until September 30, 2012, of which—

(1) $175,000,000 shall be available for 500 investigator positions;

(2) $75,000,000 shall be available for 400 intelligence analyst positions;

(3) $125,000,000 shall be available for 500 detention and deportation positions;

(4) $151,000,000 shall be available for 3,300 detention beds;

(5) $180,000,000 shall be available for equipment and technology to support border enforcement; and

(6) $89,000,000 shall be available for expansion of interior repatriation programs.

(i) STATE AND LOCAL GRANTS.—For an additional amount for ''State and Local Programs'' administered by the Federal Emergency Management Agency, $300,000,000, to remain available until September 30, 2011, which shall be used for—

(1) State and local law enforcement agencies or entities operating within 100 miles of the Southwest border; and

(2) additional detectives, criminal investigators, law enforcement personnel, equipment, salaries, and technology in counties in the Southwest border region.

(j) OFFSETTING RESCISSION.—

(1) IN GENERAL.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $1,986,000,000 of the amounts appropriated or made available under division A of such Act that remain unobligated as of the date of the enactment of this Act are hereby rescinded.

(2) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) administer the reduction specified in paragraph (1); and

(B) submit a report to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives that specifies the account and the amount of each reduction made pursuant to paragraph (1).

SA 4203. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

On page 33, between lines 3 and 4, insert the following:

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Public Transportation Security Assistance'' and ''Railroad Security Assistance'', authorized under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 6 U.S.C. 1135 and 1163), $100,000,000, to remain available until expended.

On page 36, between lines 2 and 3, insert the following:

SEC. 608. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) of the Internal Revenue Code of 1986 (relating to expenses treated as compensation) is amended to read as follows:

''(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).''.

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) of such Code is amended by striking ''to the extent that the expenses are includible in the gross income'' and inserting ''to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after the date of the enactment of this Act.

SA 4204. Mr. FEINGOLD (for himself, Mrs. BOXER, Mr. DURBIN, and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes;

At the end of chapter 10 of title I, add the following:

PLAN FOR SAFE, ORDERLY, AND EXPEDITIOUS REDEPLOYMENT OF THE UNITED STATES ARMED FORCES FROM AFGHANISTAN

SEC. 1019. (a) PLAN REQUIRED.—Not later than December 31, 2010, the President shall submit to Congress a report setting forth a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces and non-Afghan military contractors from Afghanistan, together with a timetable for the completion of that redeployment and information regarding variables that could alter that timetable.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SA 4205. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 3008. Of the amounts appropriated for the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) under the heading ''STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' under the heading ''OFFICE OF JUSTICE PROGRAMS'' under the heading ''STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES'' under title II of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 579), at the discretion of the Attorney General, the amounts to be made available to Genesee County, Michigan for assistance for individuals transitioning from prison in Genesee County, Michigan pursuant to the joint statement of managers accompanying that Act may be made available to My Brother's Keeper of Genesee County, Michigan to provide assistance for individuals transitioning from prison in Genesee County, Michigan.

SA 4206. Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. KYL, and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) ADDITIONAL AMOUNT FOR UNMANNED AIRCRAFT SYSTEM.—For an additional amount for U.S. Customs and Border Protection, ''AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT'' for the procurement, operations, and maintenance of at least 6 unmanned aircraft systems to allow for expanded operations of unmanned aircraft systems in Texas, New Mexico, Arizona, and California on a 7-day-a-week basis, $110,000,000, to remain available until expended.

(b) ADDITIONAL AMOUNT FOR PERSONNEL.—For an additional amount for U.S. Customs and Border Protection ''SALARIES AND EXPENSES'' for additional unmanned aircraft systems pilots and support staff, $24,000,000, to remain available until September 30, 2011.

(c) BASE AGREEMENTS.—For an additional amount for U.S. Customs and Border Protection ''AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT'' for additional unmanned aircraft systems maintenance, base agreements, and surge operations, $10,000,000, to remain available until September 30, 2011.

(d) OFFSETTING RESCISSION.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $144,000,000 in order to offset the amount appropriated for border security under subsections (a), (b), and (c). The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4207. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE ____—RETURNING SPENDING LEVELS TO 2007 LEVELS

SEC. ___01. EXPEDITED CONSIDERATION.

(a) 2007 SPENDING BILL.—For purposes of this title, the term ''2007 spending bill'' means a bill that reduces outlays for the fiscal year beginning in the year in which the bill is considered to levels not exceeding the levels for fiscal year 2007. The bill may not increase revenues.

(b) EXPEDITED CONSIDERATION OF 2007 SPENDING BILL.—

(1) INTRODUCTION OF 2007 SPENDING BILL.—A 2007 spending bill may be introduced in the House of Representatives and in the Senate not later than July 12, 2010, or any time after the first day of a session for any year thereafter by the majority leader of each House of Congress. If 5 session days after July 12 in 2010 or after the first day of session any year thereafter the majority leader has not introduced a bill, the minority leader of each House of Congress may introduce a 2007 spending bill (during this time the majority leader may not introduce a 2007 spending bill). If a 2007 spending bill is not introduced in accordance with the preceding sentence in either House of Congress within 5 session days, then any Member of that House may introduce a 2007 spending bill on any day thereafter. Upon introduction, the 2007 spending bill shall be referred to the relevant committees of jurisdiction.

(2) COMMITTEE CONSIDERATION.—The committees to which the 2007 spending bill is referred shall report the 2007 spending bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than 30 calendar days after the date of introduction of the bill in that House, or the first day thereafter on which that House is in session. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(3) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(A) PROCEEDING TO CONSIDERATION.—It shall be in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the House of Representatives or the majority leader's designee, to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the House of Representatives to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the 2007 spending bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) CONSIDERATION.—The 2007 spending bill shall be considered as read. The previous question shall be considered as ordered on the 2007 spending bill to its passage without intervening motion except 50 hours of debate, equally divided and controlled by the proponent and an opponent. A motion to limit debate shall be in order during such debate. A motion to reconsider the vote on passage of the 2007 spending bill shall not be in order.

(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to the 2007 spending bill shall be decided without debate.

(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this paragraph, consideration of an 2007 spending bill shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any 2007 spending bill introduced pursuant to the provisions of this subsection under a suspension of the rules pursuant to clause 1 of House Rule XV, or under a special rule reported by the House Committee on Rules.

(E) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(F) VOTE ON PASSAGE.—Immediately following the conclusion of consideration of the 2007 spending bill, the vote on passage of the 2007 spending bill shall occur without any intervening action or motion and shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn. If the 2007 spending bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

(4) FAST TRACK CONSIDERATION IN SENATE.—

(A) IN GENERAL.—Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the Senate or the majority leader's designee to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the Senate to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. A motion to proceed is in order even though a previous motion to the same effect has been disagreed to. All points of order against the motion to proceed to the 2007 spending bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the 2007 spending bill is agreed to, the 2007 spending bill shall remain the unfinished business until disposed of.

(B) DEBATE.—Consideration of an 2007 spending bill and of all debatable motions and appeals in connection therewith shall not exceed a total of 50 hours. Debate shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate on the 2007 spending bill is in order. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the 2007 spending bill, including time used for quorum calls and voting, shall be counted against the total 50 hours of consideration.

(C) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(D) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on the 2007 spending bill and a single quorum call at the conclusion of the debate if requested. Passage shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(E) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a 2007 spending bill shall be decided without debate.

(5) RULES TO COORDINATE ACTION WITH OTHER HOUSE.—

(A) REFERRAL.—If, before the passage by 1 House of an 2007 spending bill of that House, that House receives from the other House an 2007 spending bill, then such proposal from the other House shall not be referred to a committee and shall immediately be placed on the calendar.

(B) TREATMENT OF 2007 SPENDING BILL OF OTHER HOUSE.—If 1 House fails to introduce or consider a 2007 spending bill under this section, the 2007 spending bill of the other House shall be entitled to expedited floor procedures under this section.

(C) PROCEDURE.—

(i) 2007 SPENDING BILL IN THE SENATE.—If prior to passage of the 2007 spending bill in the Senate, the Senate receives an 2007 spending bill from the House, the procedure in the Senate shall be the same as if no 2007 spending bill had been received from the House except that—

(I) the vote on final passage shall be on the 2007 spending bill of the House if it is identical to the 2007 spending bill then pending for passage in the Senate; or

(II) if the 2007 spending bill from the House is not identical to the 2007 spending bill then pending for passage in the Senate and the Senate then passes the Senate 2007 spending bill, the Senate shall be considered to have passed the House 2007 spending bill as amended by the text of the Senate 2007 spending bill.

(ii) DISPOSITION OF THE 2007 SPENDING BILL.—Upon disposition of the 2007 spending bill received from the House, it shall no longer be in order to consider the 2007 spending bill originated in the Senate.

(D) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the 2007 spending bill in the Senate, the Senate then receives an 2007 spending bill from the House of Representatives that is the same as the 2007 spending bill passed by the House, the House-passed 2007 spending bill shall not be debatable. If the House-passed 2007 spending bill is identical to the Senate-passed 2007 spending bill, the vote on passage of the 2007 spending bill in the Senate shall be considered to be the vote on passage of the 2007 spending bill received from the House of Representatives. If it is not identical to the House-passed 2007 spending bill, then the Senate shall be considered to have passed the 2007 spending bill of the House as amended by the text of the Senate 2007 spending bill.

(E) CONSIDERATION IN CONFERENCE.—Upon passage of the 2007 spending bill, the Senate shall be deemed to have insisted on its amendment and requested a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, without any intervening action.

(F) ACTION ON CONFERENCE REPORTS IN SENATE.—

(i) MOTION TO PROCEED.—A motion to proceed to the consideration of the conference report on the 2007 spending bill may be made even though a previous motion to the same effect has been disagreed to.

(ii) CONSIDERATION.—During the consideration in the Senate of the conference report (or a message between Houses) on the 2007 spending bill, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate (or consideration) shall be limited to 30 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) DEBATE IF DEFEATED.—If the conference report is defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(iv) AMENDMENTS IN DISAGREEMENT.—If there are amendments in disagreement to a conference report on the 2007 spending bill, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(G) VOTE ON CONFERENCE REPORT IN EACH HOUSE.—Passage of the conference in each House shall be by an affirmative vote of three-fifths of the Members of that House, duly chosen and sworn.

(H) VETO.—If the President vetoes the bill debate on a veto message in the Senate under this subsection shall be 1 hour equally divided between the majority and minority leaders or their designees.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of bill under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2. EFFECTIVE PERIOD.

This title shall be effective until fiscal year 2020 or the fiscal year spending levels are returned to fiscal year 2007 levels whichever date first occurs.

SA 4208. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, line 16, after ''this Act'' insert '': *Provided further*, That, in addition to any other amounts made available for the same purpose, the Secretary of the Army shall use $1,000,000 of the amount provided under this heading for Atlantic coast of Maryland shore protection''.

SA 4209. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. None of the funds made available by this Act or any other law shall be used by the Secretary of the Interior—

(1) for the conduct of offshore preleasing, leasing, and related activities in the North Atlantic, Mid-Atlantic, South Atlantic, and Straits of Florida Planning Areas of the outer Continental Shelf described in the memorandum entitled ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(2) to review or approve plans or permits for the exploration, development, or production of oil and natural gas in the outer Continental Shelf until such time as—

(A) the Secretary of the Interior and the Council on Environmental Quality have completed a joint review of applicable procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) any policy or procedural changes recommended by the Secretary of the Interior and the Council on Environmental Quality based on the joint review under subparagraph (A) have been fully implemented; and

(C) the Secretary of the Interior has submitted a report that describes the changes implemented under subparagraph (B) to—

(i) the Committee on Environment and Public Works of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

SA 4210. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 21, insert the following:

OFFICE OF REFUGEE RESETTLEMENT

REFUGEE SCHOOL IMPACT GRANT PROGRAM

For an additional amount for the Office of Refugee Resettlement, $2,000,000, which shall be used for the Refugee School Impact Grant Program to help schools accommodate and provide services for Haitian refugee students following the earthquake in Port-au-Prince on January 12, 2010.

On page 39, between lines 8 and 9, insert the following:

GENERAL PROVISIONS—THIS CHAPTER

SEC. 701. APPLICATION OF PROHIBITED TRANSACTION RULES TO CERTAIN TRANSACTIONS INVOLVING OWNERS OF IRAS.

(a) IN GENERAL.—Section 4975(c) of the Internal Revenue Code of 1986 (defining prohibited transaction) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR TRANSACTIONS INVOLVING OWNERS OF INDIVIDUAL RETIREMENT PLANS.—

''(A) IN GENERAL.—In the case of a plan described in subparagraph (B) or (C) of subsection (e)(1), any transaction between such plan (or any controlled entity of such plan) and the owner of such plan (or any controlled entity of such owner) shall be treated as a prohibited transaction for purposes of this section if not otherwise so treated.

''(B) CONTROLLED ENTITY.—For purposes of this paragraph, the term 'controlled entity' means, with respect to any person, a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

''(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

''(ii) the capital interest or profits interest of such partnership, or

''(iii) the beneficial interest of such trust or estate,

is owned or held directly or indirectly by such person or any related person. The Secretary may by regulation expand the application of this paragraph to other pass-thru entities.

''(C) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any plan, the individual for whose benefit the plan is maintained.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN BINDING CONTRACTS.—The amendment made by this subsection shall not apply to any transaction occurring after the date of the enactment of this Act pursuant to a written binding contract in effect on such date and at all times thereafter.

SA 4211. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

PUBLIC AVAILABILITY OF CONTRACTOR INTEGRITY AND PERFORMANCE DATABASE

SEC. 3008. Section 872(e)(1) of the Clean Contracting Act of 2008 (subtitle G of title VIII of Public Law 110–417; 41 U.S.C. 417b(e)(1)) is amended by striking ''Administrator shall ensure that the information'' and all that follows through the period at the end and inserting ''Administrator shall post the database on a publicly available Internet website.''.

SA 4212. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, between lines 2 and 3, insert the following:

YELLOW RIBBON REINTEGRATION PROGRAM

SEC. 309. (a) The amount appropriated or otherwise made available by this title under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' is hereby increased by $20,000,000.

(b) Of the amount appropriated or otherwise made available by this title under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', as increased by subsection (a), $20,000,000 shall be made available for outreach and reintegration services under the Yellow Ribbon Reintegration Program under section 582(h) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 125; 10 U.S.C. 10101 note).

(c) The amount made available by this section for the services described in subsection (a) is in addition to any other amounts made available by this Act for such services.

(d) The amount made available by this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 4213. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 30____. COASTAL IMPACT ASSISTANCE.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended by adding at the end the following:

''(e) EMERGENCY FUNDING.—

''(1) IN GENERAL.—In response to a spill of national significance under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), at the request of a producing State or coastal political subdivision and notwithstanding the requirements of part 12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary may immediately disburse funds allocated under this section for 1 or more individual projects that are—

''(A) consistent with subsection (d); and

''(B) specifically designed to respond to the spill of national significance.

''(2) APPROVAL BY SECRETARY.—The Secretary may, in the sole discretion of the Secretary, approve, on a project by project basis, the immediate disbursal of the funds under paragraph (1).

''(3) STATE REQUIREMENTS.—

''(A) ADDITIONAL INFORMATION.—If the Secretary approves a project for funding under this subsection that is included in a plan previously approved under subsection (c), not later than 180 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary any additional information that the Secretary determines to be necessary to ensure compliance with subsection (d).

''(B) AMENDMENT TO PLAN.—If the Secretary approves a project for funding under this subsection that is not included in a plan previously approved under subsection (c), not later than 180 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary for approval an amendment to the plan that includes any projects funded under paragraph (1).

''(C) LIMITATION.—If a producing State or coastal political subdivision does not submit the additional information or amendments to the plan required by this paragraph by the deadlines specified in this paragraph, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivisions until the date on which the additional information or amendment to the plan has been approved by the Secretary.''.

SA 4214. Mr. MCCAIN (for himself, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. GRAHAM, Mr. ISAKSON, Mr. ROBERTS, Mr. CHAMBLISS, and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of chapter 3 of title I, add the following:

NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES

SEC. 309. (a) ADDITIONAL AMOUNT.—For an additional amount under this chapter for the deployment of not fewer than 6,000 National Guard personnel to perform operations and missions under section 502(f) of title 32, United States Code, in the States along the southern land border of the United States for the purposes of assisting U.S. Customs and Border Protection in securing such border, $250,000,000.

(b) OFFSETTING RESCISSION.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $250,000,000 in order to offset the amount appropriated by subsection (a).

SA 4215. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 20 of the amendment, between lines 4 and 5, insert the following:

(c) PARTIAL EXEMPTION.—A State may exempt from its State law, or from the requirements established under this title, individuals employed by the office of the sheriff in States that do not provide the rights and responsibilities described in section 4004(b) for law enforcement officers prior to the date of enactment of this Act or a political subdivision of the State that has a population of less than 5,000 or that employs fewer than 25 full time employees. For purposes of this subsection, the term 'employees' includes each individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

SA 4216. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 20 of the amendment, after line 8, add the following:

SEC. 4010. GUARANTEEING PUBLIC SAFETY AND LOCAL CONTROL OF TAXES AND SPENDING.

Notwithstanding any State law or regulation issued under section 4005, no collective-bargaining obligation may be imposed on any political subdivision or any public safety employer, and no contractual provision may be imposed on any political subdivision or public safety employer, if either the principal administrative officer of such public safety employer, or the chief elected official of such political subdivision certifies that the obligation, or any provision would be contrary to the best interests of public safety; or would result in any increase in local taxes, or would result in any decrease in the level of public safety or other municipal services.

SA 4217. Mr. MCCAIN (for himself, Mr. LEVIN, Ms. COLLINS, Mr. LIEBERMAN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, between lines 2 and 3, insert the following:

(d) SUBMITTAL OF CHARTER AND REPORTS TO ADDITIONAL COMMITTEES OF CONGRESS.—At the same time the Director of National Intelligence submits the charter and procedures referred to in subsection (a), any modification or revision to the charter or procedures under subsection (b), and any report under subsection (c) to the congressional intelligence committees, the Director shall also submit such matter to—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, the Judiciary, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, the Judiciary, and Appropriations of the House of Representatives.

SA 4218. Ms. COLLINS (for herself, Mr. INHOFE, Mr. ALEXANDER, Mr. BROWNBACK, Mr. BROWN of Massachusetts, Mr. GREGG, Ms. SNOWE, Mr. COBURN, Mr. BOND, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. BURR, Mr. BEGICH, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 3 and 4, insert the following:

PROHIBITION ON FINES AND LIABILITY

SEC. 20____. None of the funds made available by this Act or any other provision of law shall be used to levy against any person any fine, or to hold any person liable for construction or renovation work performed by the person, in any State under the final rule entitled ''Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet; Notice of Availability; Final Rule'' (73 Fed. Reg. 21692 (April 22, 2008)), and the final rule entitled ''Lead; Amendment to the Opt-out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program'', signed by the Administrator on April 22, 2010, if the person has applied to enroll in, or has enrolled in, by not later than September 30, 2010, a certified renovator class to train contractors in practices necessary for compliance with the final rules, as determined by the Administrator.

SA 4219. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

UNITED STATES CUSTOMS AND BORDER PROTECTION

SOUTHWEST BORDER SECURITY

For an additional amount for hiring, training, and supporting additional border patrol agents to protect the Southwest border, $603,940,000, to remain available until September 30, 2011: *Provided*, That the Secretary of Homeland Security shall ensure that there are 6,000 more border patrol agents serving on the Southwest border on January 1, 2015 than the number of such agents serving on such border as of the date of the enactment of this Act.

(RESCISSION)

Of the amounts appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) that remain unobligated as of the date of the enactment of this Act, $603,940,000 is hereby rescinded.

SA 4220. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 2 and 3, insert the following:

SEC. 608. None of the amounts appropriated under the heading ''Border Security Fencing, Infrastructure, and Technology'' in title II of the Department of Homeland Security Appropriations Act, 2010 (Public Law 111–83) that are unobligated as of the date of the enactment of this Act may be expended on the Secure Border Initiative Network (commonly known as ''SBInet'').

SA 4221. Mr. ISAKSON (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, line 7, insert ''FEMA–1858–DR,'' before ''FEMA–1894–DR,''.

SA 4222. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010,

and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 9 of title I, add the following:

LIMITATION ON USE OF FUNDS AVAILABLE TO THE DEPARTMENT OF VETERANS AFFAIRS

SEC. 902. The amount made available to the Department of Veterans Affairs by this chapter under the heading ''VETERANS BENEFITS ADMINISTRATION'' under the heading ''COMPENSATION AND PENSIONS'' may not be obligated or expended until the expiration of the period for Congressional disapproval under chapter 8 of title 5, United States Code (commonly referred to as the ''Congressional Review Act''), of the regulations prescribed by the Secretary of Veterans Affairs pursuant to section 1116 of title 38, United States Code, to establish a service connection between exposure of veterans to Agent Orange during service in the Republic of Vietnam during the Vietnam era and hairy cell leukemia and other chronic B cell leukemias, Parkinson's disease, and ischemic heart disease.

SA 4223. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 9 through 22 and insert the following:

The Science Appropriations Act, 2010 (title III of division B of Public Law 111–117; 123 Stat. 3142) is amended under the heading relating to ''EXPLORATION'' by striking '': *Provided,*'' and all that follows and inserting a period.

SA 4224. Mr. WICKER submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

SEC. 3008. Section 159(b)(2)(C) of title I of division A of the Consolidated Appropriations Act, 2010 (49 U.S.C. 24305 note) is amended by striking clauses (i) and (ii) and inserting the following:

''(i) requiring inspections of any container containing a firearm or ammunition; and

''(ii) the temporary suspension of firearm carriage service if credible intelligence information indicates a threat related to the national rail system or specific routes or trains.''.

SA 4225. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 2 and 3, insert the following:

SEC. 608. None of the amounts made available for fiscal year 2010 or 2011 in any Act for Community Oriented Policing Services may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

SA 4226. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4174 proposed by Mr. REID to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 18 of the amendment, line 2, strike ''benefits.'' and insert the following: ''benefits; or

''(8) to apply to a public safety agency that is established prior to the date of enactment of this Act under applicable State law that has a chief law enforcement officer who has the authority to, in a manner independent of other State and local entities, establish and maintain its own budget and levy taxes for the operation of such agency.

For purposes of paragraph (8), the term 'chief law enforcement officer' means an elected sheriff who is identified in State law as the ex-officio Chief Law Enforcement Officer of a law enforcement district.''.

SA 4227. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) For an additional amount for the Office of Refugee Resettlement, $2,000,000, which shall be used for the Refugee School Impact Grant Program to help schools accommodate and provide services for Haitian refugee students following the earthquake in Port-au-Prince on January 12, 2010.

(b) The amount appropriated under subsection (a) is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c)(1) Section 4975(c) of the Internal Revenue Code of 1986 (defining prohibited transaction) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR TRANSACTIONS INVOLVING OWNERS OF INDIVIDUAL RETIREMENT PLANS.—

''(A) IN GENERAL.—In the case of a plan described in subparagraph (B) or (C) of subsection (e)(1), any transaction between such plan (or any controlled entity of such plan) and the owner of such plan (or any controlled entity of such owner) shall be treated as a prohibited transaction for purposes of this section if not otherwise so treated.

''(B) CONTROLLED ENTITY.—For purposes of this paragraph, the term 'controlled entity' means, with respect to any person, a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

''(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

''(ii) the capital interest or profits interest of such partnership, or

''(iii) the beneficial interest of such trust or estate,

is owned or held directly or indirectly by such person or any related person. The Secretary may by regulation expand the application of this paragraph to other pass-thru entities.

''(C) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any plan, the individual for whose benefit the plan is maintained.''.

(d)(1) Except as provided in paragraph (2), the amendment made by subsection (c) shall apply to transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall not apply to any transaction occurring after the date of the enactment of this Act pursuant to a written binding contract in effect on such date and at all times thereafter.

SA 4228. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 4202 submitted by Mr. CORNYN (for himself, Mr. KYL, Mrs. HUTCHISON, and Mr. MCCAIN) to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

(j) OPERATION STREAMLINE.—For an additional amount to fully fund multi-agency law enforcement initiatives that address illegal crossings of the Southwest border, including those in the Tucson Sector, as authorized under title II of Division B and title III of Division C of Public Law 111–117, $200,000,000, of which—

(1) $155,000,000 shall be available for the Department of Justice for—

(A) hiring additional Deputy United States Marshals;

(B) constructing additional permanent and temporary detention space; and

(C) other established and related needs of the Secretary of Homeland Security and the Attorney General; and

(2) $45,000,000 shall be available for the Judiciary for—

(A) courthouse renovation;

(B) administrative support, including hiring additional clerks for each District to process additional criminal cases; and

(C) hiring additional judges.

(k) OFFSETTING RESCISSION.—

(1) IN GENERAL.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $200 million of the amounts appropriated or made available under Division A of such Act that remain unobligated as of the date of the enactment of this Act are hereby rescinded.

SA 4229. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 3 of title I, add the following:

SEC. 309. No funds appropriated or otherwise made available by this Act may be obligated or expended to transfer a C–130 aircraft from a unit of the National Guard in a State to a unit of the Air Force, whether a regular unit or a unit of a reserve component, in another State.

SA 4230. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 3 of title I, add the following:

SEC. 309. (a) LIMITATIONS ON TRANSFER OF C–130H AIRCRAFT FROM NATIONAL GUARD TO AIR FORCE UNITS IN ANOTHER STATE.—No funds appropriated or otherwise made available by this Act may be obligated or expended to transfer a C–130H aircraft from a unit of the National Guard in a State to a unit of the Air Force, whether a regular unit or a unit of a reserve component, in another State unless each of the following is met:

(1) The aircraft shall be returned to the transferring unit at a date, not later than 18 months after the date of transfer, specified by the Secretary of the Air Force at the time of transfer.

(2) Not later than 180 days before the date of transfer, the Secretary of the Air Force shall submits to the Committees on Armed Services of the Senate and the House of Representatives, the members of Congress of the State concerned, and the Chief Executive Officer and adjutant general of the National Guard of the State concerned the following:

(A) A written justification of the transfer.

(B) A description of the alternatives to transfer considered by the Air Force and, for each alternative considered, a justification for the decision not to utilize such alternative.

(3) If a C–130H aircraft has previously been transferred from any National Guard unit in the same State as the unit proposed to provide the C-130H aircraft for transfer, the transfer may not occur until the earlier of—

(A) the date following such previous transfer on which each other State with National Guard units with C–130H aircraft has transferred a C–130H aircraft to a unit of the Air Force in another State; or

(B) the date that is 18 months after the date of such previous transfer.

(b) RETURN OF AIRCRAFT.—Any C–130H aircraft transferred from the National Guard to a unit of the Air Force under subsection (a) shall be returned to the National Guard of the State concerned upon a written request by the Chief Executive Officer of such State for the return of such aircraft to assist the National Guard of such State in responding to a disaster or other emergency.

SA 4231. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE IV—PAYMENT OF COSTS OF SUPPLEMENTAL APPROPRIATIONS

SEC. 4001. TEMPORARY ONE-YEAR FREEZE ON RAISES, BONUSES, AND OTHER SALARY INCREASES FOR FEDERAL EMPLOYEES.

Notwithstanding any other provision of law, civilian employees of the Federal Government in fiscal year 2011 shall not receive a cost of living adjustment or other salary increase, including a bonus. The salaries of members of the armed forces are exempt from the provisions of this section.

SEC. 4002. CAPPING THE TOTAL NUMBER OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the head of each relevant Federal department or agency shall collaborate with the Director of the Office of Management and Budget to determine how many full-time employees the department or agency employs. For each new full-time employee added to any Federal department or agency for any purpose, the head of such department or agency shall ensure that the addition of such new employee is offset by a reduction of one existing full-time employee at such department or agency.

(b) INFORMATION ON TOTAL EMPLOYEES.—The Director of the Office of Management and Budget shall publicly disclose the total number of Federal employees, as well as a breakdown of Federal employees by agency and the annual salary by title of each Federal employee at an agency and update such information not less than once a year.

SEC. 4003. COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''§ 7381. Collection of unpaid taxes from employees of the Federal Government

''(a) DEFINITION.—For purposes of this section—

''(1) the term 'seriously delinquent tax debt' means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

''(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; and

''(B) a debt with respect to which a collection due process hearing under section 6330 of such Code, or relief under subsection (a), (b), or (f) of section 6015 of such Code, is requested or pending; and

''(2) the term 'Federal employee' means—

''(A) an employee, as defined by section 2105; and

''(B) an employee of the United States Congress, including Members of the House of Representatives and Senators.

''(b) COLLECTION OF UNPAID TAXES.—The Internal Revenue Service shall coordinate with the Department of Treasury and the hiring agency of a Federal employee who has a seriously delinquent tax debt to collect such taxes by withholding a portion of the employee's salary over a period set by the hiring agency to ensure prompt payment.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''Sec. 7381. Collection of unpaid taxes from employees of the Federal Government.''.

SEC. 4004. REDUCING PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Within 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs by no less than a total of $4,600,000 over the 10-year period beginning with fiscal year 2010. The Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available.

SEC. 4005. REDUCING EXCESSIVE DUPLICATION, OVERHEAD AND SPENDING WITHIN THE FEDERAL GOVERNMENT.

(a) REDUCING DUPLICATION.—The Director of the Office of Management Budget and the Secretary of each department (or head of each independent agency) shall work with the Chairman and ranking member of the relevant congressional appropriations subcommittees and the congressional authorizing committees and the Director of the Office of Management Budget to consolidate programs with duplicative goals, missions, and initiatives.

(b) CONTROLLING BUREAUCRATIC OVERHEAD COSTS.—Each Federal department and agency shall reduce annual administrative expenses by at least five percent in fiscal year 2011.

(c) RESCISSIONS OF EXCESSIVE SPENDING.—There is hereby rescinded an amount equal to 5 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2010 for any discretionary account in any other fiscal year 2010 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2010 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2010 for any program subject to limitation contained in any fiscal year 2010 appropriation Act.

(d) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget)

(e) EXCEPTIONS.—This section shall not apply to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs.

(f) OMB REPORT.—Within 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section and the report shall be posted on the public website of the Office of Management and Budget.

SEC. 4006. ELIMINATING NONESSENTIAL GOVERNMENT TRAVEL.

Within 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the heads of the Federal departments and agencies, shall establish a definition of ''nonessential travel'' and criteria to determine if travel-related expenses and requests by Federal employees meet the definition of ''nonessential travel''. No travel expenses paid for, in whole or in part, with Federal funds shall be paid by the Federal Government unless a request is made prior to the travel and the requested travel meets the criteria established by this section. Any travel request that does not meet the definition and criteria shall be disallowed, including reimbursement for air flights, automobile rentals, train tickets, lodging, per diem, and other travel-related costs. The definition established by the Director of the Office of Management and Budget may include exemptions in the definition, including travel related to national defense, homeland security, border security, national disasters, and other emergencies. The Director of the Office of Management and Budget shall ensure that all travel costs paid for in part or whole by the Federal Government not related to national defense, homeland security, border security, national disasters, and other emergencies do not exceed $5,000,000,000 annually.

SEC. 4007. ELIMINATING BONUSES FOR POOR PERFORMANCE BY GOVERNMENT CONTRACTORS.

(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO OUTCOMES.—Not later than 180 days after the date of enactment of this Act, each Federal department or agency shall issue guidance, with detailed implementation instructions (including definitions), on the appropriate use of award and incentive fees in department or agency programs.

(b) ELEMENTS.—The guidance under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be excellent or superior and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be acceptable, average, expected, good, or satisfactory;

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure that the Department or agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis; and

(8) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes.

(c) RETURN OF UNEARNED BONUSES.—Any funds intended to be awarded as incentive fees that are not paid due to contractors inability to meet the criteria established by this section shall be returned to the Treasury.

SEC. 4008. ELIMINATING GOVERNMENT WASTE AND INEFFICIENCY.

Within 30 days after the date of enactment of this Act, the Energy Star program administered by the United States Environmental Protection Agency shall be terminated and no Federal tax rebates or tax credits related to the Energy Star program shall be any longer available.

SEC. 4009. STRIKING INCREASE IN FOREIGN AID FOR INTERNATIONAL ORGANIZATIONS.

Notwithstanding any other provision of this Act, the total amount appropriated under the heading ''CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES'' under the heading ''INTERNATIONAL ORGANIZATIONS'' under chapter 10 of title I of this Act is hereby reduced by $68,000,000 and no more than $28,500,000 may be made available by this section, *Provided That*, this section does not prohibit additional funds otherwise appropriated to be spent for emergency security in Haiti in accordance with law.

SEC. 4010. $1,000,000,000 LIMITATION ON VOLUNTARY PAYMENTS TO THE UNITED NATIONS.

Notwithstanding any other provision of law, the Secretary of State shall ensure no more than $1,000,000,000 is provided to the United Nations each year in excess of the United States' annual assessed contributions.

SEC. 4011. RETURNING EXCESSIVE FUNDS FROM AN UNNECESSARY, UNNEEDED, UNREQUESTED, DUPLICATIVE RESERVE FUND THAT MAY NEVER BE SPENT.

Notwithstanding any other provision of law, unobligated funds for the Women, Infants and Children special supplemental nutrition program appropriated and placed in reserve by Public Law 111–5 are rescinded.

SEC. 4012. STRIKING AN UNNECESSARY APPROPRIATION FOR SALARIES AND EXPENSES OF A GOVERNMENT COMMISSION.

Notwithstanding any other provision of this Act, no funds shall be appropriated or otherwise made available for salaries or any other expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111–21).

SEC. 4013. RESCINDING A STATE DEPARTMENT TRAINING FACILITY UNWANTED BY RESIDENTS OF THE COMMUNITY IN WHICH IT IS IT IS PLANNED TO BE CONSTRUCTED.

Notwithstanding any other provision of law, no Federal funds may be spent to construct a State Department training facility in Ruthsberg, Maryland, and any funding obligated for the facility by Public Law 111–5 are rescinded, *Provided That*, this section does not prohibit funds otherwise appropriated to be spent by the State Department for training facilities in other jurisdictions in accordance with law.

SA 4232. Mr. COBURN (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE IV—PAYMENT OF COSTS OF SUPPLEMENTAL APPROPRIATIONS

SEC. 4001. REDUCING BUDGETS OF MEMBERS OF CONGRESS.

Of the funds made available under Public Law 111–68 for the legislative branch, $100,000,000 in unobligated balances are permanently rescinded: *Provided*, That the rescissions made by the section shall not apply to funds made available to the Capitol Police.

SEC. 4002. DISCLOSING COST OF CONGRESSIONAL BORROWING AND SPENDING.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SEC. 4003. DISPOSING OF UNNEEDED AND UNUSED GOVERNMENT PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''§ 621. Definitions

''In this subchapter:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term 'expedited disposal of a real property' means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

''(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

''(4) REAL PROPERTY.—

''(A) IN GENERAL.—The term 'real property' means—

''(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

''(I) excess;

''(II) surplus;

''(III) underperforming; or

''(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

''(ii) a building or other structure located on real property described under clause (i).

''(B) EXCLUSION.—The term 'real property' excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''§ 622. Disposal program

''(a) The Director of the Office of Management and Budget shall dispose of by sale or auction not less than $15,000,000,000 worth of real property that is not meeting Federal

Government from fiscal year 2010 to fiscal year 2015.

''(b) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

''(c) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the program and notify the recommending agency accordingly.

''(d) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

''(1) be updated routinely; and

''(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

''(e) The Director may transfer real property identified in the enactment of this section to the Department of Housing and Urban Development if the Secretary of Housing and Urban Development has determined such properties are suitable for use to assist the homeless.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''Sec. 621. Definitions .

''Sec. 622. Disposal program.''.

SEC. 4004. AUCTIONING AND SELLING OF UNUSED AND UNNEEDED EQUIPMENT.

(a) Notwithstanding section 1033 of the National Defense Authorization Act of 1997 or any other provision of law, the Secretary of Defense shall auction or sell unused, unnecessary, or surplus supplies and equipment without providing preference to State or local governments.

(b) The Secretary may make exceptions to the sale or auction of such equipment for transfers of excess military property to state and local law enforcement agencies related to counter-drug efforts, counter-terrorism activities, or other efforts determined to be related to national defense or homeland security. The Secretary of Defense may sell such equipment to State and local agencies at fair market value.

SEC. 4005. RESCINDING UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available uncommitted unobligated Federal funds, $80,000,000,000 in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

(c) EXCEPTION.—This section shall not apply to the unobligated Federal funds of the Department of Defense or the Department of Veterans Affairs.

SA 4233. Ms. CANTWELL (for herself and Mr. HATCH) submitted an amendment intended to be proposed by her to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, between lines 23 and 24, insert the following:

DIVISION ____—RECONSTRUCTION OPPORTUNITY ZONES

SEC. ___01. SHORT TITLE.

This division may be cited as the ''Afghanistan and Pakistan Reconstruction Opportunity Zones Act of 2010''.

SEC. ___02. DEFINITIONS; PURPOSES.

(a) DEFINITIONS.—In this division:

(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term ''Agreement on Textiles and Clothing'' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(2) CATEGORY; TEXTILE AND APPAREL CATEGORY NUMBER.—The terms ''category'' and ''textile and apparel category number'' mean the number assigned under the U.S. Textile and Apparel Category System of the Office of Textiles and Apparel of the Department of Commerce, as listed in the HTS under the applicable heading or subheading (as in effect on September 1, 2007).

(3) ENTERED.—The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) ENTITY.—The term ''entity'' means—

(A) a natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, whether or not for profit;

(B) any governmental entity or instrumentality of a government; and

(C) any successor, subunit, or subsidiary of any entity described in subparagraph (A) or (B).

(5) HTS.—The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

(6) NAFTA.—The term ''NAFTA'' means the North American Free Trade Agreement concluded between the United States, Mexico, and Canada on December 17, 1992.

(7) RECONSTRUCTION OPPORTUNITY ZONE.—The term ''Reconstruction Opportunity Zone'' means any area that—

(A) encompasses portions of the territory of—

(i) Afghanistan; or

(ii) 1 or more of the following areas of Pakistan:

(I) the Federally Administered Tribal Areas;

(II) areas of Pakistan-administered Kashmir that the President determines were harmed by the earthquake of October 8, 2005;

(III) areas of Baluchistan that are within 100 miles of Pakistan's border with Afghanistan; and

(IV) the North West Frontier Province;

(B) has been designated by the competent authorities in Afghanistan or Pakistan, as the case may be, as an area in which merchandise may be introduced without payment of duty or excise tax; and

(C) has been designated by the President as a Reconstruction Opportunity Zone pursuant to section ____03(a).

(b) PURPOSES.—The purposes of this division are—

(1) to stimulate economic activity and development in Afghanistan and the border region of Pakistan, critical fronts in the struggle against violent extremism;

(2) to reflect the strong support that the United States has pledged to Afghanistan and Pakistan for their sustained commitment in the global war on terrorism;

(3) to support the 3-pronged United States strategy in Afghanistan and the border region of Pakistan that leverages political, military, and economic tools, with Reconstruction Opportunity Zones as a critical part of the economic component of that strategy; and

(4) to offer a vital opportunity to improve livelihoods, promote good governance, and extend and strengthen the Governments of Afghanistan and Pakistan.

SEC. ___03. DESIGNATION OF RECONSTRUCTION OPPORTUNITY ZONES.

(a) AUTHORITY TO DESIGNATE.—The President is authorized to designate an area within Afghanistan or Pakistan described in section ____02(a)(7) (A) and (B) as a Reconstruction Opportunity Zone if the President determines that—

(1) Afghanistan or Pakistan, as the case may be, meets the eligibility criteria set forth in subsection (b);

(2) Afghanistan or Pakistan, as the case may be, meets the eligibility criteria set forth in subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(c)) for designation as a beneficiary developing country under that section and is not ineligible under subsection (b) of such section; and

(3) designation of the area as a Reconstruction Opportunity Zone is appropriate taking into account the factors listed in subsection (c).

(b) ELIGIBILITY CRITERIA.—Afghanistan or Pakistan, as the case may be, meets the eligibility criteria set forth in this subsection if that country—

(1) has established, or is making continual progress toward establishing—

(A) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets;

(B) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

(C) economic policies to—

(i) reduce poverty;

(ii) increase the availability of health care and educational opportunities;

(iii) expand physical infrastructure;

(iv) promote the development of private enterprise; and

(v) encourage the formation of capital markets through microcredit or other programs;

(D) a system to combat corruption and bribery, such as ratifying and implementing the United Nations Convention Against Corruption; and

(E) protection of internationally recognized worker rights, as defined in section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4));

(2) is eliminating or has eliminated barriers to trade and investment, including by—

(A) providing national treatment and measures to create an environment conducive to domestic and foreign investment;

(B) protecting intellectual property; and

(C) resolving bilateral trade and investment disputes;

(3) does not engage in activities that undermine United States national security or foreign policy interests;

(4) does not engage in gross violations of internationally recognized human rights;

(5) does not provide support for acts of international terrorism; and

(6) cooperates in international efforts to eliminate human rights violations and terrorist activities.

(c) ADDITIONAL FACTORS.—In determining whether to designate an area in Afghanistan or Pakistan as a Reconstruction Opportunity Zone, the President shall take into account—

(1) an expression by the government of the country of its desire to have a particular

area designated as a Reconstruction Opportunity Zone under this division;

(2) whether the government of the country has provided the United States with a monitoring and enforcement plan outlining specific steps the country will take to cooperate with the United States to—

(A) facilitate legitimate cross-border commerce;

(B) ensure that articles for which duty-free treatment is sought pursuant to this division satisfy the applicable rules of origin described in section ___04 (c) and (d) or section ___05 (c) and (d), whichever is applicable;

(C) prevent unlawful transshipment, as described in section ___06(b)(3); and

(D) protect internationally recognized worker rights, as defined in section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4));

(3) the potential for such designation to create local employment and to promote local and regional economic development;

(4) the physical security of the proposed Reconstruction Opportunity Zone;

(5) the economic viability of the proposed Reconstruction Opportunity Zone, including—

(A) whether there are commitments to finance economic activity proposed for the Reconstruction Opportunity Zone; and

(B) whether there is existing or planned infrastructure for power, water, transportation, and communications in the area;

(6) whether such designation would be compatible with and contribute to the foreign policy and national security objectives of the United States, taking into account the information provided under subsection (d); and

(7) the views of interested persons submitted pursuant to subsection (e).

(d) INFORMATION RELATING TO COMPATIBILITY WITH AND CONTRIBUTION TO FOREIGN POLICY AND NATIONAL SECURITY OBJECTIVES OF THE UNITED STATES.—In determining whether designation of a Reconstruction Opportunity Zone would be compatible with and contribute to the foreign policy and national security objectives of the United States in accordance with subsection (c)(6), the President shall take into account whether Afghanistan or Pakistan, as the case may be, has provided the United States with a plan outlining specific steps it will take to verify the ownership and nature of the activities of entities to be located in the proposed Reconstruction Opportunity Zone. The specific steps outlined in a country's plan shall include a mechanism by which a competent authority of the country—

(1) collects from each entity operating in, or proposing to operate in, a Reconstruction Opportunity Zone, information including—

(A) the name and address of the entity;

(B) the name and location of all facilities owned or operated by the entity that are operating in or proposed to be operating in a Reconstruction Opportunity Zone;

(C) the name, nationality, date and place of birth, and position title of each person who is an owner, director, or officer of the entity; and

(D) the nature of the activities of each entity;

(2) updates the information required under paragraph (1) as changes occur; and

(3) provides such information promptly to the Secretary of State.

(e) OPPORTUNITY FOR PUBLIC COMMENT.—Before the President designates an area as a Reconstruction Opportunity Zone pursuant to subsection (a), the President shall afford an opportunity for interested persons to submit their views concerning the designation.

(f) NOTIFICATION TO CONGRESS.—Before the President designates an area as a Reconstruction Opportunity Zone pursuant to subsection (a), the President shall notify Congress of the President's intention to make the designation, together with the reasons for making the designation.

SEC. ___04. DUTY-FREE TREATMENT FOR CERTAIN NONTEXTILE AND NONAPPAREL ARTICLES.

(a) IN GENERAL.—The President is authorized to proclaim duty-free treatment for—

(1) any article from a Reconstruction Opportunity Zone that the President has designated as an eligible article under section 503(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2463(a)(1)(A));

(2) any article from a Reconstruction Opportunity Zone located in Afghanistan that the President has designated as an eligible article under section 503(a)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2463(a)(1)(B)); or

(3) any article from a Reconstruction Opportunity Zone that is not a textile or apparel article, regardless of whether the article has been designated as an eligible article under section 503(a)(1)(A) or (B) of the Trade Act of 1974 (19 U.S.C. 2463(a)(1)(A) or (B)), if, after receiving the advice of the International Trade Commission pursuant to subsection (b), the President determines that such article is not import-sensitive in the context of imports from a Reconstruction Opportunity Zone.

(b) ADVICE CONCERNING CERTAIN ELIGIBLE ARTICLES.—Before proclaiming duty-free treatment for an article pursuant to subsection (a)(3), the President shall publish in the Federal Register and provide the International Trade Commission a list of articles which may be considered for such treatment. The provisions of sections 131 through 134 of the Trade Act of 1974 (19 U.S.C. 2151 through 2154) shall apply to any designation under subsection (a)(3) in the same manner as such sections apply to action taken under section 123 of the Trade Act of 1974 (19 U.S.C. 2133) regarding a proposed trade agreement.

(c) GENERAL RULES OF ORIGIN.—

(1) IN GENERAL.—The duty-free treatment proclaimed with respect to an article described in paragraph (1) or (3) of subsection (a) shall apply to any article subject to such proclamation which is the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones if—

(A) that article is imported directly from a Reconstruction Opportunity Zone into the customs territory of the United States; and

(B)(i) with respect to an article that is an article of a Reconstruction Opportunity Zone in Pakistan, the sum of—

(I) the cost or value of the materials produced in 1 or more Reconstruction Opportunity Zones in Pakistan or Afghanistan,

(II) the direct costs of processing operations performed in 1 or more Reconstruction Opportunity Zones in Pakistan or Afghanistan, and

(III) the cost or value of materials produced in the United States, determined in accordance with paragraph (2),

is not less than 35 percent of the appraised value of the article at the time it is entered into the United States; or

(ii) with respect to an article that is an article of a Reconstruction Opportunity Zone in Afghanistan, the sum of—

(I) the cost or value of the materials produced in 1 or more Reconstruction Opportunity Zones in Pakistan or Afghanistan,

(II) the cost or value of the materials produced in 1 or more countries that are members of the South Asian Association for Regional Cooperation,

(III) the direct costs of processing operations performed in 1 or more Reconstruction Opportunity Zones in Pakistan or Afghanistan, and

(IV) the cost or value of materials produced in the United States, determined in accordance with paragraph (2),

is not less than 35 percent of the appraised value of the article at the time it is entered into the United States.

(2) DETERMINATION OF 35 PERCENT FOR ARTICLES FROM RECONSTRUCTION OPPORTUNITY ZONES IN PAKISTAN AND AFGHANISTAN.—If the cost or value of materials produced in the customs territory of the United States is included with respect to an article described in paragraph (1)(B), for purposes of determining the 35 percent appraised value requirement under clause (i) or (ii) of paragraph (1)(B), not more than 15 percent of the appraised value of the article at the time the article is entered into the United States may be attributable to the cost or value of such United States materials.

(d) RULES OF ORIGIN FOR CERTAIN ARTICLES OF RECONSTRUCTION OPPORTUNITY ZONES IN AFGHANISTAN.—

(1) IN GENERAL.—The duty-free treatment proclaimed with respect to an article described in paragraph (2) of subsection (a) shall apply to any article subject to such proclamation which is the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones in Afghanistan if—

(A) that article is imported directly from a Reconstruction Opportunity Zone in Afghanistan into the customs territory of the United States; and

(B) with respect to that article, the sum of—

(i) the cost or value of the materials produced in 1 or more Reconstruction Opportunity Zones in Afghanistan,

(ii) the cost or value of the materials produced in 1 or more countries that are members of the South Asian Association for Regional Cooperation,

(iii) the direct costs of processing operations performed in 1 or more Reconstruction Opportunity Zones in Afghanistan, and

(iv) the cost or value of materials produced in the United States, determined in accordance with paragraph (2),

is not less than 35 percent of the appraised value of the product at the time it is entered into the United States.

(2) DETERMINATION OF 35 PERCENT FOR ARTICLES FROM RECONSTRUCTION OPPORTUNITY ZONES IN PAKISTAN AND AFGHANISTAN.—If the cost or value of materials produced in the customs territory of the United States is included with respect to an article described in paragraph (1)(B), for purposes of determining the 35 percent appraised value requirement under paragraph (1)(B), not more than 15 percent of the appraised value of the article at the time the article is entered into the United States may be attributable to the cost or value of such United States materials.

(e) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones, and no material shall be included for purposes of determining the 35 percent appraised value requirement under subsection (c)(1) or (d)(1), by virtue of having merely undergone—

(1) simple combining or packaging operations; or

(2) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

(f) DIRECT COSTS OF PROCESSING OPERATIONS.—

(1) IN GENERAL.—As used in subsections (c)(1)(B)(i)(II), (c)(1)(B)(ii)(III), and (d)(1)(B)(iii), the term ''direct costs of processing operations'' includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the article, including—

(i) fringe benefits;

(ii) on-the-job training; and

(iii) costs of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the article.

(2) EXCLUDED COSTS.—As used in subsections (c)(1)(B)(i)(II), (c)(1)(B)(ii)(III), and (d)(1)(B)(iii), the term ''direct costs of processing operations'' does not include costs which are not directly attributable to the article or are not costs of manufacturing the article, such as—

(A) profit; and

(B) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

(g) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section. The regulations may provide that, in order for an article to be eligible for duty-free treatment under this section, the article—

(1) shall be wholly the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones; or

(2) shall be a new or different article of commerce which has been grown, produced, or manufactured in 1 or more Reconstruction Opportunity Zones.

SEC. ___05. DUTY-FREE TREATMENT FOR CERTAIN TEXTILE AND APPAREL ARTICLES.

(a) DUTY-FREE TREATMENT.—The President is authorized to proclaim duty-free treatment for any textile or apparel article described in subsection (b), if—

(1) the article is a covered article described in subsection (b); and

(2) the President determines that the country in which the Reconstruction Opportunity Zone is located has satisfied the requirements set forth in section ___06.

(b) COVERED ARTICLES.—A covered article described in this subsection is an article in 1 of the following categories:

(1) ARTICLES OF RECONSTRUCTION OPPORTUNITY ZONES.—An article that is the product of 1 or more Reconstruction Opportunity Zones and falls within the scope of 1 of the following textile and apparel category numbers, as set forth in the HTS (as in effect on September 1, 2007):

237	641	751
330	642	752
331	643	758
333	644	759
334	650	831
335	651	832
336	653	833
341	654	834
342	665	835
350	669	836
351	733	838
353	734	839
354	735	840
360	736	842
361	738	843
362	739	844
363	740	845
369	741	846
465	742	850
469	743	851
630	744	852
631	745	858
633	746	859
634	747	863
635	748	899
636	750	

(2) ARTICLES OF RECONSTRUCTION OPPORTUNITY ZONES IN AFGHANISTAN.—The article is the product of 1 or more Reconstruction Opportunity Zones in Afghanistan and falls within the scope of 1 of the following textile and apparel category numbers, as set forth in the HTS (as in effect on September 1, 2007):

201	439	459
414	440	464
431	442	670
433	444	800
434	445	810
435	446	870
436	448	871
438		

(3) CERTAIN OTHER TEXTILE AND APPAREL ARTICLES.—The article is the product of 1 or more Reconstruction Opportunity Zones and falls within the scope of 1 of the following textile and apparel category numbers as set forth in the HTS (as in effect on September 1, 2007) and is covered by the corresponding description for such category:

(A) CATEGORY 239.—An article in category 239 (relating to cotton and man-made fiber babies' garments) except for baby socks and baby booties described in subheading 6111.20.6050, 6111.30.5050, or 6111.90.5050 of the HTS.

(B) CATEGORY 338.—An article in category 338 (relating to men's and boys' cotton knit shirts) if the article is a certain knit-to-shape garment that meets the definition included in Statistical Note 6 to Chapter 61 of the HTS, and is provided for in subheading 6110.20.1026, 6110.20.2067 or 6110.90.9067 of the HTS.

(C) CATEGORY 339.—An article in category 339 (relating to women's and girls' cotton knit shirts and blouses) if the article is a knit-to-shape garment that meets the definition included in Statistical Note 6 to Chapter 61 of the HTS, and is provided for in subheading 6110.20.1031, 6110.20.2077, or 6110.90.9071 of the HTS.

(D) CATEGORY 359.—An article in category 359 (relating to other cotton apparel) except swimwear provided for in subheading 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010, or 6211.12.8020 of the HTS.

(E) CATEGORY 632.—An article in category 632 (relating to man-made fiber hosiery) if the article is panty hose provided for in subheading 6115.21.0020 of the HTS.

(F) CATEGORY 638.—An article in category 638 (relating to men's and boys' man-made fiber knit shirts) if the article is a knit-to-shape garment that meets the definition included in Statistical Note 6 to Chapter 61 of the HTS, and is provided for in subheading 6110.30.2051, 6110.30.3051, or 6110.90.9079 of the HTS.

(G) CATEGORY 639.—An article in category 639 (relating to women's and girls' man-made fiber knit shirts and blouses) if the article is a knit-to-shape garment that meets the definition included in Statistical Note 6 to Chapter 61 of the HTS, and is provided for in subheading 6110.30.2061, 6110.30.3057, or 6110.90.9081 of the HTS.

(H) CATEGORY 647.—An article in category 647 (relating to men's and boys' man-made fiber trousers) if the article is ski/snowboard pants that meets the definition included in Statistical Note 4 to Chapter 62 of the HTS, and is provided for in subheading 6203.43.3510, 6210.40.5031, or 6211.20.1525 of the HTS.

(I) CATEGORY 648.—An article in category 648 (relating to women's and girls' man-made fiber trousers) if the article is ski/snowboard pants that meets the definition included in Statistical Note 4 to Chapter 62 of the HTS, and is provided for in subheading 6204.63.3010, 6210.50.5031, or 6211.20.1555 of the HTS.

(J) CATEGORY 659.—An article in category 659 (relating to other man-made fiber apparel) except for swimwear provided for in subheading 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, or 6211.12.1020 of the HTS.

(K) CATEGORY 666.—An article in category 666 (relating to other man-made fiber furnishings) if the article is window shades and window blinds provided for in subheading 6303.12.0010 or 6303.92.2030 of the HTS.

(4) CERTAIN OTHER ARTICLES.—The article is the product of 1 or more Reconstruction Opportunity Zones and falls within the scope of 1 of the following statistical reporting numbers of the HTS (as in effect on September 1, 2007):

4202.12.8010	6210.20.3000	6304.99.1000
4202.12.8050	6210.20.7000	6304.99.2500
4202.22.4010	6210.30.3000	6304.99.4000
4202.22.7000	6210.30.7000	6304.99.6030
4202.22.8070	6210.40.3000	6306.22.9010
4202.92.3010	6210.40.7000	6306.29.1100
4202.92.6010	6210.50.3000	6306.29.2100
4202.92.9010	6210.50.7000	6306.40.4100
4202.92.9015	6211.20.0810	6306.40.4900
5601.29.0010	6211.20.0820	6306.91.0000
5702.39.2090	6211.32.0003	6306.99.0000
5702.49.2000	6211.33.0003	6307.10.2030
5702.50.5900	6211.42.0003	6307.20.0000
5702.99.2000	6211.43.0003	6307.90.7200
5703.90.0000	6212.10.3000	6307.90.7500
5705.00.2090	6212.10.7000	6307.90.8500
6108.22.1000	6212.90.0050	6307.90.8950
6111.90.7000	6213.90.0500	6307.90.8985
6113.00.1005	6214.10.1000	6310.90.1000
6113.00.1010	6216.00.0800	6406.99.1580
6113.00.1012	6216.00.1300	6501.00.6000
6115.29.4000	6216.00.1900	6502.00.2000
6115.30.1000	6216.00.2600	6502.00.4000
6115.99.4000	6216.00.3100	6502.00.9060
6116.10.0800	6216.00.3500	6504.00.3000
6116.10.1300	6216.00.4600	6504.00.6000
6116.10.4400	6217.10.1010	6504.00.9045
6116.10.6500	6217.10.8500	6504.00.9075
6116.10.9500	6301.90.0020	6505.10.0000
6116.92.0800	6302.29.0010	6505.90.8015
6116.93.0800	6302.39.0020	6505.90.9050
6116.99.3500	6302.59.3010	6505.90.9076
6117.10.4000	6302.99.1000	9404.90.2000
6117.80.3010	6303.99.0030	9404.90.8523
6117.80.8500	6304.19.3030	9404.90.9523
6210.10.2000	6304.91.0060	9404.90.9570
6210.10.7000		

(c) RULES OF ORIGIN FOR CERTAIN COVERED ARTICLES.—

(1) GENERAL RULES.—Except with respect to an article listed in paragraph (2) of subsection (b), duty-free treatment may be proclaimed for an article listed in subsection (b) only if the article is imported directly into the customs territory of the United States from a Reconstruction Opportunity Zone and—

(A) the article is wholly the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones;

(B) the article is a yarn, thread, twine, cordage, rope, cable, or braiding, and—

(i) the constituent staple fibers are spun in, or

(ii) the continuous filament fiber is extruded in,

1 or more Reconstruction Opportunity Zones;

(C) the article is a fabric, including a fabric classifiable under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in 1 or more Reconstruction Opportunity Zones; or

(D) the article is any other textile or apparel article that is cut (or knit-to-shape) and sewn or otherwise assembled in 1 or more Reconstruction Opportunity Zones from its component pieces.

(2) SPECIAL RULES.—

(A) CERTAIN MADE-UP ARTICLES, TEXTILE ARTICLES IN THE PIECE, AND CERTAIN OTHER TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, subparagraph (A), (B), or (C) of paragraph (1), as appropriate, shall determine whether a good that is classifiable under 1 of the following headings or subheadings of the HTS shall be considered to

meet the rules of origin of this subsection: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, and 9404.90.

(B) CERTAIN KNIT-TO-SHAPE TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, a textile or apparel article that is wholly formed on seamless knitting machines or by hand-knitting in 1 or more Reconstruction Opportunity Zones shall be considered to meet the rules of origin of this subsection.

(C) CERTAIN DYED AND PRINTED TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D), an article classifiable under subheading 6117.10, 6213.00, 6214.00, 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95 of the HTS, except for an article classifiable under 1 of such subheadings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the rules of origin of this subsection if the fabric in the article is both dyed and printed in 1 or more Reconstruction Opportunity Zones, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(D) FABRICS OF SILK, COTTON, MAN-MADE FIBER, OR VEGETABLE FIBER.—Notwithstanding paragraph (1)(C), a fabric classifiable under the HTS as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the rules of origin of this subsection if the fabric is both dyed and printed in 1 or more Reconstruction Opportunity Zones, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(d) RULES OF ORIGIN FOR COVERED ARTICLES THAT ARE PRODUCTS OF 1 OR MORE RECONSTRUCTION OPPORTUNITY ZONES IN AFGHANISTAN.—

(1) GENERAL RULES.—Duty-free treatment may be proclaimed for an article listed in paragraph (2) of subsection (b) only if the article is imported directly into the customs territory of the United States from a Reconstruction Opportunity Zone in Afghanistan and—

(A) the article is wholly the growth, product, or manufacture of 1 or more Reconstruction Opportunity Zones in Afghanistan,

(B) the article is a yarn, thread, twine, cordage, rope, cable, or braiding, and—

(i) the constituent staple fibers are spun in, or

(ii) the continuous filament fiber is extruded in,

1 or more Reconstruction Opportunity Zones in Afghanistan;

(C) the article is a fabric, including a fabric classifiable under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in 1 or more Reconstruction Opportunity Zones in Afghanistan; or

(D) the article is any other textile or apparel article that is cut (or knit-to-shape) and sewn or otherwise assembled in 1 or more Reconstruction Opportunity Zones in Afghanistan from its component pieces.

(2) SPECIAL RULES.—

(A) CERTAIN MADE-UP ARTICLES, TEXTILE ARTICLES IN THE PIECE, AND CERTAIN OTHER TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, subparagraph (A), (B), or (C) of paragraph (1), as appropriate, shall determine whether a good that is classifiable under 1 of the following headings or subheadings of the HTS shall be considered to meet the rules of origin of this subsection: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, and 9404.90.

(B) CERTAIN KNIT-TO-SHAPE TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, a textile or apparel article that is wholly formed on seamless knitting machines or by hand-knitting in 1 or more Reconstruction Opportunity Zones in Afghanistan shall be considered to meet the rules of origin of this subsection.

(C) CERTAIN DYED AND PRINTED TEXTILES AND TEXTILE ARTICLES.—Notwithstanding paragraph (1)(D), an article classifiable under subheading 6117.10, 6213.00, 6214.00, 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95 of the HTS, except for an article classifiable under 1 of such subheadings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the rules of origin of this subsection if the fabric in the article is both dyed and printed in 1 or more Reconstruction Opportunity Zones in Afghanistan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(D) FABRICS OF SILK, COTTON, MAN-MADE FIBER OR VEGETABLE FIBER.—Notwithstanding paragraph (1)(C), a fabric classifiable under the HTS as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the rules of origin of this subsection if the fabric is both dyed and printed in 1 or more Reconstruction Opportunity Zones in Afghanistan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(e) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. ___06. PROTECTIONS AGAINST UNLAWFUL TRANSSHIPMENT.

(a) DUTY-FREE TREATMENT CONDITIONED ON ENFORCEMENT MEASURES.—

(1) IN GENERAL.—The duty-free treatment described in section ___05 shall not be provided to covered articles that are imported from a Reconstruction Opportunity Zone in a country unless the President determines that country meets the following criteria:

(A) The country has adopted effective domestic law and enforcement procedures applicable to covered articles to prevent unlawful transshipment of the articles and the use of false documents relating to the importation of the articles into the United States.

(B) The country has enacted legislation or promulgated regulations that would permit U.S. Customs and Border Protection verification teams to have the access necessary to investigate thoroughly allegations of unlawful transshipment through such country.

(C) The country agrees to provide U.S. Customs and Border Protection with a monthly report on shipments of covered articles from each facility engaged in the production of those articles in a Reconstruction Opportunity Zone in that country.

(D) The country will cooperate fully with the United States to address and take action necessary to prevent circumvention, as described in article 5 of the Agreement on Textiles and Clothing.

(E) The country agrees to require each entity engaged in the production or manufacture of a covered article in a Reconstruction Opportunity Zone in that country to register with the competent government authority, to provide that authority with the following information, and to update that information as changes occur:

(i) The name and address of the entity, including the location of all textile or apparel facilities owned or operated by that entity in Afghanistan or Pakistan.

(ii) The telephone number, facsimile number, and electronic mail address of the entity.

(iii) The names and nationalities of the owners, directors, and corporate officers, and their positions within the entity.

(iv) The number of employees the entity employs and their occupations.

(v) A general description of the covered articles the entity produces and the entity's production capacity.

(vi) The number and type of machines the entity uses to produce textile or apparel articles at each facility.

(vii) The approximate number of hours the machines operate per week.

(viii) The identity of any supplier to the entity of textile or apparel goods, or fabrics, yarns, or fibers used in the production of those goods.

(ix) The name of, and contact information for, each of the entity's customers in the United States.

(F) The country agrees to provide to U.S. Customs and Border Protection on a timely basis all of the information received by the competent government authority in accordance with subparagraph (E) and to provide U.S. Customs and Border Protection with an annual update of that information.

(G) The country agrees to require that all producers and exporters of covered articles in a Reconstruction Opportunity Zone in that country maintain complete records of the production and the export of covered articles, including materials used in the production, for at least 5 years after the production or export (as the case may be).

(H) The country agrees to provide, on a timely basis, at the request of U.S. Customs and Border Protection, documentation establishing the eligibility of covered articles for duty-free treatment under section ___05.

(2) DOCUMENTATION ESTABLISHING ELIGIBILITY OF ARTICLES FOR DUTY-FREE TREATMENT.—For purposes of paragraph (1)(H), documentation establishing the eligibility of a covered article for duty-free treatment under section ___05 includes documentation such as production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production.

(b) CUSTOMS PROCEDURES AND ENFORCEMENT.—

(1) IN GENERAL.—

(A) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall promulgate regulations setting forth customs procedures similar in all material respects to the requirements of article 502(1) of the NAFTA as implemented pursuant to United States law, which shall apply to any importer that claims duty-free treatment for an article under section ___05.

(B) DETERMINATION.—In order for articles produced in a Reconstruction Opportunity

Zone to qualify for the duty-free treatment under section ___05, there shall be in effect a determination by the President that Afghanistan or Pakistan, as the case may be—

(i) has implemented and follows, or

(ii) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

(2) PENALTIES.—If the President determines, based on sufficient evidence, that an entity has engaged in unlawful transshipment described in paragraph (3), the President shall deny for a period of 5 years beginning on the date of the determination all benefits under section ___05 to the entity, any successor of the entity, and any other entity owned or operated by the principals of the entity.

(3) UNLAWFUL TRANSSHIPMENT DESCRIBED.—For purposes of this section, unlawful transshipment occurs when duty-free treatment for a covered article has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for duty-free treatment under section ___05.

SEC. ___07. LIMITATIONS ON PROVIDING DUTY-FREE TREATMENT.

(a) IN GENERAL.—

(1) PROCLAMATION.—Except as provided in paragraph (2), and subject to subsection (b) and the conditions described in sections ___03 through ___06, the President shall exercise the President's authority under this division, and the President shall proclaim any duty-free treatment pursuant to that authority.

(2) WAIVER.—The President may waive the application of duty-free treatment under this division if the President determines that providing such treatment is inconsistent with the national interests of the United States. In making such determination, the President shall consider—

(A) obligations of the United States under international agreements;

(B) the national economic interests of the United States; and

(C) the foreign policy interests of the United States, including the economic development of Afghanistan and the border region of Pakistan.

(b) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT.—

(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment proclaimed under this division. In taking any action to withdraw, suspend, or limit duty-free treatment, the President shall consider the factors set forth in section ___03 (b) and (c) of this division, and section 502 (b) and (c) of the Trade Act of 1974 (19 U.S.C. 2462 (b) and (c)).

(2) NOTICE TO CONGRESS.—The President shall advise Congress—

(A) of any action the President takes to withdraw, suspend, or limit the application of duty-free treatment with respect to Reconstruction Opportunity Zones in Afghanistan or Pakistan; and

(B) if either Afghanistan or Pakistan fails to adequately take the actions described in section ___03 (b) and (c) of this division or section 502 (b) and (c) of the Trade Act of 1974.

SEC. ___08. TERMINATION OF BENEFITS.

Duty-free treatment provided under this division shall remain in effect through September 30, 2023.

SA 4234. Ms. LANDRIEU proposed an amendment to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; as follows:

Beginning on page 74, strike line 13 and all that follows through page 79, line 3, and insert the following:

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Economic Development Assistance Programs'', to carry out planning, technical assistance and other assistance under section 209, and consistent with section 703(b), of the Public Works and Economic Development Act (42 U.S.C. 3149, 3233), in States affected by the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $10,000,000, to remain available until expended, of which not less than $5,000,000 shall be used to provide technical assistance grants in accordance with section 2002.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', $13,000,000, to remain available until expended, for responding to economic impacts on fishermen and fishery-dependent businesses: *Provided*, That the amounts appropriated herein are not available unless the Secretary of Commerce determines that resources provided under other authorities and appropriations including by the responsible parties under the Oil Pollution Act, 33 U.S.C. 2701, et seq., are not sufficient to respond to economic impacts on fishermen and fishery-dependent business following an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

For an additional amount, in addition to amounts provided elsewhere in this Act, for ''Operations, Research, and Facilities'', for activities undertaken including scientific investigations and sampling as a result of the incidents related to the discharge of oil and the use of oil dispersants that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $7,000,000, to remain available until expended. These activities may be funded through the provision of grants to universities, colleges and other research partners through extramural research funding.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', Food and Drug Administration, Department of Health and Human Services, for food safety monitoring and response activities in connection with the incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, $2,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Office of the Secretary, Salaries and Expenses'' for increased inspections, enforcement, investigations, environmental and engineering studies, and other activities related to emergency offshore oil spill incidents in the Gulf of Mexico, $29,000,000, to remain available until expended: *Provided*, That such funds may be transferred by the Secretary to any other account in the Department of the Interior to carry out the purposes provided herein.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $10,000,000, to remain available until expended, for litigation expenses resulting from incidents related to the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'' for a study on the potential human and environmental risks and impacts of the release of crude oil and the application of dispersants, surface washing agents, bioremediation agents, and other mitigation measures listed in the National Contingency Plan Product List (40 C.F.R. Part 300 Subpart J), as appropriate, $2,000,000, to remain available until expended: *Provided*, That the study shall be performed at the direction of the Administrator of the Environmental Protection Agency, in coordination with the Secretary of Commerce and the Secretary of the Interior: *Provided further*, That the study may be funded through the provision of grants to universities and colleges through extramural research funding.

GENERAL PROVISION—THIS TITLE

DEEPWATER HORIZON

SEC. 2001. Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence:

(1) by inserting ": (1)" before "may obtain an advance" and after "the Coast Guard";

(2) by striking "advance. Amounts" and inserting the following: "advance; (2) in the case of discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain one or more advances from the Oil Spill Liability Trust Fund as needed, up to a maximum of $100,000,000 for each advance, the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9509(c)(2)), and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance; and (3) amounts''.

SEC. 2002. OIL SPILL CLAIMS ASSISTANCE AND RECOVERY.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Commerce (referred to in this section as the ''Secretary'') shall establish a grant program to provide to eligible (as determined by the Secretary) organizations technical assistance grants for use in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico (referred to in this section as the ''oil spill'').

(b) APPLICATION.—An organization that seeks to receive a grant under this section shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary shall require.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds from a grant provided under this section may be used by an eligible organization—

(A) to support—

(i) education;

(ii) outreach;

(iii) intake;

(iv) language services;

(v) accounting services;

(vi) legal services offered pro bono or by a nonprofit organization;

(vii) damage assessments;

(viii) economic loss analysis;

(ix) collecting and preparing documentation; and

(x) assistance in the preparation and filing of claims or appeals;

(B) to provide assistance to individuals or businesses seeking assistance from or under—

(i) a party responsible for the oil spill;

(ii) the Oil Spill Liability Trust Fund;

(iii) an insurance policy; or

(iv) any other program administered by the Federal Government or a State or local government;

(C) to pay for salaries, training, and appropriate expenses relating to the purchase or lease of property to support operations, equipment (including computers and telecommunications), and travel expenses;

(D) to assist other organizations in—

(i) assisting specific business sectors;

(ii) providing services;

(iii) assisting specific jurisdictions; or

(iv) otherwise supporting operations; and

(E) to establish an advisory board of service providers and technical experts—

(i) to monitor the claims process relating to the oil spill; and

(ii) to provide recommendations to the parties responsible for the oil spill, the National Pollution Funds Center, other appropriate agencies, and Congress to improve fairness and efficiency in the claims process.

(2) PROHIBITION ON USE OF FUNDS.—Funds from a grant provided under this section may not be used to provide compensation for damages or removal costs relating to the oil spill.

(d) PROVISION OF GRANTS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall provide grants under this section.

(2) NETWORKED ORGANIZATIONS.—The Secretary is encouraged to consider applications for grants under this section from organizations that have established networks with affected business sectors, including—

(A) the fishery and aquaculture industries;

(B) the restaurant, grocery, food processing, and food delivery industries; and

(C) the hotel and tourism industries.

(3) TRAINING.—Not later than 30 days after the date on which an eligible organization receives a grant under this section, the Director of the National Pollution Funds Center and the parties responsible for the oil spill shall provide training to the organization regarding the applicable rules and procedures for the claims process relating to the oil spill.

(4) AVAILABILITY OF FUNDS.—Funds from a grant provided under this section shall be available until the later of, as determined by the Secretary—

(A) the date that is 6 years after the date on which the oil spill occurred; and

(B) the date on which all claims relating to the oil spill have been satisfied.

SA 4235. Mr. DODD (for himself, Mr. MENENDEZ, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. BROWN of Ohio, Mr. REED, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, after line 23, insert the following:

FEDERAL TRANSIT ADMINISTRATION

EMERGENCY PUBLIC TRANSPORTATION OPERATING ASSISTANCE

For an additional amount for transit assistance grants authorized under sections 5307 and 5311 of title 49, United States Code, $2,000,000,000, for the operating costs of equipment and facilities for use in public transportation, as defined under section 5302(a)(10) of title 49, United States Code, to remain available through September 30, 2011: *Provided,* That funds shall be expended no later than July 1, 2012: *Provided further,* That the Secretary of Transportation shall provide 80 percent of the funds appropriated under this heading for grants under section 5307 of title 49, United States Code, and apportion such funds in accordance with section 5336 of such title: *Provided further,* That the Secretary shall apportion 10 percent of the funds appropriated under this heading in accordance with section 5340 of such title: *Provided further,* That the Secretary shall provide 10 percent of the funds appropriated under this heading for grants under section 5311 of such title, and apportion such funds in accordance with such section: *Provided further,* That of the funds provided for section 5311 of such title, 2.5 percent shall be made available for section 5311(c)(1): *Provided further,* That funds appropriated under this heading shall be apportioned not later than 21 days after the date of enactment of this Act: *Provided further,* That the amounts apportioned shall be used for operating expenses necessary to restore a reduction in public transportation service and related workforce reductions or to rescind all or a portion of a fare increase, if such reduction or increase was due to decreased State or local funding or farebox revenue that occurred on or after January 1, 2009, and to prevent reductions of service or increases in fares through September 30, 2011: *Provided further,* That if a recipient submits a certification to the Secretary that the recipient has not had a major reduction in public transportation service, as described in section 5307(d)(1)(I) of title 49, United States Code, or a fare increase as a result of decreased State or local operating funding, and will be able to avoid such reductions or increases through September 30, 2011, without the funds made available by this section, a recipient may use the funds to replace, rehabilitate, or repair existing transit capital assets used in public transportation: *Provided further,* That a recipient may use any remaining funds made available by this section to replace, rehabilitate, or repair existing transit capital assets used in public transportation if that recipient has restored a major reduction in public transportation service or rescinded a fare increase; and is able to avoid such reductions or increases: *Provided further,* That applicable chapter 53 requirements shall apply to funding provided under this heading, except that the Federal share of the costs for which any grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further,* That section 1101(b) of Public Law 109–59 shall apply to funds appropriated under this heading: *Provided further,* That three-quarters of 1 percent of the funds provided for grants under section 5307 and section 5340, and one-half of 1 percent of the funds provided for grants under section 5311, shall be available for administrative expenses and program management oversight, and such funds shall be available through September 30, 2013.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on May 25, 2010, at 10 a.m., in room SR–325 of the Russell Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 25, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Reducing Overpayments and Increasing Quality in the Unemployment System.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 25, 2010, at 9:30 a.m. to conduct a hearing entitled ''The Role of Strategic Arms Control in a Post-Cold War World.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 25, 2010, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''ESEA Reauthorization: Early Childhood Education'' on May 25, 2010. The hearing will commence at 2 p.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WYDEN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on May 25, 2010, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. WYDEN. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on May 25, 2010, at 2:30 p.m.

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

SUBCOMMITTEE ON AIRLAND

Mr. WYDEN. Mr. President, I ask unanimous consent that the Subcommittee on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on May 25, 2010, at 9 a.m.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. WYDEN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats of Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on May 25, 2010, at 2 p.m.

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

SUBCOMMITTEE ON PERSONNEL

Mr. WYDEN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on May 25, 2010, at 5 p.m.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. WYDEN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on May 25, 2010, at 10:30 a.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. WYDEN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on May 25, 2010, at 3:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that Ramona L. McGee on my staff be granted floor privileges for the remainder of this session.

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

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

On Thursday, May 20, 2010, the Senate passed H.R. 4173, as amended, as follows:

H.R. 4173

Resolved, That the bill from the House of Representatives (H.R. 4173) entitled ''An Act to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes.'', do pass with the following amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Restoring American Financial Stability Act of 2010''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Severability.
Sec. 4. Effective date.

TITLE I—FINANCIAL STABILITY

Sec. 101. Short title.
Sec. 102. Definitions.

Subtitle A—Financial Stability Oversight Council

Sec. 111. Financial Stability Oversight Council established.
Sec. 112. Council authority.
Sec. 113. Authority to require supervision and regulation of certain nonbank financial companies.
Sec. 114. Registration of nonbank financial companies supervised by the Board of Governors.
Sec. 115. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies.
Sec. 116. Reports.
Sec. 117. Treatment of certain companies that cease to be bank holding companies.
Sec. 118. Council funding.
Sec. 119. Resolution of supervisory jurisdictional disputes among member agencies.
Sec. 120. Additional standards applicable to activities or practices for financial stability purposes.
Sec. 121. Mitigation of risks to financial stability.

Subtitle B—Office of Financial Research

Sec. 151. Definitions.
Sec. 152. Office of Financial Research established.
Sec. 153. Purpose and duties of the Office.
Sec. 154. Organizational structure; responsibilities of primary programmatic units.
Sec. 155. Funding.
Sec. 156. Transition oversight.

Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

Sec. 161. Reports by and examinations of nonbank financial companies supervised by the Board of Governors.
Sec. 162. Enforcement.
Sec. 163. Acquisitions.
Sec. 164. Prohibition against management interlocks between certain financial companies.
Sec. 165. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies.
Sec. 166. Early remediation requirements.
Sec. 167. Affiliations.
Sec. 168. Regulations.
Sec. 169. Avoiding duplication.
Sec. 170. Safe harbor.
Sec. 171. Leverage and risk-based capital requirements.

TITLE II—ORDERLY LIQUIDATION AUTHORITY

Sec. 201. Definitions.
Sec. 202. Judicial review.
Sec. 203. Systemic risk determination.
Sec. 204. Orderly liquidation.
Sec. 205. Orderly liquidation of covered brokers and dealers.
Sec. 206. Mandatory terms and conditions for all orderly liquidation actions.
Sec. 207. Directors not liable for acquiescing in appointment of receiver.
Sec. 208. Dismissal and exclusion of other actions.
Sec. 209. Rulemaking; non-conflicting law.
Sec. 210. Powers and duties of the corporation.
Sec. 211. Miscellaneous provisions.
Sec. 212. Prohibition of circumvention and prevention of conflicts of interest.
Sec. 213. Ban on senior executives and directors.
Sec. 214. Prohibition on taxpayer funding.

TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

Sec. 300. Short title.
Sec. 301. Purposes.
Sec. 302. Definition.

Subtitle A—Transfer of Powers and Duties

Sec. 311. Transfer date.
Sec. 312. Powers and duties transferred.
Sec. 313. Abolishment.
Sec. 314. Amendments to the revised statutes.
Sec. 315. Federal information policy.
Sec. 316. Savings provisions.
Sec. 317. References in Federal law to Federal banking agencies.
Sec. 318. Funding.
Sec. 319. Contracting and leasing authority.

Subtitle B—Transitional Provisions

Sec. 321. Interim use of funds, personnel, and property of the Office of Thrift Supervision.
Sec. 322. Transfer of employees.
Sec. 323. Property transferred.
Sec. 324. Funds transferred.
Sec. 325. Disposition of affairs.
Sec. 326. Continuation of services.

Subtitle C—Federal Deposit Insurance Corporation

Sec. 331. Deposit insurance reforms.
Sec. 332. Management of the Federal Deposit Insurance Corporation.

Subtitle D—Termination of Federal Thrift Charter

Sec. 341. Termination of Federal savings associations.
Sec. 342. Branching.

TITLE IV—REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Elimination of private adviser exemption; limited exemption for foreign private advisers; limited intrastate exemption.
Sec. 404. Collection of systemic risk data; reports; examinations; disclosures.
Sec. 405. Disclosure provision eliminated.
Sec. 406. Clarification of rulemaking authority.
Sec. 407. Exemption of venture capital fund advisers.
Sec. 408. Exemption of and record keeping by private equity fund advisers.
Sec. 409. Family offices.
Sec. 410. State and Federal responsibilities; asset threshold for Federal registration of investment advisers.
Sec. 411. Custody of client assets.
Sec. 412. Adjusting the accredited investor standard.
Sec. 413. GAO study and report on accredited investors.
Sec. 414. GAO study on self-regulatory organization for private funds.
Sec. 415. Commission study and report on short selling.
Sec. 416. Transition period.

TITLE V—INSURANCE

Subtitle A—Office of National Insurance

Sec. 501. Short title.
Sec. 502. Establishment of Office of National Insurance.

Subtitle B—State-based Insurance Reform

Sec. 511. Short title.
Sec. 512. Effective date.

PART I—NONADMITTED INSURANCE

Sec. 521. Reporting, payment, and allocation of premium taxes.
Sec. 522. Regulation of nonadmitted insurance by insured's home State.
Sec. 523. Participation in national producer database.
Sec. 524. Uniform standards for surplus lines eligibility.
Sec. 525. Streamlined application for commercial purchasers.
Sec. 526. GAO study of nonadmitted insurance market.
Sec. 527. Definitions.

PART II—REINSURANCE

Sec. 531. Regulation of credit for reinsurance and reinsurance agreements.
Sec. 532. Regulation of reinsurer solvency.
Sec. 533. Definitions.

PART III—RULE OF CONSTRUCTION

Sec. 541. Rule of construction.
Sec. 542. Severability.

TITLE VI—IMPROVEMENTS TO REGULATION OF BANK AND SAVINGS ASSOCIATION HOLDING COMPANIES AND DEPOSITORY INSTITUTIONS

Sec. 601. Short title.
Sec. 602. Definition.
Sec. 603. Moratorium and study on treatment of credit card banks, industrial loan companies, and certain other companies under the Bank Holding Company Act of 1956.
Sec. 604. Reports and examinations of holding companies; regulation of functionally regulated subsidiaries.
Sec. 605. Assuring consistent oversight of permissible activities of depository institution subsidiaries of holding companies.
Sec. 606. Requirements for financial holding companies to remain well capitalized and well managed.
Sec. 607. Standards for interstate acquisitions.
Sec. 608. Enhancing existing restrictions on bank transactions with affiliates.
Sec. 609. Eliminating exceptions for transactions with financial subsidiaries.
Sec. 610. Lending limits applicable to credit exposure on derivative transactions, repurchase agreements, reverse repurchase agreements, and securities lending and borrowing transactions.
Sec. 611. Application of national bank lending limits to insured State banks.
Sec. 612. Restriction on conversions of troubled banks.
Sec. 613. De novo branching into States.
Sec. 614. Lending limits to insiders.
Sec. 615. Limitations on purchases of assets from insiders.
Sec. 616. Regulations regarding capital levels of holding companies.
Sec. 617. Elimination of elective investment bank holding company framework.
Sec. 618. Securities holding companies.
Sec. 619. Restrictions on capital market activity by banks and bank holding companies.
Sec. 620. Concentration limits on large financial firms.

TITLE VII—WALL STREET TRANSPARENCY AND ACCOUNTABILITY

Sec. 701. Short title.

Subtitle A—Regulation of Over-the-Counter Swaps Markets

PART I—REGULATORY AUTHORITY

Sec. 711. Definitions.
Sec. 712. Review of regulatory authority.
Sec. 713. Recommendations for changes to portfolio margining laws.
Sec. 714. Abusive swaps.
Sec. 715. Authority to prohibit participation in swap activities.
Sec. 716. Prohibition against Federal Government bailouts of swaps entities.
Sec. 717. New product approval—CFTC-SEC process.
Sec. 718. Determining status of novel derivative products.

PART II—REGULATION OF SWAP MARKETS

Sec. 721. Definitions.
Sec. 722. Jurisdiction.
Sec. 723. Clearing.
Sec. 724. Swaps; segregation and bankruptcy treatment.
Sec. 725. Derivatives clearing organizations.
Sec. 726. Rulemaking on conflict of interest.
Sec. 727. Public reporting of swap transaction data.
Sec. 728. Swap data repositories.
Sec. 729. Reporting and recordkeeping.
Sec. 730. Large swap trader reporting.
Sec. 731. Registration and regulation of swap dealers and major swap participants.
Sec. 732. Conflicts of interest.
Sec. 733. Swap execution facilities.
Sec. 734. Derivatives transaction execution facilities and exempt boards of trade.
Sec. 735. Designated contract markets.
Sec. 736. Margin.
Sec. 737. Position limits.
Sec. 738. Foreign boards of trade.
Sec. 739. Legal certainty for swaps.
Sec. 740. Multilateral clearing organizations.
Sec. 741. Enforcement.
Sec. 742. Retail commodity transactions.
Sec. 743. Other authority.
Sec. 744. Restitution remedies.
Sec. 745. Enhanced compliance by registered entities.
Sec. 746. Insider trading.
Sec. 747. Antidisruptive practices authority.
Sec. 748. Commodity whistleblower incentives and protection.
Sec. 749. Conforming amendments.
Sec. 750. Study on oversight of carbon markets.
Sec. 751. Energy and Environmental Markets Advisory Committee.
Sec. 752. International harmonization.
Sec. 753. Antimarket manipulation authority.
Sec. 754. Effective date.

Subtitle B—Regulation of Security-Based Swap Markets

Sec. 761. Definitions under the Securities Exchange Act of 1934.
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SEC. 2. DEFINITIONS.

As used in this Act, the following definitions shall apply, except as the context otherwise requires or as otherwise specifically provided in this Act:

(1) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(2) APPROPRIATE FEDERAL BANKING AGENCY.—On and after the transfer date, the term ''appropriate Federal banking agency'' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), as amended by title III.

(3) BOARD OF GOVERNORS.—The term ''Board of Governors'' means the Board of Governors of the Federal Reserve System.

(4) BUREAU.—The term ''Bureau'' means the Bureau of Consumer Financial Protection established under title X.

(5) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission, except in the context of the Commodity Futures Trading Commission.

(6) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(7) COUNCIL.—The term ''Council'' means the Financial Stability Oversight Council established under title I.

(8) CREDIT UNION.—The term ''credit union'' means a Federal credit union, State credit union, or State-chartered credit union, as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(9) FEDERAL BANKING AGENCY.—The term—

(A) ''Federal banking agency'' means, individually, the Board of Governors, the Office of the Comptroller of the Currency, and the Corporation; and

(B) ''Federal banking agencies'' means all of the agencies referred to in subparagraph (A), collectively.

(10) FUNCTIONALLY REGULATED SUBSIDIARY.—The term ''functionally regulated subsidiary'' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).

(11) PRIMARY FINANCIAL REGULATORY AGENCY.—The term ''primary financial regulatory agency'' means—

(A) the appropriate Federal banking agency, with respect to institutions described in section 3(q) of the Federal Deposit Insurance Act, except to the extent that an institution is or the activities of an institution are otherwise subject to the jurisdiction of an agency listed in subparagraph (B), (C), (D), or (E);

(B) the Securities and Exchange Commission, with respect to—

(i) any broker or dealer that is registered with the Commission under the Securities Exchange Act of 1934;

(ii) any investment company that is registered with the Commission under the Investment Company Act of 1940;

(iii) any investment adviser that is registered with the Commission under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such company and activities that are incidental to such advisory activities; and

(iv) any clearing agency registered with the Commission under the Securities Exchange Act of 1934;

(C) the Commodity Futures Trading Commission, with respect to any futures commission merchant, any commodity trading adviser, and any commodity pool operator registered with the Commodity Futures Trading Commission under the Commodity Exchange Act, with respect to the commodities activities of such entity and activities that are incidental to such commodities activities;

(D) the State insurance authority of the State in which an insurance company is domiciled, with respect to the insurance activities and activities that are incidental to such insurance activities of an insurance company that is subject to supervision by the State insurance authority under State insurance law; and

(E) the Federal Housing Finance Agency, with respect to Federal Home Loan Banks or the Federal Home Loan Bank System, and with respect to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(12) PRUDENTIAL STANDARDS.—The term ''prudential standards'' means enhanced supervision and regulatory standards developed by the Board of Governors under section 115 or 165.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(14) SECURITIES TERMS.—The—

(A) terms ''broker'', ''dealer'', ''issuer'', ''nationally recognized statistical ratings organization'', ''security'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(B) term ''investment adviser'' has the same meaning as in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2); and

(C) term ''investment company'' has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(15) STATE.—The term ''State'' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

(16) TRANSFER DATE.—The term ''transfer date'' means the date established under section 311.

(17) OTHER INCORPORATED DEFINITIONS.—

(A) FEDERAL DEPOSIT INSURANCE ACT.—The terms ''affiliate'', ''bank'', ''bank holding company'', ''control'' (when used with respect to a depository institution), ''deposit'', ''depository institution'', ''Federal depository institution'', ''Federal savings association'', ''foreign bank'', ''including'', ''insured branch'', ''insured depository institution'', ''national member bank'', ''national nonmember bank'', ''savings association'', ''State bank'', ''State depository institution'', ''State member bank'', ''State nonmember bank'', ''State savings association'', and ''subsidiary'' have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) HOLDING COMPANIES.—The term—

(i) ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841);

(ii) ''financial holding company'' has the same meaning as in section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)); and

(iii) ''savings and loan holding company'' has the same meaning as in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).

SEC. 3. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and such amendments shall take effect 1 day after the date of enactment of this Act.

TITLE I—FINANCIAL STABILITY

SEC. 101. SHORT TITLE.

This title may be cited as the ''Financial Stability Act of 2010''.

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—For purposes of this title, unless the context otherwise requires, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). A foreign bank or company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956, pursuant to section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), shall be treated as a bank holding company for purposes of this title.

(2) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Council.

(3) MEMBER AGENCY.—The term ''member agency'' means an agency represented by a voting member of the Council.

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term ''foreign nonbank financial company'' means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof) that is—

(i) incorporated or organized in a country other than the United States; and

(ii) predominantly engaged in, including through a branch in the United States, financial activities, as defined in paragraph (6).

(B) U.S. NONBANK FINANCIAL COMPANY.—The term ''U.S. nonbank financial company'' means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)) that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) predominantly engaged in financial activities as defined in paragraph (6).

(C) NONBANK FINANCIAL COMPANY.—The term ''nonbank financial company'' means a U.S. nonbank financial company and a foreign nonbank financial company.

(D) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS.—The term ''nonbank financial company supervised by the Board of Governors'' means a nonbank financial company that the Council has determined under section 113 shall be supervised by the Board of Governors.

(5) OFFICE OF FINANCIAL RESEARCH.—The term ''Office of Financial Research'' means the office established under section 152.

(6) PREDOMINANTLY ENGAGED.—A company is ''predominantly engaged in financial activities'' if—

(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or

(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.

(7) SIGNIFICANT INSTITUTIONS.—The terms ''significant nonbank financial company'' and ''significant bank holding company'' have the meanings given those terms by rule of the Board of Governors.

(b) DEFINITIONAL CRITERIA.—The Board of Governors shall establish, by regulation, the requirements for determining if a company is predominantly engaged in financial activities, as defined in subsection (a)(6).

(c) FOREIGN NONBANK FINANCIAL COMPANIES.—For purposes of the authority of the Board of Governors under this title with respect to foreign nonbank financial companies, references in this title to ''company'' or ''subsidiary'' include only the United States activities and subsidiaries of such foreign company.

Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

(a) ESTABLISHMENT.—Effective on the date of enactment of this Act, there is established the Financial Stability Oversight Council.

(b) MEMBERSHIP.—The Council shall consist of the following members:

(1) VOTING MEMBERS.—The voting members, who shall each have 1 vote on the Council shall be—

(A) the Secretary of the Treasury, who shall serve as Chairperson of the Council;

(B) the Chairman of the Board of Governors;

(C) the Comptroller of the Currency;

(D) the Director of the Bureau;

(E) the Chairman of the Commission;

(F) the Chairperson of the Corporation;

(G) the Chairperson of the Commodity Futures Trading Commission;

(H) the Director of the Federal Housing Finance Agency; and

(I) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.

(2) NONVOTING MEMBERS.—The Director of the Office of Financial Research—

(A) shall serve in an advisory capacity as a nonvoting member of the Council; and

(B) may not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council.

(c) TERMS; VACANCY.—

(1) TERMS.—The independent member of the Council shall serve for a term of 6 years.

(2) VACANCY.—Any vacancy on the Council shall be filled in the manner in which the original appointment was made.

(3) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.

(d) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Council may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Council, including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.

(e) MEETINGS.—

(1) TIMING.—The Council shall meet at the call of the Chairperson or a majority of the members then serving, but not less frequently than quarterly.

(2) RULES FOR CONDUCTING BUSINESS.—The Council shall adopt such rules as may be necessary for the conduct of the business of the Council. Such rules shall be rules of agency organization, procedure, or practice for purposes of section 553 of title 5, United States Code.

(f) VOTING.—Unless otherwise specified, the Council shall make all decisions that it is authorized or required to make by a majority vote of the members then serving.

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee.

(h) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable.

(i) COMPENSATION OF MEMBERS.—

(1) FEDERAL EMPLOYEE MEMBERS.—All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) COMPENSATION FOR NON-FEDERAL MEMBER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Independent Member of the Financial Stability Oversight Council (1).''.

(j) DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Federal Government may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. An employee of the Federal Government detailed to the Council shall report to and be subject to oversight by the Council during the assignment to the Council, and shall be compensated by the department or agency from which the employee was detailed.

SEC. 112. COUNCIL AUTHORITY.

(a) PURPOSES AND DUTIES OF THE COUNCIL.—

(1) IN GENERAL.—The purposes of the Council are—

(A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected bank holding companies or nonbank financial companies;

(B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and

(C) to respond to emerging threats to the stability of the United States financial markets.

(2) DUTIES.—The Council shall, in accordance with this title—

(A) collect information from member agencies and other Federal and State financial regulatory agencies and, if necessary to assess risks to the United States financial system, direct the Office of Financial Research to collect information from bank holding companies and nonbank financial companies;

(B) provide direction to, and request data and analyses from, the Office of Financial Research to support the work of the Council;

(C) monitor the financial services marketplace in order to identify potential threats to the financial stability of the United States;

(D) facilitate information sharing and coordination among the member agencies and other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions;

(E) recommend to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies;

(F) identify gaps in regulation that could pose risks to the financial stability of the United States;

(G) require supervision by the Board of Governors for nonbank financial companies that may pose risks to the financial stability of the United States in the event of their material financial distress or failure, pursuant to section 113;

(H) make recommendations to the Board of Governors concerning the establishment of heightened prudential standards for risk-based capital, leverage, liquidity, contingent capital, resolution plans and credit exposure reports, concentration limits, enhanced public disclosures, and overall risk management for nonbank financial companies and large, interconnected bank holding companies supervised by the Board of Governors;

(I) identify systemically important financial market utilities and payment, clearing, and settlement activities (as that term is defined in title VIII), and require such utilities and activities to be subject to standards established by the Board of Governors;

(J) make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other

problems spreading among bank holding companies, nonbank financial companies, and United States financial markets;

(K) make determinations regarding exemptions in title VII, where necessary;

(L) provide a forum for—

(i) discussion and analysis of emerging market developments and financial regulatory issues; and

(ii) resolution of jurisdictional disputes among the members of the Council; and

(M) annually report to and testify before Congress on—

(i) the activities of the Council;

(ii) significant financial market developments and potential emerging threats to the financial stability of the United States;

(iii) all determinations made under section 113 or title VIII, and the basis for such determinations; and

(iv) recommendations—

(I) to enhance the integrity, efficiency, competitiveness, and stability of United States financial markets;

(II) to promote market discipline; and

(III) to maintain investor confidence.

(b) AUTHORITY TO OBTAIN INFORMATION.—

(1) IN GENERAL.—The Council may receive, and may request the submission of, any data or information from the Office of Financial Research and member agencies, as necessary—

(A) to monitor the financial services marketplace to identify potential risks to the financial stability of the United States; or

(B) to otherwise carry out any of the provisions of this title.

(2) SUBMISSIONS BY THE OFFICE AND MEMBER AGENCIES.—Notwithstanding any other provision of law, the Office of Financial Research and any member agency are authorized to submit information to the Council.

(3) FINANCIAL DATA COLLECTION.—

(A) IN GENERAL.—The Council, acting through the Office of Financial Research, may require the submission of periodic and other reports from any nonbank financial company or bank holding company for the purpose of assessing the extent to which a financial activity or financial market in which the nonbank financial company or bank holding company participates, or the nonbank financial company or bank holding company itself, poses a threat to the financial stability of the United States.

(B) MITIGATION OF REPORT BURDEN.—Before requiring the submission of reports from any nonbank financial company or bank holding company that is regulated by a member agency or any primary financial regulatory agency, the Council, acting through the Office of Financial Research, shall coordinate with such agencies and shall, whenever possible, rely on information available from the Office of Financial Research or such agencies.

(4) BACK-UP EXAMINATION BY THE BOARD OF GOVERNORS.—If the Council is unable to determine whether the financial activities of a nonbank financial company pose a threat to the financial stability of the United States, based on information or reports obtained under paragraph (3), discussions with management, and publicly available information, the Council may request the Board of Governors, and the Board of Governors is authorized, to conduct an examination of the nonbank financial company for the sole purpose of determining whether the nonbank financial company should be supervised by the Board of Governors for purposes of this title.

(5) CONFIDENTIALITY.—

(A) IN GENERAL.—The Council, the Office of Financial Research, and the other member agencies shall maintain the confidentiality of any data, information, and reports submitted under this subsection and subtitle B.

(B) RETENTION OF PRIVILEGE.—The submission of any nonpublicly available data or information under this subsection and subtitle B shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

(C) FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, including the exceptions thereunder, shall apply to any data or information submitted under this subsection and subtitle B.

SEC. 113. AUTHORITY TO REQUIRE SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES.

(a) U.S. NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of the members then serving, including an affirmative vote by the Chairperson, may determine that a U.S. nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the U.S. nonbank financial company would pose a threat to the financial stability of the United States.

(2) CONSIDERATIONS.—Each determination under paragraph (1) shall be based on a consideration by the Council of—

(A) the degree of leverage of the company;

(B) the amount and nature of the financial assets of the company;

(C) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding;

(D) the extent and types of the off-balance-sheet exposures of the company;

(E) the extent and types of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;

(F) the importance of the company as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the United States financial system;

(G) the recommendation, if any, of a member of the Council;

(H) the operation of, or ownership interest in, any clearing, settlement, or payment business of the company;

(I) the extent to which—

(i) assets are managed rather than owned by the company; and

(ii) ownership of assets under management is diffuse; and

(J) any other factors that the Council deems appropriate.

(b) FOREIGN NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of the members then serving, including an affirmative vote by the Chairperson, may determine that a foreign nonbank financial company that has substantial assets or operations in the United States shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title, if the Council determines that material financial distress at the foreign nonbank financial company would pose a threat to the financial stability of the United States.

(2) CONSIDERATIONS.—Each determination under paragraph (1) shall be based on a consideration by the Council of—

(A) the degree of leverage of the company;

(B) the amount and nature of the United States financial assets of the company;

(C) the amount and types of the liabilities of the company used to fund activities and operations in the United States, including the degree of reliance on short-term funding;

(D) the extent of the United States-related off-balance-sheet exposure of the company;

(E) the extent and type of the transactions and relationships of the company with other significant nonbank financial companies and bank holding companies;

(F) the importance of the company as a source of credit for United States households, businesses, and State and local governments, and as a source of liquidity for the United States financial system;

(G) the recommendation, if any, of a member of the Council;

(H) the extent to which—

(i) assets are managed rather than owned by the company; and

(ii) ownership of assets under management is diffuse; and

(I) any other factors that the Council deems appropriate.

(c) ANTI-EVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this Act, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than ⅔ of the members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States based on consideration of the factors in subsection (b)(2);

(B) the company is organized or operates in such a manner as to evade the application of this title;

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title consistent with paragraph (2); and

(D) upon making a determination under subsection (c)(1), the Council shall submit a report to the appropriate committees of Congress detailing the reasons for making such determination under this subsection.

(2) Consolidated supervision of only financial activities; Establishment of an intermediate holding company.

(A) ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—Upon a determination under paragraph (1), the company may establish an intermediate holding company in which the financial activities of such company and its subsidiaries will be conducted (other than the activities described in section 167(b)(2) in compliance with any regulations or guidance provided by the Board of Governors). Such intermediate holding company shall be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(B) ACTION OF THE BOARD OF GOVERNORS.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(3) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d), (f), and (g) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(4) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term ''financial activities'' means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and include the ownership or control of one or more insured depository institutions and shall not include internal financial activities conducted for the company or any affiliates thereof including internal treasury, investment, and employee benefit functions.

(5) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).

(d) REEVALUATION AND RESCISSION.—The Council shall—

(1) not less frequently than annually, reevaluate each determination made under subsections (a) and (b) with respect to each nonbank financial company supervised by the Board of Governors; and

(2) rescind any such determination, if the Council, by a vote of not fewer than ⅔ of the members then serving, including an affirmative vote by the Chairperson, determines that the nonbank financial company no longer meets the standards under subsection (a) or (b), as applicable.

(e) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION.—

(1) IN GENERAL.—The Council shall provide to a nonbank financial company written notice of a proposed determination of the Council, including an explanation of the basis of the proposed determination of the Council, that such nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title.

(2) HEARING.—Not later than 30 days after the date of receipt of any notice of a proposed determination under paragraph (1), the nonbank financial company may request, in writing, an opportunity for a written or oral hearing before the Council to contest the proposed determination. Upon receipt of a timely request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(3) FINAL DETERMINATION.—Not later than 60 days after the date of a hearing under paragraph (2), the Council shall notify the nonbank financial company of the final determination of the Council, which shall contain a statement of the basis for the decision of the Council.

(4) NO HEARING REQUESTED.—If a nonbank financial company does not make a timely request for a hearing, the Council shall notify the nonbank financial company, in writing, of the final determination of the Council under subsection (a) or (b), as applicable, not later than 10 days after the date by which the company may request a hearing under paragraph (2).

(f) EMERGENCY EXCEPTION.—

(1) IN GENERAL.—The Council may waive or modify the requirements of subsection (d) with respect to a nonbank financial company, if the Council determines, by a vote of not fewer than ⅔ of the members then serving, including an affirmative vote by the Chairperson, that such waiver or modification is necessary or appropriate to prevent or mitigate threats posed by the nonbank financial company to the financial stability of the United States.

(2) NOTICE.—The Council shall provide notice of a waiver or modification under this paragraph to the nonbank financial company concerned as soon as practicable, but not later than 24 hours after the waiver or modification is granted.

(3) OPPORTUNITY FOR HEARING.—The Council shall allow a nonbank financial company to request, in writing, an opportunity for a written or oral hearing before the Council to contest a waiver or modification under this paragraph, not later than 10 days after the date of receipt of notice of the waiver or modification by the company. Upon receipt of a timely request, the Council shall fix a time (not later than 15 days after the date of receipt of the request) and place at which the nonbank financial company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(4) NOTICE OF FINAL DETERMINATION.—Not later than 30 days after the date of any hearing under paragraph (3), the Council shall notify the subject nonbank financial company of the final determination of the Council under this paragraph, which shall contain a statement of the basis for the decision of the Council.

(g) CONSULTATION.—The Council shall consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company that is being considered for supervision by the Board of Governors under this section before the Council makes any final determination with respect to such nonbank financial company under subsection (a), (b), or (c).

(h) JUDICIAL REVIEW.—If the Council makes a final determination under this section with respect to a nonbank financial company, such nonbank financial company may, not later than 30 days after the date of receipt of the notice of final determination under subsection (d)(3) or (e)(4), bring an action in the United States district court for the judicial district in which the home office of such nonbank financial company is located, or in the United States District Court for the District of Columbia, for an order requiring that the final determination be rescinded, and the court shall, upon review, dismiss such action or direct the final determination to be rescinded. Review of such an action shall be limited to whether the final determination made under this section was arbitrary and capricious.

SEC. 114. REGISTRATION OF NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.

Not later than 180 days after the date of a final Council determination under section 113 that a nonbank financial company is to be supervised by the Board of Governors, such company shall register with the Board of Governors, on forms prescribed by the Board of Governors, which shall include such information as the Board of Governors, in consultation with the Council, may deem necessary or appropriate to carry out this title.

SEC. 115. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Council may make recommendations to the Board of Governors concerning the establishment and refinement of prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies, that—

(A) are more stringent than those applicable to other nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and

(B) increase in stringency, based on the considerations identified in subsection (b)(3).

(2) LIMITATION ON BANK HOLDING COMPANIES.—Any standards recommended under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than $50,000,000,000. The Council may recommend an asset threshold greater than $50,000,000,000 for the applicability of any particular standard under those subsections.

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

(1) IN GENERAL.—The recommendations of the Council under subsection (a) may include—

(A) risk-based capital requirements;

(B) leverage limits;

(C) liquidity requirements;

(D) resolution plan and credit exposure report requirements;

(E) concentration limits;

(F) a contingent capital requirement;

(G) enhanced public disclosures; and

(H) overall risk management requirements.

(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES.—In making recommendations concerning the standards set forth in paragraph (1) that would apply to foreign nonbank financial companies supervised by the Board of Governors or foreign-based bank holding companies, the Council shall give due regard to the principle of national treatment and competitive equity.

(3) CONSIDERATIONS.—In making recommendations concerning prudential standards under paragraph (1), the Council shall—

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on—

(i) the factors described in subsections (a) and (b) of section 113;

(ii) whether the company owns an insured depository institution;

(iii) nonfinancial activities and affiliations of the company; and

(iv) any other factors that the Council determines appropriate; and

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1).

(c) CONTINGENT CAPITAL.—

(1) STUDY REQUIRED.—The Council shall conduct a study of the feasibility, benefits, costs, and structure of a contingent capital requirement for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), which study shall include—

(A) an evaluation of the degree to which such requirement would enhance the safety and soundness of companies subject to the requirement, promote the financial stability of the United States, and reduce risks to United States taxpayers;

(B) an evaluation of the characteristics and amounts of convertible debt that should be required;

(C) an analysis of potential prudential standards that should be used to determine whether the contingent capital of a company would be converted to equity in times of financial stress;

(D) an evaluation of the costs to companies, the effects on the structure and operation of credit and other financial markets, and other economic effects of requiring contingent capital;

(E) an evaluation of the effects of such requirement on the international competitiveness of companies subject to the requirement and the prospects for international coordination in establishing such requirement; and

(F) recommendations for implementing regulations.

(2) REPORT.—The Council shall submit a report to Congress regarding the study required by paragraph (1) not later than 2 years after the date of enactment of this Act.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—Subsequent to submitting a report to Congress under paragraph (2), the Council may make recommendations to the Board of Governors to require any nonbank financial company supervised by the Board of Governors and any bank holding company described in subsection (a) to maintain a minimum

amount of long-term hybrid debt that is convertible to equity in times of financial stress.

(B) FACTORS TO CONSIDER.—In making recommendations under this subsection, the Council shall consider—

(i) an appropriate transition period for implementation of a conversion under this subsection;

(ii) the factors described in subsection (b)(3);

(iii) capital requirements applicable to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof;

(iv) results of the study required by paragraph (1); and

(v) any other factor that the Council deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Council may make recommendations to the Board of Governors concerning the requirement that each nonbank financial company supervised by the Board of Governors and each bank holding company described in subsection (a) report periodically to the Council, the Board of Governors, and the Corporation, the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(2) CREDIT EXPOSURE REPORT.—The Council may make recommendations to the Board of Governors concerning the advisability of requiring each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) to report periodically to the Council, the Board of Governors, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other such significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(e) CONCENTRATION LIMITS.—In order to limit the risks that the failure of any individual company could pose to nonbank financial companies supervised by the Board of Governors or bank holding companies described in subsection (a), the Council may make recommendations to the Board of Governors to prescribe standards to limit such risks, as set forth in section 165.

(f) ENHANCED PUBLIC DISCLOSURES.—The Council may make recommendations to the Board of Governors to require periodic public disclosures by bank holding companies described in subsection (a) and by nonbank financial companies supervised by the Board of Governors, in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

SEC. 116. REPORTS.

(a) IN GENERAL.—Subject to subsection (b), the Council, acting through the Office of Financial Research, may require a bank holding company with total consolidated assets of $50,000,000,000 or greater or a nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit certified reports to keep the Council informed as to—

(1) the financial condition of the company;

(2) systems for monitoring and controlling financial, operating, and other risks;

(3) transactions with any subsidiary that is a depository institution; and

(4) the extent to which the activities and operations of the company and any subsidiary thereof, could, under adverse circumstances, have the potential to disrupt financial markets or affect the overall financial stability of the United States.

(b) USE OF EXISTING REPORTS.—

(1) IN GENERAL.—For purposes of compliance with subsection (a), the Council, acting through the Office of Financial Research, shall, to the fullest extent possible, use—

(A) reports that a bank holding company, nonbank financial company supervised by the Board of Governors, or any functionally regulated subsidiary of such company has been required to provide to other Federal or State regulatory agencies;

(B) information that is otherwise required to be reported publicly; and

(C) externally audited financial statements.

(2) AVAILABILITY.—Each bank holding company described in subsection (a) and nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, shall provide to the Council, at the request of the Council, copies of all reports referred to in paragraph (1).

(3) CONFIDENTIALITY.—The Council shall maintain the confidentiality of the reports obtained under subsection (a) and paragraph (1)(A) of this subsection.

SEC. 117. TREATMENT OF CERTAIN COMPANIES THAT CEASE TO BE BANK HOLDING COMPANIES.

(a) APPLICABILITY.—This section shall apply to any entity or a successor entity that—

(1) was a bank holding company having total consolidated assets equal to or greater than $50,000,000,000 as of January 1, 2010; and

(2) received financial assistance under or participated in the Capital Purchase Program established under the Troubled Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008.

(b) TREATMENT.—If an entity described in subsection (a) ceases to be a bank holding company at any time after January 1, 2010, then such entity shall be treated as a nonbank financial company supervised by the Board of Governors, as if the Council had made a determination under section 113 with respect to that entity.

(c) APPEAL.—

(1) REQUEST FOR HEARING.—An entity may request, in writing, an opportunity for a written or oral hearing before the Council to appeal its treatment as a nonbank financial company supervised by the Board of Governors in accordance with this section. Upon receipt of the request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such entity may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(2) DECISION.—

(A) PROPOSED DECISION.—Not later than 60 days after the date of a hearing under paragraph (1), the Council shall submit a report to, and may testify before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the proposed decision of the Council regarding an appeal under paragraph (1), which report shall include a statement of the basis for the proposed decision of the Council.

(B) NOTICE OF FINAL DECISION.—The Council shall notify the subject entity of the final decision of the Council regarding an appeal under paragraph (1), which notice shall contain a statement of the basis for the final decision of the Council, not later than 60 days after the later of—

(i) the date of the submission of the report under subparagraph (A); or

(ii) if the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives holds one or more hearings regarding such report, the date of the last such hearing.

(C) CONSIDERATIONS.—In making a decision regarding an appeal under paragraph (1), the Council shall consider whether the company meets the standards under section 113(a) or 113(b), as applicable, and the definition of the term ''nonbank financial company'' under section 102. The decision of the Council shall be final, subject to the review under paragraph (3).

(3) REVIEW.—If the Council denies an appeal under this subsection, the Council shall, not less frequently than annually, review and reevaluate the decision.

SEC. 118. COUNCIL FUNDING.

Any expenses of the Council shall be treated as expenses of, and paid by, the Office of Financial Research.

SEC. 119. RESOLUTION OF SUPERVISORY JURISDICTIONAL DISPUTES AMONG MEMBER AGENCIES.

(a) REQUEST FOR DISPUTE RESOLUTION.—The Council shall resolve a dispute among 2 or more member agencies, if—

(1) a member agency has a dispute with another member agency about the respective jurisdiction over a particular bank holding company, nonbank financial company, or financial activity or product (excluding matters for which another dispute mechanism specifically has been provided under Federal law);

(2) the Council determines that the disputing agencies cannot, after a demonstrated good faith effort, resolve the dispute without the intervention of the Council; and

(3) any of the member agencies involved in the dispute—

(A) provides all other disputants prior notice of the intent to request dispute resolution by the Council; and

(B) requests in writing, not earlier than 14 days after providing the notice described in subparagraph (A), that the Council resolve the dispute.

(b) COUNCIL DECISION.—The Council shall resolve each dispute described in subsection (a)—

(1) within a reasonable time after receiving the dispute resolution request;

(2) after consideration of relevant information provided by each agency party to the dispute; and

(3) by agreeing with 1 of the disputants regarding the entirety of the matter, or by determining a compromise position.

(c) FORM AND BINDING EFFECT.—A Council decision under this section shall—

(1) be in writing;

(2) include an explanation of the reasons therefor; and

(3) be binding on all Federal agencies that are parties to the dispute.

SEC. 120. ADDITIONAL STANDARDS APPLICABLE TO ACTIVITIES OR PRACTICES FOR FINANCIAL STABILITY PURPOSES.

(a) IN GENERAL.—The Council may issue recommendations to the primary financial regulatory agencies to apply new or heightened standards and safeguards, including standards enumerated in section 115, for a financial activity or practice conducted by bank holding companies or nonbank financial companies under their respective jurisdictions, if the Council determines that the conduct of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies or the financial markets of the United States.

(b) PROCEDURE FOR RECOMMENDATIONS TO REGULATORS.—

(1) NOTICE AND OPPORTUNITY FOR COMMENT.—The Council shall consult with the primary financial regulatory agencies and provide notice to the public and opportunity for comment for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice.

(2) CRITERIA.—The new or heightened standards and safeguards for a financial activity or practice recommended under paragraph (1)—

(A) shall take costs to long-term economic growth into account; and

(B) may include prescribing the conduct of the activity or practice in specific ways (such as by limiting its scope, or applying particular capital or risk management requirements to the conduct

of the activity) or prohibiting the activity or practice.

(c) IMPLEMENTATION OF RECOMMENDED STANDARDS.—

(1) ROLE OF PRIMARY FINANCIAL REGULATORY AGENCY.—

(A) IN GENERAL.—Each primary financial regulatory agency may impose, require reports regarding, examine for compliance with, and enforce standards in accordance with this section with respect to those entities for which it is the primary financial regulatory agency.

(B) RULE OF CONSTRUCTION.—The authority under this paragraph is in addition to, and does not limit, any other authority of a primary financial regulatory agency. Compliance by an entity with actions taken by a primary financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective jurisdiction of the primary financial regulatory agency over the entity, as if the agency action were taken under those statutes.

(2) IMPOSITION OF STANDARDS.—The primary financial regulatory agency shall impose the standards recommended by the Council in accordance with subsection (a), or similar standards that the Council deems acceptable, or shall explain in writing to the Council, not later than 90 days after the date on which the Council issues the recommendation, why the agency has determined not to follow the recommendation of the Council.

(d) REPORT TO CONGRESS.—The Council shall report to Congress on—

(1) any recommendations issued by the Council under this section;

(2) the implementation of, or failure to implement such recommendation on the part of a primary financial regulatory agency; and

(3) in any case in which no primary financial regulatory agency exists for the nonbank financial company conducting financial activities or practices referred to in subsection (a), recommendations for legislation that would prevent such activities or practices from threatening the stability of the financial system of the United States.

(e) EFFECT OF RESCISSION OF IDENTIFICATION.—

(1) NOTICE.—The Council may recommend to the relevant primary financial regulatory agency that a financial activity or practice no longer requires any standards or safeguards implemented under this section.

(2) DETERMINATION OF PRIMARY FINANCIAL REGULATORY AGENCY TO CONTINUE.—

(A) IN GENERAL.—Upon receipt of a recommendation under paragraph (1), a primary financial regulatory agency that has imposed standards under this section shall determine whether standards that it has imposed under this section should remain in effect.

(B) APPEAL PROCESS.—Each primary financial regulatory agency that has imposed standards under this section shall promulgate regulations to establish a procedure under which entities under its jurisdiction may appeal a determination by such agency under this paragraph that standards imposed under this section should remain in effect.

SEC. 121. MITIGATION OF RISKS TO FINANCIAL STABILITY.

(a) MITIGATORY ACTIONS.—If the Board of Governors determines that a bank holding company with total consolidated assets of $50,000,000,000 or more, or a nonbank financial company supervised by the Board of Governors, poses a grave threat to the financial stability of the United States, the Board of Governors, upon an affirmative vote of not fewer than ⅔ of the Council members then serving, shall require the subject company—

(1) to terminate one or more activities;

(2) to impose conditions on the manner in which the company conducts one or more activities; or

(3) if the Board of Governors determines that such action is inadequate to mitigate a threat to the financial stability of the United States in its recommendation, to sell or otherwise transfer assets or off-balance-sheet items to unaffiliated entities.

(b) NOTICE AND HEARING.—

(1) IN GENERAL.—The Board of Governors, in consultation with the Council, shall provide to a company described in subsection (a) written notice that such company is being considered for mitigatory action pursuant to this section, including an explanation of the basis for, and description of, the proposed mitigatory action.

(2) HEARING.—Not later than 30 days after the date of receipt of notice under paragraph (1), the company may request, in writing, an opportunity for a written or oral hearing before the Board of Governors to contest the proposed mitigatory action. Upon receipt of a timely request, the Board of Governors shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the discretion of the Board of Governors, in consultation with the Council, oral testimony and oral argument).

(3) DECISION.—Not later than 60 days after the date of a hearing under paragraph (2), or not later than 60 days after the provision of a notice under paragraph (1) if no hearing was held, the Board of Governors shall notify the company of the final decision of the Board of Governors, including the results of the vote of the Council, as described in subsection (a).

(c) FACTORS FOR CONSIDERATION.—The Board of Governors and the Council shall take into consideration the factors set forth in subsection (a) or (b) of section 113, as applicable, in a determination described in subsection (a) and in a decision described in subsection (b).

(d) APPLICATION TO FOREIGN FINANCIAL COMPANIES.—The Board of Governors may prescribe regulations regarding the application of this section to foreign nonbank financial companies supervised by the Board of Governors and foreign-based bank holding companies, giving due regard to the principle of national treatment and competitive equity.

Subtitle B—Office of Financial Research

SEC. 151. DEFINITIONS.

For purposes of this subtitle—

(1) the terms ''Office'' and ''Director'' mean the Office of Financial Research established under this subtitle and the Director thereof, respectively;

(2) the term ''financial company'' has the same meaning as in title II, and includes an insured depository institution and an insurance company;

(3) the term ''Data Center'' means the data center established under section 154;

(4) the term ''Research and Analysis Center'' means the research and analysis center established under section 154;

(5) the term ''financial transaction data'' means the structure and legal description of a financial contract, with sufficient detail to describe the rights and obligations between counterparties and make possible an independent valuation;

(6) the term ''position data''—

(A) means data on financial assets or liabilities held on the balance sheet of a financial company, where positions are created or changed by the execution of a financial transaction; and

(B) includes information that identifies counterparties, the valuation by the financial company of the position, and information that makes possible an independent valuation of the position;

(7) the term ''financial contract'' means a legally binding agreement between 2 or more counterparties, describing rights and obligations relating to the future delivery of items of intrinsic or extrinsic value among the counterparties; and

(8) the term ''financial instrument'' means a financial contract in which the terms and conditions are publicly available, and the roles of one or more of the counterparties are assignable without the consent of any of the other counterparties (including common stock of a publicly traded company, government bonds, or exchange traded futures and options contracts).

SEC. 152. OFFICE OF FINANCIAL RESEARCH ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Financial Research.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) TERM OF SERVICE.—The Director shall serve for a term of 6 years, except that, in the event that a successor is not nominated and confirmed by the end of the term of service of a Director, the Director may continue to serve until such time as the next Director is appointed and confirmed.

(3) EXECUTIVE LEVEL.—The Director shall be compensated at level III of the Executive Schedule.

(4) PROHIBITION ON DUAL SERVICE.—The individual serving in the position of Director may not, during such service, also serve as the head of any financial regulatory agency.

(5) RESPONSIBILITIES, DUTIES, AND AUTHORITY.—The Director shall have sole discretion in the manner in which the Director fulfills the responsibilities and duties and exercises the authorities described in this subtitle.

(c) BUDGET.—The Director, in consultation with the Chairperson, shall establish the annual budget of the Office.

(d) OFFICE PERSONNEL.—

(1) IN GENERAL.—The Director, in consultation with the Chairperson, may fix the number of, and appoint and direct, all employees of the Office.

(2) COMPENSATION.—The Director, in consultation with the Chairperson, shall fix, adjust, and administer the pay for all employees of the Office, without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(3) COMPARABILITY.—Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended—

(A) by striking ''Finance Board,'' and inserting ''Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection''; and

(B) by striking ''and the Office of Thrift Supervision,''.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Office and any special advisory, technical, or professional committees appointed by the Office, such services, funds, facilities, staff, and other support services as the Office may determine advisable. Any Federal Government employee may be detailed to the Office without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) CONTRACTING AND LEASING AUTHORITY.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Director may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest), as the Director

deems necessary to carry out the duties and responsibilities of the Office; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

(h) NON-COMPETE.—The Director and any staff of the Office who has had access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to the Office, may not, for a period of 1 year after last having access to such transaction or position data or business confidential information, be employed by or provide advice or consulting services to a financial company, regardless of whether that entity is required to report to the Office. For staff whose access to business confidential information was limited, the Director may provide, on a case-by-case basis, for a shorter period of post-employment prohibition, provided that the shorter period does not compromise business confidential information.

(i) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Office, in consultation with the Chairperson, may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Office, and the members of such committees may be staff of the Office, or other persons, or both.

(j) FELLOWSHIP PROGRAM.—The Office, in consultation with the Chairperson, may establish and maintain an academic and professional fellowship program, under which qualified academics and professionals shall be invited to spend not longer than 2 years at the Office, to perform research and to provide advanced training for Office personnel.

(k) EXECUTIVE SCHEDULE COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

''Director of the Office of Financial Research.''.

SEC. 153. PURPOSE AND DUTIES OF THE OFFICE.

(a) PURPOSE AND DUTIES.—The purpose of the Office is to support the Council in fulfilling the purposes and duties of the Council, as set forth in subtitle A, and to support member agencies, by—

(1) collecting data on behalf of the Council, and providing such data to the Council and member agencies;

(2) standardizing the types and formats of data reported and collected;

(3) performing applied research and essential long-term research;

(4) developing tools for risk measurement and monitoring;

(5) performing other related services;

(6) making the results of the activities of the Office available to financial regulatory agencies; and

(7) assisting such member agencies in determining the types and formats of data authorized by this Act to be collected by such member agencies.

(b) ADMINISTRATIVE AUTHORITY.—The Office may—

(1) share data and information, including software developed by the Office, with the Council and member agencies, which shared data, information, and software—

(A) shall be maintained with at least the same level of security as is used by the Office; and

(B) may not be shared with any individual or entity without the permission of the Council;

(2) sponsor and conduct research projects; and

(3) assist, on a reimbursable basis, with financial analyses undertaken at the request of other Federal agencies that are not member agencies.

(c) RULEMAKING AUTHORITY.—

(1) SCOPE.—The Office, in consultation with the Chairperson, shall issue rules, regulations, and orders only to the extent necessary to carry out the purposes and duties described in paragraphs (1), (2), and (7) of subsection (a).

(2) STANDARDIZATION.—Member agencies, in consultation with the Office, shall implement regulations promulgated by the Office under paragraph (1) to standardize the types and formats of data reported and collected on behalf of the Council, as described in subsection (a)(2). If a member agency fails to implement such regulations prior to the expiration of the 3-year period following the date of publication of final regulations, the Office, in consultation with the Chairperson, may implement such regulations with respect to the financial entities under the jurisdiction of the member agency.

(d) TESTIMONY.—

(1) IN GENERAL.—The Director of the Office shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives annually on the activities of the Office, including the work of the Data Center and the Research and Analysis Center, and the assessment of the Office of significant financial market developments and potential emerging threats to the financial stability of the United States.

(2) NO PRIOR REVIEW.—No officer or agency of the United States shall have any authority to require the Director to submit the testimony required under paragraph (1) or other Congressional testimony to any officer or agency of the United States for approval, comment, or review prior to the submission of such testimony. Any such testimony to Congress shall include a statement that the views expressed therein are those of the Director and do not necessarily represent the views of the President.

(e) ADDITIONAL REPORTS.—The Director may provide additional reports to Congress concerning the financial stability of the United States. The Director shall notify the Council of any such additional reports provided to Congress.

(f) SUBPOENA.—

(1) IN GENERAL.—The Director may require, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), but only upon a written finding by the Director that—

(A) such data is required to carry out the functions described under this subtitle; and

(B) the Office has coordinated with such agency, as required under section 154(b)(1)(B)(ii).

(2) FORMAT.—Subpoenas under paragraph (1) shall bear the signature of the Director, and shall be served by any person or class of persons designated by the Director for that purpose.

(3) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

SEC. 154. ORGANIZATIONAL STRUCTURE; RESPONSIBILITIES OF PRIMARY PROGRAMMATIC UNITS.

(a) IN GENERAL.—There are established within the Office, to carry out the programmatic responsibilities of the Office—

(1) the Data Center; and

(2) the Research and Analysis Center.

(b) DATA CENTER.—

(1) GENERAL DUTIES.—

(A) DATA COLLECTION.—The Data Center, on behalf of the Council, shall collect, validate, and maintain all data necessary to carry out the duties of the Data Center, as described in this subtitle. The data assembled shall be obtained from member agencies, commercial data providers, publicly available data sources, and financial entities under subparagraph (B).

(B) AUTHORITY.—

(i) IN GENERAL.—The Office may, as determined by the Council or by the Director in consultation with the Council, require the submission of periodic and other reports from any financial company for the purpose of assessing the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself, poses a threat to the financial stability of the United States.

(ii) MITIGATION OF REPORT BURDEN.—Before requiring the submission of a report from any financial company that is regulated by a member agency or any primary financial regulatory agency, the Office shall coordinate with such agencies and shall, whenever possible, rely on information available from such agencies.

(C) RULEMAKING.—The Office shall promulgate regulations pursuant to subsections (a)(1), (a)(2), (a)(7), and (c)(1) of section 153 regarding the type and scope of the data to be collected by the Data Center under this paragraph.

(2) RESPONSIBILITIES.—

(A) PUBLICATION.—The Data Center shall prepare and publish, in a manner that is easily accessible to the public—

(i) a financial company reference database;

(ii) a financial instrument reference database; and

(iii) formats and standards for Office data, including standards for reporting financial transaction and position data to the Office.

(B) CONFIDENTIALITY.—The Data Center shall not publish any confidential data under subparagraph (A).

(3) INFORMATION SECURITY.—The Director shall ensure that data collected and maintained by the Data Center are kept secure and protected against unauthorized disclosure.

(4) CATALOG OF FINANCIAL ENTITIES AND INSTRUMENTS.—The Data Center shall maintain a catalog of the financial entities and instruments reported to the Office.

(5) AVAILABILITY TO THE COUNCIL AND MEMBER AGENCIES.—The Data Center shall make data collected and maintained by the Data Center available to the Council and member agencies, as necessary to support their regulatory responsibilities.

(6) OTHER AUTHORITY.—The Office shall, after consultation with the member agencies, provide certain data to financial industry participants and to the general public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the financial system of the United States.

(c) RESEARCH AND ANALYSIS CENTER.—

(1) GENERAL DUTIES.—The Research and Analysis Center, on behalf of the Council, shall develop and maintain independent analytical capabilities and computing resources—

(A) to develop and maintain metrics and reporting systems for risks to the financial stability of the United States;

(B) to monitor, investigate, and report on changes in system-wide risk levels and patterns to the Council and Congress;

(C) to conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets;

(D) to evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by the member agencies;

(E) to maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators;

(F) to investigate disruptions and failures in the financial markets, report findings, and make recommendations to the Council based on those findings;

(G) to conduct studies and provide advice on the impact of policies related to systemic risk; and

(H) to promote best practices for financial risk management.

(d) REPORTING RESPONSIBILITIES.—

(1) REQUIRED REPORTS.—Not later than 2 years after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the Office shall prepare and submit a report to Congress.

(2) CONTENT.—Each report required by this subsection shall assess the state of the United States financial system, including—

(A) an analysis of any threats to the financial stability of the United States;

(B) the status of the efforts of the Office in meeting the mission of the Office; and

(C) key findings from the research and analysis of the financial system by the Office.

SEC. 155. FUNDING.

(a) FINANCIAL RESEARCH FUND.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a separate fund to be known as the ''Financial Research Fund''.

(2) FUND RECEIPTS.—All amounts provided to the Office under subsection (c), and all assessments that the Office receives under subsection (d) shall be deposited into the Financial Research Fund.

(3) INVESTMENTS AUTHORIZED.—

(A) AMOUNTS IN FUND MAY BE INVESTED.—The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.

(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.

(4) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Financial Research Fund shall be credited to and form a part of the Financial Research Fund.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall be immediately available to the Office, and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.

(2) FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.

(c) INTERIM FUNDING.—During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.

(d) PERMANENT SELF-FUNDING.—

(1) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of $50,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the estimated total expenses of the Office.

(2) SHORTFALL.—To the extent that the assessments under paragraph (1) do not fully cover the total expenses of the Office, the Board of Governors shall provide to the Office an amount sufficient to cover the difference.

SEC. 156. TRANSITION OVERSIGHT.

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

(1) has an orderly and organized startup;

(2) attracts and retains a qualified workforce; and

(3) establishes comprehensive employee training and benefits programs.

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Office shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).

(2) PLANS.—The plans described in this paragraph are as follows:

(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN.—The Office shall submit a training and workforce development plan that includes, to the extent practicable—

(i) identification of skill and technical expertise needs and actions taken to meet those requirements;

(ii) steps taken to foster innovation and creativity;

(iii) leadership development and succession planning; and

(iv) effective use of technology by employees.

(B) WORKPLACE FLEXIBILITY PLAN.—The Office shall submit a workforce flexibility plan that includes, to the extent practicable—

(i) telework;

(ii) flexible work schedules;

(iii) phased retirement;

(iv) reemployed annuitants;

(v) part-time work;

(vi) job sharing;

(vii) parental leave benefits and childcare assistance;

(viii) domestic partner benefits;

(ix) other workplace flexibilities; or

(x) any combination of the items described in clauses (i) through (ix).

(C) RECRUITMENT AND RETENTION PLAN.—The Office shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—

(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;

(ii) streamlined employment application processes;

(iii) the provision of timely notification of the status of employment applications to applicants; and

(iv) the collection of information to measure indicators of hiring effectiveness.

(c) EXPIRATION.—The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or

(2) the rights of employees under chapter 71 of title 5, United States Code.

Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

SEC. 161. REPORTS BY AND EXAMINATIONS OF NONBANK FINANCIAL COMPANIES BY THE BOARD OF GOVERNORS.

(a) REPORTS.—

(1) IN GENERAL.—The Board of Governors may require each nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit reports under oath, to keep the Board of Governors informed as to—

(A) the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States; and

(B) compliance by the company or subsidiary with the requirements of this subtitle.

(2) USE OF EXISTING REPORTS AND INFORMATION.—In carrying out subsection (a), the Board of Governors shall, to the fullest extent possible, use—

(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

(B) information otherwise obtainable from Federal or State regulatory agencies;

(C) information that is otherwise required to be reported publicly; and

(D) externally audited financial statements of such company or subsidiary.

(3) AVAILABILITY.—Upon the request of the Board of Governors, a nonbank financial company supervised by the Board of Governors, or a subsidiary thereof, shall promptly provide to the Board of Governors any information described in paragraph (2).

(b) EXAMINATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the Board of Governors may examine any nonbank financial company supervised by the Board of Governors and any subsidiary of such company, to determine—

(A) the nature of the operations and financial condition of the company and such subsidiary;

(B) the financial, operational, and other risks within the company that may pose a threat to the safety and soundness of such company or to the financial stability of the United States;

(C) the systems for monitoring and controlling such risks; and

(D) compliance by the company with the requirements of this subtitle.

(2) USE OF EXAMINATION REPORTS AND INFORMATION.—For purposes of this subsection, the Board of Governors shall, to the fullest extent possible, rely on reports of examination of any depository institution subsidiary or functionally regulated subsidiary made by the primary financial regulatory agency for that subsidiary, and on information described in subsection (a)(2).

(c) COORDINATION WITH PRIMARY FINANCIAL REGULATORY AGENCY.—The Board of Governors shall—

(1) provide to the primary financial regulatory agency for any company or subsidiary, reasonable notice before requiring a report, requesting information, or commencing an examination of such subsidiary under this section; and

(2) avoid duplication of examination activities, reporting requirements, and requests for information, to the extent possible.

SEC. 162. ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), a nonbank financial company supervised by the Board of Governors and any subsidiaries of such company (other than any depository institution subsidiary) shall be subject to the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the same manner and to the same extent as if the company were a bank holding company, as provided in section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)).

(b) ENFORCEMENT AUTHORITY FOR FUNCTIONALLY REGULATED SUBSIDIARIES.—

(1) REFERRAL.—If the Board of Governors determines that a condition, practice, or activity of a depository institution subsidiary or functionally regulated subsidiary of a nonbank financial company supervised by the Board of Governors does not comply with the regulations or orders prescribed by the Board of Governors under this Act, or otherwise poses a threat to the financial stability of the United States, the Board of Governors may recommend, in writing, to the primary financial regulatory agency for the subsidiary that such agency initiate a supervisory action or enforcement proceeding. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(2) BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS.—If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation

under paragraph (1), the primary financial regulatory agency does not take supervisory or enforcement action against a subsidiary that is acceptable to the Board of Governors, the Board of Governors (upon a vote of its members) may take the recommended supervisory or enforcement action, as if the subsidiary were a bank holding company subject to supervision by the Board of Governors.

SEC. 163. ACQUISITIONS.

(a) ACQUISITIONS OF BANKS; TREATMENT AS A BANK HOLDING COMPANY.—For purposes of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), a nonbank financial company supervised by the Board of Governors shall be deemed to be, and shall be treated as, a bank holding company.

(b) ACQUISITION OF NONBANK COMPANIES.—

(1) PRIOR NOTICE FOR LARGE ACQUISITIONS.—Notwithstanding section 4(k)(6)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)), a bank holding company with total consolidated assets equal to or greater than $50,000,000,000 or a nonbank financial company supervised by the Board of Governors shall not acquire direct or indirect ownership or control of any voting shares of any company (other than an insured depository institution) that is engaged in activities described in section 4(k) of the Bank Holding Company Act of 1956 having total consolidated assets of $10,000,000,000 or more, without providing written notice to the Board of Governors in advance of the transaction.

(2) EXEMPTIONS.—The prior notice requirement in paragraph (1) shall not apply with regard to the acquisition of shares that would qualify for the exemptions in section 4(c) or section 4(k)(4)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c) and (k)(4)(E)).

(3) NOTICE PROCEDURES.—The notice procedures set forth in section 4(j)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(1)), without regard to section 4(j)(3) of that Act, shall apply to an acquisition of any company (other than an insured depository institution) by a bank holding company with total consolidated assets equal to or greater than $50,000,000,000 or a nonbank financial company supervised by the Board of Governors, as described in paragraph (1), including any such company engaged in activities described in section 4(k) of that Act.

(4) STANDARDS FOR REVIEW.—In addition to the standards provided in section 4(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)), the Board of Governors shall consider the extent to which the proposed acquisition would result in greater or more concentrated risks to global or United States financial stability or the United States economy.

SEC. 164. PROHIBITION AGAINST MANAGEMENT INTERLOCKS BETWEEN CERTAIN FINANCIAL COMPANIES.

A nonbank financial company supervised by the Board of Governors shall be treated as a bank holding company for purposes of the Depository Institutions Management Interlocks Act (12 U.S.C. 3201 et seq.), except that the Board of Governors shall not exercise the authority provided in section 7 of that Act (12 U.S.C. 3207) to permit service by a management official of a nonbank financial company supervised by the Board of Governors as a management official of any bank holding company with total consolidated assets equal to or greater than $50,000,000,000, or other nonaffiliated nonbank financial company supervised by the Board of Governors (other than to provide a temporary exemption for interlocks resulting from a merger, acquisition, or consolidation).

SEC. 165. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section 115, establish prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies that—

(A) are more stringent than the standards and requirements applicable to nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and

(B) increase in stringency, based on the considerations identified in subsection (b)(3).

(2) LIMITATION ON BANK HOLDING COMPANIES.—Any standards established under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than $50,000,000,000, but the Board of Governors may establish an asset threshold greater than $50,000,000,000 for the applicability of any particular standard under subsections (b) through (f).

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

(1) IN GENERAL.—

(A) REQUIRED STANDARDS.—The Board of Governors shall, by regulation or order, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that shall include—

(i) risk-based capital requirements;

(ii) leverage limits;

(iii) liquidity requirements;

(iv) resolution plan and credit exposure report requirements; and

(v) concentration limits.

(B) ADDITIONAL STANDARDS AUTHORIZED.—The Board of Governors may, by regulation or order, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that include—

(i) a contingent capital requirement;

(ii) enhanced public disclosures; and

(iii) overall risk management requirements.

(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES.—In applying the standards set forth in paragraph (1) to foreign nonbank financial companies supervised by the Board of Governors and to foreign-based bank holding companies, the Board of Governors shall give due regard to the principle of national treatment and competitive equity.

(3) CONSIDERATIONS.—In prescribing prudential standards under paragraph (1), the Board of Governors shall—

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on—

(i) the factors described in subsections (a) and (b) of section 113;

(ii) whether the company owns an insured depository institution;

(iii) nonfinancial activities and affiliations of the company; and

(iv) any other factors that the Board of Governors determines appropriate;

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1) of this subsection; and

(C) take into account any recommendations of the Council under section 115.

(4) REPORT.—The Board of Governors shall submit an annual report to Congress regarding the implementation of the prudential standards required pursuant to paragraph (1), including the use of such standards to mitigate risks to the financial stability of the United States.

(c) CONTINGENT CAPITAL.—

(1) IN GENERAL.—Subsequent to submission by the Council of a report to Congress under section 115(c), the Board of Governors may promulgate regulations that require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.

(2) FACTORS TO CONSIDER.—In establishing regulations under this subsection, the Board of Governors shall consider—

(A) the results of the study undertaken by the Council, and any recommendations of the Council, under section 115(c);

(B) an appropriate transition period for implementation of a conversion under this subsection;

(C) the factors described in subsection (b)(3)(A);

(D) capital requirements applicable to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; and

(E) any other factor that the Board of Governors deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(2) CREDIT EXPOSURE REPORT.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(3) REVIEW.—The Board of Governors and the Corporation shall review the information provided in accordance with this section by each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a).

(4) NOTICE OF DEFICIENCIES.—If the Board of Governors and the Corporation jointly determine, based on their review under paragraph (3), that the resolution plan of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) is not credible or would not facilitate an orderly resolution of the company under title 11, United States Code—

(A) the Board of Governors and the Corporation shall notify the company, as applicable, of the deficiencies in the resolution plan; and

(B) the company shall resubmit the resolution plan within a time frame determined by the Board of Governors and the Corporation, with revisions demonstrating that the plan is credible and would result in an orderly resolution under title 11, United States Code, including any proposed changes in business operations and corporate structure to facilitate implementation of the plan.

(5) FAILURE TO RESUBMIT CREDIBLE PLAN.—

(A) IN GENERAL.—If a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) fails to timely resubmit the resolution plan as required under paragraph (4), with such revisions as are required under subparagraph (B), the Board of Governors and the Corporation

may jointly impose more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the company, or any subsidiary thereof, until such time as the company resubmits a plan that remedies the deficiencies.

(B) DIVESTITURE.—The Board of Governors and the Corporation, in consultation with the Council, may direct a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), by order, to divest certain assets or operations identified by the Board of Governors and the Corporation, to facilitate an orderly resolution of such company under title 11, United States Code, in the event of the failure of such company, in any case in which—

(i) the Board of Governors and the Corporation have jointly imposed more stringent requirements on the company pursuant to subparagraph (A); and

(ii) the company has failed, within the 2-year period beginning on the date of the imposition of such requirements under subparagraph (A), to resubmit the resolution plan with such revisions as were required under paragraph (4)(B).

(6) RULES.—Not later than 18 months after the date of enactment of this Act, the Board of Governors and the Corporation shall jointly issue final rules implementing this subsection.

(e) CONCENTRATION LIMITS.—

(1) STANDARDS.—In order to limit the risks that the failure of any individual company could pose to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors, by regulation, shall prescribe standards that limit such risks.

(2) LIMITATION ON CREDIT EXPOSURE.—The regulations prescribed by the Board of Governors under paragraph (1) shall prohibit each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) from having credit exposure to any unaffiliated company that exceeds 25 percent of the capital stock and surplus (or such lower amount as the Board of Governors may determine by regulation to be necessary to mitigate risks to the financial stability of the United States) of the company.

(3) CREDIT EXPOSURE.—For purposes of paragraph (2), ''credit exposure'' to a company means—

(A) all extensions of credit to the company, including loans, deposits, and lines of credit;

(B) all repurchase agreements and reverse repurchase agreements with the company;

(C) all securities borrowing and lending transactions with the company, to the extent that such transactions create credit exposure for the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a);

(D) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company;

(E) all purchases of or investment in securities issued by the company;

(F) counterparty credit exposure to the company in connection with a derivative transaction between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the company; and

(G) any other similar transactions that the Board of Governors, by regulation, determines to be a credit exposure for purposes of this section.

(4) ATTRIBUTION RULE.—For purposes of this subsection, any transaction by a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) with any person is a transaction with a company, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.

(5) RULEMAKING.—The Board of Governors may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out this subsection.

(6) EXEMPTIONS.—The Board of Governors may, by regulation or order, exempt transactions, in whole or in part, from the definition of ''credit exposure'' for purposes of this subsection, if the Board of Governors finds that the exemption is in the public interest and is consistent with the purpose of this subsection.

(7) TRANSITION PERIOD.—

(A) IN GENERAL.—This subsection and any regulations and orders of the Board of Governors under this subsection shall not be effective until 3 years after the date of enactment of this Act.

(B) EXTENSION AUTHORIZED.—The Board of Governors may extend the period specified in subparagraph (A) for not longer than an additional 2 years.

(f) ENHANCED PUBLIC DISCLOSURES.—The Board of Governors may prescribe, by regulation, periodic public disclosures by nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

(g) RISK COMMITTEE.—

(1) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors that is a publicly traded company to establish a risk committee, as set forth in paragraph (3), not later than 1 year after the date of receipt of a notice of final determination under section 113(d)(3) with respect to such nonbank financial company supervised by the Board of Governors.

(2) CERTAIN BANK HOLDING COMPANIES.—

(A) MANDATORY REGULATIONS.—The Board of Governors shall issue regulations requiring each bank holding company that is a publicly traded company and that has total consolidated assets of not less than $10,000,000,000 to establish a risk committee, as set forth in paragraph (3).

(B) PERMISSIVE REGULATIONS.—The Board of Governors may require each bank holding company that is a publicly traded company and that has total consolidated assets of less than $10,000,000,000 to establish a risk committee, as set forth in paragraph (3), as determined necessary or appropriate by the Board of Governors to promote sound risk management practices.

(3) RISK COMMITTEE.—A risk committee required by this subsection shall—

(A) be responsible for the oversight of the enterprise-wide risk management practices of the nonbank financial company supervised by the Board of Governors or bank holding company described in subsection (a), as applicable;

(B) include such number of independent directors as the Board of Governors may determine appropriate, based on the nature of operations, size of assets, and other appropriate criteria related to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), as applicable; and

(C) include at least 1 risk management expert having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(4) RULEMAKING.—The Board of Governors shall issue final rules to carry out this subsection, not later than 1 year after the transfer date, to take effect not later than 15 months after the transfer date.

(h) STRESS TESTS.—The Board of Governors shall conduct analyses in which nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) are subject to evaluation of whether the companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions. The Board of Governors may develop and apply such other analytic techniques as are necessary to identify, measure, and monitor risks to the financial stability of the United States.

SEC. 166. EARLY REMEDIATION REQUIREMENTS.

(a) IN GENERAL.—The Board of Governors, in consultation with the Council and the Corporation, shall prescribe regulations establishing requirements to provide for the early remediation of financial distress of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a), except that nothing in this subsection authorizes the provision of financial assistance from the Federal Government.

(b) PURPOSE OF THE EARLY REMEDIATION REQUIREMENTS.—The purpose of the early remediation requirements under subsection (a) shall be to establish a series of specific remedial actions to be taken by a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) that is experiencing increasing financial distress, in order to minimize the probability that the company will become insolvent and the potential harm of such insolvency to the financial stability of the United States.

(c) REMEDIATION REQUIREMENTS.—The regulations prescribed by the Board of Governors under subsection (a) shall—

(1) define measures of the financial condition of the company, including regulatory capital, liquidity measures, and other forward-looking indicators; and

(2) establish requirements that increase in stringency as the financial condition of the company declines, including—

(A) requirements in the initial stages of financial decline, including limits on capital distributions, acquisitions, and asset growth; and

(B) requirements at later stages of financial decline, including a capital restoration plan and capital-raising requirements, limits on transactions with affiliates, management changes, and asset sales.

SEC. 167. AFFILIATIONS.

(a) AFFILIATIONS.—Nothing in this subtitle shall be construed to require a nonbank financial company supervised by the Board of Governors, or a company that controls a nonbank financial company supervised by the Board of Governors, to conform the activities thereof to the requirements of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843).

(b) REQUIREMENT.—

(1) IN GENERAL.—If a nonbank financial company supervised by the Board of Governors conducts activities other than those that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, the Board of Governors may require such company to establish and conduct such activities that are determined to be financial in nature or incidental thereto in an intermediate holding company established pursuant to regulation of the Board of Governors, not later than 90 days after the date on which the nonbank financial company supervised by the Board of Governors was notified of the determination under section 113(a).

(2) INTERNAL FINANCIAL ACTIVITIES.—For purposes of this subsection, activities that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, as described in paragraph (1), shall not include internal financial activities conducted for a nonbank financial company supervised by the Board of Governors or any affiliate, including internal treasury, investment, and employee benefit functions. With respect to any internal financial activity of such company during the year prior to the date of enactment of this Act, such company may continue to engage in such activity as long as at least ⅔ of the assets or ⅔ of the revenues generated from the activity are from or attributable to such company, subject to review by the Board of Governors, to determine whether engaging in such

activity presents undue risk to such company or to the financial stability of the United States.

(c) REGULATIONS.—The Board of Governors—

(1) shall promulgate regulations to establish the criteria for determining whether to require a nonbank financial company supervised by the Board of Governors to establish an intermediate holding company under subsection (a); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a nonbank financial company supervised by the Board of Governors and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between such company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of such company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

SEC. 168. REGULATIONS.

Except as otherwise specified in this subtitle, not later than 18 months after the transfer date, the Board of Governors shall issue final regulations to implement this subtitle and the amendments made by this subtitle.

SEC. 169. AVOIDING DUPLICATION.

The Board of Governors shall take any action that the Board of Governors deems appropriate to avoid imposing requirements under this subtitle that are duplicative of requirements applicable to bank holding companies and nonbank financial companies under other provisions of law.

SEC. 170. SAFE HARBOR.

(a) REGULATIONS.—The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision by the Board of Governors.

(b) CONSIDERATIONS.—In developing the criteria under subsection (a), the Board of Governors shall take into account the factors for consideration described in subsections (a) and (b) of section 113 in determining whether a U.S. nonbank financial company or foreign nonbank financial company shall be supervised by the Board of Governors.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require supervision by the Board of Governors of a U.S. nonbank financial company or foreign nonbank financial company, if such company does not meet the criteria for exemption established under subsection (a).

(d) UPDATE.—The Board of Governors shall, in consultation with the Council, review the regulations promulgated under subsection (a), not less frequently than every 5 years, and based upon the review, the Board of Governors may revise such regulations on behalf of, and in consultation with, the Council to update as necessary the criteria set forth in such regulations.

(e) TRANSITION PERIOD.—No revisions under subsection (d) shall take effect before the end of the 2-year period after the date of publication of such revisions in final form.

(f) REPORT.—The Chairperson of the Board of Governors and the Chairperson of the Council shall submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 30 days after the date of the issuance in final form of the regulations under subsection (a), or any subsequent revision to such regulations under subsection (d), as applicable. Such report shall include, at a minimum, the rationale for exemption and empirical evidence to support the criteria for exemption.

SEC. 171. LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.

(a) DEFINITIONS.—

(1) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.—The term ''generally applicable leverage capital requirements'' means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The term ''generally applicable risk-based capital requirements'' means—

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency's Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) MINIMUM CAPITAL REQUIREMENTS.—

(1) MINIMUM LEVERAGE CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.—

(A) IN GENERAL.—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) CONTENT.—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

TITLE II—ORDERLY LIQUIDATION AUTHORITY

SEC. 201. DEFINITIONS.

(a) IN GENERAL.—In this title, the following definitions shall apply:

(1) ADMINISTRATIVE EXPENSES OF THE RECEIVER.—The term ''administrative expenses of the receiver'' includes—

(A) the actual, necessary costs and expenses incurred by the Corporation as receiver for a covered financial company in liquidating a covered financial company; and

(B) any obligations that the Corporation as receiver for a covered financial company determines are necessary and appropriate to facilitate the smooth and orderly liquidation of the covered financial company.

(2) BANKRUPTCY CODE.—The term ''Bankruptcy Code'' means title 11, United States Code.

(3) BRIDGE FINANCIAL COMPANY.—The term ''bridge financial company'' means a new financial company organized by the Corporation in accordance with section 210(h) for the purpose of resolving a covered financial company.

(4) CLAIM.—The term ''claim'' means any right of payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(5) COMPANY.—The term ''company'' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)), except that such term includes any company described in paragraph (11), the majority of the securities of which are owned by the United States or any State.

(6) COVERED BROKER OR DEALER.—The term ''covered broker or dealer'' means a covered financial company that is a broker or dealer that—

(A) is registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)); and

(B) is a member of SIPC.

(7) COVERED FINANCIAL COMPANY.—The term ''covered financial company''—

(A) means a financial company for which a determination has been made under section 203(b); and

(B) does not include an insured depository institution.

(8) COVERED SUBSIDIARY.—The term ''covered subsidiary'' means a subsidiary of a covered financial company, other than—

(A) an insured depository institution;

(B) an insurance company; or

(C) a covered broker or dealer.

(9) DEFINITIONS RELATING TO COVERED BROKERS AND DEALERS.—The terms ''customer'', ''customer name securities'', ''customer property'', and ''net equity'' in the context of a covered broker or dealer, have the same meanings as in section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll).

(10) FINANCIAL COMPANY.—The term ''financial company'' means any company that—

(A) is incorporated or organized under any provision of Federal law or the laws of any State;

(B) is—

(i) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)), and including any company described in paragraph (5);

(ii) a nonbank financial company supervised by the Board of Governors;

(iii) any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the

Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or

(iv) any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), a governmental entity, or a regulated entity, as defined under section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20)).

(11) FUND.—The term ''Fund'' means the Orderly Liquidation Fund established under section 210(n).

(12) INSURANCE COMPANY.—The term ''insurance company'' means any entity that is—

(A) engaged in the business of insurance;

(B) subject to regulation by a State insurance regulator; and

(C) covered by a State law that is designed to specifically deal with the rehabilitation, liquidation, or insolvency of an insurance company.

(13) NONBANK FINANCIAL COMPANY.—The term ''nonbank financial company'' has the same meaning as in section 102(a)(4)(C).

(14) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS.—The term ''nonbank financial company supervised by the Board of Governors'' has the same meaning as in section 102(a)(3)(D).

(15) COURT.—The term ''Court'' means the United States District Court for the District of Columbia.

(16) SIPC.—The term ''SIPC'' means the Securities Investor Protection Corporation.

(b) DEFINITIONAL CRITERIA.—For purpose of the definition of the term ''financial company'' under subsection (a)(10), no company shall be deemed to be predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)), if the consolidated revenues of such company from such activities constitute less than 85 percent of the total consolidated revenues of such company, as the Corporation, in consultation with the Secretary, shall establish by regulation. In determining whether a company is a financial company under this title, the consolidated revenues derived from the ownership or control of a depository institution shall be included.

SEC. 202. JUDICIAL REVIEW.

(a) COMMENCEMENT OF ORDERLY LIQUIDATION.—

(1) PETITION TO DISTRICT COURT.—

(A) DISTRICT COURT REVIEW.—

(i) PETITION TO DISTRICT COURT.—Subsequent to a determination by the Secretary under section 203 that a financial company satisfies the criteria in section 203(b), the Secretary shall notify the Corporation and the covered financial company. If the board of directors (or body performing similar functions) of the covered financial company acquiesces or consents to the appointment of the Corporation as a receiver, the Secretary shall appoint the Corporation as a receiver. If the board of directors (or body performing similar functions) of the covered financial company does not acquiesce or consent to the appointment of the Corporation as receiver, the Secretary shall petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the Corporation as a receiver.

(ii) FORM AND CONTENT OF ORDER.—The Secretary shall present all relevant findings and the recommendation made pursuant to section 203(a) to the Court. The petition shall be filed under seal.

(iii) DETERMINATION.—On a strictly confidential basis, and without any prior public disclosure, the Court, after notice to the covered financial company and a hearing in which the covered financial company may oppose the petition, shall determine whether the determination of the Secretary that the covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious.

(iv) ISSUANCE OF ORDER.—If the Court determines that the determination of the Secretary that the covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10)—

(I) is not arbitrary and capricious, the Court shall issue an order immediately authorizing the Secretary to appoint the Corporation as receiver of the covered financial company; or

(II) is arbitrary and capricious, the Court shall immediately provide to the Secretary a written statement of each reason supporting its determination, and afford the Secretary an immediate opportunity to amend and refile the petition under clause (i).

(v) PETITION GRANTED BY OPERATION OF LAW.—If the Court does not make a determination within 24 hours of receipt of the petition—

(I) the petition shall be granted by operation of law;

(II) the Secretary shall appoint the Corporation as receiver; and

(III) liquidation under this title shall automatically and without further notice or action be commenced and the Corporation may immediately take all actions authorized under this title.

(B) EFFECT OF DETERMINATION.—The determination of the Court under subparagraph (A) shall be final, and shall be subject to appeal only in accordance with paragraph (2). The decision shall not be subject to any stay or injunction pending appeal. Upon conclusion of its proceedings under subparagraph (A), the Court shall provide immediately for the record a written statement of each reason supporting the decision of the Court, and shall provide copies thereof to the Secretary and the covered financial company.

(C) CRIMINAL PENALTIES.—A person who recklessly discloses a determination of the Secretary under section 203(b) or a petition of the Secretary under subparagraph (A), or the pendency of court proceedings as provided for under subparagraph (A), shall be fined not more than $250,000, or imprisoned for not more than 5 years, or both.

(2) APPEAL OF DECISIONS OF THE DISTRICT COURT.—

(A) APPEAL TO COURT OF APPEALS.—

(i) IN GENERAL.—Subject to clause (ii), the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction of an appeal of a final decision of the Court filed by the Secretary or a covered financial company, through its board of directors, notwithstanding section 210(a)(1)(A)(i), not later than 30 days after the date on which the decision of the Court is rendered or deemed rendered under this subsection.

(ii) CONDITION OF JURISDICTION.—The Court of Appeals shall have jurisdiction of an appeal by a covered financial company only if the covered financial company did not acquiesce or consent to the appointment of a receiver by the Secretary under paragraph (1)(A).

(iii) EXPEDITION.—The Court of Appeals shall consider any appeal under this subparagraph on an expedited basis.

(iv) SCOPE OF REVIEW.—For an appeal taken under this subparagraph, review shall be limited to whether the determination of the Secretary that a covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious.

(B) APPEAL TO THE SUPREME COURT.—

(i) IN GENERAL.—A petition for a writ of certiorari to review a decision of the Court of Appeals under subparagraph (A) may be filed by the Secretary or the covered financial company, through its board of directors, notwithstanding section 210(a)(1)(A)(i), with the Supreme Court of the United States, not later than 30 days after the date of the final decision of the Court of Appeals, and the Supreme Court shall have discretionary jurisdiction to review such decision.

(ii) WRITTEN STATEMENT.—In the event of a petition under clause (i), the Court of Appeals shall immediately provide for the record a written statement of each reason for its decision.

(iii) EXPEDITION.—The Supreme Court shall consider any petition under this subparagraph on an expedited basis.

(iv) SCOPE OF REVIEW.—Review by the Supreme Court under this subparagraph shall be limited to whether the determination of the Secretary that the covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious.

(b) ESTABLISHMENT AND TRANSMITTAL OF RULES AND PROCEDURES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Court shall establish such rules and procedures as may be necessary to ensure the orderly conduct of proceedings, including rules and procedures to ensure that the 24-hour deadline is met and that the Secretary shall have an ongoing opportunity to amend and refile petitions under subsection (a)(1).

(2) PUBLICATION OF RULES.—The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded and shall be transmitted to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Financial Services of the House of Representatives.

(c) PROVISIONS APPLICABLE TO FINANCIAL COMPANIES.—

(1) BANKRUPTCY CODE.—Except as provided in this subsection, the provisions of the Bankruptcy Code and rules issued thereunder, and not the provisions of this title, shall apply to financial companies that are not covered financial companies for which the Corporation has been appointed as receiver.

(2) THIS TITLE.—The provisions of this title shall exclusively apply to and govern all matters relating to covered financial companies for which the Corporation is appointed as receiver, and no provisions of the Bankruptcy Code or the rules issued thereunder shall apply in such cases.

(d) TIME LIMIT ON RECEIVERSHIP AUTHORITY.—

(1) BASELINE PERIOD.—Any appointment of the Corporation as receiver under this section shall terminate at the end of the 3-year period beginning on the date on which such appointment is made.

(2) EXTENSION OF TIME LIMIT.—The time limit established in paragraph (1) may be extended by the Corporation for up to 1 additional year, if the Chairperson of the Corporation determines and certifies in writing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that continuation of the receivership is necessary—

(A) to—

(i) maximize the net present value return from the sale or other disposition of the assets of the covered financial company; or

(ii) minimize the amount of loss realized upon the sale or other disposition of the assets of the covered financial company; and

(B) to protect the stability of the financial system of the United States.

(3) SECOND EXTENSION OF TIME LIMIT.—

(A) IN GENERAL.—The time limit under this subsection, as extended under paragraph (2), may be extended for up to 1 additional year, if the Chairperson of the Corporation, with the concurrence of the Secretary, submits the certifications described in paragraph (2).

(B) ADDITIONAL REPORT REQUIRED.—Not later than 30 days after the date of commencement of the extension under subparagraph (A), the Corporation shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the need for the extension and the specific plan of the Corporation to conclude the receivership before the end of the second extension.

(4) ONGOING LITIGATION.—The time limit under this subsection, as extended under paragraph (3), may be further extended solely for the purpose of completing ongoing litigation in which the Corporation as receiver is a party, provided that the appointment of the Corporation as receiver shall terminate not later than 90 days after the date of completion of such litigation, if—

(A) the Council determines that the Corporation used its best efforts to conclude the receivership in accordance with its plan before the end of the time limit described in paragraph (3);

(B) the Council determines that the completion of longer-term responsibilities in the form of ongoing litigation justifies the need for an extension; and

(C) the Corporation submits a report approved by the Council not later than 30 days after the date of the determinations by the Council under subparagraphs (A) and (B) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, describing—

(i) the ongoing litigation justifying the need for an extension; and

(ii) the specific plan of the Corporation to complete the litigation and conclude the receivership.

(5) REGULATIONS.—The Corporation may issue regulations governing the termination of receiverships under this title.

(6) NO LIABILITY.—The Corporation and the Deposit Insurance Fund shall not be liable for unresolved claims arising from the receivership after the termination of the receivership.

(e) STUDY OF BANKRUPTCY AND ORDERLY LIQUIDATION PROCESS FOR FINANCIAL COMPANIES.—

(1) STUDY.—

(A) IN GENERAL.—The Administrative Office of the United States Courts and the Comptroller General of the United States shall each monitor the activities of the Court, and each such Office shall conduct separate studies regarding the bankruptcy and orderly liquidation process for financial companies under the Bankruptcy Code.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Administrative Office of the United States Courts and the Comptroller General of the United States each shall evaluate—

(i) the effectiveness of chapter 7 or chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies;

(ii) ways to maximize the efficiency and effectiveness of the Court; and

(iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.

(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, in each successive year until the third year, and every fifth year after that date of enactment, the Administrative Office of the United States Courts and the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives separate reports summarizing the results of the studies conducted under paragraph (1).

(f) STUDY OF INTERNATIONAL COORDINATION RELATING TO BANKRUPTCY PROCESS FOR FINANCIAL COMPANIES.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding international coordination relating to the orderly liquidation of financial companies under the Bankruptcy Code.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Comptroller General of the United States shall evaluate, with respect to the bankruptcy process for financial companies—

(i) the extent to which international coordination currently exists;

(ii) current mechanisms and structures for facilitating international cooperation;

(iii) barriers to effective international coordination; and

(iv) ways to increase and make more effective international coordination.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives and the Secretary a report summarizing the results of the study conducted under paragraph (1).

(g) STUDY OF PROMPT CORRECTIVE ACTION IMPLEMENTATION BY THE APPROPRIATE FEDERAL AGENCIES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study regarding the implementation of prompt corrective action by the appropriate Federal banking agencies.

(2) ISSUES TO BE STUDIED.—In conducting the study under paragraph (1), the Comptroller General shall evaluate—

(A) the effectiveness of implementation of prompt corrective action by the appropriate Federal banking agencies and the resolution of insured depository institutions by the Corporation; and

(B) ways to make prompt corrective action a more effective tool to resolve the insured depository institutions at the least possible long-term cost to the Deposit Insurance Fund.

(3) REPORT TO COUNCIL.—Not later than 1 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Council on the results of the study conducted under this subsection.

(4) COUNCIL REPORT OF ACTION.—Not later than 6 months after the date of receipt of the report from the Comptroller General under paragraph (3), the Council shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on actions taken in response to the report, including any recommendations made to the Federal primary financial regulatory agencies under section 120.

SEC. 203. SYSTEMIC RISK DETERMINATION.

(a) WRITTEN RECOMMENDATION AND DETERMINATION.—

(1) VOTE REQUIRED.—

(A) IN GENERAL.—On their own initiative, or at the request of the Secretary, the Corporation and the Board of Governors shall consider whether to make a written recommendation described in paragraph (2) with respect to whether the Secretary should appoint the Corporation as receiver for a financial company. Such recommendation shall be made upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving and ⅔ of the members of the board of directors of the Corporation then serving.

(B) CASES INVOLVING COVERED BROKERS OR DEALERS.—In the case of a covered broker or dealer, or in which the largest United States subsidiary (as measured by total assets as of the end of the previous calendar quarter) of a financial company is a covered broker or dealer, the Commission and the Board of Governors, at the request of the Secretary, or on their own initiative, shall consider whether to make the written recommendation described in paragraph (2) with respect to the financial company. Subject to the requirements in paragraph (2), such recommendation shall be made upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving and the members of the Commission then serving, and in consultation with the Corporation.

(2) RECOMMENDATION REQUIRED.—Any written recommendation pursuant to paragraph (1) shall contain—

(A) an evaluation of whether the financial company is in default or in danger of default;

(B) a description of the effect that the default of the financial company would have on financial stability in the United States;

(C) a recommendation regarding the nature and the extent of actions to be taken under this title regarding the financial company;

(D) an evaluation of the likelihood of a private sector alternative to prevent the default of the financial company;

(E) an evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company;

(F) an evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants; and

(G) an evaluation of whether the company satisfies the definition of a financial company under section 201.

(b) DETERMINATION BY THE SECRETARY.—Notwithstanding any other provision of Federal or State law, the Secretary shall take action in accordance with section 202(a)(1)(A), if, upon the written recommendation under subsection (a), the Secretary (in consultation with the President) determines that—

(1) the financial company is in default or in danger of default;

(2) the failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;

(3) no viable private sector alternative is available to prevent the default of the financial company;

(4) any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions to be taken under this title is appropriate, given the impact that any action taken under this title would have on financial stability in the United States;

(5) any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties, and shareholders in the financial company;

(6) a Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order; and

(7) the company satisfies the definition of a financial company under section 201.

(c) DOCUMENTATION AND REVIEW.—

(1) IN GENERAL.—The Secretary shall—

(A) document any determination under subsection (b);

(B) retain the documentation for review under paragraph (2); and

(C) notify the covered financial company and the Corporation of such determination.

(2) REPORT TO CONGRESS.—Not later than 24 hours after the date of appointment of the Corporation as receiver for a covered financial company, the Secretary shall provide written notice

of the recommendations and determinations reached in accordance with subsections (a) and (b) to the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, which shall consist of a summary of the basis for the determination, including, to the extent available at the time of the determination—

(A) the size and financial condition of the covered financial company;

(B) the sources of capital and credit support that were available to the covered financial company;

(C) the operations of the covered financial company that could have had a significant impact on financial stability, markets, or both;

(D) identification of the banks and financial companies which may be able to provide the services offered by the covered financial company;

(E) any potential international ramifications of resolution of the covered financial company under other applicable insolvency law;

(F) an estimate of the potential effect of the resolution of the covered financial company under other applicable insolvency law on the financial stability of the United States;

(G) the potential effect of the appointment of a receiver by the Secretary on consumers;

(H) the potential effect of the appointment of a receiver by the Secretary on the financial system, financial markets, and banks and other financial companies; and

(I) whether resolution of the covered financial company under other applicable insolvency law would cause banks or other financial companies to experience severe liquidity distress.

(3) REPORTS TO CONGRESS AND THE PUBLIC.—

(A) IN GENERAL.—Not later than 60 days after the date of appointment of the Corporation as receiver for a covered financial company, the Corporation shall file a report with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(i) setting forth information on the financial condition of the covered financial company as of the date of the appointment, including a description of its assets and liabilities;

(ii) describing the plan of, and actions taken by, the Corporation to wind down the covered financial company;

(iii) explaining each instance in which the Corporation waived any applicable requirements of part 366 of title 12, Code of Federal Regulations (or any successor thereto) with respect to conflicts of interest by any person in the private sector who was retained to provide services to the Corporation in connection with such receivership;

(iv) describing the reasons for the provision of any funding to the receivership out of the Fund;

(v) setting forth the expected costs of the orderly liquidation of the covered financial company;

(vi) setting forth the identity of any claimant that is treated in a manner different from other similarly situated claimants under subsection (b)(4), (d)(4), or (h)(5)(E), the amount of any additional payment to such claimant under subsection (d)(4), and the reason for any such action; and

(vii) which report the Corporation shall publish on an online website maintained by the Corporation, subject to maintaining appropriate confidentiality.

(B) AMENDMENTS.—The Corporation shall, on a timely basis, not less frequently than quarterly, amend or revise and resubmit the reports prepared under this paragraph, as necessary.

(C) CONGRESSIONAL TESTIMONY.—The Corporation and the primary financial regulatory agency, if any, of the financial company for which the Corporation was appointed receiver under this title shall appear before Congress, if requested, not later than 30 days after the date on which the Corporation first files the reports required under subparagraph (A).

(4) DEFAULT OR IN DANGER OF DEFAULT.—For purposes of this title, a financial company shall be considered to be in default or in danger of default if, as determined in accordance with subsection (b)—

(A) a case has been, or likely will promptly be, commenced with respect to the financial company under the Bankruptcy Code;

(B) the financial company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion;

(C) the assets of the financial company are, or are likely to be, less than its obligations to creditors and others; or

(D) the financial company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.

(5) GAO REVIEW.—The Comptroller General of the United States shall review and report to Congress on any determination under subsection (b), that results in the appointment of the Corporation as receiver, including—

(A) the basis for the determination;

(B) the purpose for which any action was taken pursuant thereto;

(C) the likely effect of the determination and such action on the incentives and conduct of financial companies and their creditors, counterparties, and shareholders; and

(D) the likely disruptive effect of the determination and such action on the reasonable expectations of creditors, counterparties, and shareholders, taking into account the impact any action under this title would have on financial stability in the United States, including whether the rights of such parties will be disrupted.

(d) CORPORATION POLICIES AND PROCEDURES.—As soon as is practicable after the date of enactment of this Act, the Corporation shall establish policies and procedures that are acceptable to the Secretary governing the use of funds available to the Corporation to carry out this title, including the terms and conditions for the provision and use of funds under sections 204(d), 210(h)(2)(G)(iv), and 210(h)(9).

(e) TREATMENT OF INSURANCE COMPANIES AND INSURANCE COMPANY SUBSIDIARIES.—

(1) IN GENERAL.—Notwithstanding subsection (b), if an insurance company is a covered financial company or a subsidiary or affiliate of a covered financial company, the liquidation or rehabilitation of such insurance company, and any subsidiary or affiliate of such company that is not excepted under paragraph (2), shall be conducted as provided under such State law.

(2) EXCEPTION FOR SUBSIDIARIES AND AFFILIATES.—The requirement of paragraph (1) shall not apply with respect to any subsidiary or affiliate of an insurance company that is not itself an insurance company.

(3) BACKUP AUTHORITY.—Notwithstanding paragraph (1), with respect to a covered financial company described in paragraph (1), if, after the end of the 60-day period beginning on the date on which a determination is made under section 202(a) with respect to such company, the appropriate regulatory agency has not filed the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State, the Corporation shall have the authority to stand in the place of the appropriate regulatory agency and file the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State.

SEC. 204. ORDERLY LIQUIDATION.

(a) PURPOSE OF ORDERLY LIQUIDATION AUTHORITY.—It is the purpose of this title to provide the necessary authority to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard. The authority provided in this title shall be exercised in the manner that best fulfills such purpose, so that—

(1) creditors and shareholders will bear the losses of the financial company;

(2) management responsible for the condition of the financial company will not be retained; and

(3) the Corporation and other appropriate agencies will take all steps necessary and appropriate to assure that all parties, including management and third parties, having responsibility for the condition of the financial company bear losses consistent with their responsibility, including actions for damages, restitution, and recoupment of compensation and other gains not compatible with such responsibility.

(b) CORPORATION AS RECEIVER.—Upon the appointment of the Corporation under section 202, the Corporation shall act as the receiver for the covered financial company, with all of the rights and obligations set forth in this title.

(c) CONSULTATION.—The Corporation, as receiver—

(1) shall consult with the primary financial regulatory agency or agencies of the covered financial company and its covered subsidiaries for purposes of ensuring an orderly liquidation of the covered financial company;

(2) may consult with, or under subsection (a)(1)(B)(v) or (a)(1)(L) of section 210, acquire the services of, any outside experts, as appropriate to inform and aid the Corporation in the orderly liquidation process;

(3) shall consult with the primary financial regulatory agency or agencies of any subsidiaries of the covered financial company that are not covered subsidiaries, and coordinate with such regulators regarding the treatment of such solvent subsidiaries and the separate resolution of any such insolvent subsidiaries under other governmental authority, as appropriate; and

(4) shall consult with the Commission and the Securities Investor Protection Corporation in the case of any covered financial company for which the Corporation has been appointed as receiver that is a broker or dealer registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) and is a member of the Securities Investor Protection Corporation, for the purpose of determining whether to transfer to a bridge financial company organized by the Corporation as receiver, without consent of any customer, customer accounts of the covered financial company.

(d) FUNDING FOR ORDERLY LIQUIDATION.—Upon its appointment as receiver for a covered financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or appropriate, the Corporation may make available to the receivership, subject to the conditions set forth in section 206 and subject to the plan described in section 210(n)(11), funds for the orderly liquidation of the covered financial company. All funds provided by the Corporation under this subsection shall have a priority of claims under subparagraph (A) or (B) of section 210(b)(1), as applicable, including funds used for—

(1) making loans to, or purchasing any debt obligation of, the covered financial company or any covered subsidiary;

(2) purchasing or guaranteeing against loss the assets of the covered financial company or any covered subsidiary, directly or through an entity established by the Corporation for such purpose;

(3) assuming or guaranteeing the obligations of the covered financial company or any covered subsidiary to 1 or more third parties;

(4) taking a lien on any or all assets of the covered financial company or any covered subsidiary, including a first priority lien on all

unencumbered assets of the covered financial company or any covered subsidiary to secure repayment of any transactions conducted under this subsection;

(5) selling or transferring all, or any part, of such acquired assets, liabilities, or obligations of the covered financial company or any covered subsidiary; and

(6) making payments pursuant to subsections (b)(4), (d)(4), and (h)(5)(E) of section 210.

SEC. 205. ORDERLY LIQUIDATION OF COVERED BROKERS AND DEALERS.

(a) APPOINTMENT OF SIPC AS TRUSTEE FOR PROTECTION OF CUSTOMER SECURITIES AND PROPERTY.—Upon the appointment of the Corporation as receiver for any covered broker or dealer, the Corporation shall appoint, without any need for court approval, the Securities Investor Protection Corporation to act as trustee for liquidation under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) of the covered broker or dealer.

(b) POWERS AND DUTIES OF SIPC.—

(1) IN GENERAL.—Except as provided in this section, upon its appointment as trustee for the liquidation of a covered broker or dealer, SIPC shall have all of the powers and duties provided by the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), including, without limitation, all rights of action against third parties, but shall have no powers or duties with respect to assets and liabilities transferred by the Corporation from the covered broker or dealer to any bridge financial company established in accordance with this title.

(2) LIMITATION OF POWERS.—The exercise by SIPC of powers and functions as trustee under subsection (a) shall not impair or impede the exercise of the powers and duties of the Corporation with regard to—

(A) any action, except as otherwise provided in this title—

(i) to make funds available under section 204(d);

(ii) to organize, establish, operate, or terminate any bridge financial company;

(iii) to transfer assets and liabilities;

(iv) to enforce or repudiate contracts; or

(v) to take any other action relating to such bridge financial company under section 210; or

(B) determining claims under subsection (d).

(3) QUALIFIED FINANCIAL CONTRACTS.—Notwithstanding any provision of the Securities Investor Protection Act of 1970 to the contrary (including section 5(b)(2)(C) of that Act (15 U.S.C. 78eee(b)(2)(C))), the rights and obligations of any party to a qualified financial contract (as that term is defined in section 210(c)(8)) to which a covered broker or dealer described in subsection (a) is a party shall be governed exclusively by section 210, including the limitations and restrictions contained in section 210(c)(10)(B).

(c) LIMITATION ON COURT ACTION.—Except as otherwise provided in this title, no court may take any action, including any action pursuant to the Securities Investor Protection Act of 1970 or the Bankruptcy Code, to restrain or affect the exercise of powers or functions of the Corporation as receiver for a covered broker or dealer and any claims against the Corporation as such receiver shall be determined in accordance with subsection (e) and such claims shall be limited to money damages.

(d) ACTIONS BY CORPORATION AS RECEIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, no action taken by the Corporation, as receiver with respect to a covered broker or dealer, shall—

(A) adversely affect the rights of a customer to customer property or customer name securities;

(B) diminish the amount or timely payment of net equity claims of customers; or

(C) otherwise impair the recoveries provided to a customer under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

(2) NET PROCEEDS.—The net proceeds from any transfer, sale, or disposition of assets by the Corporation as receiver for the covered broker or dealer shall be for the benefit of the estate of the covered broker or dealer, as provided in this title.

(e) CLAIMS AGAINST THE CORPORATION AS RECEIVER.—Any claim against the Corporation as receiver for a covered broker or dealer for assets transferred to a bridge financial company established with respect to such covered broker or dealer—

(1) shall be determined in accordance with section 210(a)(2); and

(2) may be reviewed by the appropriate district or territorial court of the United States in accordance with section 210(a)(5).

(f) SATISFACTION OF CUSTOMER CLAIMS.—

(1) OBLIGATIONS TO CUSTOMERS.—Notwithstanding any other provision of this title, all obligations of a covered broker or dealer or of any bridge financial company established with respect to such covered broker or dealer to a customer relating to, or net equity claims based upon, customer property shall be promptly discharged by the delivery of securities or the making of payments to or for the account of such customer, in a manner and in an amount at least as beneficial to the customer as would have been the case had the covered broker or dealer been subject to a proceeding under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which the Corporation is appointed as receiver.

(2) SATISFACTION OF CLAIMS BY SIPC.—SIPC, as trustee for a covered broker or dealer, shall satisfy customer claims in the manner and amount provided under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), as if the appointment of the Corporation as receiver had not occurred, and with a filing date as of the date on which the Corporation is appointed as receiver. The Corporation shall satisfy customer claims, to the extent that a customer would have received more securities or cash with respect to the allocation of customer property had the covered financial company been subject to a proceeding under the Securities Investor Protection Act (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which the Corporation is appointed as receiver.

(g) PRIORITIES.—

(1) CUSTOMER PROPERTY.—As trustee for a covered broker or dealer, SIPC shall allocate customer property and deliver customer name securities in accordance with section 8(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff–2(c)).

(2) OTHER CLAIMS.—All claims other than those described in paragraph (1) (including any unpaid claim by a customer for the allowed net equity claim of such customer from customer property) shall be paid in accordance with the priorities in section 210(b).

(h) RULEMAKING.—The Commission and the Corporation, after consultation with SIPC, shall jointly issue rules to implement this section.

SEC. 206. MANDATORY TERMS AND CONDITIONS FOR ALL ORDERLY LIQUIDATION ACTIONS.

In taking action under this title, the Corporation shall—

(1) determine that such action is necessary for purposes of the financial stability of the United States, and not for the purpose of preserving the covered financial company;

(2) ensure that the shareholders of a covered financial company do not receive payment until after all other claims and the Fund are fully paid;

(3) ensure that unsecured creditors bear losses in accordance with the priority of claim provisions in section 210;

(4) ensure that management responsible for the failed condition of the covered financial company is removed (if such management has not already been removed at the time at which the Corporation is appointed receiver); and

(5) not take an equity interest in or become a shareholder of any covered financial company or any covered subsidiary.

SEC. 207. DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF RECEIVER.

The members of the board of directors (or body performing similar functions) of a covered financial company shall not be liable to the shareholders or creditors thereof for acquiescing in or consenting in good faith to the appointment of the Corporation as receiver for the covered financial company under section 203.

SEC. 208. DISMISSAL AND EXCLUSION OF OTHER ACTIONS.

(a) IN GENERAL.—Effective as of the date of the appointment of the Corporation as receiver for the covered financial company under section 202 or the appointment of SIPC as trustee for a covered broker or dealer under section 205, as applicable, any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code or the Securities Investor Protection Act of 1970 shall be dismissed, upon notice to the Bankruptcy Court (with respect to a case commenced under the Bankruptcy Code), and upon notice to SIPC (with respect to a covered broker or dealer) and no such case or proceeding may be commenced with respect to a covered financial company at any time while the orderly liquidation is pending.

(b) REVESTING OF ASSETS.—Effective as of the date of appointment of the Corporation as receiver, the assets of a covered financial company shall, to the extent they have vested in any entity other than the covered financial company as a result of any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code, the Securities Investor Protection Act of 1970, or any similar provision of State liquidation or insolvency law applicable to the covered financial company, revest in the covered financial company.

(c) LIMITATION.—Notwithstanding subsections (a) and (b), any order entered or other relief granted by a bankruptcy court prior to the date of appointment of the Corporation as receiver shall continue with the same validity as if an orderly liquidation had not been commenced.

SEC. 209. RULEMAKING; NON-CONFLICTING LAW.

The Corporation shall, in consultation with the Council, prescribe such rules or regulations as the Corporation considers necessary or appropriate to implement this title, including rules and regulations with respect to the rights, interests, and priorities of creditors, counterparties, security entitlement holders, or other persons with respect to any covered financial company or any assets or other property of or held by such covered financial company, and address the potential for conflicts of interest between or among individual receiverships established under this title or under the Federal Deposit Insurance Act. To the extent possible, the Corporation shall seek to harmonize applicable rules and regulations promulgated under this section with the insolvency laws that would otherwise apply to a covered financial company.

SEC. 210. POWERS AND DUTIES OF THE CORPORATION.

(a) POWERS AND AUTHORITIES.—

(1) GENERAL POWERS.—

(A) SUCCESSOR TO COVERED FINANCIAL COMPANY.—The Corporation shall, upon appointment as receiver for a covered financial company under this title, succeed to—

(i) all rights, titles, powers, and privileges of the covered financial company and its assets, and of any stockholder, member, officer, or director of such company; and

(ii) title to the books, records, and assets of any previous receiver or other legal custodian of such covered financial company.

(B) OPERATION OF THE COVERED FINANCIAL COMPANY DURING THE PERIOD OF ORDERLY LIQUIDATION.—The Corporation, as receiver for a covered financial company, may—

(i) take over the assets of and operate the covered financial company with all of the powers of the members or shareholders, the directors, and the officers of the covered financial company, and conduct all business of the covered financial company;

(ii) collect all obligations and money owed to the covered financial company;

(iii) perform all functions of the covered financial company, in the name of the covered financial company;

(iv) manage the assets and property of the covered financial company, consistent with maximization of the value of the assets in the context of the orderly liquidation; and

(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Corporation as receiver.

(C) FUNCTIONS OF COVERED FINANCIAL COMPANY OFFICERS, DIRECTORS, AND SHAREHOLDERS.—

(i) IN GENERAL.—The Corporation may provide for the exercise of any function by any member or stockholder, director, or officer of any covered financial company for which the Corporation has been appointed as receiver under this title.

(ii) PRESUMPTION.—There shall be a strong presumption that the Corporation, as receiver for a covered financial company, will remove management responsible for the failed condition of the covered financial company.

(D) ADDITIONAL POWERS AS RECEIVER.—The Corporation shall, as receiver for a covered financial company, and subject to all legally enforceable and perfected security interests and all legally enforceable security entitlements in respect of assets held by the covered financial company, liquidate, and wind-up the affairs of a covered financial company, including taking steps to realize upon the assets of the covered financial company, in such manner as the Corporation deems appropriate, including through the sale of assets, the transfer of assets to a bridge financial company established under subsection (h), or the exercise of any other rights or privileges granted to the receiver under this section.

(E) ADDITIONAL POWERS WITH RESPECT TO FAILING SUBSIDIARIES OF A COVERED FINANCIAL COMPANY.—

(i) IN GENERAL.—In any case in which a receiver is appointed for a covered financial company under section 202, the Corporation may appoint itself as receiver of any subsidiary (other than an insured depository institution, any covered broker or dealer, or an insurance company) of the covered financial company that is organized under Federal law or the laws of any State, if the Corporation and the Secretary jointly determine that—

(I) the subsidiary is in default or in danger of default;

(II) such action would avoid or mitigate serious adverse effects on the financial stability or economic conditions of the United States; and

(III) such action would facilitate the orderly liquidation of the covered financial company.

(ii) TREATMENT AS COVERED FINANCIAL COMPANY.—If the Corporation is appointed as receiver of a subsidiary of a covered financial company under clause (i), the subsidiary shall thereafter be considered a covered financial company under this title, and the Corporation shall thereafter have all the powers and rights with respect to that subsidiary as it has with respect to a covered financial company under this title.

(F) ORGANIZATION OF BRIDGE COMPANIES.—The Corporation, as receiver for a covered financial company, may organize a bridge financial company under subsection (h).

(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Corporation, as receiver for a covered financial company, may—

(I) merge the covered financial company with another company; or

(II) transfer any asset or liability of the covered financial company (including any assets and liabilities held by the covered financial company for security entitlement holders, any customer property, or any assets and liabilities associated with any trust or custody business) without obtaining any approval, assignment, or consent with respect to such transfer.

(ii) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW.—With respect to a transaction described in clause (i)(I) that requires approval by a Federal agency—

(I) the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval;

(II) if, in connection with any such approval, a report on competitive factors is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the United States of the proposed transaction, and the Attorney General shall provide the required report not later than 10 days after the date of the request; and

(III) if notification under section 7A of the Clayton Act is required with respect to such transaction, then the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under subsection (b)(2) of such section 7A, or is extended pursuant to subsection (e)(2) of such section 7A.

(iii) SETOFF.—Subject to the other provisions of this title, any transferee of assets from a receiver, including a bridge financial company, shall be subject to such claims or rights as would prevail over the rights of such transferee in such assets under applicable noninsolvency law.

(H) PAYMENT OF VALID OBLIGATIONS.—The Corporation, as receiver for a covered financial company, shall, to the extent that funds are available, pay all valid obligations of the covered financial company that are due and payable at the time of the appointment of the Corporation as receiver, in accordance with the prescriptions and limitations of this title.

(I) APPLICABLE NONINSOLVENCY LAW.—Except as may otherwise be provided in this title, the applicable noninsolvency law shall be determined by the noninsolvency choice of law rules otherwise applicable to the claims, rights, titles, persons, or entities at issue.

(J) SUBPOENA AUTHORITY.—

(i) IN GENERAL.—The Corporation, as receiver for a covered financial company, may, for purposes of carrying out any power, authority, or duty with respect to the covered financial company (including determining any claim against the covered financial company and determining and realizing upon any asset of any person in the course of collecting money due the covered financial company), exercise any power established under section 8(n) of the Federal Deposit Insurance Act, as if the Corporation were the appropriate Federal banking agency for the covered financial company, and the covered financial company were an insured depository institution.

(ii) RULE OF CONSTRUCTION.—This subparagraph may not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have to exercise any powers described in clause (i) or under any other provision of law.

(K) INCIDENTAL POWERS.—The Corporation, as receiver for a covered financial company, may exercise all powers and authorities specifically granted to receivers under this title, and such incidental powers as shall be necessary to carry out such powers under this title.

(L) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from the covered financial company, the Corporation, as receiver for a covered financial company, may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, if such services are available in the private sector, and the Corporation determines that utilization of such services is practicable, efficient, and cost effective.

(M) SHAREHOLDERS AND CREDITORS OF COVERED FINANCIAL COMPANY.—Notwithstanding any other provision of law, the Corporation, as receiver for a covered financial company, shall succeed by operation of law to the rights, titles, powers, and privileges described in subparagraph (A), and shall terminate all rights and claims that the stockholders and creditors of the covered financial company may have against the assets of the covered financial company or the Corporation arising out of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under this section. The Corporation shall ensure that shareholders and unsecured creditors bear losses, consistent with the priority of claims provisions under this section.

(N) COORDINATION WITH FOREIGN FINANCIAL AUTHORITIES.—The Corporation, as receiver for a covered financial company, shall coordinate, to the maximum extent possible, with the appropriate foreign financial authorities regarding the orderly liquidation of any covered financial company that has assets or operations in a country other than the United States.

(O) RESTRICTION ON TRANSFERS TO BRIDGE FINANCIAL COMPANY.—

(i) SECTION OF ACCOUNTS FOR TRANSFER.—If the Corporation establishes one or more bridge financial companies with respect to a covered broker or dealer, the Corporation shall transfer to a bridge financial company, all customer accounts of the covered financial company, unless the Corporation, after consulting with the Commission and SIPC, determines that—

(I) the customer accounts are likely to be promptly transferred to another covered broker or dealer; or

(II) the transfer of the accounts to a bridge financial company would materially interfere with the ability of the Corporation to avoid or mitigate serious adverse effects on financial stability or economic conditions in the United States.

(ii) TRANSFER OF PROPERTY.—SIPC, as trustee for the liquidation of the covered broker or dealer, and the Commission, shall provide any and all reasonable assistance necessary to complete such transfers by the Corporation.

(iii) CUSTOMER CONSENT AND COURT APPROVAL NOT REQUIRED.—Neither customer consent nor court approval shall be required to transfer any customer accounts and associated customer property to a bridge financial company in accordance with this section.

(iv) NOTIFICATION OF SIPC AND SHARING OF INFORMATION.—The Corporation shall identify to SIPC the customer accounts and associated customer property transferred to the bridge financial company. The Corporation and SIPC shall cooperate in the sharing of any information necessary for each entity to discharge its obligations under this title and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) including by providing access to the books and records of the covered financial company and any bridge financial company established in accordance with this title.

(2) DETERMINATION OF CLAIMS.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company, shall report on claims, as set forth in section 203(c)(3). Subject to paragraph (4) of this subsection, the Corporation, as receiver for a covered financial company, shall determine claims in accordance with

the requirements of this subsection and regulations prescribed under section 209.

(B) NOTICE REQUIREMENTS.—The Corporation, as receiver for a covered financial company, in any case involving the liquidation or winding up of the affairs of a covered financial company, shall—

(i) promptly publish a notice to the creditors of the covered financial company to present their claims, together with proof, to the receiver by a date specified in the notice, which shall be not earlier than 90 days after the date of publication of such notice; and

(ii) republish such notice 1 month and 2 months, respectively, after the date of publication under clause (i).

(C) MAILING REQUIRED.—The Corporation as receiver shall mail a notice similar to the notice published under clause (i) or (ii) of subparagraph (B), at the time of such publication, to any creditor shown on the books and records of the covered financial company—

(i) at the last address of the creditor appearing in such books;

(ii) in any claim filed by the claimant; or

(iii) upon discovery of the name and address of a claimant not appearing on the books and records of the covered financial company, not later than 30 days after the date of the discovery of such name and address.

(3) PROCEDURES FOR RESOLUTION OF CLAIMS.—

(A) DECISION PERIOD.—

(i) IN GENERAL.—Prior to the 180th day after the date on which a claim against a covered financial company is filed with the Corporation as receiver, or such later date as may be agreed as provided in clause (ii), the Corporation shall notify the claimant whether it accepts or objects to the claim, in accordance with subparagraphs (B), (C), and (D).

(ii) EXTENSION OF TIME.—By written agreement executed not later than 180 days after the date on which a claim against a covered financial company is filed with the Corporation, the period described in clause (i) may be extended by written agreement between the claimant and the Corporation. Failure to notify the claimant of any disallowance within the time period set forth in clause (i), as it may be extended by agreement under this clause, shall be deemed to be a disallowance of such claim, and the claimant may file or continue an action in court, as provided in paragraph (4).

(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any decision with respect to any claim is mailed to the last address of the claimant which appears—

(I) on the books, records, or both of the covered financial company;

(II) in the claim filed by the claimant; or

(III) in documents submitted in proof of the claim.

(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If the Corporation as receiver objects to any claim filed under clause (i), the notice to the claimant shall contain—

(I) a statement of each reason for the disallowance; and

(II) the procedures required to file or continue an action in court, as provided in paragraph (4).

(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received by the receiver on or before the date specified in the notice under paragraph (2)(B)(i), which is proved to the satisfaction of the receiver.

(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (2)(B)(i) shall be disallowed, and such disallowance shall be final.

(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by a claimant after the date specified in the notice published under paragraph (2)(B)(i), and such claim may be considered by the receiver under subparagraph (B), if—

(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and

(II) such claim is filed in time to permit payment of such claim.

(D) AUTHORITY TO DISALLOW CLAIMS.—

(i) IN GENERAL.—The Corporation may object to any portion of any claim by a creditor or claim of a security, preference, setoff, or priority which is not proved to the satisfaction of the Corporation.

(ii) PAYMENTS TO UNDERSECURED CREDITORS.—In the case of a claim against a covered financial company that is secured by any property or other asset of such covered financial company, the receiver—

(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim; and

(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the covered financial company.

(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

(I) any extension of credit from any Federal reserve bank, or the Corporation, to any covered financial company; or

(II) subject to clause (ii), any legally enforceable and perfected security interest in the assets of the covered financial company securing any such extension of credit.

(E) LEGAL EFFECT OF FILING.—

(i) STATUTE OF LIMITATIONS TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (8), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of appointment of the receiver for the covered financial company.

(4) JUDICIAL DETERMINATION OF CLAIMS.—

(A) IN GENERAL.—Subject to subparagraph (B), a claimant may file suit on a claim (or continue an action commenced before the date of appointment of the Corporation as receiver) in the district or territorial court of the United States for the district within which the principal place of business of the covered financial company is located (and such court shall have jurisdiction to hear such claim).

(B) TIMING.—A claim under subparagraph (A) may be filed before the end of the 60-day period beginning on the earlier of—

(i) the end of the period described in paragraph (3)(A)(i) (or, if extended by agreement of the Corporation and the claimant, the period described in paragraph (3)(A)(ii)) with respect to any claim against a covered financial company for which the Corporation is receiver; or

(ii) the date of any notice of disallowance of such claim pursuant to paragraph (3)(A)(i).

(C) STATUTE OF LIMITATIONS.—If any claimant fails to file suit on such claim (or to continue an action on such claim commenced before the date of appointment of the Corporation as receiver) prior to the end of the 60-day period described in subparagraph (B), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(5) EXPEDITED DETERMINATION OF CLAIMS.—

(A) PROCEDURE REQUIRED.—The Corporation shall establish a procedure for expedited relief outside of the claims process established under paragraph (3), for any claimant that alleges—

(i) the existence of a legally valid and enforceable or perfected security interest in property of a covered financial company, or is an entitlement holder that has obtained control of any legally valid and enforceable security entitlement in respect of any asset held by the covered financial company for which the Corporation has been appointed receiver; and

(ii) that irreparable injury will occur if the claims procedure established under paragraph (3) is followed.

(B) DETERMINATION PERIOD.—Prior to the end of the 90-day period beginning on the date on which a claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall—

(i) determine—

(I) whether to allow or disallow such claim, or any portion thereof; or

(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (3);

(ii) notify the claimant of the determination; and

(iii) if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining a judicial determination.

(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file suit (or continue a suit filed before the date of appointment of the Corporation as receiver seeking a determination of the rights of the claimant with respect to such security interest (or such security entitlement) after the earlier of—

(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

(ii) the date on which the Corporation denies the claim or a portion thereof.

(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (C), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(E) LEGAL EFFECT OF FILING.—

(i) STATUTE OF LIMITATIONS TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (8), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the Corporation as receiver for the covered financial company.

(6) AGREEMENTS AGAINST INTEREST OF THE RECEIVER.—No agreement that tends to diminish or defeat the interest of the Corporation as receiver in any asset acquired by the receiver under this section shall be valid against the receiver, unless such agreement—

(A) is in writing;

(B) was executed by an authorized officer or representative of the covered financial company, or confirmed in the ordinary course of business by the covered financial company; and

(C) has been, since the time of its execution, an official record of the company or the party claiming under the agreement provides documentation, acceptable to the receiver, of such agreement and its authorized execution or confirmation by the covered financial company.

(7) PAYMENT OF CLAIMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Corporation as receiver may, in its discretion and to the extent that funds are available, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

(i) allowed by the receiver;

(ii) approved by the receiver pursuant to a final determination pursuant to paragraph (3) or (5), as applicable; or

(iii) determined by the final judgment of a court of competent jurisdiction.

(B) LIMITATION.—A creditor shall, in no event, receive less than the amount that the creditor is entitled to receive under paragraphs (2) and (3) of subsection (d), as applicable.

(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The Corporation as receiver may, in its sole discretion, and to the extent otherwise permitted by this section, pay dividends on proven claims at any time, and no liability shall attach to the Corporation as receiver, by reason of any such payment or for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

(D) RULEMAKING BY THE CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as the Corporation deems appropriate to establish an interest rate for or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estate of a covered financial company, except that no such interest shall be paid until the Corporation as receiver has satisfied the principal amount of all creditor claims.

(8) SUSPENSION OF LEGAL ACTIONS.—

(A) IN GENERAL.—After the appointment of the Corporation as receiver for a covered financial company, the Corporation may request a stay in any judicial action or proceeding in which such covered financial company is or becomes a party, for a period of not to exceed 90 days.

(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by the Corporation pursuant to subparagraph (A), the court shall grant such stay as to all parties.

(9) ADDITIONAL RIGHTS AND DUTIES.—

(A) PRIOR FINAL ADJUDICATION.—The Corporation shall abide by any final, non-appealable judgment of any court of competent jurisdiction that was rendered before the appointment of the Corporation as receiver.

(B) RIGHTS AND REMEDIES OF RECEIVER.—In the event of any appealable judgment, the Corporation as receiver shall—

(i) have all the rights and remedies available to the covered financial company (before the date of appointment of the Corporation as receiver under section 202) and the Corporation, including removal to Federal court and all appellate rights; and

(ii) not be required to post any bond in order to pursue such remedies.

(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may be issued by any court upon assets in the possession of the Corporation as receiver for a covered financial company.

(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this title, no court shall have jurisdiction over—

(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any covered financial company for which the Corporation has been appointed receiver, including any assets which the Corporation may acquire from itself as such receiver; or

(ii) any claim relating to any act or omission of such covered financial company or the Corporation as receiver.

(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as receiver in connection with any covered financial company for which the Corporation is acting as receiver under this section, the Corporation shall, to the greatest extent practicable, conduct its operations in a manner that—

(i) maximizes the net present value return from the sale or disposition of such assets;

(ii) minimizes the amount of any loss realized in the resolution of cases;

(iii) mitigates the potential for serious adverse effects to the financial system;

(iv) ensures timely and adequate competition and fair and consistent treatment of offerors; and

(v) prohibits discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

(10) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY RECEIVER.—

(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as receiver for a covered financial company shall be—

(i) in the case of any contract claim, the longer of—

(I) the 6-year period beginning on the date on which the claim accrues; or

(II) the period applicable under State law; and

(ii) in the case of any tort claim, the longer of—

(I) the 3-year period beginning on the date on which the claim accrues; or

(II) the period applicable under State law.

(B) DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in subparagraph (A) shall be the later of—

(i) the date of the appointment of the Corporation as receiver under this title; or

(ii) the date on which the cause of action accrues.

(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

(i) IN GENERAL.—In the case of any tort claim described in clause (ii) for which the applicable statute of limitations under State law has expired not more than 5 years before the date of appointment of the Corporation as receiver for a covered financial company, the Corporation may bring an action as receiver on such claim without regard to the expiration of the statute of limitations.

(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the covered financial company.

(11) AVOIDABLE TRANSFERS.—

(A) FRAUDULENT TRANSFERS.—The Corporation, as receiver for any covered financial company, may avoid a transfer of any interest of the covered financial company in property, or any obligation incurred by the covered financial company, that was made or incurred at or within 2 years before the time of commencement, if—

(i) the covered financial company voluntarily or involuntarily—

(I) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the covered financial company was or became, on or after the date on which such transfer was made or such obligation was incurred, indebted; or

(II) received less than a reasonably equivalent value in exchange for such transferor obligation; and

(ii) the covered financial company voluntarily or involuntarily—

(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the covered financial company was an unreasonably small capital;

(III) intended to incur, or believed that the covered financial company would incur, debts that would be beyond the ability of the covered financial company to pay as such debts matured; or

(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

(B) PREFERENTIAL TRANSFERS.—The Corporation as receiver for any covered financial company may avoid a transfer of an interest of the covered financial company in property—

(i) to or for the benefit of a creditor;

(ii) for or on account of an antecedent debt that was owed by the covered financial company before the transfer was made;

(iii) that was made while the covered financial company was insolvent;

(iv) that was made—

(I) 90 days or less before the date on which the Corporation was appointed receiver; or

(II) more than 90 days, but less than 1 year before the date on which the Corporation was appointed receiver, if such creditor at the time of the transfer was an insider; and

(v) that enables the creditor to receive more than the creditor would receive if—

(I) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code;

(II) the transfer had not been made; and

(III) the creditor received payment of such debt to the extent provided by the provisions of chapter 7 of the Bankruptcy Code.

(C) POST-RECEIVERSHIP TRANSACTIONS.—The Corporation as receiver for any covered financial company may avoid a transfer of property of the receivership that occurred after the Corporation was appointed receiver that was not authorized under this title by the Corporation as receiver.

(D) RIGHT OF RECOVERY.—To the extent that a transfer is avoided under subparagraph (A), (B), or (C), the Corporation may recover, for the benefit of the covered financial company, the property transferred or, if a court so orders, the value of such property (at the time of such transfer) from—

(i) the initial transferee of such transfer or the person for whose benefit such transfer was made; or

(ii) any immediate or mediate transferee of any such initial transferee.

(E) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (D)(ii) from—

(i) any transferee that takes for value, including in satisfaction of or to secure a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

(ii) any immediate or mediate good faith transferee of such transferee.

(F) DEFENSES.—Subject to the other provisions of this title—

(i) a transferee or obligee from which the Corporation seeks to recover a transfer or to avoid an obligation under subparagraph (A), (B), (C), or (D) shall have the same defenses available to a transferee or obligee from which a trustee seeks to recover a transfer or avoid an obligation under; and

(ii) the authority of the Corporation to recover a transfer or avoid an obligation shall be subject to subsections (b) and (c) of section 546, section 547(c), and section 548(c) of the Bankruptcy Code.

(G) RIGHTS UNDER THIS SECTION.—The rights of the Corporation as receiver under this section shall be superior to any rights of a trustee or any other party (other than a Federal agency) under the Bankruptcy Code.

(H) RULES OF CONSTRUCTION; DEFINITIONS.—For purposes of—

(i) subparagraphs (A) and (B)—

(I) the term ''insider'' has the same meaning as in section 101(31) of the Bankruptcy Code;

(II) a transfer is made when such transfer is so perfected that a bona fide purchaser from the covered financial company against whom applicable law permits such transfer to be perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the date on which the Corporation is appointed as receiver for the covered financial company, such transfer is made immediately before the date of such appointment; and

(III) the term ''value'' means property, or satisfaction or securing of a present or antecedent

debt of the covered financial company, but does not include an unperformed promise to furnish support to the covered financial company; and

(ii) subparagraph (B)—

(I) the covered financial company is presumed to have been insolvent on and during the 90-day period immediately preceding the date of appointment of the Corporation as receiver; and

(II) the term ''insolvent'' has the same meaning as in section 101(32) of the Bankruptcy Code.

(12) SETOFF.—

(A) GENERALLY.—Except as otherwise provided in this title, any right of a creditor to offset a mutual debt owed by the creditor to any covered financial company that arose before the Corporation was appointed as receiver for the covered financial company against a claim of such creditor may be asserted if enforceable under applicable noninsolvency law, except to the extent that—

(i) the claim of the creditor against the covered financial company is disallowed;

(ii) the claim was transferred, by an entity other than the covered financial company, to the creditor—

(I) after the Corporation was appointed as receiver of the covered financial company; or

(II)(aa) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company; and

(bb) while the covered financial company was insolvent (except for a setoff in connection with a qualified financial contract); or

(iii) the debt owed to the covered financial company was incurred by the covered financial company—

(I) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company;

(II) while the covered financial company was insolvent; and

(III) for the purpose of obtaining a right of setoff against the covered financial company (except for a setoff in connection with a qualified financial contract).

(B) INSUFFICIENCY.—

(i) IN GENERAL.—Except with respect to a setoff in connection with a qualified financial contract, if a creditor offsets a mutual debt owed to the covered financial company against a claim of the covered financial company on or within the 90-day period preceding the date on which the Corporation is appointed as receiver for the covered financial company, the Corporation may recover from the creditor the amount so offset, to the extent that any insufficiency on the date of such setoff is less than the insufficiency on the later of—

(I) the date that is 90 days before the date on which the Corporation is appointed as receiver for the covered financial company; or

(II) the first day on which there is an insufficiency during the 90-day period preceding the date on which the Corporation is appointed as receiver for the covered financial company.

(ii) DEFINITION OF INSUFFICIENCY.—In this subparagraph, the term ''insufficiency'' means the amount, if any, by which a claim against the covered financial company exceeds a mutual debt owed to the covered financial company by the holder of such claim.

(C) INSOLVENCY.—The term ''insolvent'' has the same meaning as in section 101(32) of the Bankruptcy Code.

(D) PRESUMPTION OF INSOLVENCY.—For purposes of this paragraph, the covered financial company is presumed to have been insolvent on and during the 90-day period preceding the date of appointment of the Corporation as receiver.

(E) LIMITATION.—Nothing in this paragraph (12) shall be the basis for any right of setoff where no such right exists under applicable noninsolvency law.

(F) PRIORITY CLAIM.—Except as otherwise provided in this title, the Corporation as receiver for the covered financial company may sell or transfer any assets free and clear of the setoff rights of any party, except that such party shall be entitled to a claim, subordinate to the claims payable under subparagraphs (A), (B), (C), and (D) of subsection (b)(1), but senior to all other unsecured liabilities defined in subsection (b)(1)(E), in an amount equal to the value of such setoff rights.

(13) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (14), any court of competent jurisdiction may, at the request of the Corporation as receiver for a covered financial company, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation under the control of the court and appointing a trustee to hold such assets.

(14) STANDARDS.—

(A) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (13), without regard to the requirement that the applicant show that the injury, loss, or damage is irreparable and immediate.

(B) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of the State provide substantially similar protections of the right of the parties to due process as provided under Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation pursuant to paragraph (14) may be requested under the laws of such State.

(15) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CORPORATION AS RECEIVER.—Notwithstanding any other provision of this title, any final and nonappealable judgment for monetary damages entered against the Corporation as receiver for a covered financial company for the breach of an agreement executed or approved by the Corporation after the date of its appointment shall be paid as an administrative expense of the receiver. Nothing in this paragraph shall be construed to limit the power of a receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

(16) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

(A) IN GENERAL.—The Corporation as receiver for a covered financial company shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each receivership or other disposition of any covered financial company.

(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each receivership to which the Corporation is appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary and the Comptroller General of the United States.

(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) and section 203(c)(3) shall be made available to the public by the Corporation.

(D) RECORDKEEPING REQUIREMENT.—

(i) IN GENERAL.—The Corporation shall prescribe such regulations and establish such retention schedules as are necessary to maintain the documents and records of the Corporation generated in exercising the authorities of this title and the records of a covered financial company for which the Corporation is appointed receiver, with due regard for—

(I) the avoidance of duplicative record retention; and

(II) the expected evidentiary needs of the Corporation as receiver for a covered financial company and the public regarding the records of covered financial companies.

(ii) RETENTION OF RECORDS.—Unless otherwise required by applicable Federal law or court order, the Corporation may not, at any time, destroy any records that are subject to clause (i).

(iii) RECORDS DEFINED.—As used in this subparagraph, the terms ''records'' and ''records of a covered financial company'' mean any document, book, paper, map, photograph, microfiche, microfilm, computer or electronically-created record generated or maintained by the covered financial company in the course of and necessary to its transaction of business.

(b) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

(1) IN GENERAL.—Unsecured claims against a covered financial company, or the Corporation as receiver for such covered financial company under this section, that are proven to the satisfaction of the receiver shall have priority in the following order:

(A) Administrative expenses of the receiver.

(B) Any amounts owed to the United States, unless the United States agrees or consents otherwise.

(C) Wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual (other than an individual described in subparagraph (G)), but only to the extent of $11,725 for each individual (as indexed for inflation, by regulation of the Corporation) earned not later than 180 days before the date of appointment of the Corporation as receiver.

(D) Contributions owed to employee benefit plans arising from services rendered not later than 180 days before the date of appointment of the Corporation as receiver, to the extent of the number of employees covered by each such plan, multiplied by $11,725 (as indexed for inflation, by regulation of the Corporation), less the aggregate amount paid to such employees under subparagraph (C), plus the aggregate amount paid by the receivership on behalf of such employees to any other employee benefit plan.

(E) Any other general or senior liability of the covered financial company (which is not a liability described under subparagraph (F), (G), or (H)).

(F) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (G) or (H)).

(G) Any wages, salaries, or commissions including vacation, severance, and sick leave pay earned, owed to senior executives and directors of the covered financial company.

(H) Any obligation to shareholders, members, general partners, limited partners, or other persons, with interests in the equity of the covered financial company arising as a result of their status as shareholders, members, general partners, limited partners, or other persons with interests in the equity of the covered financial company.

(2) POST-RECEIVERSHIP FINANCING PRIORITY.—In the event that the Corporation, as receiver for a covered financial company, is unable to obtain unsecured credit for the covered financial company from commercial sources, the Corporation as receiver may obtain credit or incur debt on the part of the covered financial company, which shall have priority over any or all administrative expenses of the receiver under paragraph (1)(A).

(3) CLAIMS OF THE UNITED STATES.—Unsecured claims of the United States shall, at a minimum, have a higher priority than liabilities of the covered financial company that count as regulatory capital.

(4) CREDITORS SIMILARLY SITUATED.—All claimants of a covered financial company that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the Corporation as receiver may take any action (including making payments, subject to subsection (o)(1)(E)(ii)) that does not comply with this subsection, if—

(A) the Corporation determines that such action is necessary—

(i) to maximize the value of the assets of the covered financial company;

(ii) to initiate and continue operations essential to implementation of the receivership or any bridge financial company;

(iii) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or

(iv) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and

(B) all claimants that are similarly situated under paragraph (1) receive not less than the amount provided in paragraphs (2) and (3) of subsection (d).

(5) SECURED CLAIMS UNAFFECTED.—This section shall not affect secured claims or security entitlements in respect of assets or property held by the covered financial company, except to the extent that the security is insufficient to satisfy the claim, and then only with regard to the difference between the claim and the amount realized from the security.

(6) PRIORITY OF EXPENSES AND UNSECURED CLAIMS IN THE ORDERLY LIQUIDATION OF SIPC MEMBER.—Where the Corporation is appointed as receiver for a covered broker or dealer, unsecured claims against such covered broker or dealer, or the Corporation as receiver for such covered broker or dealer under this section, that are proven to the satisfaction of the receiver under section 205(e), shall have the priority prescribed in paragraph (1), except that—

(A) SIPC shall be entitled to recover administrative expenses incurred in performing its responsibilities under section 205 on an equal basis with the Corporation, in accordance with paragraph (1)(A);

(B) the Corporation shall be entitled to recover any amounts paid to customers or to SIPC pursuant to section 205(f), in accordance with paragraph (1)(B);

(C) SIPC shall be entitled to recover any amounts paid out of the SIPC Fund to meet its obligations under section 205 and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), which claim shall be subordinate to the claims payable under subparagraphs (A) and (B) of paragraph (1), but senior to all other claims; and

(D) the Corporation may, after paying any proven claims to customers under section 205 and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), and as provided above, pay dividends on other proven claims, in its discretion, and to the extent that funds are available, in accordance with the priorities set forth in paragraph (1).

(c) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF RECEIVER.—

(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights that a receiver may have, the Corporation as receiver for any covered financial company may disaffirm or repudiate any contract or lease—

(A) to which the covered financial company is a party;

(B) the performance of which the Corporation as receiver, in the discretion of the Corporation, determines to be burdensome; and

(C) the disaffirmance or repudiation of which the Corporation as receiver determines, in the discretion of the Corporation, will promote the orderly administration of the affairs of the covered financial company.

(2) TIMING OF REPUDIATION.—The Corporation, as receiver for any covered financial company, shall determine whether or not to exercise the rights of repudiation under this section within a reasonable period of time.

(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

(A) IN GENERAL.—Except as provided in paragraphs (4), (5), and (6) and in subparagraphs (C), (D), and (E) of this paragraph, the liability of the Corporation as receiver for a covered financial company for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

(i) limited to actual direct compensatory damages; and

(ii) determined as of—

(I) the date of the appointment of the Corporation as receiver; or

(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term ''actual direct compensatory damages'' does not include—

(i) punitive or exemplary damages;

(ii) damages for lost profits or opportunity; or

(iii) damages for pain and suffering.

(C) MEASURE OF DAMAGES FOR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

(ii) paid in accordance with this paragraph and subsection (d), except as otherwise specifically provided in this subsection.

(D) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF DEBT OBLIGATION.—In the case of any debt for borrowed money or evidenced by a security, actual direct compensatory damages shall be no less than the amount lent plus accrued interest plus any accreted original issue discount as of the date the Corporation was appointed receiver of the covered financial company and, to the extent that an allowed secured claim is secured by property the value of which is greater than the amount of such claim and any accrued interest through the date of repudiation or disaffirmance, such accrued interest pursuant to paragraph (1).

(E) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF CONTINGENT OBLIGATION.—In the case of any contingent obligation of a covered financial company consisting of any obligation under a guarantee, letter of credit, loan commitment, or similar credit obligation, the Corporation may, by rule or regulation, prescribe that actual direct compensatory damages shall be no less than the estimated value of the claim as of the date the Corporation was appointed receiver of the covered financial company, as such value is measured based on the likelihood that such contingent claim would become fixed and the probable magnitude thereof.

(4) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSEE.—

(A) IN GENERAL.—If the Corporation as receiver disaffirms or repudiates a lease under which the covered financial company is the lessee, the receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which subparagraph (A) would otherwise apply shall—

(i) be entitled to the contractual rent accruing before the later of the date on which—

(I) the notice of disaffirmance or repudiation is mailed; or

(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this paragraph and subsection (d).

(5) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSOR.—

(A) IN GENERAL.—If the Corporation as receiver for a covered financial company repudiates an unexpired written lease of real property of the covered financial company under which the covered financial company is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

(i) treat the lease as terminated by such repudiation; or

(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of subparagraph (A)—

(i) the lessee—

(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the covered financial company under the lease after such date; and

(ii) the Corporation as receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

(A) IN GENERAL.—If the receiver repudiates any contract (which meets the requirements of subsection (a)(6)) for the sale of real property, and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

(i) treat the contract as terminated by such repudiation; or

(ii) remain in possession of such real property.

(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of subparagraph (A)—

(i) the purchaser—

(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the covered financial company under the contract; and

(ii) the Corporation as receiver shall—

(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);

(II) deliver title to the purchaser in accordance with the provisions of the contract; and

(III) have no obligation under the contract other than the performance required under subclause (II).

(C) ASSIGNMENT AND SALE ALLOWED.—

(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the Corporation as receiver to assign the contract described in subparagraph (A) and sell the property, subject to the contract and the provisions of this paragraph.

(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the Corporation as receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any covered financial company for which the Corporation has been appointed receiver, any claim of such person for services performed before the date of appointment shall be—

(i) a claim to be paid in accordance with subsections (a), (b), and (d); and

(ii) deemed to have arisen as of the date on which the receiver was appointed.

(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the Corporation as receiver accepts performance by the other person before making any determination to exercise the right of repudiation of such contract under this section—

(i) the other party shall be paid under the terms of the contract for the services performed; and

(ii) the amount of such payment shall be treated as an administrative expense of the receivership.

(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by the Corporation as receiver for services referred to in subparagraph (B) in connection with a contract described in subparagraph (B) shall not affect the right of the Corporation as receiver to repudiate such contract under this section at any time after such performance.

(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to subsection (a)(8) and paragraphs (9) and (10) of this subsection, and notwithstanding any other provision of this section, any other provision of Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

(i) any right that such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a covered financial company which arises upon the date of appointment of the Corporation as receiver for such covered financial company at any time after such appointment;

(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); or

(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts or agreements described in clause (i), including any master agreement for such contracts or agreements.

(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (a)(8) shall apply in the case of any judicial action or proceeding brought against the Corporation as receiver referred to in subparagraph (A), or the subject covered financial company, by any party to a contract or agreement described in subparagraph (A)(i) with such covered financial company.

(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

(i) IN GENERAL.—Notwithstanding subsection (a)(11), (a)(12), or (c)(12), section 5242 of the Revised Statutes of the United States, or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Corporation, whether acting as the Corporation or as receiver for a covered financial company, may not avoid any transfer of money or other property in connection with any qualified financial contract with a covered financial company.

(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a covered financial company if the transferee had actual intent to hinder, delay, or defraud such company, the creditors of such company, or the Corporation as receiver appointed for such company.

(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection, the following definitions shall apply:

(i) QUALIFIED FINANCIAL CONTRACT.—The term ''qualified financial contract'' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

(ii) SECURITIES CONTRACT.—The term ''securities contract''—

(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a ''repurchase agreement'', as defined in clause (v));

(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

(III) means any option entered into on a national securities exchange relating to foreign currencies;

(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit or mortgage loans or interests therein (including any interest therein or based on the value thereof) or an option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II)));

(V) means any margin loan;

(VI) means any extension of credit for the clearance or settlement of securities transactions;

(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;

(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(IX) means any combination of the agreements or transactions referred to in this clause;

(X) means any option to enter into any agreement or transaction referred to in this clause;

(XI) means a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (X), other than subclause (II), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (X), other than subclause (II); and

(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

(iii) COMMODITY CONTRACT.—The term ''commodity contract'' means—

(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

(II) with respect to a foreign futures commission merchant, a foreign future;

(III) with respect to a leverage transaction merchant, a leverage transaction;

(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

(V) with respect to a commodity options dealer, a commodity option;

(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(VII) any combination of the agreements or transactions referred to in this clause;

(VIII) any option to enter into any agreement or transaction referred to in this clause;

(IX) a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (VIII); or

(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

(iv) FORWARD CONTRACT.—The term ''forward contract'' means—

(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date that is more than 10 days after the date on which the contract is entered into, including a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ''repurchase agreement'', as defined in clause (v)), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

(IV) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(v) REPURCHASE AGREEMENT.—The term ''repurchase agreement'' (which definition also applies to a reverse repurchase agreement)—

(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances,

qualified foreign government securities (which, for purposes of this clause, means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development, as determined by regulation or order adopted by the Board of Governors), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Corporation determines, by regulation, resolution, or order to include any such participation within the meaning of such term;

(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(vi) SWAP AGREEMENT.—The term ''swap agreement'' means—

(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;

(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(III) any combination of agreements or transactions referred to in this clause;

(IV) any option to enter into any agreement or transaction referred to in this clause;

(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

(VI) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any of clauses (I) through (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such clause.

(vii) DEFINITIONS RELATING TO DEFAULT.—When used in this paragraph and paragraph (10)—

(I) the term ''default'' means, with respect to a covered financial company, any adjudication or other official decision by any court of competent jurisdiction, or other public authority pursuant to which the Corporation has been appointed receiver; and

(II) the term ''in danger of default'' means a covered financial company with respect to which the Corporation or appropriate State authority has determined that—

(aa) in the opinion of the Corporation or such authority—

(AA) the covered financial company is not likely to be able to pay its obligations in the normal course of business; and

(BB) there is no reasonable prospect that the covered financial company will be able to pay such obligations without Federal assistance; or

(bb) in the opinion of the Corporation or such authority—

(AA) the covered financial company has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

(BB) there is no reasonable prospect that the capital will be replenished without Federal assistance.

(viii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any of clauses (i) through (vi) (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contact. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

(ix) TRANSFER.—The term ''transfer'' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the covered financial company.

(x) PERSON.—The term ''person'' includes any governmental entity in addition to any entity included in the definition of such term in section 1, title 1, United States Code.

(E) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1).

(F) WALKAWAY CLAUSES NOT EFFECTIVE.—

(i) IN GENERAL.—Notwithstanding the provisions of subparagraph (A) of this paragraph and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a covered financial company in default.

(ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time at which the Corporation is appointed as receiver until the earlier of—

(I) the time at which such party receives notice that such contract has been transferred pursuant to paragraph (10)(A); or

(II) 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment of the Corporation as receiver.

(iii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term ''walkaway clause'' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of the status of such party as a nondefaulting party in connection with the insolvency of a covered financial company that is a party to the contract or the appointment of or the exercise of rights or powers by the Corporation as receiver for such covered financial company, and not as a result of the exercise by a party of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.

(iv) CERTAIN OBLIGATIONS TO CLEARING ORGANIZATIONS.—In the event that the Corporation has been appointed as receiver for a covered financial company which is a party to any qualified financial contract cleared by or subject to the rules of a clearing organization (as defined in subsection (c)(9)(D)), the receiver shall use its best efforts to meet all margin, collateral, and settlement obligations of the covered financial company that arise under qualified financial contracts (other than any margin, collateral, or settlement obligation that is not enforceable against the receiver under paragraph (8)(F)(i) or paragraph (10)(B)), as required by the rules of the clearing organization when due, and such obligations shall not be suspended pursuant to paragraph (8)(F)(ii). Notwithstanding paragraph (8)(F)(ii) or (10)(B), if the receiver fails to satisfy any such margin, collateral, or settlement obligations under the rules of the clearing organization, the clearing organization shall have the immediate right to exercise, and shall not be stayed from exercising, all of its rights and remedies under its rules and applicable law with respect to any qualified financial contract of the covered financial company, including, without limitation, the right to liquidate all positions and collateral of such covered financial company under the company's qualified financial contracts, and suspend or cease to act for such covered financial company, all in accordance with the rules of the clearing organization.

(G) RECORDKEEPING.—

(i) JOINT RULEMAKING.—The Federal primary financial regulatory agencies shall jointly prescribe regulations requiring that financial companies maintain such records with respect to qualified financial contracts (including market valuations) that the Federal primary financial regulatory agencies determine to be necessary or appropriate in order to assist the Corporation as receiver for a covered financial company in being able to exercise its rights and fulfill its obligations under this paragraph or paragraph (9) or (10).

(ii) TIMEFRAME.—The Federal primary financial regulatory agencies shall prescribe joint final or interim final regulations not later than 24 months after the date of enactment of this Act.

(iii) BACK-UP RULEMAKING AUTHORITY.—If the Federal primary financial regulatory agencies do not prescribe joint final or interim final regulations within the time frame in clause (ii), the Chairperson of the Council shall prescribe, in consultation with the Corporation, the regulations required by clause (i).

(iv) CATEGORIZATION AND TIERING.—The joint regulations prescribed under clause (i) shall, as

appropriate, differentiate among financial companies by taking into consideration their size, risk, complexity, leverage, frequency and dollar amount of qualified financial contracts, interconnectedness to the financial system, and any other factors deemed appropriate.

(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

(A) IN GENERAL.—In making any transfer of assets or liabilities of a covered financial company in default, which includes any qualified financial contract, the Corporation as receiver for such covered financial company shall either—

(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

(I) all qualified financial contracts between any person or any affiliate of such person and the covered financial company in default;

(II) all claims of such person or any affiliate of such person against such covered financial company under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such company);

(III) all claims of such covered financial company against such person or any affiliate of such person under any such contract; and

(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

(B) TRANSFER TO FOREIGN BANK, FINANCIAL INSTITUTION, OR BRANCH OR AGENCY THEREOF.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the Corporation as receiver for the covered financial company shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that the Corporation as receiver for a financial institution transfers any qualified financial contract and related claims, property, or credit enhancement pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) the term ''financial institution'' means a broker or dealer, a depository institution, a futures commission merchant, a bridge financial company, or any other institution determined by the Corporation, by regulation, to be a financial institution; and

(ii) the term ''clearing organization'' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(10) NOTIFICATION OF TRANSFER.—

(A) IN GENERAL.—

(i) NOTICE.—The Corporation shall provide notice in accordance with clause (ii), if—

(I) the Corporation as receiver for a covered financial company in default or in danger of default transfers any assets or liabilities of the covered financial company; and

(II) the transfer includes any qualified financial contract.

(ii) TIMING.—The Corporation as receiver for a covered financial company shall notify any person who is a party to any contract described in clause (i) of such transfer not later than 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment of the Corporation as receiver.

(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a covered financial company may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) solely by reason of or incidental to the appointment under this section of the Corporation as receiver for the covered financial company (or the insolvency or financial condition of the covered financial company for which the Corporation has been appointed as receiver)—

(I) until 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment; or

(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

(ii) NOTICE.—For purposes of this paragraph, the Corporation as receiver for a covered financial company shall be deemed to have notified a person who is a party to a qualified financial contract with such covered financial company, if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

(C) TREATMENT OF BRIDGE FINANCIAL COMPANY.—For purposes of paragraph (9), a bridge financial company shall not be considered to be a covered financial company for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.

(D) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term ''business day'' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of the Corporation as receiver with respect to any qualified financial contract to which a covered financial company is a party, the Corporation shall either—

(A) disaffirm or repudiate all qualified financial contracts between—

(i) any person or any affiliate of such person; and

(ii) the covered financial company in default; or

(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

(12) CERTAIN SECURITY AND CUSTOMER INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any—

(A) legally enforceable or perfected security interest in any of the assets of any covered financial company, except in accordance with subsection (a)(11); or

(B) legally enforceable interest in customer property, security entitlements in respect of assets or property held by the covered financial company for any security entitlement holder.

(13) AUTHORITY TO ENFORCE CONTRACTS.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company, may enforce any contract, other than a liability insurance contract of a director or officer, a financial institution bond entered into by the covered financial company, notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency, the appointment of or the exercise of rights or powers by the Corporation as receiver, the filing of the petition pursuant to section 202(a)(1), or the issuance of the recommendations or determination, or any actions or events occurring in connection therewith or as a result thereof, pursuant to section 203.

(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the Corporation as receiver to enforce or recover under a liability insurance contract of a director or officer or financial institution bond under other applicable law.

(C) CONSENT REQUIREMENT AND IPSO FACTO CLAUSES.—

(i) IN GENERAL.—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the covered financial company is a party (and no provision in any such contract providing for such default, termination, or acceleration shall be enforceable), or to obtain possession of or exercise control over any property of the covered financial company or affect any contractual rights of the covered financial company, without the consent of the Corporation as receiver for the covered financial company during the 90 day period beginning from the appointment of the Corporation as receiver.

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

(D) CONTRACTS TO EXTEND CREDIT.—Notwithstanding any other provision in this title, if the Corporation as receiver enforces any contract to extend credit to the covered financial company or bridge financial company, any valid and enforceable obligation to repay such debt shall be paid by the Corporation as receiver, as an administrative expense of the receivership.

(14) EXCEPTION FOR FEDERAL RESERVE BANKS AND CORPORATION SECURITY INTEREST.—No provision of this subsection shall apply with respect to—

(A) any extension of credit from any Federal reserve bank or the Corporation to any covered financial company; or

(B) any security interest in the assets of the covered financial company securing any such extension of credit.

(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

(16) ENFORCEMENT OF CONTRACTS GUARANTEED BY THE COVERED FINANCIAL COMPANY.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company or as receiver for a subsidiary of a covered financial company (including an insured depository institution) shall have the power to enforce contracts of subsidiaries or affiliates of the covered financial company, the obligations under which are guaranteed or otherwise supported by or linked to the covered financial company, notwithstanding

any contractual right to cause the termination, liquidation, or acceleration of such contracts based solely on the insolvency, financial condition, or receivership of the covered financial company, if—

(i) such guaranty or other support and all related assets and liabilities are transferred to and assumed by a bridge financial company or a third party (other than a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding) within the same period of time as the Corporation is entitled to transfer the qualified financial contracts of such covered financial company; or

(ii) the Corporation, as receiver, otherwise provides adequate protection with respect to such obligations.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph, a bridge financial company shall not be considered to be a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.

(d) VALUATION OF CLAIMS IN DEFAULT.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method utilized by the Corporation for a covered financial company, including transactions authorized under subsection (h), this subsection shall govern the rights of the creditors of any such covered financial company.

(2) MAXIMUM LIABILITY.—The maximum liability of the Corporation, acting as receiver for a covered financial company or in any other capacity, to any person having a claim against the Corporation as receiver or the covered financial company for which the Corporation is appointed shall equal the amount that such claimant would have received if—

(A) the Corporation had not been appointed receiver with respect to the covered financial company; and

(B) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code, or any similar provision of State insolvency law applicable to the covered financial company.

(3) SPECIAL PROVISION FOR ORDERLY LIQUIDATION BY SIPC.—The maximum liability of the Corporation, acting as receiver or in its corporate capacity for any covered broker or dealer to any customer of such covered broker or dealer, with respect to customer property of such customer, shall be—

(A) equal to the amount that such customer would have received with respect to such customer property in a case initiated by SIPC under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); and

(B) determined as of the close of business on the date on which the Corporation is appointed as receiver.

(4) ADDITIONAL PAYMENTS AUTHORIZED.—

(A) IN GENERAL.—Subject to subsection (o)(1)(E)(ii), the Corporation, with the approval of the Secretary, may make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants of the covered financial company, if the Corporation determines that such payments or credits are necessary or appropriate to minimize losses to the Corporation as receiver from the orderly liquidation of the covered financial company under this section.

(B) LIMITATIONS.—

(i) PROHIBITION.—The Corporation shall not make any payments or credit amounts to any claimant or category of claimants that would result in any claimant receiving more than the face value amount of any claim that is proven to the satisfaction of the Corporation.

(ii) NO OBLIGATION.—Notwithstanding any other provision of Federal or State law, or the Constitution of any State, the Corporation shall not be obligated, as a result of having made any payment under subparagraph (A) or credited any amount described in subparagraph (A) to or with respect to, or for the account, of any claimant or category of claimants, to make payments to any other claimant or category of claimants.

(C) MANNER OF PAYMENT.—The Corporation may make payments or credit amounts under subparagraph (A) directly to the claimants or may make such payments or credit such amounts to a company other than a covered financial company or a bridge financial company established with respect thereto in order to induce such other company to accept liability for such claims.

(e) LIMITATION ON COURT ACTION.—Except as provided in this title, no court may take any action to restrain or affect the exercise of powers or functions of the receiver hereunder, and any remedy against the Corporation or receiver shall be limited to money damages determined in accordance with this title.

(f) LIABILITY OF DIRECTORS AND OFFICERS.—

(1) IN GENERAL.—A director or officer of a covered financial company may be held personally liable for monetary damages in any civil action described in paragraph (2) by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation—

(A) acting as receiver for such covered financial company;

(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by the Corporation as receiver; or

(C) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by a covered financial company or its affiliate in connection with assistance provided under this title.

(2) ACTIONS COVERED.—Paragraph (1) shall apply with respect to actions for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law.

(3) SAVINGS CLAUSE.—Nothing in this subsection shall impair or affect any right of the Corporation under other applicable law.

(g) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial company, or any other party employed by or providing services to a covered financial company, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the covered financial company shall include principal losses and appropriate interest.

(h) BRIDGE FINANCIAL COMPANIES.—

(1) ORGANIZATION.—

(A) PURPOSE.—The Corporation, as receiver for one or more covered financial companies or in anticipation of being appointed receiver for one or more covered financial companies, may organize one or more bridge financial companies in accordance with this subsection.

(B) AUTHORITIES.—Upon the creation of a bridge financial company under subparagraph (A) with respect to a covered financial company, such bridge financial company may—

(i) assume such liabilities (including liabilities associated with any trust or custody business, but excluding any liabilities that count as regulatory capital) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate;

(ii) purchase such assets (including assets associated with any trust or custody business) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate; and

(iii) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this section.

(2) CHARTER AND ESTABLISHMENT.—

(A) ESTABLISHMENT.—Except as provided in subparagraph (H), where the covered financial company is a covered broker or dealer, the Corporation, as receiver for a covered financial company, may grant a Federal charter to and approve articles of association for one or more bridge financial company or companies, with respect to such covered financial company which shall, by operation of law and immediately upon issuance of its charter and approval of its articles of association, be established and operate in accordance with, and subject to, such charter, articles, and this section.

(B) MANAGEMENT.—Upon its establishment, a bridge financial company shall be under the management of a board of directors appointed by the Corporation.

(C) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge financial company shall have such terms as the Corporation may provide, and shall be executed by such representatives as the Corporation may designate.

(D) TERMS OF CHARTER; RIGHTS AND PRIVILEGES.—Subject to and in accordance with the provisions of this subsection, the Corporation shall—

(i) establish the terms of the charter of a bridge financial company and the rights, powers, authorities, and privileges of a bridge financial company granted by the charter or as an incident thereto; and

(ii) provide for, and establish the terms and conditions governing, the management (including the bylaws and the number of directors of the board of directors) and operations of the bridge financial company.

(E) TRANSFER OF RIGHTS AND PRIVILEGES OF COVERED FINANCIAL COMPANY.—

(i) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Corporation may provide for a bridge financial company to succeed to and assume any rights, powers, authorities, or privileges of the covered financial company with respect to which the bridge financial company was established and, upon such determination by the Corporation, the bridge financial company shall immediately and by operation of law succeed to and assume such rights, powers, authorities, and privileges.

(ii) EFFECTIVE WITHOUT APPROVAL.—Any succession to or assumption by a bridge financial company of rights, powers, authorities, or privileges of a covered financial company under clause (i) or otherwise shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

(F) CORPORATE GOVERNANCE AND ELECTION AND DESIGNATION OF BODY OF LAW.—To the extent permitted by the Corporation and consistent with this section and any rules, regulations, or directives issued by the Corporation under this section, a bridge financial company may elect to follow the corporate governance practices and procedures that are applicable to a corporation incorporated under the general corporation law of the State of Delaware, or the State of incorporation or organization of the covered financial company with respect to which the bridge financial company was established, as such law may be amended from time to time.

(G) CAPITAL.—

(i) CAPITAL NOT REQUIRED.—Notwithstanding any other provision of Federal or State law, a bridge financial company may, if permitted by the Corporation, operate without any capital or surplus, or with such capital or surplus as the Corporation may in its discretion determine to be appropriate.

(ii) NO CONTRIBUTION BY THE CORPORATION REQUIRED.—The Corporation is not required to pay capital into a bridge financial company or to issue any capital stock on behalf of a bridge financial company established under this subsection.

(iii) AUTHORITY.—If the Corporation determines that such action is advisable, the Corporation may cause capital stock or other securities of a bridge financial company established with respect to a covered financial company to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

(iv) OPERATING FUNDS IN LIEU OF CAPITAL AND IMPLEMENTATION PLAN.—Upon the organization of a bridge financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge financial company, subject to the plan described in subsection (n)(11), funds for the operation of the bridge financial company in lieu of capital.

(H) BRIDGE BROKERS OR DEALERS.—

(i) IN GENERAL.—The Corporation, as receiver for a covered broker or dealer, may approve articles of association for one or more bridge financial companies with respect to such covered broker or dealer, which bridge financial company or companies shall, by operation of law and immediately upon approval of its articles of association—

(I) be established and deemed registered with the Commission under the Securities Exchange Act of 1934 and a member of SIPC;

(II) operate in accordance with such articles and this section; and

(III) succeed to any and all registrations and memberships of the covered financial company with or in any self-regulatory organizations.

(ii) OTHER REQUIREMENTS.—Except as provided in clause (i), and notwithstanding any other provision of this section, the bridge financial company shall be subject to the Federal securities laws and all requirements with respect to being a member of a self-regulatory organization, unless exempted from any such requirements by the Commission, as is necessary or appropriate in the public interest or for the protection of investors.

(iii) TREATMENT OF CUSTOMERS.—Except as otherwise provided by this title, any customer of the covered broker or dealer whose account is transferred to a bridge financial company shall have all the rights, privileges, and protections under section 205(f) and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), that such customer would have had if the account were not transferred from the covered financial company under this subparagraph.

(iv) OPERATION OF BRIDGE BROKERS OR DEALERS.—Notwithstanding any other provision of this title, the Corporation shall not operate any bridge financial company created by the Corporation under this title with respect to a covered broker or dealer in such a manner as to adversely affect the ability of customers to promptly access their customer property in accordance with applicable law.

(3) INTERESTS IN AND ASSETS AND OBLIGATIONS OF COVERED FINANCIAL COMPANY.—Notwithstanding paragraph (1) or (2) or any other provision of law—

(A) a bridge financial company shall assume, acquire, or succeed to the assets or liabilities of a covered financial company (including the assets or liabilities associated with any trust or custody business) only to the extent that such assets or liabilities are transferred by the Corporation to the bridge financial company in accordance with, and subject to the restrictions set forth in, paragraph (1)(B); and

(B) a bridge financial company shall not assume, acquire, or succeed to any obligation that a covered financial company for which the Corporation has been appointed receiver may have to any shareholder, member, general partner, limited partner, or other person with an interest in the equity of the covered financial company that arises as a result of the status of that person having an equity claim in the covered financial company.

(4) BRIDGE FINANCIAL COMPANY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A bridge financial company shall be treated as a covered financial company in default at such times and for such purposes as the Corporation may, in its discretion, determine.

(5) TRANSFER OF ASSETS AND LIABILITIES.—

(A) AUTHORITY OF CORPORATION.—The Corporation, as receiver for a covered financial company, may transfer any assets and liabilities of a covered financial company (including any assets or liabilities associated with any trust or custody business) to one or more bridge financial companies, in accordance with and subject to the restrictions of paragraph (1).

(B) SUBSEQUENT TRANSFERS.—At any time after the establishment of a bridge financial company with respect to a covered financial company, the Corporation, as receiver, may transfer any assets and liabilities of such covered financial company as the Corporation may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).

(C) TREATMENT OF TRUST OR CUSTODY BUSINESS.—For purposes of this paragraph, the trust or custody business, including fiduciary appointments, held by any covered financial company is included among its assets and liabilities.

(D) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities, including those associated with any trust or custody business of a covered financial company, to a bridge financial company shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

(E) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS.—The Corporation shall treat all creditors of a covered financial company that are similarly situated under subsection (b)(1), in a similar manner in exercising the authority of the Corporation under this subsection to transfer any assets or liabilities of the covered financial company to one or more bridge financial companies established with respect to such covered financial company, except that the Corporation may take any action (including making payments, subject to subsection (o)(1)(D)(ii)) that does not comply with this subparagraph, if—

(i) the Corporation determines that such action is necessary—

(I) to maximize the value of the assets of the covered financial company;

(II) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or

(III) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and

(ii) all creditors that are similarly situated under subsection (b)(1) receive not less than the amount provided under paragraphs (2) and (3) of subsection (d).

(F) LIMITATION ON TRANSFER OF LIABILITIES.—Notwithstanding any other provision of law, the aggregate amount of liabilities of a covered financial company that are transferred to, or assumed by, a bridge financial company from a covered financial company may not exceed the aggregate amount of the assets of the covered financial company that are transferred to, or purchased by, the bridge financial company from the covered financial company.

(6) STAY OF JUDICIAL ACTION.—Any judicial action to which a bridge financial company becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a covered financial company shall be stayed from further proceedings for a period of not longer than 45 days (or such longer period as may be agreed to upon the consent of all parties) at the request of the bridge financial company.

(7) AGREEMENTS AGAINST INTEREST OF THE BRIDGE FINANCIAL COMPANY.—No agreement that tends to diminish or defeat the interest of the bridge financial company in any asset of a covered financial company acquired by the bridge financial company shall be valid against the bridge financial company, unless such agreement—

(A) is in writing;

(B) was executed by an authorized officer or representative of the covered financial company or confirmed in the ordinary course of business by the covered financial company; and

(C) has been on the official record of the company, since the time of its execution, or with which, the party claiming under the agreement provides documentation of such agreement and its authorized execution or confirmation by the covered financial company that is acceptable to the receiver.

(8) NO FEDERAL STATUS.—

(A) AGENCY STATUS.—A bridge financial company is not an agency, establishment, or instrumentality of the United States.

(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), directors, officers, employees, or agents of a bridge financial company are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), director, officer, employee, or agent of a bridge financial company shall not—

(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

(ii) receive any salary or benefits for service in any such capacity with respect to a bridge financial company in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

(9) FUNDING AUTHORIZED.—The Corporation may, subject to the plan described in subsection (n)(11), provide funding to facilitate any transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13) with respect to any bridge financial company, or facilitate the acquisition by a bridge financial company of any assets, or the assumption of any liabilities, of a covered financial company for which the Corporation has been appointed receiver.

(10) EXEMPT TAX STATUS.—Notwithstanding any other provision of Federal or State law, a bridge financial company, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(11) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW.—If a transaction involving the merger or sale of a bridge financial company requires approval by a Federal agency, the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval with respect thereto. If, in connection with any such approval a report on competitive factors from the Attorney General is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the proposed transaction and the Attorney General shall provide the required report within 10 days of the request. If a notification is required under section 7A of the Clayton Act with respect to such transaction, the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under section 7A(b)(2) of the Clayton Act, or extended under section 7A(e)(2) of that Act.

(12) DURATION OF BRIDGE FINANCIAL COMPANY.—Subject to paragraphs (13) and (14), the status of a bridge financial company as such shall terminate at the end of the 2-year period following the date on which it was granted a charter. The Corporation may, in its discretion,

extend the status of the bridge financial company as such for no more than 3 additional 1-year periods.

(13) TERMINATION OF BRIDGE FINANCIAL COMPANY STATUS.—The status of any bridge financial company as such shall terminate upon the earliest of—

(A) the date of the merger or consolidation of the bridge financial company with a company that is not a bridge financial company;

(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge financial company to a company other than the Corporation and other than another bridge financial company;

(C) the sale of 80 percent, or more, of the capital stock of the bridge financial company to a person other than the Corporation and other than another bridge financial company;

(D) at the election of the Corporation, either the assumption of all or substantially all of the liabilities of the bridge financial company by a company that is not a bridge financial company, or the acquisition of all or substantially all of the assets of the bridge financial company by a company that is not a bridge financial company, or other entity as permitted under applicable law; and

(E) the expiration of the period provided in paragraph (12), or the earlier dissolution of the bridge financial company, as provided in paragraph (15).

(14) EFFECT OF TERMINATION EVENTS.—

(A) MERGER OR CONSOLIDATION.—A merger or consolidation, described in paragraph (12)(A) shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law. For the purpose of effecting such a merger or consolidation, the bridge financial company shall be treated as a corporation organized under the laws of the State of Delaware (unless the law of another State has been selected by the bridge financial company in accordance with paragraph (2)(F)), and the Corporation shall be treated as the sole shareholder thereof, notwithstanding any other provision of State or Federal law.

(B) CHARTER CONVERSION.—Following the sale of a majority of the capital stock of the bridge financial company, as provided in paragraph (13)(B), the Corporation may amend the charter of the bridge financial company to reflect the termination of the status of the bridge financial company as such, whereupon the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, such State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers, and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.

(C) SALE OF STOCK.—Following the sale of 80 percent or more of the capital stock of a bridge financial company, as provided in paragraph (13)(C), the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, the State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.

(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS.—Following the assumption of all or substantially all of the liabilities of the bridge financial company, or the sale of all or substantially all of the assets of the bridge financial company, as provided in paragraph (13)(D), at the election of the Corporation, the bridge financial company may retain its status as such for the period provided in paragraph (12) or may be dissolved at the election of the Corporation.

(E) AMENDMENTS TO CHARTER.—Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13), the charter of the resulting company shall be amended to reflect the termination of bridge financial company status, if appropriate.

(15) DISSOLUTION OF BRIDGE FINANCIAL COMPANY.—

(A) IN GENERAL.—Notwithstanding any other provision of Federal or State law, if the status of a bridge financial company as such has not previously been terminated by the occurrence of an event specified in subparagraph (A), (B), (C), or (D) of paragraph (13)—

(i) the Corporation may, in its discretion, dissolve the bridge financial company in accordance with this paragraph at any time; and

(ii) the Corporation shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date on which the bridge financial company was chartered, or any extension thereof, as provided in paragraph (12).

(B) PROCEDURES.—The Corporation shall remain the receiver for a bridge financial company for the purpose of dissolving the bridge financial company. The Corporation as receiver for a bridge financial company shall wind up the affairs of the bridge financial company in conformity with the provisions of law relating to the liquidation of covered financial companies under this title. With respect to any such bridge financial company, the Corporation as receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to the Corporation as receiver for a covered financial company under this title and, notwithstanding any other provision of law, in the exercise of such rights, powers, and privileges, the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

(16) AUTHORITY TO OBTAIN CREDIT.—

(A) IN GENERAL.—A bridge financial company may obtain unsecured credit and issue unsecured debt.

(B) INABILITY TO OBTAIN CREDIT.—If a bridge financial company is unable to obtain unsecured credit or issue unsecured debt, the Corporation may authorize the obtaining of credit or the issuance of debt by the bridge financial company—

(i) with priority over any or all of the obligations of the bridge financial company;

(ii) secured by a lien on property of the bridge financial company that is not otherwise subject to a lien; or

(iii) secured by a junior lien on property of the bridge financial company that is subject to a lien.

(C) LIMITATIONS.—

(i) IN GENERAL.—The Corporation, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a bridge financial company that is secured by a senior or equal lien on property of the bridge financial company that is subject to a lien, only if—

(I) the bridge financial company is unable to otherwise obtain such credit or issue such debt; and

(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.

(ii) HEARING.—The hearing required pursuant to this subparagraph shall be before a court of the United States, which shall have jurisdiction to conduct such hearing.

(D) BURDEN OF PROOF.—In any hearing under this paragraph, the Corporation has the burden of proof on the issue of adequate protection.

(E) QUALIFIED FINANCIAL CONTRACTS.—No credit or debt obtained or issued by a bridge financial company may contain terms that impair the rights of a counterparty to a qualified financial contract upon a default by the bridge financial company, other than the priority of such counterparty's unsecured claim (after the exercise of rights) relative to the priority of the bridge financial company's obligations in respect of such credit or debt, unless such counterparty consents in writing to any such impairment.

(17) EFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.

(i) SHARING RECORDS.—If the Corporation has been appointed as receiver for a covered financial company, other Federal regulators shall make all records relating to the covered financial company available to the Corporation, which may be used by the Corporation in any manner that the Corporation determines to be appropriate.

(j) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of the covered financial company, or any other person employed by or providing services to a covered financial company, shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be held not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

(2) SCHEDULING.—The court shall expedite the consideration of any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial company or any other person employed by or providing services to a covered financial company. As far as practicable, the court shall give such case priority on its docket.

(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.

(k) FOREIGN INVESTIGATIONS.—The Corporation, as receiver for any covered financial company, and for purposes of carrying out any power, authority, or duty with respect to a covered financial company—

(1) may request the assistance of any foreign financial authority and provide assistance to any foreign financial authority in accordance with section 8(v) of the Federal Deposit Insurance Act, as if the covered financial company were an insured depository institution, the Corporation were the appropriate Federal banking agency for the company, and any foreign financial authority were the foreign banking authority; and

(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign financial authorities.

(l) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the

Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as receiver for a covered financial company.

(m) LIQUIDATION OF CERTAIN COVERED FINANCIAL COMPANIES OR BRIDGE FINANCIAL COMPANIES.—

(1) IN GENERAL.—Except as specifically provided in this section, and notwithstanding any other provision of law, the Corporation, in connection with the liquidation of any covered financial company or bridge financial company with respect to which the Corporation has been appointed as receiver, shall—

(A) in the case of any covered financial company or bridge financial company that is or has a subsidiary that is a stockbroker, but is not a member of the Securities Investor Protection Corporation, apply the provisions of subchapter III of chapter 7 of the Bankruptcy Code, in respect of the distribution to any customer of all customer name securities and customer property, as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter; or

(B) in the case of any covered financial company or bridge financial company that is a commodity broker, apply the provisions of subchapter IV of chapter 7 the Bankruptcy Code, in respect of the distribution to any customer of all customer property, as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the terms ''customer'', ''customer name securities'', and ''customer property'' have the same meanings as in section 741 of title 11, United States Code; and

(B) the terms ''commodity broker'' and ''stockbroker'' have the same meanings as in section 101 of the Bankruptcy Code.

(n) ORDERLY LIQUIDATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate fund to be known as the ''Orderly Liquidation Fund'', which shall be available to the Corporation to carry out the authorities contained in this title, for the cost of actions authorized by this title, including the orderly liquidation of covered financial companies, payment of administrative expenses, the payment of principal and interest by the Corporation on obligations issued under paragraph (6), and the exercise of the authorities of the Corporation under this title.

(2) PROCEEDS.—Amounts received by the Corporation, including assessments received under subsection (o), proceeds of obligations issued under paragraph (6), interest and other earnings from investments, and repayments to the Corporation by covered financial companies, shall be deposited into the Fund.

(3) MANAGEMENT.—The Corporation shall manage the Fund in accordance with this subsection and the policies and procedures established under section 203(d).

(4) INVESTMENTS.—At the request of the Corporation, the Secretary may invest such portion of amounts held in the Fund that are not, in the judgment of the Corporation, required to meet the current needs of the Corporation, in obligations of the United States having suitable maturities, as determined by the Corporation. The interest on and the proceeds from the sale or redemption of such obligations shall be credited to the Fund.

(5) AUTHORITY TO ISSUE OBLIGATIONS.—

(A) CORPORATION AUTHORIZED TO ISSUE OBLIGATIONS.—Upon appointment by the Secretary of the Corporation as receiver for a covered financial company, the Corporation is authorized to issue obligations to the Secretary.

(B) SECRETARY AUTHORIZED TO PURCHASE OBLIGATIONS.—The Secretary may, under such terms and conditions as the Secretary may require, purchase or agree to purchase any obligations issued under subparagraph (A), and for such purpose, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include such purchases.

(C) INTEREST RATE.—Each purchase of obligations by the Secretary under this paragraph shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus an interest rate surcharge to be determined by the Secretary, which shall be greater than the difference between—

(i) the current average rate on an index of corporate obligations of comparable maturity; and

(ii) the current average rate on outstanding marketable obligations of the United States of comparable maturity.

(D) SECRETARY AUTHORIZED TO SELL OBLIGATIONS.—The Secretary may sell, upon such terms and conditions as the Secretary shall determine, any of the obligations acquired under this paragraph.

(E) PUBLIC DEBT TRANSACTIONS.—All purchases and sales by the Secretary of such obligations under this paragraph shall be treated as public debt transactions of the United States, and the proceeds from the sale of any obligations acquired by the Secretary under this paragraph shall be deposited into the Treasury of the United States as miscellaneous receipts.

(6) MAXIMUM OBLIGATION LIMITATION.—The Corporation may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection for each covered financial company would exceed—

(A) an amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the Corporation as receiver (or a shorter time period if the Corporation has calculated the amount described under subparagraph (B)); and

(B) the amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in subparagraph (A).

(7) RULEMAKING.—The Corporation and the Secretary shall jointly, in consultation with the Council, prescribe regulations governing the calculation of the maximum obligation limitation defined in this paragraph.

(8) RULE OF CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this section shall be construed to affect the authority of the Corporation under subsection (a) or (b) of section 14 or section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1824, 1825(c)(5)), the management of the Deposit Insurance Fund by the Corporation, or the resolution of insured depository institutions, provided that—

(i) the authorities of the Corporation contained in this title shall not be used to assist the Deposit Insurance Fund or to assist any financial company under applicable law other than this Act;

(ii) the authorities of the Corporation relating to the Deposit Insurance Fund, or any other responsibilities of the Corporation under applicable law other than this title, shall not be used to assist a covered financial company pursuant to this title; and

(iii) the Deposit Insurance Fund may not be used in any manner to otherwise circumvent the purposes of this title.

(B) VALUATION.—For purposes of determining the amount of obligations under this subsection—

(i) the Corporation shall include as an obligation any contingent liability of the Corporation pursuant to this title; and

(ii) the Corporation shall value any contingent liability at its expected cost to the Corporation.

(9) ORDERLY LIQUIDATION PLAN.—Amounts in the Fund shall be available to the Corporation with regard to a covered financial company for which the Corporation is appointed receiver after the Corporation has developed an orderly liquidation plan that is acceptable to the Secretary with regard to such covered financial company, including the provision and use of funds, including taking any actions specified under section 204(d) and subsection (h)(2)(G)(iv) and (h)(9) of this section, and payments to third parties. The Corporation may, at any time, amend any orderly liquidation plan approved by the Secretary with the concurrence of the Secretary.

(10) IMPLEMENTATION EXPENSES.—

(A) IN GENERAL.—Reasonable implementation expenses of the Corporation incurred after the date of enactment of this Act shall be treated as expenses of the Council.

(B) REQUESTS FOR REIMBURSEMENT.—The Corporation shall periodically submit a request for reimbursement for implementation expenses to the Chairperson of the Council, who shall arrange for prompt reimbursement to the Corporation of reasonable implementation expenses.

(C) DEFINITION.—As used in this paragraph, the term ''implementation expenses''—

(i) means costs incurred by the Corporation beginning on the date of enactment of this Act, as part of its efforts to implement this title that do not relate to a particular covered financial company; and

(ii) includes the costs incurred in connection with the development of policies, procedures, rules, and regulations and other planning activities of the Corporation consistent with carrying out this title.

(o) ASSESSMENTS.—

(1) RISK-BASED ASSESSMENTS.—

(A) ELIGIBLE FINANCIAL COMPANIES DEFINED.—For purposes of this subsection, the term ''eligible financial company'' means any bank holding company with total consolidated assets equal to or greater than $50,000,000,000 and any nonbank financial company supervised by the Board of Governors.

(B) ASSESSMENTS.—The Corporation shall charge one or more risk-based assessments in accordance with the provisions of subparagraph (D), if such assessments are necessary to pay in full the obligations issued by the Corporation to the Secretary within 60 months of the date of issuance of such obligations.

(C) EXTENSIONS AUTHORIZED.—The Corporation may, with the approval of the Secretary, extend the time period under subparagraph (C)(iii), if the Corporation determines that an extension is necessary to avoid a serious adverse effect on the financial system of the United States.

(D) APPLICATION OF ASSESSMENTS.—To meet the requirements of subparagraph (C), the Corporation shall—

(i) impose assessments, as soon as practicable, on any claimant that received additional payments or amounts from the Corporation pursuant to subsection (b)(4), (d)(4), or (h)(5)(E), except for payments or amounts necessary to initiate and continue operations essential to implementation of the receivership or any bridge financial company, to recover on a cumulative basis, the entire difference between—

(I) the aggregate value the claimant received from the Corporation on a claim pursuant to this title (including pursuant to subsection (b)(4), (d)(4), and (h)(5)(E)), as of the date on which such value was received; and

(II) the value the claimant was entitled to receive from the Corporation on such claim solely from the proceeds of the liquidation of the covered financial company under this title; and

(ii) if the amounts to be recovered on a cumulative basis under clause (i) are insufficient to meet the requirements of subparagraph (C), after taking into account the considerations set forth in paragraph (4), impose assessments on—

(I) eligible financial companies; and

(II) financial companies with total consolidated assets equal to or greater than $50,000,000,000 that are not eligible financial companies.

(E) PROVISION OF FINANCING.—Payments or amounts necessary to initiate and continue operations essential to implementation of the receivership or any bridge financial company described in subparagraph (E)(i) shall not include the provision of financing, as defined by rule of the Corporation, to third parties.

(2) GRADUATED ASSESSMENT RATE.—The Corporation shall impose assessments on a graduated basis, with financial companies having greater assets being assessed at a higher rate.

(3) NOTIFICATION AND PAYMENT.—The Corporation shall notify each financial company of that company's assessment under this subsection. Any financial company subject to assessment under this subsection shall pay such assessment in accordance with the regulations prescribed pursuant to paragraph (6).

(4) RISK-BASED ASSESSMENT CONSIDERATIONS.—In imposing assessments under this subsection, the Corporation shall—

(A) take into account economic conditions generally affecting financial companies, so as to allow assessments to be lower during less favorable economic conditions;

(B) take into account any assessments imposed on—

(i) an insured depository institution subsidiary of a financial company pursuant to section 7 or section 13(c)(4)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1823(c)(4)(G));

(ii) a financial company or subsidiary of such company that is a member of SIPC pursuant to section 4 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd); and

(iii) a financial company or subsidiary of such company that is an insurance company pursuant to applicable State law to cover (or reimburse payments made to cover) the costs of rehabilitation, liquidation, or other State insolvency proceeding with respect to one or more insurance companies;

(C) take into account the financial condition of the financial company, including the extent and type of off-balance-sheet exposures of the financial company;

(D) take into account the risks presented by the financial company to the financial stability of the United States economy;

(E) take into account the extent to which the financial company or group of financial companies has benefitted, or likely would benefit, from the orderly liquidation of a covered financial company and the use of the Fund under this title;

(F) distinguish among different classes of assets or different types of financial companies (including distinguishing among different types of financial companies, based on their levels of capital and leverage) in order to establish comparable assessment bases among financial companies subject to this subsection;

(G) establish the parameters for the graduated assessment requirement in paragraph (2); and

(H) take into account such other factors as the Corporation, in consultation with the Secretary, deems appropriate.

(5) COLLECTION OF INFORMATION.—The Corporation may impose on covered financial companies such collection of information requirements as the Corporation deems necessary to carry out this subsection after the appointment of the Corporation as receiver under this title.

(6) RULEMAKING.—

(A) IN GENERAL.—The Corporation shall prescribe regulations to carry out this subsection. The Corporation shall consult with the Secretary in the development and finalization of such regulations.

(B) EQUITABLE TREATMENT.—The regulations prescribed under subparagraph (A) shall take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, and the different bases for other assessments that such financial companies may be required to pay, to ensure that assessed financial companies are treated equitably and that assessments under this subsection reflect such differences.

(p) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—

(1) IN GENERAL.—No provision described in paragraph (2) shall be enforceable against or impose any liability on any person, as such enforcement or liability shall be contrary to public policy.

(2) PROHIBITED PROVISIONS.—A provision described in this paragraph is any term contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire;

(B) prohibits any person from offering to acquire or acquiring; or

(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of, all or part of any covered financial company, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under this title.

(q) OTHER EXEMPTIONS.—

(1) IN GENERAL.—When acting as a receiver under this title—

(A) the Corporation, including its franchise, its capital, reserves and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed;

(B) no property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation; and

(C) the Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due; and

(D) the Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the covered financial company, or persons acting on behalf of the covered financial company, prior to the appointment of the Corporation as receiver.

(2) LIMITATION.—Paragraph (1) shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

(r) CERTAIN SALES OF ASSETS PROHIBITED.—

(1) PERSONS WHO ENGAGED IN IMPROPER CONDUCT WITH, OR CAUSED LOSSES TO, COVERED FINANCIAL COMPANIES.—The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a covered financial company by the Corporation to—

(A) any person who—

(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations, the aggregate amount of which exceeds $1,000,000, to such covered financial company;

(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any covered financial company;

(B) any person who participated, as an officer or director of such covered financial company or of any affiliate of such company, in a material way in any transaction that resulted in a substantial loss to such covered financial company; or

(C) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such covered financial company.

(2) CONVICTED DEBTORS.—Except as provided in paragraph (3), a person may not purchase any asset of such institution from the receiver, if that person—

(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any covered financial company; and

(B) is in default on any loan or other extension of credit from such covered financial company which, if not paid, will cause substantial loss to the Fund or the Corporation.

(3) SETTLEMENT OF CLAIMS.—Paragraphs (1) and (2) shall not apply to the sale or transfer by the Corporation of any asset of any covered financial company to any person, if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of 1 or more claims that have been, or could have been, asserted by the Corporation against the person.

(4) DEFINITION OF DEFAULT.—For purposes of this subsection, the term ''default'' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

(s) RECOUPMENT OF COMPENSATION FROM SENIOR EXECUTIVES AND DIRECTORS.—

(1) IN GENERAL.—The Corporation, as receiver of a covered financial company, may recover from any current or former senior executive or director substantially responsible for the failed condition of the covered financial company any compensation received during the 2-year period preceding the date on which the Corporation was appointed as the receiver of the covered financial company, except that, in the case of fraud, no time limit shall apply.

(2) COST CONSIDERATIONS.—In seeking to recover any such compensation, the Corporation shall weigh the financial and deterrent benefits of such recovery against the cost of executing the recovery.

(3) RULEMAKING.—The Corporation shall promulgate regulations to implement the requirements of this subsection, including defining the term ''compensation'' to mean any financial remuneration, including salary, bonuses, incentives, benefits, severance, deferred compensation, or golden parachute benefits, and any profits realized from the sale of the securities of the covered financial company.

SEC. 211. MISCELLANEOUS PROVISIONS.

(a) CLARIFICATION OF PROHIBITION REGARDING CONCEALMENT OF ASSETS FROM RECEIVER OR LIQUIDATING AGENT.—Section 1032(1) of title 18, United States Code, is amended by inserting ''the Federal Deposit Insurance Corporation acting as receiver for a covered financial company, in accordance with title II of the Restoring American Financial Stability Act of 2010,'' before ''or the National Credit''.

*(b) CONFORMING AMENDMENT.—Section 1032 of title 18, United States Code, is amended in the section heading, by striking ''**of financial institution**''.*

(c) FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.—Section 403(a)

of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403(a)) is amended by inserting ''section 210(c) of the Restoring American Financial Stability Act of 2010, section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(d)),'' after ''section 11(e) of the Federal Deposit Insurance Act,''.

(d) FDIC INSPECTOR GENERAL REVIEWS.—

(1) SCOPE.—The Inspector General of the Corporation shall conduct, supervise, and coordinate audits and investigations of the liquidation of any covered financial company by the Corporation as receiver under this title, including collecting and summarizing—

(A) a description of actions taken by the Corporation as receiver;

(B) a description of any material sales, transfers, mergers, obligations, purchases, and other material transactions entered into by the Corporation;

(C) an evaluation of the adequacy of the policies and procedures of the Corporation under section 203(d) and orderly liquidation plan under section 210(n)(14);

(D) an evaluation of the utilization by the Corporation of the private sector in carrying out its functions, including the adequacy of any conflict-of-interest reviews; and

(E) an evaluation of the overall performance of the Corporation in liquidating the covered financial company, including administrative costs, timeliness of liquidation process, and impact on the financial system.

(2) FREQUENCY.—Not later than 6 months after the date of appointment of the Corporation as receiver under this title and every 6 months thereafter, the Inspector General of the Corporation shall conduct the audit and investigation described in paragraph (1).

(3) REPORTS AND TESTIMONY.—The Inspector General of the Corporation shall include in the semiannual reports required by section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), a summary of the findings and evaluations under paragraph (1), and shall appear before the appropriate committees of Congress, if requested, to present each such report.

(4) FUNDING.—

(A) INITIAL FUNDING.—The expenses of the Inspector General of the Corporation in carrying out this subsection shall be considered administrative expenses of the receivership.

(B) ADDITIONAL FUNDING.—If the maximum amount available to the Corporation as receiver under this title is insufficient to enable the Inspector General of the Corporation to carry out the duties under this subsection, the Corporation shall pay such additional amounts from assessments imposed under section 210.

(5) TERMINATION OF RESPONSIBILITIES.—The duties and responsibilities of the Inspector General of the Corporation under this subsection shall terminate 1 year after the date of termination of the receivership under this title.

(e) TREASURY INSPECTOR GENERAL REVIEWS.—

(1) SCOPE.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of actions taken by the Secretary related to the liquidation of any covered financial company under this title, including collecting and summarizing—

(A) a description of actions taken by the Secretary under this title;

(B) an analysis of the approval by the Secretary of the policies and procedures of the Corporation under section 203 and acceptance of the orderly liquidation plan of the Corporation under section 210; and

(C) an assessment of the terms and conditions underlying the purchase by the Secretary of obligations of the Corporation under section 210.

(2) FREQUENCY.—Not later than 6 months after the date of appointment of the Corporation as receiver under this title and every 6 months thereafter, the Inspector General of the Department of the Treasury shall conduct the audit and investigation described in paragraph (1).

(3) REPORTS AND TESTIMONY.—The Inspector General of the Department of the Treasury shall include in the semiannual reports required by section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), a summary of the findings and assessments under paragraph (1), and shall appear before the appropriate committees of Congress, if requested, to present each such report.

(4) TERMINATION OF RESPONSIBILITIES.—The duties and responsibilities of the Inspector General of the Department of the Treasury under this subsection shall terminate 1 year after the date on which the obligations purchased by the Secretary from the Corporation under section 210 are fully redeemed.

(f) PRIMARY FINANCIAL REGULATORY AGENCY INSPECTOR GENERAL REVIEWS.—

(1) SCOPE.—Upon the appointment of the Corporation as receiver for a covered financial company supervised by a Federal primary financial regulatory agency or the Board of Governors under section 165, the Inspector General of the agency or the Board of Governors shall make a written report reviewing the supervision by the agency or the Board of Governors of the covered financial company, which shall—

(A) evaluate the effectiveness of the agency or the Board of Governors in carrying out its supervisory responsibilities with respect to the covered financial company;

(B) identify any acts or omissions on the part of agency or Board of Governors officials that contributed to the covered financial company being in default or in danger of default;

(C) identify any actions that could have been taken by the agency or the Board of Governors that would have prevented the company from being in default or in danger of default; and

(D) recommend appropriate administrative or legislative action.

(2) REPORTS AND TESTIMONY.—Not later than 1 year after the date of appointment of the Corporation as receiver under this title, the Inspector General of the Federal primary financial regulatory agency or the Board of Governors shall provide the report required by paragraph (1) to such agency or the Board of Governors, and along with such agency or the Board of Governors, as applicable, shall appear before the appropriate committees of Congress, if requested, to present the report required by paragraph (1). Not later than 90 days after the date of receipt of the report required by paragraph (1), such agency or the Board of Governors, as applicable, shall provide a written report to Congress describing any actions taken in response to the recommendations in the report, and if no such actions were taken, describing the reasons why no actions were taken.

SEC. 212. PROHIBITION OF CIRCUMVENTION AND PREVENTION OF CONFLICTS OF INTEREST.

(a) NO OTHER FUNDING.—Funds for the orderly liquidation of any covered financial company under this title shall only be provided as specified under this title.

(b) LIMIT ON GOVERNMENTAL ACTIONS.—No governmental entity may take any action to circumvent the purposes of this title.

(c) CONFLICT OF INTEREST.—In the event that the Corporation is appointed receiver for more than 1 covered financial company or is appointed receiver for a covered financial company and receiver for any insured depository institution that is an affiliate of such covered financial company, the Corporation shall take appropriate action, as necessary to avoid any conflicts of interest that may arise in connection with multiple receiverships.

SEC. 213. BAN ON SENIOR EXECUTIVES AND DIRECTORS.

(a) PROHIBITION AUTHORITY.—The Board of Governors or, if the covered financial company was not supervised by the Board of Governors, the Corporation, may exercise the authority provided by this section.

(b) AUTHORITY TO ISSUE ORDER.—The appropriate agency described in subsection (a) may take any action authorized by subsection (c), if the agency determines that—

(1) a senior executive or a director of the covered financial company, prior to the appointment of the Corporation as receiver, has, directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by a Federal agency in connection with any action on any application, notice, or request by such company or senior executive; or

(iv) any written agreement between such company and such agency;

(B) engaged or participated in any unsafe or unsound practice in connection with any financial company; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of the fiduciary duty of such senior executive or director;

(2) by reason of the violation, practice, or breach described in any clause of paragraph (1), such senior executive or director has received financial gain or other benefit by reason of such violation, practice, or breach and such violation, practice, or breach contributed to the failure of the company; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such senior executive or director; or

(B) demonstrates willful or continuing disregard by such senior executive or director for the safety or soundness of such company.

(c) AUTHORIZED ACTIONS.—

(1) IN GENERAL.—The appropriate agency for a financial company, as described in subsection (a), may serve upon a senior executive or director described in subsection (b) a written notice of the intention of the agency to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial company for a period of time determined by the appropriate agency to be commensurate with such violation, practice, or breach, provided such period shall be not less than 2 years.

(2) PROCEDURES.—The due process requirements and other procedures under section 8(e) of the Federal Deposit Insurance Act shall apply to actions under this section as if the covered financial company were an insured depository institution and the senior executive or director were an institution-affiliated party, as those terms are defined in that Act.

(d) REGULATIONS.—The Corporation and the Board of Governors, in consultation with the Council, shall jointly prescribe rules or regulations to administer and carry out this section, including rules, regulations, or guidelines to further define the term senior executive for the purposes of this section.

SEC. 214. PROHIBITION ON TAXPAYER FUNDING.

(a) LIQUIDATION REQUIRED.—All financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.

(b) RECOVERY OF FUNDS.—All funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

(c) NO LOSSES TO TAXPAYERS.—Taxpayers shall bear no losses from the exercise of any authority under this title.

TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

SEC. 300. SHORT TITLE.

This title may be cited as the ''Enhancing Financial Institution Safety and Soundness Act of 2010''.

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to provide for the safe and sound operation of the banking system of the United States;

(2) to preserve and protect the dual system of Federal and State-chartered depository institutions;

(3) to ensure the fair and appropriate supervision of each depository institution, regardless of the size or type of charter of the depository institution; and

(4) to streamline and rationalize the supervision of depository institutions and the holding companies of depository institutions.

SEC. 302. DEFINITION.

In this title, the term ''transferred employee'' means, as the context requires, an employee transferred to the Office of the Comptroller of the Currency or the Corporation under section 322.

Subtitle A—Transfer of Powers and Duties

SEC. 311. TRANSFER DATE.

(a) TRANSFER DATE.—Except as provided in subsection (b), the term ''transfer date'' means the date that is 1 year after the date of enactment of this Act.

(b) EXTENSION PERMITTED.—

(1) NOTICE REQUIRED.—The Secretary, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Corporation, may extend the period under subsection (a) and designate a transfer date that is not later than 18 months after the date of enactment of this Act, if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(A) a written determination that commencement of the orderly process to implement this title is not feasible by the date that is 1 year after the date of enactment of this Act;

(B) an explanation of why an extension is necessary to commence the process of orderly implementation of this title;

(C) the transfer date designated under this subsection; and

(D) a description of the steps that will be taken to initiate the process of an orderly and timely implementation of this title within the extended time period.

(2) PUBLICATION OF NOTICE.—Not later than 270 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register notice of any transfer date designated under paragraph (1).

SEC. 312. POWERS AND DUTIES TRANSFERRED.

(a) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

(b) FUNCTIONS OF THE OFFICE OF THRIFT SUPERVISION.—

(1) SAVINGS AND LOAN HOLDING COMPANY FUNCTIONS TRANSFERRED.—There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to—

(A) the supervision of—

(i) any savings and loan holding company; and

(ii) any subsidiary (other than a depository institution) of a savings and loan holding company; and

(B) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.

(2) ALL OTHER FUNCTIONS TRANSFERRED.—

(A) BOARD OF GOVERNORS.—All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 5(q) of such Act relating to tying arrangements is transferred to the Board of Governors.

(B) COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (1) and subparagraph (A), there are transferred to the Comptroller of the Currency all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to Federal savings associations.

(C) CORPORATION.—Except as provided in paragraph (1) and subparagraph (A), all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to State savings associations are transferred to the Corporation.

(D) COMPTROLLER OF THE CURRENCY AND THE CORPORATION.—Except as provided in paragraph (1) and subparagraph (A), all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings associations is transferred to the Office of the Comptroller of the Currency.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) the Office of the Comptroller of the Currency, in the case of—

''(A) any national banking association;

''(B) any Federal branch or agency of a foreign bank; and

''(C) any Federal savings association;

''(2) the Federal Deposit Insurance Corporation, in the case of—

''(A) any insured State nonmember bank;

''(B) any foreign bank having an insured branch; and

''(C) any State savings association;

''(3) the Board of Governors of the Federal Reserve System, in the case of—

''(A) any State member bank;

''(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

''(C) any foreign bank which does not operate an insured branch;

''(D) any agency or commercial lending company other than a Federal agency;

''(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

''(F) any bank holding company and any subsidiary (other than a depository institution) of a bank holding company; and

''(G) any savings and loan holding company and any subsidiary (other than a depository institution) of a savings and loan holding company.''.

(2) FEDERAL DEPOSIT INSURANCE ACT.—

(A) APPLICATION.—Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

''(3) APPLICATION TO BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND EDGE AND AGREEMENT CORPORATIONS.—

''(A) APPLICATION.—This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 shall apply to—

''(i) any bank holding company, and any subsidiary (other than a bank) of a bank holding company, as those terms are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the bank holding company was the appropriate Federal banking agency;

''(ii) any savings and loan holding company, and any subsidiary (other than a depository institution) of a savings and loan holding company, as those terms are defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the savings and loan holding company was the appropriate Federal banking agency; and

''(iii) any organization organized and operated under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.) or operating under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) and any noninsured State member bank, as if such organization or bank was a bank holding company.

''(B) RULES OF CONSTRUCTION.—

''(i) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph may be construed to alter or affect the authority of an appropriate Federal banking agency to initiate enforcement proceedings, issue directives, or take other remedial action under any other provision of law.

''(ii) HOLDING COMPANIES.—Nothing in this paragraph or subsection (c) may be construed as authorizing any Federal banking agency other than the appropriate Federal banking agency for a bank holding company or a savings and loan holding company to initiate enforcement proceedings, issue directives, or take other remedial action against a bank holding company, a savings and loan holding company, or any subsidiary thereof (other than a depository institution).''.

(B) CONFORMING AMENDMENT.—Section 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(9)) is amended to read as follows:

''(9) [Reserved].''.

(d) CONSUMER PROTECTION.—Nothing in this section may be construed to limit or otherwise affect the transfer of powers under title X.

SEC. 313. ABOLISHMENT.

Effective 90 days after the transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

SEC. 314. AMENDMENTS TO THE REVISED STATUTES.

(a) AMENDMENT TO SECTION 324.—Section 324 of the Revised Statutes of the United States (12 U.S.C. 1) is amended to read as follows:

''SEC. 324. COMPTROLLER OF THE CURRENCY.

''(a) OFFICE OF THE COMPTROLLER OF THE CURRENCY ESTABLISHED.—There is established in the Department of the Treasury a bureau to be known as the 'Office of the Comptroller of the Currency' which is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction.

''(b) COMPTROLLER OF THE CURRENCY.—

''(1) IN GENERAL.—The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency. The Comptroller of the Currency shall perform the duties of the Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency enforcement actions), unless otherwise specifically provided by law.

''(2) ADDITIONAL AUTHORITY.—The Comptroller of the Currency shall have the same authority with respect to functions transferred to the Comptroller of the Currency under the Enhancing Financial Institution Safety and Soundness Act of 2010 (including matters that were within the jurisdiction of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision on the day before the transfer date under that Act) as was vested in the Director of the Office of Thrift Supervision on the transfer date under that Act.''.

(b) AMENDMENT TO SECTION 329.—Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by inserting before the period at the end the following: ''or any Federal savings association''.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 315. FEDERAL INFORMATION POLICY.

Section 3502(5) of title 44, United States Code, is amended by inserting ''Office of the Comptroller of the Currency,'' after ''the Securities and Exchange Commission,''.

SEC. 316. SAVINGS PROVISIONS.

(a) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 312(b) and 313 shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that, for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision that is transferred to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors by this subtitle, the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors shall be substituted for the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, as appropriate, as a party to the action or proceeding as of the transfer date.

(b) CONTINUATION OF EXISTING ORDERS, RESOLUTIONS, DETERMINATIONS, AGREEMENTS, REGULATIONS, AND OTHER MATERIALS.—All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions of the Office of Thrift Supervision that are transferred by this subtitle and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those materials, and shall be enforceable by or against the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, by any court of competent jurisdiction, or by operation of law.

(c) IDENTIFICATION OF REGULATIONS CONTINUED.—

(1) BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY.—Not later than the transfer date, the Office of the Comptroller of the Currency shall—

(A) in consultation with the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Office of the Comptroller of the Currency; and

(B) publish a list of such regulations in the Federal Register.

(2) BY THE CORPORATION.—Not later than the transfer date, the Corporation shall—

(A) in consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (b) that will be enforced by the Corporation; and

(B) publish a list of such regulations in the Federal Register.

(3) BY THE BOARD OF GOVERNORS.—Not later than the transfer date, the Board of Governors shall—

(A) in consultation with the Office of the Comptroller of the Currency and the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Board of Governors; and

(B) publish a list of such regulations in the Federal Register.

(d) STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED REGULATIONS.—Any proposed regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has proposed before the transfer date, but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.

(2) REGULATIONS NOT YET EFFECTIVE.—Any interim or final regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has published before the transfer date, but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.

SEC. 317. REFERENCES IN FEDERAL LAW TO FEDERAL BANKING AGENCIES.

Except as provided in section 312(d)(2), on and after the transfer date, any reference in Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, in connection with any function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision transferred under section 312(b) or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors, as appropriate.

SEC. 318. FUNDING.

(a) FUNDING OF OFFICE OF THE COMPTROLLER OF THE CURRENCY.—Chapter 4 of title LXII of the Revised Statutes is amended by inserting after section 5240 (12 U.S.C. 481, 482) the following:

''SEC. 5240A. The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. In establishing the amount of an assessment, fee, or charge collected from an entity under this section, the Comptroller of the Currency may take into account the funds transferred to the Office of the Comptroller of the Currency under this section, the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor, as the Comptroller of the Currency determines is appropriate. Funds derived from any assessment, fee, or charge collected or payment made pursuant to this section may be deposited by the Comptroller of the Currency in accordance with the provisions of section 5234. Such funds shall not be construed to be Government funds or appropriated monies, and shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or any other provision of law. The authority of the Comptroller of the Currency under this section shall be in addition to the authority under section 5240.

''The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid, in accordance with this section.''.

(b) FUNDING OF BOARD OF GOVERNORS.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following:

''(s) ASSESSMENTS, FEES, AND OTHER CHARGES FOR CERTAIN COMPANIES.—

''(1) IN GENERAL.—The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the responsibilities of the Board with respect to such companies.

''(2) COMPANIES.—The companies described in this paragraph are—

''(A) all bank holding companies having total consolidated assets of $50,000,000,000 or more;

''(B) all savings and loan holding companies having total consolidated assets of $50,000,000,000 or more; and

''(C) all nonbank financial companies supervised by the Board under section 113 of the Restoring American Financial Stability Act of 2010.''.

(c) CORPORATION EXAMINATION FEES.—Section 10(e) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)) is amended by striking paragraph (1) and inserting the following:

''(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity described in section 3(q)(2) may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations, or as the Corporation determines is necessary or appropriate to carry out the responsibilities of the Corporation.''.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 319. CONTRACTING AND LEASING AUTHORITY.

Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Office of the Comptroller of the Currency may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest) as the Comptroller deems necessary to carry out the duties and responsibilities of the Office of the Comptroller of the Currency; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

Subtitle B—Transitional Provisions

SEC. 321. INTERIM USE OF FUNDS, PERSONNEL, AND PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.

(a) IN GENERAL.—Before the transfer date, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall—

(1) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors in accordance with this title;

(2) determine jointly, from time to time—

(A) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the transfer date;

(B) which personnel are appropriate to facilitate the orderly transfer of functions by this title; and

(C) what property and administrative services are necessary to support the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors during the period beginning on the date of enactment of this Act and ending on the transfer date; and

(3) take such actions as may be necessary to provide for the orderly implementation of this title.

(b) AGENCY CONSULTATION.—When requested jointly by the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors to do so before the transfer date, the Office of Thrift Supervision shall—

(1) pay to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, from funds obtained by the Office of Thrift Supervision through assessments, fees, or other charges that the Office of Thrift Supervision is authorized by law to impose, such amounts as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a);

(2) detail to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such personnel as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be appropriate under subsection (a); and

(3) make available to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such property and provide to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such administrative services as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a).

(c) NOTICE REQUIRED.—The Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall jointly give the Office of Thrift Supervision reasonable prior notice of any request that the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly intend to make under subsection (b).

SEC. 322. TRANSFER OF EMPLOYEES.

(a) IN GENERAL.—

(1) OFFICE OF THRIFT SUPERVISION EMPLOYEES.—

(A) IN GENERAL.—All employees of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation for employment in accordance with this section.

(B) ALLOCATING EMPLOYEES FOR TRANSFER TO RECEIVING AGENCIES.—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation shall—

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the functions that are transferred to the Office of the Comptroller of the Currency or the Corporation by this title; and

(ii) consistent with the determination under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Office of the Comptroller of the Currency or the Corporation.

(2) EMPLOYEES TRANSFERRED; SERVICE PERIODS CREDITED.—For purposes of this section, periods of service with a Federal home loan bank, a joint office of Federal home loan banks, or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(3) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any appointment authority of the Office of Thrift Supervision under Federal law that relates to the functions transferred under section 312, including the regulations of the Office of Personnel Management, for filling the positions of employees in the excepted service shall be transferred to the Comptroller of the Currency or the Chairperson of the Corporation, as appropriate.

(B) DECLINING TRANSFERS ALLOWED.—The Office of the Comptroller of the Currency or the Chairperson of the Corporation may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed under that authority) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(4) ADDITIONAL APPOINTMENT AUTHORITY.—Notwithstanding any other provision of law, the Office of the Comptroller of the Currency and the Corporation may appoint transferred employees to positions in the Office of the Comptroller of the Currency or the Corporation, respectively.

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under subsection (a)(1) shall—

(1) be transferred not later than 90 days after the transfer date; and

(2) receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer of the employee.

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the transfer of employees under this subtitle shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) PRIORITY.—If any provision of this subtitle conflicts with any protection provided to a transferred employee under section 3503 of title 5, United States Code, the provisions of this subtitle shall control.

(d) EMPLOYEE STATUS AND ELIGIBILITY.—The transfer of functions and employees under this subtitle, and the abolishment of the Office of Thrift Supervision under section 313, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.

(e) EQUAL STATUS AND TENURE POSITIONS.—

(1) STATUS AND TENURE.—Each transferred employee from the Office of Thrift Supervision shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation with the same status and tenure as the transferred employee held on the day before the date on which the employee was transferred.

(2) FUNCTIONS.—To the extent practicable, each transferred employee shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.

(f) NO ADDITIONAL CERTIFICATION REQUIREMENTS.—An examiner who is a transferred employee shall not be subject to any additional certification requirements before being placed in a comparable position at the Office of the Comptroller of the Currency or the Corporation, if the examiner carries out examinations of the same type of institutions as an employee of the Office of the Comptroller of the Currency or the Corporation as the employee was responsible for carrying out before the date on which the employee was transferred.

(g) PERSONNEL ACTIONS LIMITED.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), during the 2-year period beginning on the transfer date, an employee holding a permanent position on the day before the date on which the employee was transferred shall not be involuntarily separated or involuntarily reassigned outside the locality pay area (as defined by the Office of Personnel Management) of the employee.

(2) EXCEPTIONS.—The Comptroller of the Currency and the Chairperson of the Corporation, as applicable, may—

(A) separate a transferred employee for cause, including for unacceptable performance; or

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(h) PAY.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), during the 2-year period beginning on the date on which the employee was transferred under this subtitle, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred.

(2) EXCEPTIONS.—The Comptroller of the Currency or the Chairman of the Board of Governors may reduce the rate of basic pay of a transferred employee—

(A) for cause, including for unacceptable performance; or

(B) with the consent of the transferred employee.

(3) PROTECTION ONLY WHILE EMPLOYED.—This subsection shall apply to a transferred employee only during the period that the transferred employee remains employed by Office of the Comptroller of the Currency or the Corporation.

(4) PAY INCREASES PERMITTED.—Nothing in this subsection shall limit the authority of the Comptroller of the Currency or the Chairperson of the Corporation to increase the pay of a transferred employee.

(i) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by the Office of the Comptroller of the Currency or the Corporation.

(ii) EMPLOYER'S CONTRIBUTION.—The Comptroller of the Currency or the Chairperson of the Corporation, as appropriate, shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under each such existing retirement plan.

(B) DEFINITION.—In this paragraph, the term ''existing retirement plan'' means, with respect to a transferred employee, the retirement plan (including the Financial Institutions Retirement Fund), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS.—

(A) DURING FIRST YEAR.—

(i) EXISTING PLANS CONTINUE.—During the 1-year period following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee was transferred under this title, including any dental, vision, long term care, or life insurance program to which the employee belonged on the day before the transfer date.

(ii) EMPLOYER'S CONTRIBUTION.—The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements.

(B) DENTAL, VISION, OR LIFE INSURANCE AFTER FIRST YEAR.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in—

(i) the enhanced dental benefits program established under chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established under chapter 89B of title 5, United States Code; and

(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as appropriate, will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member, as described in part 875 of title 5, Code of Federal Regulations (or any successor thereto).

(D) CONTRIBUTION OF TRANSFERRED EMPLOYEE.—

(i) IN GENERAL.—Subject to clause (ii), a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution required under the plan.

(ii) COST DIFFERENTIAL.—The Office of the Comptroller of the Currency or the Corporation, as applicable, shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred on the date of enactment of this Act and the plan provided by the Office of the Comptroller of the Currency or the Corporation, as the case may be, under this section.

(iii) FUNDS TRANSFER.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i).

(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability.

(ii) CONTRIBUTION OF TRANSFERRED EMPLOYEE.—

(I) IN GENERAL.—Subject to subclause (II), a transferred employee enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.

(II) COST DIFFERENTIAL.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall pay any difference in cost between the benefits provided by the agency from which the employee transferred on the date of enactment of this Act and the benefits provided under this section.

(III) FUNDS TRANSFER.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Federal Employees' Group Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Federal Employees' Group Life Insurance Fund for the cost to the Federal Employees' Group Life Insurance Fund of providing benefits under this subparagraph not otherwise paid for by a transferred employee under subclause (I).

(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(j) INCORPORATION INTO AGENCY PAY SYSTEM.—Not later than 2 years after the transfer date, the Comptroller of the Currency and the Chairperson of the Corporation shall place each transferred employee into the established pay system and structure of the appropriate employing agency.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Comptroller of the Currency and the Chairperson of the Corporation—

(1) may not take any action that would unfairly disadvantage a transferred employee relative to any other employee of the Office of the Comptroller of the Currency or the Corporation on the basis of prior employment by the Office of Thrift Supervision; and

(2) may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time for prior periods of service with any Federal agency of the transferred employee.

(l) REORGANIZATION.—

(1) IN GENERAL.—If the Comptroller of the Currency or the Chairperson of the Corporation determines, during the 2-year period beginning 1 year after the transfer date, that a reorganization of the staff of the Office of the Comptroller of the Currency or the Corporation, respectively, is required, the reorganization shall be deemed a ''major reorganization'' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(2) SERVICE CREDIT.—For purposes of this subsection, periods of service with a Federal home loan bank or a joint office of Federal home loan banks shall be credited as periods of service with a Federal agency.

SEC. 323. PROPERTY TRANSFERRED.

(a) PROPERTY DEFINED.—For purposes of this section, the term ''property'' includes all real property (including leaseholds) and all personal property, including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence related to such reports, and any other information or materials.

(b) PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.—Not later than 90 days after the transfer date, all property of the Office of Thrift Supervision that the Comptroller of the Currency and the Chairperson of the Corporation jointly determine is used, on the day before the transfer date, to perform or support the functions of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Corporation under this title, shall be transferred to the Office of the Comptroller of the Currency or the Corporation in a manner consistent with the transfer of employees under this subtitle.

(c) CONTRACTS RELATED TO PROPERTY TRANSFERRED.—Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to the Office of the Comptroller of the Currency or the Corporation by this section shall be transferred to the Office of the Comptroller of the Currency or the Corporation, as appropriate, together with the property to which it relates.

(d) PRESERVATION OF PROPERTY.—Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.

SEC. 324. FUNDS TRANSFERRED.

The funds that, on the day before the transfer date, the Director of the Office of Thrift Supervision (in consultation with the Comptroller of the Currency, the Chairperson of the Corporation, and the Chairman of the Board of Governors) determines are not necessary to dispose of the affairs of the Office of Thrift Supervision under section 325 and are available to the Office of Thrift Supervision to pay the expenses of the Office of Thrift Supervision—

(1) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(B), shall be transferred to the Office of the Comptroller of the Currency on the transfer date;

(2) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(C), shall be transferred to the Corporation on the transfer date; and

(3) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(A), shall be transferred to the Board of Governors on the transfer date.

SEC. 325. DISPOSITION OF AFFAIRS.

(a) AUTHORITY OF DIRECTOR.—During the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision—

(1) shall, solely for the purpose of winding up the affairs of the Office of Thrift Supervision relating to any function transferred to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors under this title—

(A) manage the employees of the Office of Thrift Supervision who have not yet been transferred and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred under this title; and

(B) manage any property of the Office of Thrift Supervision, until the date on which the property is transferred under section 323; and

(2) may take any other action necessary to wind up the affairs of the Office of Thrift Supervision.

(b) STATUS OF DIRECTOR.—

(1) IN GENERAL.—Notwithstanding the transfer of functions under this subtitle, during the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision shall retain and may exercise any authority vested in the Director of the Office of Thrift Supervision on the day before the transfer date, only to the extent necessary—

(A) to wind up the Office of Thrift Supervision; and

(B) to carry out the transfer under this subtitle during such 90-day period.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, continue to be—

(A) treated as an officer of the United States; and

(B) entitled to receive compensation at the same annual rate of basic pay that the Director of the Office of Thrift Supervision received on the day before the transfer date.

SEC. 326. CONTINUATION OF SERVICES.

Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to the Office of Thrift Supervision in connection with functions transferred to the Office of the Comptroller of the

Currency, the Corporation or the Board of Governors under this title, shall—

(1) continue to provide such services, subject to reimbursement by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, until the transfer of functions under this title is complete; and

(2) consult with the Comptroller of the Currency, the Chairperson of the Corporation, or the Chairman of the Board of Governors, as appropriate, to coordinate and facilitate a prompt and orderly transition.

Subtitle C—Federal Deposit Insurance Corporation

SEC. 331. DEPOSIT INSURANCE REFORMS.

(a) SIZE DISTINCTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraph (C) as subparagraph (D).

(b) ASSESSMENT BASE.—The Corporation shall amend the regulations issued by the Corporation under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) to define the term ''assessment base'' with respect to an insured depository institution for purposes of that section 7(b)(2), as an amount equal to—

(1) the average consolidated total assets of the insured depository institution during the assessment period; minus

(2) the sum of—

(A) the average tangible equity of the insured depository institution during the assessment period; and

(B) in the case of an insured depository institution that is a custodial bank (as defined by the Corporation, based on factors including the percentage of total revenues generated by custodial businesses and the level of assets under custody) or a banker's bank (as that term is used in section 5136 of the Revised Statutes (12 U.S.C. 24)), an amount that the Corporation determines is necessary to establish assessments consistent with the definition under section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) for a custodial bank or a banker's bank.

SEC. 332. MANAGEMENT OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(a) IN GENERAL.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended—

(1) in subsection (a)(1)(B), by striking ''Director of the Office of Thrift Supervision'' and inserting ''Director of the Consumer Financial Protection Bureau'';

(2) by amending subsection (d)(2) to read as follows:

''(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the Office of the Comptroller of the Currency and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency, the acting Comptroller of the Currency shall be a member of the Board of Directors in the place of the Comptroller of the Currency.''; and

(3) in subsection (f)(2), by striking ''or of the Office of Thrift Supervision''.

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

Subtitle D—Termination of Federal Thrift Charter

SEC. 341. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Beginning on the date of enactment of this Act, the Director of the Office of Thrift Supervision, or the Comptroller of the Currency, may not issue a charter for a Federal savings association under section 5 of the Home Owners' Loan Act (12 U.S.C. 1464).

(b) CONFORMING AMENDMENT.—Section 5(a) of the Home Owner's Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:

''(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the examination, operation, and regulation of associations to be known as 'Federal savings associations' (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.''.

(c) PROSPECTIVE REPEAL.—Effective on the date on which the Comptroller of the Currency determines that no Federal savings associations exist, section 5 of the Home Owner's Loan Act (12 U.S.C. 1464) is repealed.

SEC. 342. BRANCHING.

Notwithstanding the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any other provision of Federal or State law, a savings association that becomes a bank may continue to operate any branch or agency that the savings association operated immediately before the savings association became a bank.

TITLE IV—REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Private Fund Investment Advisers Registration Act of 2010''.

SEC. 402. DEFINITIONS.

(a) INVESTMENT ADVISERS ACT OF 1940 DEFINITIONS.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(29) The term 'private fund' means an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for section 3(c)(1) or 3(c)(7) of that Act.

''(30) The term 'foreign private adviser' means any investment adviser who—

''(A) has no place of business in the United States;

''(B) has, in total, fewer than 15 clients who are domiciled in or residents of the United States;

''(C) has aggregate assets under management attributable to clients in the United States and investors in the United States in private funds advised by the investment adviser of less than $25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title; and

''(D) neither—

''(i) holds itself out generally to the public in the United States as an investment adviser; nor

''(ii) acts as—

''(I) an investment adviser to any investment company registered under the Investment Company Act of 1940; or

''(II) a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a–53), and has not withdrawn its election.''.

(b) OTHER DEFINITIONS.—As used in this title, the terms ''investment adviser'' and ''private fund'' have the same meanings as in section 202 of the Investment Advisers Act of 1940, as amended by this title.

SEC. 403. ELIMINATION OF PRIVATE ADVISER EXEMPTION; LIMITED EXEMPTION FOR FOREIGN PRIVATE ADVISERS; LIMITED INTRASTATE EXEMPTION.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) in paragraph (1), by inserting '', other than an investment adviser who acts as an investment adviser to any private fund,'' before ''all of whose'';

(2) by striking paragraph (3) and inserting the following:

''(3) any investment adviser that is a foreign private adviser;''; and

(3) in paragraph (5), by striking ''or'' at the end;

(4) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(5) by adding at the end the following:

''(7) any investment adviser, other than any entity that has elected to be regulated or is regulated as a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a–54), who solely advises—

''(A) small business investment companies that are licensees under the Small Business Investment Act of 1958;

''(B) entities that have received from the Small Business Administration notice to proceed to qualify for a license as a small business investment company under the Small Business Investment Act of 1958, which notice or license has not been revoked; or

''(C) applicants that are affiliated with 1 or more licensed small business investment companies described in subparagraph (A) and that have applied for another license under the Small Business Investment Act of 1958, which application remains pending.''.

SEC. 404. COLLECTION OF SYSTEMIC RISK DATA; REPORTS; EXAMINATIONS; DISCLOSURES.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) RECORDS AND REPORTS OF PRIVATE FUNDS.—

''(1) IN GENERAL.—The Commission may require any investment adviser registered under this title—

''(A) to maintain such records of, and file with the Commission such reports regarding, private funds advised by the investment adviser, as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk by the Financial Stability Oversight Council (in this subsection referred to as the 'Council'); and

''(B) to provide or make available to the Council those reports or records or the information contained therein.

''(2) TREATMENT OF RECORDS.—The records and reports of any private fund to which an investment adviser registered under this title provides investment advice shall be deemed to be the records and reports of the investment adviser.

''(3) REQUIRED INFORMATION.—The records and reports required to be maintained by a private fund and subject to inspection by the Commission under this subsection shall include, for each private fund advised by the investment adviser, a description of—

''(A) the amount of assets under management and use of leverage;

''(B) counterparty credit risk exposure;

''(C) trading and investment positions;

''(D) valuation policies and practices of the fund;

''(E) types of assets held;

''(F) side arrangements or side letters, whereby certain investors in a fund obtain more favorable rights or entitlements than other investors;

''(G) trading practices; and

''(H) such other information as the Commission, in consultation with the Council, determines is necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk, which may include the establishment of different reporting requirements for different classes of fund advisers, based on the type or size of private fund being advised.

''(4) MAINTENANCE OF RECORDS.—An investment adviser registered under this title shall maintain such records of private funds advised by the investment adviser for such period or periods as the Commission, by rule, may prescribe

as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.

''(5) FILING OF RECORDS.—The Commission shall issue rules requiring each investment adviser to a private fund to file reports containing such information as the Commission deems necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.

''(6) EXAMINATION OF RECORDS.—

''(A) PERIODIC AND SPECIAL EXAMINATIONS.—The Commission—

''(i) shall conduct periodic inspections of all records of private funds maintained by an investment adviser registered under this title in accordance with a schedule established by the Commission; and

''(ii) may conduct at any time and from time to time such additional, special, and other examinations as the Commission may prescribe as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.

''(B) AVAILABILITY OF RECORDS.—An investment adviser registered under this title shall make available to the Commission any copies or extracts from such records as may be prepared without undue effort, expense, or delay, as the Commission or its representatives may reasonably request.

''(7) INFORMATION SHARING.—

''(A) IN GENERAL.—The Commission shall make available to the Council copies of all reports, documents, records, and information filed with or provided to the Commission by an investment adviser under this subsection as the Council may consider necessary for the purpose of assessing the systemic risk posed by a private fund.

''(B) CONFIDENTIALITY.—The Council shall maintain the confidentiality of information received under this paragraph in all such reports, documents, records, and information, in a manner consistent with the level of confidentiality established by the Commission pursuant to paragraph (8). The Council shall be exempt from section 552 of title 5, United States Code, with respect to any information in any report, document, record, or information made available, to the Council under this subsection.''.

''(8) COMMISSION CONFIDENTIALITY OF REPORTS.—Notwithstanding any other provision of law, the Commission may not be compelled to disclose any report or information contained therein required to be filed with the Commission under this subsection, except that nothing in this subsection authorizes the Commission—

''(A) to withhold information from Congress, upon an agreement of confidentiality; or

''(B) prevent the Commission from complying with—

''(i) a request for information from any other Federal department or agency or any self-regulatory organization requesting the report or information for purposes within the scope of its jurisdiction; or

''(ii) an order of a court of the United States in an action brought by the United States or the Commission.

''(9) OTHER RECIPIENTS CONFIDENTIALITY.—Any department, agency, or self-regulatory organization that receives reports or information from the Commission under this subsection shall maintain the confidentiality of such reports, documents, records, and information in a manner consistent with the level of confidentiality established for the Commission under paragraph (8).

''(10) PUBLIC INFORMATION EXCEPTION.—

''(A) IN GENERAL.—The Commission, the Council, and any other department, agency, or self-regulatory organization that receives information, reports, documents, records, or information from the Commission under this subsection, shall be exempt from the provisions of section 552 of title 5, United States Code, with respect to any such report, document, record, or information. Any proprietary information of an investment adviser ascertained by the Commission from any report required to be filed with the Commission pursuant to this subsection shall be subject to the same limitations on public disclosure as any facts ascertained during an examination, as provided by section 210(b) of this title.

''(B) PROPRIETARY INFORMATION.—For purposes of this paragraph, proprietary information includes—

''(i) sensitive, non-public information regarding the investment or trading strategies of the investment adviser;

''(ii) analytical or research methodologies;

''(iii) trading data;

''(iv) computer hardware or software containing intellectual property; and

''(v) any additional information that the Commission determines to be proprietary.

''(11) ANNUAL REPORT TO CONGRESS.—The Commission shall report annually to Congress on how the Commission has used the data collected pursuant to this subsection to monitor the markets for the protection of investors and the integrity of the markets.''.

SEC. 405. DISCLOSURE PROVISION ELIMINATED.

Section 210(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10(c)) is amended by inserting before the period at the end the following: ''or for purposes of assessment of potential systemic risk''.

SEC. 406. CLARIFICATION OF RULEMAKING AUTHORITY.

Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–11) is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: '', including rules and regulations defining technical, trade, and other terms used in this title, except that the Commission may not define the term 'client' for purposes of paragraphs (1) and (2) of section 206 to include an investor in a private fund managed by an investment adviser, if such private fund has entered into an advisory contract with such adviser''; and

(2) by adding at the end the following:

''(e) DISCLOSURE RULES ON PRIVATE FUNDS.—The Commission and the Commodity Futures Trading Commission shall, after consultation with the Council but not later than 12 months after the date of enactment of the Private Fund Investment Advisers Registration Act of 2010, jointly promulgate rules to establish the form and content of the reports required to be filed with the Commission under subsection 204(b) and with the Commodity Futures Trading Commission by investment advisers that are registered both under this title and the Commodity Exchange Act (7 U.S.C. 1a et seq.).''.

SEC. 407. EXEMPTION OF VENTURE CAPITAL FUND ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

''(l) EXEMPTION OF VENTURE CAPITAL FUND ADVISERS.—No investment adviser shall be subject to the registration requirements of this title with respect to the provision of investment advice relating to a venture capital fund. Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules to define the term 'venture capital fund' for purposes of this subsection.''.

SEC. 408. EXEMPTION OF AND RECORD KEEPING BY PRIVATE EQUITY FUND ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

''(m) EXEMPTION OF AND REPORTING BY PRIVATE EQUITY FUND ADVISERS.—

''(1) IN GENERAL.—Except as provided in this subsection, no investment adviser shall be subject to the registration or reporting requirements of this title with respect to the provision of investment advice relating to a private equity fund or funds.

''(2) MAINTENANCE OF RECORDS AND ACCESS BY COMMISSION.—Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules—

''(A) to require investment advisers described in paragraph (1) to maintain such records and provide to the Commission such annual or other reports as the Commission taking into account fund size, governance, investment strategy, risk, and other factors, as the Commission determines necessary and appropriate in the public interest and for the protection of investors; and

''(B) to define the term 'private equity fund' for purposes of this subsection.''.

SEC. 409. FAMILY OFFICES.

(a) IN GENERAL.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended by striking ''or (G)'' and inserting the following: ''; (G) any family office, as defined by rule, regulation, or order of the Commission, in accordance with the purposes of this title; or (H)''.

(b) RULEMAKING.—The rules, regulations, or orders issued by the Commission pursuant to section 202(a)(11)(G) of the Investment Advisers Act of 1940, as added by this section, regarding the definition of the term ''family office'' shall provide for an exemption that—

(1) is consistent with the previous exemptive policy of the Commission, as reflected in exemptive orders for family offices in effect on the date of enactment of this Act; and

(2) recognizes the range of organizational, management, and employment structures and arrangements employed by family offices.

SEC. 410. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.

Section 203A(a)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''$25,000,000'' and inserting ''$100,000,000''; and

(B) by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) is an adviser to a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn its election.''.

SEC. 411. CUSTODY OF CLIENT ASSETS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by adding at the end the following new section:

''SEC. 223. CUSTODY OF CLIENT ACCOUNTS.

''An investment adviser registered under this title shall take such steps to safeguard client assets over which such adviser has custody, including, without limitation, verification of such assets by an independent public accountant, as the Commission may, by rule, prescribe.''.

SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD.

(a) IN GENERAL.—The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than $1,000,000 (as such amount is adjusted periodically by rule of the Commission), excluding the value of the primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, any net worth standard shall be $1,000,000, excluding the value of the primary residence of such natural person.

(b) REVIEW AND ADJUSTMENT.—

(1) INITIAL REVIEW AND ADJUSTMENT.—

(A) INITIAL REVIEW.—The Commission may undertake a review of the definition of the term

''accredited investor'', as such term applies to natural persons, to determine whether the requirements of the definition, excluding the requirement relating to the net worth standard described in subsection (a), should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term ''accredited investor'', excluding adjusting or modifying the requirement relating to the net worth standard described in subsection (a), as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

(2) SUBSEQUENT REVIEWS AND ADJUSTMENT.—

(A) SUBSEQUENT REVIEWS.—Not earlier than 4 years after the date of enactment of this Act, and not less frequently than once every 4 years thereafter, the Commission shall undertake a review of the definition, in its entirety, of the term ''accredited investor'', as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.

(B) ADJUSTMENT OR MODIFICATION.—Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term ''accredited investor'', as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.

SEC. 413. GAO STUDY AND REPORT ON ACCREDITED INVESTORS.

The Comptroller General of the United States shall conduct a study on the appropriate criteria for determining the financial thresholds or other criteria needed to qualify for accredited investor status and eligibility to invest in private funds, and shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study not later than 3 years after the date of enactment of this Act.

SEC. 414. GAO STUDY ON SELF-REGULATORY ORGANIZATION FOR PRIVATE FUNDS.

The Comptroller General of the United States shall—

(1) conduct a study of the feasibility of forming a self-regulatory organization to oversee private funds; and

(2) submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study, not later than 1 year after the date of enactment of this Act.

SEC. 415. COMMISSION STUDY AND REPORT ON SHORT SELLING.

(a) STUDY.—The Division of Risk, Strategy, and Financial Innovation of the Commission shall conduct a study, taking into account current scholarship, on the state of short selling on national securities exchanges and in the over-the-counter markets, with particular attention to the impact of recent rule changes and the incidence of—

(1) the failure to deliver shares sold short; or

(2) delivery of shares on the fourth day following the short sale transaction.

(b) REPORT.—The Division of Risk, Strategy, and Financial Innovation shall submit a report, together with any recommendations for market improvements, including consideration of real time reporting of short sale positions, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under subsection (a), not later than 2 years after the date of enactment of this Act.

SEC. 416. TRANSITION PERIOD.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective 1 year after the date of enactment of this Act, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission.

TITLE V—INSURANCE

Subtitle A—Office of National Insurance

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Office of National Insurance Act of 2010''.

SEC. 502. ESTABLISHMENT OF OFFICE OF NATIONAL INSURANCE.

(a) ESTABLISHMENT OF OFFICE.—Subchapter I of chapter 3 of subtitle I of title 31, United States Code, is amended—

(1) by redesignating section 312 as section 315;

(2) by redesignating section 313 as section 312; and

(3) by inserting after section 312 (as so redesignated) the following new sections:

''SEC. 313. OFFICE OF NATIONAL INSURANCE.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of National Insurance.

''(b) LEADERSHIP.—The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined under section 3132 of title 5, United States Code.

''(c) FUNCTIONS.—

''(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY.—The Office, pursuant to the direction of the Secretary, shall have the authority—

''(A) to monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;

''(B) to recommend to the Financial Stability Oversight Council that it designate an insurer, including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors pursuant to title I of the Restoring American Financial Stability Act of 2010;

''(C) to assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);

''(D) to coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity) and assisting the Secretary in negotiating International Insurance Agreements on Prudential Measures;

''(E) to determine, in accordance with subsection (f), whether State insurance measures are preempted by International Insurance Agreements on Prudential Measures;

''(F) to consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance; and

''(G) to perform such other related duties and authorities as may be assigned to the Office by the Secretary.

''(2) ADVISORY FUNCTIONS.—The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.

''(d) SCOPE.—The authority of the Office shall extend to all lines of insurance except health insurance, as such insurance is determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), and crop insurance, as established by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(e) GATHERING OF INFORMATION.—

''(1) IN GENERAL.—In carrying out the functions required under subsection (c), the Office may—

''(A) receive and collect data and information on and from the insurance industry and insurers;

''(B) enter into information-sharing agreements;

''(C) analyze and disseminate data and information; and

''(D) issue reports regarding all lines of insurance except health insurance.

''(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES.—

''(A) IN GENERAL.—Except as provided in paragraph (3), the Office may require an insurer, or any affiliate of an insurer, to submit such data or information as the Office may reasonably require in carrying out the functions described under subsection (c).

''(B) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this section, for purposes of subparagraph (A), the term 'insurer' means any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States.

''(3) EXCEPTION FOR SMALL INSURERS.—Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that the Office may establish, whether by order or rule.

''(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (2) from an insurer, or any affiliate of an insurer, the Office shall coordinate with each relevant State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) to determine if the information to be collected is available from, or may be obtained in a timely manner by, such State insurance regulator, individually or collectively, another regulatory agency, or publicly available sources. Notwithstanding any other provision of law, each such relevant State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.

''(5) CONFIDENTIALITY.—

''(A) RETENTION OF PRIVILEGE.—The submission of any nonpublicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

''(B) CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any nonpublicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.

''(C) INFORMATION SHARING AGREEMENT.—Any data or information obtained by the Office may be made available to State insurance regulators, individually or collectively, through an information sharing agreement that—

''(i) shall comply with applicable Federal law; and

''(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.

''(D) AGENCY DISCLOSURE REQUIREMENTS.—Section 552 of title 5, United States Code, shall

apply to any data or information submitted to the Office by an insurer or an affiliate of an insurer.

''(6) SUBPOENAS AND ENFORCEMENT.—The Director shall have the power to require by subpoena the production of the data or information requested under paragraph (2), but only upon a written finding by the Director that such data or information is required to carry out the functions described under subsection (c) and that the Office has coordinated with such regulator or agency as required under paragraph (4). Subpoenas shall bear the signature of the Director and shall be served by any person or class of persons designated by the Director for that purpose. In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

''(f) PREEMPTION OF STATE INSURANCE MEASURES.—

''(1) STANDARD.—A State insurance measure shall be preempted if, and only to the extent that the Director determines, in accordance with this subsection, that the measure—

''(A) results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to an international insurance agreement on prudential measures than a United States insurer domiciled, licensed, or otherwise admitted in that State; and

''(B) is inconsistent with an International Insurance Agreement on Prudential Measures.

''(2) DETERMINATION.—

''(A) NOTICE OF POTENTIAL INCONSISTENCY.—Before making any determination under paragraph (1), the Director shall—

''(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;

''(ii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable International Insurance Agreement on Prudential Measures;

''(iii) provide interested parties a reasonable opportunity to submit written comments to the Office; and

''(iv) consider any comments received.

''(B) SCOPE OF REVIEW.—For purposes of this subsection, the determination of the Director regarding State insurance measures shall be limited to the subject matter contained within the international insurance agreement on prudential measure involved.

''(C) NOTICE OF DETERMINATION OF INCONSISTENCY.—Upon making any determination under paragraph (1), the Director shall—

''(i) notify the appropriate State of the determination and the extent of the inconsistency;

''(ii) establish a reasonable period of time, which shall not be less than 30 days, before the determination shall become effective; and

''(iii) notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the inconsistency.

''(3) NOTICE OF EFFECTIVENESS.—Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for such determination still exists, the determination shall become effective and the Director shall—

''(A) cause to be published a notice in the Federal Register that the preemption has become effective, as well as the effective date; and

''(B) notify the appropriate State.

''(4) LIMITATION.—No State may enforce a State insurance measure to the extent that such measure has been preempted under this subsection.

''(g) APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT.—Determinations of inconsistency made pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review).

''(h) REGULATIONS, POLICIES, AND PROCEDURES.—The Secretary may issue orders, regulations, policies, and procedures to implement this section.

''(i) CONSULTATION.—The Director shall consult with State insurance regulators, individually or collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.

''(j) SAVINGS PROVISIONS.—Nothing in this section shall—

''(1) preempt—

''(A) any State insurance measure that governs any insurer's rates, premiums, underwriting, or sales practices;

''(B) any State coverage requirements for insurance;

''(C) the application of the antitrust laws of any State to the business of insurance; or

''(D) any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure results in less favorable treatment of a non-United State insurer than a United States insurer;

''(2) be construed to alter, amend, or limit any provision of the Consumer Financial Protection Agency Act of 2010; or

''(3) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.

''(k) RETENTION OF EXISTING STATE REGULATORY AUTHORITY.—Nothing in this section or section 314 shall be construed to establish or provide the Office or the Department of the Treasury with general supervisory or regulatory authority over the business of insurance.

''(l) ANNUAL REPORT TO CONGRESS.—Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the insurance industry, any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures), and any other information as deemed relevant by the Director or as requested by such Committees.

''(m) STUDY AND REPORT ON REGULATION OF INSURANCE.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Director shall conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States.

''(2) CONSIDERATIONS.—The study and report required under paragraph (1) shall be based on and guided by the following considerations:

''(A) Systemic risk regulation with respect to insurance.

''(B) Capital standards and the relationship between capital allocation and liabilities, including standards relating to liquidity and duration risk.

''(C) Consumer protection for insurance products and practices, including gaps in state regulation.

''(D) The degree of national uniformity of state insurance regulation.

''(E) The regulation of insurance companies and affiliates on a consolidated basis.

''(F) International coordination of insurance regulation.

''(3) ADDITIONAL FACTORS.—The study and report required under paragraph (1) shall also examine the following factors:

''(A) The costs and benefits of potential Federal regulation of insurance across various lines of insurance (except health insurance).

''(B) The feasibility of regulating only certain lines of insurance at the Federal level, while leaving other lines of insurance to be regulated at the State level.

''(C) The ability of any potential Federal regulation or Federal regulators to eliminate or minimize regulatory arbitrage.

''(D) The impact that developments in the regulation of insurance in foreign jurisdictions might have on the potential Federal regulation of insurance.

''(E) The ability of any potential Federal regulation or Federal regulator to provide robust consumer protection for policyholders.

''(F) The potential consequences of subjecting insurance companies to a Federal resolution authority, including the effects of any Federal resolution authority—

''(i) on the operation of State insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority;

''(ii) on policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims;

''(iii) in the case of life insurance companies, the loss of the special status of separate account assets and separate account liabilities; and

''(iv) on the international competitiveness of insurance companies.

''(G) Such other factors as the Director determines necessary or appropriate, consistent with the principles set forth in paragraph (2).

''(4) REQUIRED RECOMMENDATIONS.—The study and report required under paragraph (1) shall also contain any legislative, administrative, or regulatory recommendations, as the Director determines appropriate, to carry out or effectuate the findings set forth in such report.

''(5) CONSULTATION.—With respect to the study and report required under paragraph (1), the Director shall consult with the National Association of Insurance Commissioners, consumer organizations, representatives of the insurance industry and policyholders, and other organizations and experts, as appropriate.

''(n) USE OF EXISTING RESOURCES.—To carry out this section, the Office may employ personnel, facilities, and any other resource of the Department of the Treasury available to the Secretary.

''(o) DEFINITIONS.—In this section and section 314, the following definitions shall apply:

''(1) AFFILIATE.—The term 'affiliate' means, with respect to an insurer, any person who controls, is controlled by, or is under common control with the insurer.

''(2) INSURER.—The term 'insurer' means any person engaged in the business of insurance, including reinsurance.

''(3) INTERNATIONAL INSURANCE AGREEMENT ON PRUDENTIAL MEASURES.—The term 'International Insurance Agreement on Prudential Measures' means a written bilateral or multilateral agreement entered into between the United States and a foreign government, authority, or regulatory entity regarding prudential measures applicable to the business of insurance or reinsurance.

''(4) NON-UNITED STATES INSURER.—The term 'non-United States insurer' means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.

''(5) OFFICE.—The term 'Office' means the Office of National Insurance established by this section.

''(6) STATE INSURANCE MEASURE.—The term 'State insurance measure' means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.

''(7) STATE INSURANCE REGULATOR.—The term 'State insurance regulator' means any State regulatory authority responsible for the supervision of insurers.

''(8) UNITED STATES INSURER.—The term 'United States insurer' means—

''(A) an insurer that is organized under the laws of a State; or

''(B) a United States branch of a non-United States insurer.

''(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the

Office for each fiscal year such sums as may be necessary.

"SEC. 314. INTERNATIONAL INSURANCE AGREEMENTS ON PRUDENTIAL MEASURES.

''(a) IN GENERAL.—The Secretary of the Treasury is authorized to negotiate and enter into International Insurance Agreements on Prudential Measures on behalf of the United States.

''(b) SAVINGS PROVISION.—Nothing in this section or section 313 shall be construed to affect the development and coordination of United States international trade policy or the administration of the United States trade agreements program. It is to be understood that the negotiation of International Insurance Agreements on Prudential Measures under such sections is consistent with the requirement of this subsection.

''(c) CONSULTATION.—The Secretary shall consult with the United States Trade Representative on the negotiation of International Insurance Agreements on Prudential Measures, including prior to initiating and concluding any such agreements.''.

(b) DUTIES OF SECRETARY.—Section 321(a) of title 31, United States Code, is amended—

(1) in paragraph (7), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (8)(C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:

''Sec. 312. Terrorism and financial intelligence.
''Sec. 313. Office of National Insurance.
''Sec. 314. International insurance agreements on prudential measures.
''Sec. 315. Continuing in office.''.

Subtitle B—State-based Insurance Reform

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Nonadmitted and Reinsurance Reform Act of 2010''.

SEC. 512. EFFECTIVE DATE.

Except as otherwise specifically provided in this subtitle, this subtitle shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this subtitle.

PART I—NONADMITTED INSURANCE

SEC. 521. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.

(a) HOME STATE'S EXCLUSIVE AUTHORITY.—No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.

(b) ALLOCATION OF NONADMITTED PREMIUM TAXES.—

(1) IN GENERAL.—The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a).

(2) EFFECTIVE DATE.—Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures—

(A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this subtitle, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and

(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.

(3) REPORT.—Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.

(4) NATIONWIDE SYSTEM.—The Congress intends that each State adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.

(c) ALLOCATION BASED ON TAX ALLOCATION REPORT.—To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks, or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.

SEC. 522. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE.

(a) HOME STATE AUTHORITY.—Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State.

(b) BROKER LICENSING.—No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

(c) ENFORCEMENT PROVISION.—With respect to section 521 and subsections (a) and (b) of this section, any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.

(d) WORKERS' COMPENSATION EXCEPTION.—This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

SEC. 523. PARTICIPATION IN NATIONAL PRODUCER DATABASE.

After the expiration of the 2-year period beginning on the date of the enactment of this subtitle, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

SEC. 524. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.

A State may not—

(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act, unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 521(b) of this subtitle that include alternative nationwide uniform eligibility requirements; or

(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

SEC. 525. STREAMLINED APPLICATION FOR COMMERCIAL PURCHASERS.

A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if—

(1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.

SEC. 526. GAO STUDY OF NONADMITTED INSURANCE MARKET.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this part on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market.

(b) CONTENTS.—The study shall determine and analyze—

(1) the change in the size and market share of the nonadmitted insurance market and in the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this subtitle;

(2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market;

(3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets;

(4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and

(5) the extent to which there has been a change in the number of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market.

(c) CONSULTATION WITH NAIC.—In conducting the study under this section, the Comptroller General shall consult with the NAIC.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the findings of the study not later than 30 months after the effective date of this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this part, the following definitions shall apply:

(1) ADMITTED INSURER.—The term ''admitted insurer'' means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.

(2) AFFILIATE.—The term ''affiliate'' means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

(3) AFFILIATED GROUP.—The term ''affiliated group'' means any group of entities that are all affiliated.

(4) CONTROL.—An entity has ''control'' over another entity if—

(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(5) EXEMPT COMMERCIAL PURCHASER.—The term ''exempt commercial purchaser'' means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(A) The person employs or retains a qualified risk manager to negotiate insurance coverage.

(B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months.

(C)(i) The person meets at least 1 of the following criteria:

(I) The person possesses a net worth in excess of $20,000,000, as such amount is adjusted pursuant to clause (ii).

(II) The person generates annual revenues in excess of $50,000,000, as such amount is adjusted pursuant to clause (ii).

(III) The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate.

(IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000, as such amount is adjusted pursuant to clause (ii).

(V) The person is a municipality with a population in excess of 50,000 persons.

(ii) Effective on the fifth January 1 occurring after the date of the enactment of this subtitle and each fifth January 1 occurring thereafter, the amounts in subclauses (I), (II), and (IV) of clause (i) shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(6) HOME STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''home State'' means, with respect to an insured—

(i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(ii) if 100 percent of the insured risk is located out of the State referred to in subparagraph (A), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) AFFILIATED GROUPS.—If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term ''home State'' means the home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(7) INDEPENDENTLY PROCURED INSURANCE.—The term ''independently procured insurance'' means insurance procured directly by an insured from a nonadmitted insurer.

(8) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners or any successor entity.

(9) NONADMITTED INSURANCE.—The term ''nonadmitted insurance'' means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.

(10) NON-ADMITTED INSURANCE MODEL ACT.—The term ''Non-Admitted Insurance Model Act'' means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002.

(11) NONADMITTED INSURER.—The term ''nonadmitted insurer''—

(A) means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State; but

(B) does not include a risk retention group, as that term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(a)(4)).

(12) QUALIFIED RISK MANAGER.—The term ''qualified risk manager'' means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(A) The person is an employee of, or third party consultant retained by, the commercial policyholder.

(B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

(C) The person—

(i)(I) has a bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management; and

(II)(aa) has 3 years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance; or

(bb) has 1 of the following designations:

(AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as ''CPCU'') issued by the American Institute for CPCU/Insurance Institute of America;

(BB) a designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;

(CC) a designation as Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research;

(DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or

(EE) any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management;

(ii)(I) has at least 7 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and

(II) has any 1 of the designations specified in subitems (AA) through (EE) of clause (i)(II)(bb);

(iii) has at least 10 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(iv) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management.

(13) PREMIUM TAX.—The term ''premium tax'' means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.

(14) SURPLUS LINES BROKER.—The term ''surplus lines broker'' means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers.

PART II—REINSURANCE

SEC. 531. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.

(a) CREDIT FOR REINSURANCE.—If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance.

(b) ADDITIONAL PREEMPTION OF EXTRATERRITORIAL APPLICATION OF STATE LAW.—In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they—

(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code;

(2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;

(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this part; or

(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

SEC. 532. REGULATION OF REINSURER SOLVENCY.

(a) DOMICILIARY STATE REGULATION.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) NONDOMICILIARY STATES.—

(1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) RECEIPT OF INFORMATION.—No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

SEC. 533. DEFINITIONS.

For purposes of this part, the following definitions shall apply:

(1) CEDING INSURER.—The term ''ceding insurer'' means an insurer that purchases reinsurance.

(2) DOMICILIARY STATE.—The terms ''State of domicile'' and ''domiciliary State'' mean, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) REINSURANCE.—The term ''reinsurance'' means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(4) REINSURER.—

(A) IN GENERAL.—The term ''reinsurer'' means an insurer to the extent that the insurer—

(i) is principally engaged in the business of reinsurance;

(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and

(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) DETERMINATION.—A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

PART III—RULE OF CONSTRUCTION

SEC. 541. RULE OF CONSTRUCTION.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this subtitle and any amendments to this subtitle and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.

SEC. 542. SEVERABILITY.

If any section or subsection of this subtitle, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this subtitle, and the application of the provision to any other person or circumstance, shall not be affected.

TITLE VI—IMPROVEMENTS TO REGULATION OF BANK AND SAVINGS ASSOCIATION HOLDING COMPANIES AND DEPOSITORY INSTITUTIONS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Bank and Savings Association Holding Company and Depository Institution Regulatory Improvements Act of 2010''.

SEC. 602. DEFINITION.

In this title, the term ''commercial firm'' means any entity that derives not less than 15 percent of the consolidated annual gross revenues of the entity, including all affiliates of the entity, from engaging in activities that are not financial in nature or incidental to activities that are financial in nature, as provided in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

SEC. 603. MORATORIUM AND STUDY ON TREATMENT OF CREDIT CARD BANKS, INDUSTRIAL LOAN COMPANIES, AND CERTAIN OTHER COMPANIES UNDER THE BANK HOLDING COMPANY ACT OF 1956.

(a) MORATORIUM.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''credit card bank'' means an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));

(B) the term ''industrial bank'' means an institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and

(C) the term ''trust bank'' means an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).

(2) MORATORIUM ON PROVISION OF DEPOSIT INSURANCE.—The Corporation may not approve an application for deposit insurance under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) that is received after November 10, 2009, for an industrial bank, a credit card bank, or a trust bank that is directly or indirectly owned or controlled by a commercial firm.

(3) CHANGE IN CONTROL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall disapprove a change in control, as provided in section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)), of an industrial bank, a credit card bank, or a trust bank if the change in control would result in direct or indirect control of the industrial bank, credit card bank, or trust bank by a commercial firm.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a change in control of an industrial bank, credit card bank, or trust bank that—

(i) is in danger of default, as determined by the appropriate Federal banking agency; or

(ii) results from the merger or whole acquisition of a commercial firm that directly or indirectly controls the industrial bank, credit card bank, or trust bank in a bona fide merger with or acquisition by another commercial firm, as determined by the appropriate Federal banking agency.

(4) SUNSET.—This subsection shall cease to have effect 3 years after the date of enactment of this Act.

(b) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF EXCEPTIONS UNDER THE BANK HOLDING COMPANY ACT OF 1956.—

(1) STUDY REQUIRED.—The Comptroller General of the United States shall carry out a study to determine whether it is necessary, in order to strengthen the safety and soundness of institutions or the stability of the financial system, to eliminate the exceptions under section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) for institutions described in—

(A) section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E));

(B) section 2(a)(5)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(F));

(C) section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D));

(D) section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));

(E) section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and

(F) section 2(c)(2)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(B)).

(2) CONTENT OF STUDY.—

(A) IN GENERAL.—The study required under paragraph (1), with respect to the institutions referenced in each of subparagraphs (A) through (E) of paragraph (1), shall, to the extent feasible be based on information provided to the Comptroller General by the appropriate Federal or State regulator, and shall—

(i) identify the types and number of institutions excepted from section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) under each of the subparagraphs described in subparagraphs (A) through (E) of paragraph (1);

(ii) generally describe the size and geographic locations of the institutions described in clause (i);

(iii) determine the extent to which the institutions described in clause (i) are held by holding companies that are commercial firms;

(iv) determine whether the institutions described in clause (i) have any affiliates that are commercial firms;

(v) identify the Federal banking agency responsible for the supervision of the institutions described in clause (i) on and after the transfer date;

(vi) determine the adequacy of the Federal bank regulatory framework applicable to each category of institution described in clause (i), including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and

(vii) evaluate the potential consequences of subjecting the institutions described in clause (i) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of each category of institution, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.

(B) SAVINGS ASSOCIATIONS.—With respect to institutions described in paragraph (1)(F), the study required under paragraph (1) shall—

(i) determine the adequacy of the Federal bank regulatory framework applicable to such institutions, including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and

(ii) evaluate the potential consequences of subjecting the institutions described in paragraph (1)(F) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of such institutions, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under paragraph (1).

SEC. 604. REPORTS AND EXAMINATIONS OF HOLDING COMPANIES; REGULATION OF FUNCTIONALLY REGULATED SUBSIDIARIES.

(a) REPORTS BY BANK HOLDING COMPANIES.—Sections 5(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION.—The appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, use—

''(i) reports and other supervisory information that the bank holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

''(ii) externally audited financial statements of the bank holding company or subsidiary;

''(iii) information otherwise available from Federal or State regulatory agencies; and

''(iv) information that is otherwise required to be reported publicly.''; and

(2) by adding at the end the following:

''(C) AVAILABILITY.—Upon the request of the appropriate Federal banking agency for a bank holding company, the bank holding company or a subsidiary of the bank holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).''.

(b) EXAMINATIONS OF BANK HOLDING COMPANIES.—Section 5(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(2)) is amended to read as follows:

''(2) EXAMINATIONS.—

''(A) IN GENERAL.—The appropriate Federal banking agency for a bank holding company may make examinations of the bank holding company and each subsidiary of the bank holding company in order to—

''(i) inform such appropriate Federal banking agency of—

''(I) the nature of the operations and financial condition of the bank holding company and the subsidiary;

''(II) the financial, operational, and other risks within the bank holding company system that may pose a threat to—

''(aa) the safety and soundness of the bank holding company or of any depository institution subsidiary of the bank holding company; or

''(bb) the stability of the financial system of the United States; and

''(III) the systems of the bank holding company for monitoring and controlling the risks described in subclause (II); and

''(ii) enforce the compliance of the bank holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the bank holding company or subsidiary.

''(B) USE OF REPORTS TO REDUCE EXAMINATIONS.—For purposes of this paragraph, the appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, rely on—

''(i) examination reports made by other Federal or State regulatory agencies relating to the bank holding company and any subsidiary of the bank holding company; and

''(ii) the reports and other information required under paragraph (1).

''(C) COORDINATION WITH OTHER REGULATORS.—The appropriate Federal banking agency for a bank holding company shall—

''(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and

''(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.''.

(c) AUTHORITY TO REGULATE FUNCTIONALLY REGULATED SUBSIDIARIES OF BANK HOLDING COMPANIES.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 5(c) (12 U.S.C. 1844(c)), by striking paragraphs (3) and (4) and inserting the following:

''(3) [Reserved]

''(4) [Reserved]''; and

(2) by striking section 10A (12 U.S.C. 1848a).

(d) ACQUISITIONS OF BANKS.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following:

''(7) FINANCIAL STABILITY.—In every case, the appropriate Federal banking agency of a bank holding company shall take into consideration the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system.''.

(e) ACQUISITIONS OF NONBANKS.—

(1) NOTICE PROCEDURES.—Section 4(j)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)(A)) is amended by striking ''or unsound banking practices'' and inserting ''unsound banking practices, or risk to the stability of the United States banking or financial system''.

(2) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—Section 4(k)(6)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)) is amended to read as follows:

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—

''(i) IN GENERAL.—Except as provided in clause (ii), a financial holding company may commence any activity or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the appropriate Federal banking agency for the financial holding company.

''(ii) EXCEPTION.—A financial holding company may not acquire a company, without the prior approval of the appropriate Federal banking agency for the financial holding company, in a transaction in which the total consolidated assets to be acquired by the financial holding company exceed $25,000,000,000.''.

(f) BANK MERGER ACT TRANSACTIONS.—Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended, in the matter immediately following subparagraph (B), by striking ''and the convenience and needs of the community to be served'' and inserting ''the convenience and needs of the community to be served, and the risk to the stability of the United States banking or financial system''.

(g) REPORTS BY SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) is amended—

(1) by striking ''Each savings'' and inserting the following:

''(A) IN GENERAL.—Each savings''; and

(2) by adding at the end the following:

''(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION.—The appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, use—

''(i) reports and other supervisory information that the savings and loan holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

''(ii) externally audited financial statements of the savings and loan holding company or subsidiary;

''(iii) information that is otherwise available from Federal or State regulatory agencies; and

''(iv) information that is otherwise required to be reported publicly.

''(C) AVAILABILITY.—Upon the request of the appropriate Federal banking agency for a savings and loan holding company, the savings and loan holding company or a subsidiary of the savings and loan holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).''.

(h) EXAMINATION OF SAVINGS AND LOAN HOLDING COMPANIES.—

(1) DEFINITIONS.—Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended by adding at the end the following:

''(10) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(11) FUNCTIONALLY REGULATED SUBSIDIARY.—The term 'functionally regulated subsidiary' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).''.

(2) EXAMINATION.—Section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) EXAMINATIONS.—

''(A) IN GENERAL.—The appropriate Federal banking agency for a savings and loan holding company may make examinations of the savings and loan holding company and each subsidiary of the savings and loan holding company system, in order to—

''(i) inform such appropriate Federal banking agency of—

''(I) the nature of the operations and financial condition of the savings and loan holding company and the subsidiary;

''(II) the financial, operational, and other risks within the savings and loan holding company that may pose a threat to—

''(aa) the safety and soundness of the savings and loan holding company or of any depository institution subsidiary of the savings and loan holding company; or

''(bb) the stability of the financial system of the United States; and

''(III) the systems of the savings and loan holding company for monitoring and controlling the risks described in subclause (II); and

''(ii) enforce the compliance of the savings and loan holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the savings and loan holding company or subsidiary.

''(B) USE OF REPORTS TO REDUCE EXAMINATIONS.—For purposes of this subsection, the appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, rely on—

''(i) the examination reports made by other Federal or State regulatory agencies relating to the savings and loan holding company and any subsidiary; and

''(ii) the reports and other information required under paragraph (2).

''(C) COORDINATION WITH OTHER REGULATORS.—The appropriate Federal banking agency for a savings and loan holding company shall—

''(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and

''(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 605. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.

Section 6 of the Bank Holding Company Act of 1956 (12 U.S.C. 1845) is amended to read as follows:

"SEC. 6. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.

''(a) DEFINITIONS.—

''(1) DEFINITIONS.—In this section—

''(A) the term 'depository institution holding company' has the same meaning as in section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w));

''(B) the term 'functionally regulated subsidiary' has the same meaning as in section 5(c)(5); and

''(C) the term 'lead Federal banking agency' means—

''(i) the Office of the Comptroller of the Currency, in the case of any depository institution holding company having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and

''(ii) the Federal Deposit Insurance Corporation, in the case of any depository institution holding company having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions.

''(2) DETERMINATION OF TOTAL CONSOLIDATED ASSETS.—For purposes of paragraph (1)(A), the total consolidated assets of a depository institution shall be determined in the same manner that total consolidated assets of depository institutions are determined for purposes of section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(b) LEAD AGENCY SUPERVISION.—

''(1) IN GENERAL.—The lead Federal banking agency for each depository institution holding company shall make examinations of the activities of each nondepository institution subsidiary (other than a functionally regulated subsidiary) of the depository institution holding company that are permissible for depository institution subsidiaries of the depository institution holding company, to determine whether the activities—

''(A) present safety and soundness risks to any depository institution subsidiary of the depository institution holding company;

''(B) are conducted in accordance with applicable law; and

''(C) are subject to appropriate systems for monitoring and controlling the financial, operating, and other risks of the activity and protecting the depository institution subsidiaries of the holding company.

''(2) PROCESS FOR EXAMINATION.—An examination under paragraph (1) shall be carried out under the authority of the lead Federal banking agency, as if the nondepository institution subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency.

''(c) COORDINATION.—For each depository institution holding company for which the Board of Governors is the appropriate Federal banking agency, the lead Federal banking agency of the depository institution holding company shall coordinate the supervision of the activities of subsidiaries described in subsection (b) with the Board of Governors, in a manner that—

''(1) avoids duplication;

''(2) shares information relevant to the supervision of the depository institution holding company by each agency;

''(3) achieves the objectives of subsection (b); and

''(4) ensures that the depository institution holding company and the subsidiaries of the depository institution holding company are not subject to conflicting supervisory demands by the 2 agencies.

''(d) REFERRALS FOR ENFORCEMENT.—

''(1) RECOMMENDATION OF ACTION BY BOARD OF GOVERNORS.—The lead Federal banking agency for a depository institution holding company, based on information obtained pursuant to the responsibilities of the agency under subsection (b), may submit to the Board of Governors, in writing, a recommendation that the Board of Governors take enforcement action against a nondepository institution subsidiary (other than a functionally regulated subsidiary) of the depository institution holding company, together with an explanation of the concerns giving rise to the recommendation.

''(2) BACK-UP AUTHORITY OF THE LEAD FEDERAL BANKING AGENCY.—If, within the 60-day period beginning on the date on which the Board of Governors receives a recommendation under paragraph (1), the Board of Governors does not take enforcement action against a nondepository institution subsidiary or provide a plan for enforcement action that is acceptable to the lead Federal banking agency, the lead Federal banking agency (upon the authorization of the Comptroller, or the Federal Deposit Insurance Corporation, upon a vote of its members, as applicable) may take the recommended enforcement action, in the same manner as if the subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency.''.

SEC. 606. REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES TO REMAIN WELL CAPITALIZED AND WELL MANAGED.

(a) AMENDMENT.—Section 4(l)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(l)(1)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following:

''(C) the bank holding company is well capitalized and well managed; and''; and

(4) in subparagraph (D)(ii), as so redesignated, by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 607. STANDARDS FOR INTERSTATE ACQUISITIONS.

(a) ACQUISITION OF BANKS.—Section 3(d)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)(1)(A)) is amended by striking ''adequately capitalized and adequately managed'' and inserting ''well capitalized and well managed''.

(b) INTERSTATE BANK MERGERS.—Section 44(b)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(4)(B)) is amended by striking ''will continue to be adequately capitalized and adequately managed'' and inserting ''will be well capitalized and well managed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 608. ENHANCING EXISTING RESTRICTIONS ON BANK TRANSACTIONS WITH AFFILIATES.

(a) AFFILIATE TRANSACTIONS.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (D) and inserting the following:

''(D) any investment fund with respect to which a member bank or affiliate thereof is an investment adviser; and''; and

(B) in paragraph (7)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: '', including a purchase of assets subject to an agreement to repurchase'';

(ii) in subparagraph (C), by striking '', including assets subject to an agreement to repurchase,'';

(iii) in subparagraph (D)—

(I) by inserting ''or other debt obligations'' after ''acceptance of securities''; and

(II) by striking ''or'' at the end; and

(iv) by adding at the end the following:

''(F) a transaction with an affiliate that involves the borrowing or lending of securities, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate; or

''(G) a derivative transaction, as defined in paragraph (3) of section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)), with an affiliate, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate;'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsidiary'' and all that follows through ''time of the transaction'' and inserting ''subsidiary, and any credit exposure of a member bank or a subsidiary to an affiliate resulting from a securities borrowing or lending transaction, or a derivative transaction, shall be secured at all times''; and

(ii) in each of subparagraphs (A) through (D), by striking ''or letter of credit'' and inserting ''letter of credit, or credit exposure'';

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(D) in paragraph (2), as so redesignated, by inserting before the period at the end '', or credit exposure to an affiliate resulting from a securities borrowing or lending transaction, or derivative transaction''; and

(E) in paragraph (3), as so redesignated—

(i) by inserting ''or other debt obligations'' after ''securities''; and

(ii) by striking ''or guarantee'' and all that follows through ''behalf of,'' and inserting ''guarantee, acceptance, or letter of credit issued on behalf of, or credit exposure from a securities borrowing or lending transaction, or derivative transaction to,'';

(3) in subsection (d)(4), in the matter preceding subparagraph (A), by striking ''or issuing'' and all that follows through ''behalf of,'' and inserting ''issuing a guarantee, acceptance, or letter of credit on behalf of, or having credit exposure resulting from a securities borrowing or lending transaction, or derivative transaction to,''; and

(4) in subsection (f)—

(A) in paragraph (2)—

(i) by striking ''or order'';

(ii) by striking ''if it finds'' and all that follows through the end of the paragraph and inserting the following: ''if—

''(i) the Board finds the exemption to be in the public interest and consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding; and

''(ii) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under clause (i), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.'';

(iii) by striking the Board and inserting the following:

''(A) IN GENERAL.—The Board''; and

(iv) by adding at the end the following:

''(B) ADDITIONAL EXEMPTIONS.—

''(i) NATIONAL BANKS.—The Comptroller of the Currency may, by order, exempt a transaction of a national bank from the requirements of this section if—

''(I) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

''(II) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subclause (I), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

''(ii) STATE BANKS.—The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State nonmember bank, and the Board may, by order, exempt a transaction of a State member bank, from the requirements of this section if—

''(I) the Board and the Federal Deposit Insurance Corporation jointly find that the exemption is in the public interest and consistent with the purposes of this section; and

''(II) the Federal Deposit Insurance Corporation finds that the exemption does not present an unacceptable risk to the Deposit Insurance Fund.''; and

(B) by adding at the end the following:

''(4) AMOUNTS OF COVERED TRANSACTIONS.—The Board may issue such regulations or interpretations as the Board determines are necessary or appropriate with respect to the manner in which a netting agreement may be taken into account in determining the amount of a covered transaction between a member bank or a subsidiary and an affiliate, including the extent to which netting agreements between a member bank or a subsidiary and an affiliate may be taken into account in determining whether a covered transaction is fully secured for purposes of subsection (d)(4). An interpretation under this paragraph with respect to a specific member bank, subsidiary, or affiliate shall be issued jointly with the appropriate Federal banking agency for such member bank, subsidiary, or affiliate.''.

(b) TRANSACTIONS WITH AFFILIATES.—Section 23B(e) of the Federal Reserve Act (12 U.S.C. 371c–1(e)) is amended—

(1) by striking the undesignated matter following subparagraph (B);

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking ''The Board'' and inserting the following:

''(1) IN GENERAL.—The Board'';

(5) in paragraph (1)(B), as so redesignated—

(A) in the matter preceding clause (i), by inserting before ''regulations'' the following: ''subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding,''; and

(B) in clause (ii), by striking the comma at the end and inserting a period; and

(6) by adding at the end the following:

''(2) EXCEPTION.—The Board may grant an exemption or exclusion under this subsection

only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object, in writing, to such exemption or exclusion, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.''.

(c) HOME OWNERS' LOAN ACT.—Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended by adding at the end the following:

''(d) EXEMPTIONS.—

''(1) FEDERAL SAVINGS ASSOCIATIONS.—The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if—

''(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

''(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

''(2) STATE SAVINGS ASSOCIATION.—The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that—

''(A) the exemption is in the public interest and consistent with the purposes of this section; and

''(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 609. ELIMINATING EXCEPTIONS FOR TRANSACTIONS WITH FINANCIAL SUBSIDIARIES.

(a) AMENDMENT.—Section 23A(e) of the Federal Reserve Act (12 U.S.C. 371c(e)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) PROSPECTIVE APPLICATION OF AMENDMENT.—The amendments made by this section shall apply with respect to any covered transaction between a bank and a subsidiary of the bank, as those terms are defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), that is entered into on or after the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 610. LENDING LIMITS APPLICABLE TO CREDIT EXPOSURE ON DERIVATIVE TRANSACTIONS, REPURCHASE AGREEMENTS, REVERSE REPURCHASE AGREEMENTS, AND SECURITIES LENDING AND BORROWING TRANSACTIONS.

(a) NATIONAL BANKS.—Section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)) is amended—

(1) in paragraph (1), by striking ''shall include'' and all that follows through the end of the paragraph and inserting the following: ''shall include—

''(A) all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person;

''(B) to the extent specified by the Comptroller of the Currency, any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

''(C) any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the national banking association and the person;'';

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the term 'derivative transaction' includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.''.

(b) SAVINGS ASSOCIATIONS.—Section 5(u)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(3)) is amended by striking ''Director'' each place that term appears and inserting ''Comptroller of the Currency''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 611. APPLICATION OF NATIONAL BANK LENDING LIMITS TO INSURED STATE BANKS.

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

''(y) APPLICATION OF LENDING LIMITS TO INSURED STATE BANKS.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) shall apply to each insured State bank, in the same manner and to the same extent as if the insured State bank were a national banking association.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the transfer date.

SEC. 612. RESTRICTION ON CONVERSIONS OF TROUBLED BANKS.

(a) CONVERSION OF A NATIONAL BANKING ASSOCIATION TO A STATE BANK.—The Act entitled ''An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes.'' (12 U.S.C. 214 et seq.) is amended by adding at the end the following:

''SEC. 10. PROHIBITION ON CONVERSION.

''A national banking association may not convert to a State bank or State savings association during any period in which the national banking association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Comptroller of the Currency with respect to a significant supervisory matter.''.

(b) CONVERSION OF A STATE BANK TO A NATIONAL BANK.—Section 5154 of the Revised Statutes of the United States (12 U.S.C. 35) is amended by adding at the end the following: ''The Comptroller of the Currency may not approve the conversion of a State bank or State savings association to a national banking association during any period in which the State bank or State savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, a State bank supervisor or the appropriate Federal banking agency with respect to a significant supervisory matter.''.

(c) CONVERSION OF A FEDERAL SAVINGS ASSOCIATION TO A NATIONAL OR STATE BANK OR STATE SAVINGS ASSOCIATION.—Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following:

''(6) LIMITATION ON CERTAIN CONVERSIONS BY FEDERAL SAVINGS ASSOCIATIONS.—A Federal savings association may not convert to a national bank or State bank or State savings association during any period in which the Federal savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Office of Thrift Supervision or the Comptroller of the Currency with respect to a significant supervisory matter.''.

SEC. 613. DE NOVO BRANCHING INTO STATES.

(a) NATIONAL BANKS.—Section 5155(g)(1)(A) of the Revised Statutes of the United States (12 U.S.C. 36(g)(1)(A)) is amended to read as follows:

''(A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State; and''.

(b) STATE INSURED BANKS.—Section 18(d)(4)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)(i)) is amended to read as follows:

''(i) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the bank were a State bank chartered by such State; and''.

SEC. 614. LENDING LIMITS TO INSIDERS.

(a) EXTENSIONS OF CREDIT.—Section 22(h)(9)(D)(i) of the Federal Reserve Act (12 U.S.C. 375b(9)(D)(i)) is amended—

(1) by striking the period at the end and inserting ''; or'';

(2) by striking ''a person'' and inserting ''the person'';

(3) by striking ''extends credit by making'' and inserting the following: ''extends credit to a person by—

''(I) making''; and

(4) by adding at the end the following:

''(II) having credit exposure to the person arising from a derivative transaction (as defined in section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b))), repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the member bank and the person.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 615. LIMITATIONS ON PURCHASES OF ASSETS FROM INSIDERS.

(a) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

''(z) GENERAL PROHIBITION ON SALE OF ASSETS.—

''(1) IN GENERAL.—An insured depository institution may not purchase an asset from, or sell an asset to, an executive officer, director, or principal shareholder of the insured depository institution, or any related interest of such person (as such terms are defined in section 22(h) of Federal Reserve Act), unless—

''(A) the transaction is on market terms; and

''(B) if the transaction represents more than 10 percent of the capital stock and surplus of the insured depository institution, the transaction has been approved in advance by a majority of the members of the board of directors of the insured depository institution who do not have an interest in the transaction.

''(2) RULEMAKING.—The Board of Governors of the Federal Reserve System may issue such rules as may be necessary to define terms and to carry out the purposes this subsection. Before proposing or adopting a rule under this paragraph, the Board of Governors of the Federal Reserve System shall consult with the Comptroller of the Currency and the Corporation as to the terms of the rule.''.

(b) AMENDMENTS TO THE FEDERAL RESERVE ACT.—Section 22(d) of the Federal Reserve Act (12 U.S.C. 375) is amended to read as follows:

''(d) [Reserved]''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 616. REGULATIONS REGARDING CAPITAL LEVELS OF HOLDING COMPANIES.

(a) CAPITAL LEVELS OF BANK HOLDING COMPANIES.—Section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)) is amended by inserting after ''regulations'' the following:

''(including regulations relating to the capital requirements of bank holding companies)''.

(b) CAPITAL LEVELS OF SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(g)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(g)(1)) is amended by inserting after ''orders'' the following: ''(including regulations relating to capital requirements for savings and loan holding companies)''.

(c) SOURCE OF STRENGTH.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 38 (12 U.S.C. 1831o) the following:

''SEC. 38A. SOURCE OF STRENGTH.

''(a) HOLDING COMPANIES.—The appropriate Federal banking agency for a bank holding company or savings and loan holding company shall require the bank holding company or savings and loan holding company to serve as a source of financial strength for any subsidiary of the bank holding company or savings and loan holding company that is a depository institution.

''(b) OTHER COMPANIES.—If an insured depository institution is not the subsidiary of a bank holding company or savings and loan holding company, the appropriate Federal banking agency for the insured depository institution shall require any company that directly or indirectly controls the insured depository institution to serve as a source of financial strength for such institution.

''(c) REPORTS.—The appropriate Federal banking agency for an insured depository institution described in subsection (b) may, from time to time, require the company, or a company that directly or indirectly controls the insured depository institution to submit a report, under oath, for the purposes of—

''(1) assessing the ability of such company to comply with the requirement under subsection (b); and

''(2) enforcing the compliance of such company with the requirement under subsection (b).

''(d) RULES.—Not later than 1 year after the transfer date, as defined in section 311 of the Enhancing Financial Institution Safety and Soundness Act of 2010, the appropriate Federal banking agencies shall jointly issue final rules to carry out this section.

''(e) DEFINITION.—In this section, the term 'source of financial strength' means the ability of a company that directly or indirectly owns or controls an insured depository institution to provide financial assistance to such insured depository institution in the event of the financial distress of the insured depository institution.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 617. ELIMINATION OF ELECTIVE INVESTMENT BANK HOLDING COMPANY FRAMEWORK.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 618. SECURITIES HOLDING COMPANIES.

(a) DEFINITIONS.—In this section—

(1) the term ''associated person of a securities holding company'' means a person directly or indirectly controlling, controlled by, or under common control with, a securities holding company;

(2) the term ''foreign bank'' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(b)(7));

(3) the term ''insured bank'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(4) the term ''securities holding company''—

(A) means—

(i) a person (other than a natural person) that owns or controls 1 or more brokers or dealers registered with the Commission; and

(ii) the associated persons of a person described in clause (i); and

(B) does not include a person that is—

(i) a nonbank financial company supervised by the Board under title I;

(ii) an affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)) or an affiliate of a savings association;

(iii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));

(iv) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

(v) subject to comprehensive consolidated supervision by a foreign regulator;

(5) the term ''supervised securities holding company'' means a securities holding company that is supervised by the Board of Governors under this section; and

(6) the terms ''affiliate'', ''bank'', ''bank holding company'', ''company'', ''control'', ''savings association'', and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(b) SUPERVISION OF A SECURITIES HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

(1) IN GENERAL.—A securities holding company that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision may register with the Board of Governors under paragraph (2) to become a supervised securities holding company. Any securities holding company filing such a registration shall be supervised in accordance with this section, and shall comply with the rules and orders prescribed by the Board of Governors applicable to supervised securities holding companies.

(2) REGISTRATION AS A SUPERVISED SECURITIES HOLDING COMPANY.—

(A) REGISTRATION.—A securities holding company that elects to be subject to comprehensive consolidated supervision shall register by filing with the Board of Governors such information and documents as the Board of Governors, by regulation, may prescribe as necessary or appropriate in furtherance of the purposes of this section.

(B) EFFECTIVE DATE.—A securities holding company that registers under subparagraph (A) shall be deemed to be a supervised securities holding company, effective on the date that is 45 days after the date of receipt of the registration information and documents under subparagraph (A) by the Board of Governors, or within such shorter period as the Board of Governors, by rule or order, may determine.

(c) SUPERVISION OF SECURITIES HOLDING COMPANIES.—

(1) RECORDKEEPING AND REPORTING.—

(A) RECORDKEEPING AND REPORTING REQUIRED.—Each supervised securities holding company and each affiliate of a supervised securities holding company shall make and keep for periods determined by the Board of Governors such records, furnish copies of such records, and make such reports, as the Board of Governors determines to be necessary or appropriate to carry out this section, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.

(B) FORM AND CONTENTS.—

(i) IN GENERAL.—Any record or report required to be made, furnished, or kept under this paragraph shall—

(I) be prepared in such form and according to such specifications (including certification by a registered public accounting firm), as the Board of Governors may require; and

(II) be provided promptly to the Board of Governors at any time, upon request by the Board of Governors.

(ii) CONTENTS.—Records and reports required to be made, furnished, or kept under this paragraph may include—

(I) a balance sheet or income statement of the supervised securities holding company or an affiliate of a supervised securities holding company;

(II) an assessment of the consolidated capital and liquidity of the supervised securities holding company;

(III) a report by an independent auditor attesting to the compliance of the supervised securities holding company with the internal risk management and internal control objectives of the supervised securities holding company; and

(IV) a report concerning the extent to which the supervised securities holding company or affiliate has complied with the provisions of this section and any regulations prescribed and orders issued under this section.

(2) USE OF EXISTING REPORTS.—

(A) IN GENERAL.—The Board of Governors shall, to the fullest extent possible, accept reports in fulfillment of the requirements of this paragraph that a supervised securities holding company or an affiliate of a supervised securities holding company has been required to provide to another regulatory agency or a self-regulatory organization.

(B) AVAILABILITY.—A supervised securities holding company or an affiliate of a supervised securities holding company shall promptly provide to the Board of Governors, at the request of the Board of Governors, any report described in subparagraph (A), as permitted by law.

(3) EXAMINATION AUTHORITY.—

(A) FOCUS OF EXAMINATION AUTHORITY.—The Board of Governors may make examinations of any supervised securities holding company and any affiliate of a supervised securities holding company to carry out this subsection, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.

(B) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Board of Governors shall, to the fullest extent possible, use the reports of examination made by other appropriate Federal or State regulatory authorities with respect to any functionally regulated subsidiary or any institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)).

(d) CAPITAL AND RISK MANAGEMENT.—

(1) IN GENERAL.—The Board of Governors shall, by regulation or order, prescribe capital adequacy and other risk management standards for supervised securities holding companies that are appropriate to protect the safety and soundness of the supervised securities holding companies and address the risks posed to financial stability by supervised securities holding companies.

(2) DIFFERENTIATION.—In imposing standards under this subsection, the Board of Governors may differentiate among supervised securities holding companies on an individual basis, or by category, taking into consideration the requirements under paragraph (3).

(3) CONTENT.—Any standards imposed on a supervised securities holding company under this subsection shall take into account—

(A) the differences among types of business activities carried out by the supervised securities holding company;

(B) the amount and nature of the financial assets of the supervised securities holding company;

(C) the amount and nature of the liabilities of the supervised securities holding company, including the degree of reliance on short-term funding;

(D) the extent and nature of the off-balance sheet exposures of the supervised securities holding company;

(E) the extent and nature of the transactions and relationships of the supervised securities holding company with other financial companies;

(F) the importance of the supervised securities holding company as a source of credit for households, businesses, and State and local governments, and as a source of liquidity for the financial system; and

(G) the nature, scope, and mix of the activities of the supervised securities holding company.

(4) NOTICE.—A capital requirement imposed under this subsection may not take effect earlier than 180 days after the date on which a supervised securities holding company is provided notice of the capital requirement.

(e) EXCEPTION FOR BANKS.—No bank shall be subject to any of the requirements set forth in subsections (c) and (d).

(f) OTHER PROVISIONS OF LAW APPLICABLE TO SUPERVISED SECURITIES HOLDING COMPANIES.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Subsections (b), (c) through (s), and (u) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) shall apply to any supervised securities holding company, and to any subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding company, in the same manner as such subsections apply to a bank holding company for which the Board of Governors is the appropriate Federal banking agency. For purposes of applying such subsections to a supervised securities holding company or a subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding company, the Board of Governors shall be deemed the appropriate Federal banking agency for the supervised securities holding company or subsidiary.

(2) BANK HOLDING COMPANY ACT OF 1956.—Except as the Board of Governors may otherwise provide by regulation or order, a supervised securities holding company shall be subject to the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) in the same manner and to the same extent a bank holding company is subject to such provisions, except that a supervised securities holding company may not, by reason of this paragraph, be deemed to be a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843).

SEC. 619. RESTRICTIONS ON CAPITAL MARKET ACTIVITY BY BANKS AND BANK HOLDING COMPANIES.

(a) DEFINITIONS.—In this section—

(1) the terms ''hedge fund'' and ''private equity fund'' mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or a similar fund, as jointly determined by the appropriate Federal banking agencies;

(2) the term ''proprietary trading''—

(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company, for the trading book (or such other portfolio as the Federal banking agencies may determine) of such institution, company, or subsidiary; and

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and

(3) the term ''sponsoring'', when used with respect to a hedge fund or private equity fund, means—

(A) serving as a general partner, managing member, or trustee of the fund;

(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

(b) PROHIBITION ON PROPRIETARY TRADING.—

(1) IN GENERAL.—Subject to the recommendations and modifications of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS.—

(A) IN GENERAL.—The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in—

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS.—The appropriate Federal banking agencies may impose conditions on the conduct of investments described in subparagraph (A).

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(3) FOREIGN ACTIVITIES.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(c) PROHIBITION ON SPONSORING AND INVESTING IN HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.

(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(d) INVESTMENTS IN SMALL BUSINESS INVESTMENT COMPANIES AND INVESTMENTS DESIGNED TO PROMOTE THE PUBLIC WELFARE.—

(1) IN GENERAL.—A prohibition imposed by the appropriate Federal banking agencies under subsection (c) shall not apply with respect an investment otherwise authorized under Federal law that is—

(A) an investment in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(B) designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(e) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) COVERED TRANSACTIONS.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may not enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with such hedge fund or private equity fund.

(2) AFFILIATION.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of the Federal Reserve Act (12 U.S.C. 371c–1) as if such institution, company, or subsidiary were a member bank and such hedge fund or private equity fund were an affiliate.

(f) CAPITAL AND QUANTITATIVE LIMITATIONS FOR CERTAIN NONBANK FINANCIAL COMPANIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the Board of Governors shall adopt rules imposing additional capital requirements and specifying additional quantitative limits for nonbank financial companies supervised by the Board of Governors under section 113 that engage in proprietary trading or sponsoring and investing in hedge funds and private equity funds.

(2) EXCEPTIONS.—The rules under this subsection shall not apply with respect to the trading of an investment that is otherwise authorized by Federal law—

(A) in obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(B) in obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities;

(C) in obligations of any State or any political subdivision of a State;

(D) in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(E) that is designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(g) COUNCIL STUDY AND RULEMAKING.—

(1) STUDY AND RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this Act, the Council—

(A) shall complete a study of the definitions under subsection (a) and the other provisions under subsections (b) through (f), to assess the extent to which the definitions under subsection (a) and the implementation of subsections (a) through (f) would—

(i) promote and enhance the safety and soundness of depository institutions and the affiliates of depository institutions;

(ii) protect taxpayers and enhance financial stability by minimizing the risk that depository institutions and the affiliates of depository institutions will engage in unsafe and unsound activities;

(iii) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

(iv) reduce inappropriate conflicts of interest between the self-interest of depository institutions, affiliates of depository institutions, and financial companies supervised by the Board, and the interests of the customers of such institutions and companies;

(v) raise the cost of credit or other financial services, reduce the availability of credit or other financial services, or impose other costs on households and businesses in the United States;

(vi) limit activities that have caused undue risk or loss in depository institutions, affiliates of depository institutions, and financial companies supervised by the Board of Governors, or that might reasonably be expected to create undue risk or loss in such institutions, affiliates, and companies; and

(vii) appropriately accommodates the business of insurance within an insurance company subject to regulation in accordance with State insurance company investment laws;

(B) shall make recommendations regarding the definitions under subsection (a) and the implementation of other provisions under subsections (b) through (f), including any modifications to the definitions, prohibitions, requirements, and limitations contained therein that the Council determines would more effectively implement the purposes of this section; and

(C) may make recommendations for prohibiting the conduct of the activities described in subsections (b) and (c) above a specific threshold amount and imposing additional capital requirements on activities conducted below such threshold amount.

(2) RULEMAKING.—Not earlier than the date of completion of the study required under paragraph (1), and not later than 9 months after the date of completion of such study—

(A) the appropriate Federal banking agencies shall jointly issue final regulations implementing subsections (b) through (e), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B); and

(B) the Board of Governors shall issue final regulations implementing subsection (f), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B).

(h) TRANSITION.—

(1) IN GENERAL.—The final regulations issued by the appropriate Federal banking agencies and the Board of Governors under subsection (g)(2) shall provide that, effective 2 years after the date on which such final regulations are issued, no insured depository institution, company that controls, directly or indirectly, an insured depository institution, company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or subsidiary of such institution or company, may retain any investment or relationship prohibited under such regulations.

(2) EXTENSION.—

(A) IN GENERAL.—The appropriate Federal banking agency for an insured depository institution or a company described in paragraph (1) may, upon the application of any such company, extend the 2-year period under paragraph (1) with respect to such company, if the appropriate Federal banking agency determines that an extension would not be detrimental to the public interest.

(B) TIME PERIOD FOR EXTENSION.—An extension granted under subparagraph (A) may not exceed—

(i) 1 year for each determination made by the appropriate Federal banking agency under subparagraph (A); and

(ii) a total of 3 years with respect to any 1 company.

SEC. 620. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

"SEC. 13. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Council' means the Financial Stability Oversight Council;

''(2) the term 'financial company' means—

''(A) an insured depository institution;

''(B) a bank holding company;

''(C) a savings and loan holding company;

''(D) a company that controls an insured depository institution;

''(E) a nonbank financial company supervised by the Board under title I of the Restoring American Financial Stability Act of 2010; and

''(F) a foreign bank or company that is treated as a bank holding company for purposes of this Act; and

''(3) the term 'liabilities' means—

''(A) with respect to a United States financial company—

''(i) the total risk-weighted assets of the financial company, as determined under the risk-based capital rules applicable to bank holding companies, as adjusted to reflect exposures that are deducted from regulatory capital; less

''(ii) the total regulatory capital of the financial company under the risk-based capital rules applicable to bank holding companies;

''(B) with respect to a foreign-based financial company—

''(i) the total risk-weighted assets of the United States operations of the financial company, as determined under the applicable risk-based capital rules, as adjusted to reflect exposures that are deducted from regulatory capital; less

''(ii) the total regulatory capital of the United States operations of the financial company, as determined under the applicable risk-based capital rules; and

''(C) with respect to an insurance company or other nonbank financial company supervised by the Board, such assets of the company as the Board shall specify by rule, in order to provide for consistent and equitable treatment of such companies.

''(b) CONCENTRATION LIMIT.—Subject to the recommendations by the Council under subsection (e), a financial company may not merge or consolidate with, acquire all or substantially all of the assets of, or otherwise acquire control of, another company, if the total consolidated liabilities of the acquiring financial company upon consummation of the transaction would exceed 10 percent of the aggregate consolidated liabilities of all financial companies at the end of the calendar year preceding the transaction.

''(c) EXCEPTION TO CONCENTRATION LIMIT.—With the prior written consent of the Board, the concentration limit under subsection (b) shall not apply to an acquisition—

''(1) of a bank in default or in danger of default;

''(2) with respect to which assistance is provided by the Federal Deposit Insurance Corporation under section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)); or

''(3) that would result only in a de minimis increase in the liabilities of the financial company.

''(d) RULEMAKING AND GUIDANCE.—The Board shall issue regulations implementing this section in accordance with the recommendations of the Council under subsection (e), including the definition of terms, as necessary. The Board may issue interpretations or guidance regarding the application of this section to an individual financial company or to financial companies in general.

''(e) COUNCIL STUDY AND RULEMAKING.—

''(1) STUDY AND RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this section, the Council shall—

''(A) complete a study of the extent to which the concentration limit under this section would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of United States financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the United States; and

''(B) make recommendations regarding any modifications to the concentration limit that the Council determines would more effectively implement this section.

''(2) RULEMAKING.—Not later than 9 months after the date of completion of the study under paragraph (1), and notwithstanding subsections (b) and (d), the Board shall issue final regulations implementing this section, which shall reflect any recommendations by the Council under paragraph (1)(B).''.

TITLE VII—WALL STREET TRANSPARENCY AND ACCOUNTABILITY

SEC. 701. SHORT TITLE.

This title may be cited as the ''Wall Street Transparency and Accountability Act of 2010''.

Subtitle A—Regulation of Over-the-Counter Swaps Markets

PART I—REGULATORY AUTHORITY

SEC. 711. DEFINITIONS.

In this subtitle, the terms ''prudential regulator'', ''swap'', ''swap dealer'', ''major swap participant'', ''swap data repository'', ''associated person of a swap dealer or major swap participant'', ''eligible contract participant'', ''swap execution facility'', ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', ''swap data repository'', and ''associated person of a security-based swap dealer or major security-based swap participant'' have the meanings given the terms in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

SEC. 712. REVIEW OF REGULATORY AUTHORITY.

(a) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraphs (4) and (8), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall each prescribe such regulations as may be necessary to carry out the purposes of this title.

(2) COORDINATION, CONSISTENCY, AND COMPARABILITY.—Both Commissions required under paragraph (1) to prescribe regulations shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such Commission are consistent and comparable with the regulations prescribed by the other.

(3) PROCEDURES AND DEADLINE.—Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States

Code, and, shall be issued in final form not later than 180 days after the date of enactment of this Act.

(4) APPLICABILITY.—The requirements of paragraph (1) shall not apply to an order issued—

(A) in connection with or arising from a violation or potential violation of any provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) in connection with or arising from a violation or potential violation of any provision of the securities laws; or

(C) in any proceeding that is conducted on the record in accordance with sections 556 and 557 of title 5, United States Code.

(5) EFFECT.—Nothing in this subsection authorizes any consultation or procedure for consultation that is not consistent with the requirements of subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'').

(6) RULES; ORDERS.—In developing and promulgating rules or orders pursuant to this subsection, each Commission shall consider the views of the prudential regulators.

(7) TREATMENT OF SIMILAR PRODUCTS AND ENTITIES.—

(A) IN GENERAL.—In adopting rules and orders under this subsection, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall treat functionally or economically similar products or entities described in paragraphs (1) and (2) in a similar manner.

(B) EFFECT.—Nothing in this subtitle requires the Commodity Futures Trading Commission or the Securities and Exchange Commission to adopt joint rules or orders that treat functionally or economically similar products or entities described in paragraphs (1) and (2) in an identical manner.

(8) MIXED SWAPS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly prescribe such regulations regarding mixed swaps, as described in section 1a(47)(D) of the Commodity Exchange Act (7 U.S.C. 1a(47)(D)) and in section (68)(D) of the Securities Exchange Act of 1934 (15 U.S.C. (68)(D)), as may be necessary to carry out the purposes of this title.

(b) LIMITATION.—

(1) COMMODITY FUTURES TRADING COMMISSION.—Nothing in this title, unless specifically provided, confers jurisdiction on the Commodity Futures Trading Commission to issue a rule, regulation, or order providing for oversight or regulation of—

(A) security-based swaps; or

(B) with regard to its activities or functions concerning security-based swaps—

(i) security-based swap dealers;

(ii) major security-based swap participants;

(iii) security-based swap data repositories;

(iv) persons associated with a security-based swap dealer or major security-based swap participant;

(v) eligible contract participants with respect to security-based swaps; or

(vi) swap execution facilities with respect to security-based swaps.

(2) SECURITIES AND EXCHANGE COMMISSION.—Nothing in this title, unless specifically provided, confers jurisdiction on the Securities and Exchange Commission or State securities regulators to issue a rule, regulation, or order providing for oversight or regulation of—

(A) swaps; or

(B) with regard to its activities or functions concerning swaps—

(i) swap dealers;

(ii) major swap participants;

(iii) swap data repositories;

(iv) persons associated with a swap dealer or major swap participant;

(v) eligible contract participants with respect to swaps; or

(vi) swap execution facilities with respect to swaps.

(3) PROHIBITION ON CERTAIN FUTURES ASSOCIATIONS AND NATIONAL SECURITIES ASSOCIATIONS.—

(A) FUTURES ASSOCIATIONS.—Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert jurisdiction over, for any purpose, any security-based swap, except that this shall not limit the authority of a national futures association to examine for compliance with and enforce its rules on advertising and capital adequacy.

(B) NATIONAL SECURITIES ASSOCIATIONS.—Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert jurisdiction over, for any purpose, any swap, except that this shall not limit the authority of a national securities association to examine for compliance with and enforce its rules on advertising and capital adequacy.

(c) OBJECTION TO COMMISSION REGULATION.—

(1) FILING OF PETITION FOR REVIEW.—

(A) IN GENERAL.—If either Commission referred to in this section determines that a final rule, regulation, or order of the other Commission conflicts with subsection (a)(4) or (b), then the complaining Commission may obtain review of the final rule, regulation, or order in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the final rule, regulation, or order, a written petition requesting that the rule, regulation, or order be set aside.

(B) EXPEDITED PROCEEDING.—A proceeding described in subparagraph (A) shall be expedited by the United States Court of Appeals for the District of Columbia Circuit.

(2) TRANSMITTAL OF PETITION AND RECORD.—

(A) IN GENERAL.—A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after the date of filing by the complaining Commission to the Secretary of the responding Commission.

(B) DUTY OF RESPONDING COMMISSION.—On receipt of the copy of a petition described in paragraph (1), the responding Commission shall file with the United States Court of Appeals for the District of Columbia Circuit—

(i) a copy of the rule, regulation, or order under review (including any documents referred to therein); and

(ii) any other materials prescribed by the United States Court of Appeals for the District of Columbia Circuit.

(3) STANDARD OF REVIEW.—The United States Court of Appeals for the District of Columbia Circuit shall—

(A) give deference to the views of neither Commission; and

(B) determine to affirm or set aside a rule, regulation, or order of the responding Commission under this subsection, based on the determination of the court as to whether the rule, regulation, or order is in conflict with subsection (a)(4) or (b), as applicable.

(4) JUDICIAL STAY.—The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the rule, regulation, or order until the date on which the determination of the United States Court of Appeals for the District of Columbia Circuit is final (including any appeal of the determination).

(d) ADOPTION OF RULES ON UNCLEARED SWAPS.—Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall, after consulting with each other Commission, adopt rules—

(1) to require the maintenance of records of all activities relating to transactions in swaps and security-based swaps under the respective jurisdictions of the Commodity Futures Trading Commission and the Securities and Exchange Commission that are uncleared;

(2) to make available, consistent with section 8 of the Commodity Exchange Act (7 U.S.C. 12), to the Securities and Exchange Commission information relating to swaps transactions that are uncleared; and

(3) to make available to the Commodity Futures Trading Commission information relating to security-based swaps transactions that are uncleared.

(e) DEFINITIONS.—Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly adopt rules to define the term ''security-based swap agreement'' in section 1a(47)(A)(v) of the Commodity Exchange Act (7 U.S.C. 1a(47)(A)(v)) and in section 3(a)(78) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(78)).

(f) GLOBAL RULEMAKING TIMEFRAME.—Unless otherwise provided in a particular provision of this title, or an amendment made by this title, the Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, shall individually, and not jointly, promulgate rules and regulations required of each Commission under this title or an amendment made by this title not later than 180 days after the date of enactment of this Act.

(g) EXPEDITED RULEMAKING PROCESS.—The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, may use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this title and the amendments made by this title if, in either of the Commissions' discretion, it considers it necessary to do so.

SEC. 713. RECOMMENDATIONS FOR CHANGES TO PORTFOLIO MARGINING LAWS.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators shall submit to the appropriate committees of Congress recommendations for legislative changes to the Federal laws to facilitate the portfolio margining of securities and commodity futures and options, commodity options, swaps, and other financial instrument positions.

SEC. 714. ABUSIVE SWAPS.

The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, individually may, by rule or order—

(1) collect information as may be necessary concerning the markets for any types of—

(A) swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(B) security-based swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); and

(2) issue a report with respect to any types of swaps or security-based swaps that the Commodity Futures Trading Commission or the Securities and Exchange Commission determines to be detrimental to—

(A) the stability of a financial market; or

(B) participants in a financial market.

SEC. 715. AUTHORITY TO PROHIBIT PARTICIPATION IN SWAP ACTIVITIES.

Except as provided in section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 738), if the Commodity Futures Trading Commission or the Securities and Exchange Commission determines that the regulation of swaps or security-based swaps markets in a foreign country undermines the stability of the United States financial system, either Commission, in consultation with the Secretary of the Treasury, may prohibit an entity domiciled in the foreign country from participating in the United States in any swap or security-based swap activities.

SEC. 716. PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF SWAPS ENTITIES.

(a) PROHIBITION ON FEDERAL ASSISTANCE.—Notwithstanding any other provision of law (including regulations), no Federal assistance may be provided to any swaps entity with respect to any swap, security-based swap, or other activity of the swaps entity.

(b) DEFINITIONS.—In this section:

(1) FEDERAL ASSISTANCE.—The term ''Federal assistance'' means the use of any funds, including advances from any Federal Reserve credit facility, discount window, or pursuant to the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority), Federal Deposit Insurance Corporation insurance, or guarantees for the purpose of—

(A) making any loan to, or purchasing any stock, equity interest, or debt obligation of, any swaps entity;

(B) purchasing the assets of any swaps entity;

(C) guaranteeing any loan or debt issuance of any swaps entity; or

(D) entering into any assistance arrangement (including tax breaks), loss sharing, or profit sharing with any swaps entity.

(2) SWAPS ENTITY.—The term ''swaps entity'' means any swap dealer, security-based swap dealer, major swap participant, major security-based swap participant, swap execution facility, designated contract market, national securities exchange, central counterparty, clearing house, clearing agency, or derivatives clearing organization that is registered under—

(A) the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

(C) any other Federal or State law (including regulations).

SEC. 717. NEW PRODUCT APPROVAL—CFTC—SEC PROCESS.

(a) AMENDMENTS TO THE COMMODITY EXCHANGE ACT.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) is amended—

(1) in clause (i) by striking ''This'' and inserting ''(I) Except as provided in subclause (II), this''; and

(2) by adding at the end of clause (i) the following:

''(II) This Act shall apply to and the Commission shall have jurisdiction with respect to accounts, agreements, and transactions involving, and may permit the listing for trading pursuant to section 5c(c) of, a put, call, or other option on 1 or more securities (as defined in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any interest therein or based on the value thereof, that is exempted by the Securities and Exchange Commission pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 with the condition that the Commission exercise concurrent jurisdiction over such put, call, or other option; provided, however, that nothing in this paragraph shall be construed to affect the jurisdiction and authority of the Securities and Exchange Commission over such put, call, or other option.''.

(b) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 is amended by adding the following section after section 3A (15 U.S.C. 78c–1):

''SEC. 3B. SECURITIES-RELATED DERIVATIVES.

''(a) Any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) shall be deemed a security for purposes of the securities laws.

''(b) With respect to any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof), references in the securities laws to the 'purchase' or 'sale' of a security shall be deemed to include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under such agreement, contract, or transaction, as the context may require.''.

(c) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:

''(10) Notwithstanding the provisions of paragraph (2), the time period within which the Commission is required by order to approve a proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved is stayed pending a determination by the Commission upon the request of the Commodity Futures Trading Commission or its Chairman that the Commission issue a determination as to whether a product that is the subject of such proposed rule change is a security pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.''.

(d) AMENDMENT TO COMMODITY EXCHANGE ACT.—Section 5c(c)(1) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)(1)) is amended—

(1) by striking ''Subject to paragraph (2)'' and inserting the following:

''(A) ELECTION.—Subject to paragraph (2)''; and

(2) by adding at the end the following:

''(B) CERTIFICATION.—The certification of a product pursuant to this paragraph shall be stayed pending a determination by the Commission upon the request of the Securities and Exchange Commission or its Chairman that the Commission issue a determination as to whether the product that is the subject of such certification is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.''.

SEC. 718. DETERMINING STATUS OF NOVEL DERIVATIVE PRODUCTS.

(a) PROCESS FOR DETERMINING THE STATUS OF A NOVEL DERIVATIVE PRODUCT.—

(1) NOTICE.—

(A) IN GENERAL.—Any person filing a proposal to list or trade a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) may concurrently provide notice and furnish a copy of such filing with both the Securities and Exchange Commission and the Commodity Futures Trading Commission. Any such notice shall state that notice has been made with both Commissions.

(B) NOTIFICATION.—If no concurrent notice is made pursuant to subparagraph (A), within 5 business days after determining that a proposal that seeks to list or trade a novel derivative product may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall notify the other Commission and provide a copy of such filing to the other Commission.

(2) REQUEST FOR DETERMINATION.—

(A) IN GENERAL.—No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Commodity Futures Trading Commission may request that the Securities and Exchange Commission issue a determination as to whether a product is a security, as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

(B) REQUEST.—No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Securities and Exchange Commission may request that the Commodity Futures Trading Commission issue a determination as to whether a product is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity subject to the Commodity Futures Trading Commission's exclusive jurisdiction under section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)).

(C) REQUIREMENT RELATING TO REQUEST.—A request under subparagraph (A) or (B) shall be made by submitting such request, in writing, to the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable.

(D) EFFECT.—Nothing in this paragraph shall be construed to prevent—

(i) the Commodity Futures Trading Commission from requesting that the Securities and Exchange Commission grant an exemption pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78mm(a)(1)) with respect to a product that is the subject of a filing under paragraph (1); or

(ii) the Securities and Exchange Commission from requesting that the Commodity Futures Trading Commission grant an exemption pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with respect to a product that is the subject of a filing under paragraph (1).

Provided, however, that nothing in this subparagraph shall be construed to require the Commodity Futures Trading Commission or the Securities and Exchange Commission to issue an exemption requested pursuant to this subparagraph; provided further, That an order granting or denying an exemption described in this subparagraph and issued under paragraph (3)(B) shall not be subject to judicial review pursuant to subsection (b).

(E) WITHDRAWAL OF REQUEST.—A request under subparagraph (A) or (B) may be withdrawn by the Commission making the request at any time prior to a determination being made pursuant to paragraph (3) for any reason by providing written notice to the head of the other Commission.

(3) DETERMINATION.—Notwithstanding any other provision of law, no later than 120 days after the date of receipt of a request—

(A) under subparagraph (A) or (B) of paragraph (2), unless such request has been withdrawn pursuant to paragraph (2)(E), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall, by order, issue the determination requested in subparagraph (A) or (B) of paragraph (2), as applicable, and the reasons therefore; or

(B) under paragraph (2)(D), unless such request has been withdrawn, the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall grant an exemption or provide reasons for not granting such exemption, provided that any decision by the Securities and Exchange Commission not to grant such exemption shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y).

(b) JUDICIAL RESOLUTION.—

(1) IN GENERAL.—The Commodity Futures Trading Commission or the Securities and Exchange Commission may petition the United States Court of Appeals for the District of Columbia Circuit for review of a final order of the other Commission, with respect to a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) that it believes affects its statutory jurisdiction, including an order or

orders issued under subsection (a)(3)(A), by filing in such court, within 60 days after the date of entry of such order, a written petition requesting a review of the order. Any such proceeding shall be expedited by the Court of Appeals.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after filing by the complaining Commission to the responding Commission. On receipt of the petition, the responding Commission shall file with the court a copy of the order under review and any documents referred to therein, and any other materials prescribed by the court.

(3) STANDARD OF REVIEW.—The court, in considering a petition filed pursuant to paragraph (1), shall give no deference to, or presumption in favor of, the views of either Commission.

(4) JUDICIAL STAY.—The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the order, until the date on which the determination of the court is final (including any appeal of the determination).

PART II—REGULATION OF SWAP MARKETS

SEC. 721. DEFINITIONS.

(a) IN GENERAL.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (2), (3) and (4), (5) through (17), (18) through (23), (24) through (28), (29), (30), (31) through (33), and (34) as paragraphs (6), (8) and (9), (11) through (23), (26) through (31), (34) through (38), (40), (41), (44) through (46), and (51), respectively;

(2) by inserting after paragraph (1) the following:

''(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) ASSOCIATED PERSON OF A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—The term 'associated person of a security-based swap dealer or major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(4) ASSOCIATED PERSON OF A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'associated person of a swap dealer or major swap participant' means—

''(i) any partner, officer, director, or branch manager of a swap dealer or major swap participant (including any individual who holds a similar status or performs a similar function with respect to any partner, officer, director, or branch manager of a swap dealer or major swap participant);

''(ii) any person that directly or indirectly controls, is controlled by, or is under common control with, a swap dealer or major swap participant; and

''(iii) any employee of a swap dealer or major swap participant.

''(B) EXCLUSION.—Other than for purposes of section 4s(b)(6), the term 'associated person of a swap dealer or major swap participant' does not include any person associated with a swap dealer or major swap participant the functions of which are solely clerical or ministerial.

''(5) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.'';

(3) by inserting after paragraph (6) (as redesignated by paragraph (1)) the following:

''(7) CLEARED SWAP.—The term 'cleared swap' means any swap that is, directly or indirectly, submitted to and cleared by a derivatives clearing organization registered with the Commission.'';

(4) in paragraph (9) (as redesignated by paragraph (1)), by striking ''except onions'' and all that follows through the period at the end and inserting the following: ''except onions (as provided in section 13–1) and motion picture box office receipts (or any index, measure, value, or data related to such receipts), and all services, rights, and interests (except motion picture box office receipts, or any index, measure, value or data related to such receipts) in which contracts for future delivery are presently or in the future dealt in.'';

(5) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

''(10) COMMODITY POOL.—

''(A) IN GENERAL.—The term 'commodity pool' means any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any—

''(i) commodity for future delivery, security futures product, or swap;

''(ii) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(iii) commodity option authorized under section 4c; or

''(iv) leverage transaction authorized under section 19.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'commodity pool' any investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(6) by striking paragraph (11) (as redesignated by paragraph (1)) and inserting the following:

''(11) COMMODITY POOL OPERATOR.—

''(A) IN GENERAL.—The term 'commodity pool operator' means any person—

''(i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interest, including any—

''(I) commodity for future delivery, security futures product, or swap;

''(II) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(III) commodity option authorized under section 4c; or

''(IV) leverage transaction authorized under section 19; or

''(ii) who is registered with the Commission as a commodity pool operator.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'commodity pool operator' any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(7) in paragraph (12) (as redesignated by paragraph (1)), in subparagraph (A)—

(A) in clause (i)—

(i) in subclause (I), by striking ''made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility'' and inserting '', security futures product, or swap'';

(ii) by redesignating subclauses (II) and (III) as subclauses (III) and (IV);

(iii) by inserting after subclause (I) the following:

''(II) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i)''; and

(iv) in subclause (IV) (as so redesignated), by striking ''or'';

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(iii) is registered with the Commission as a commodity trading advisor; or

''(iv) the Commission, by rule or regulation, may include if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(8) in paragraph (17) (as redesignated by paragraph (1)), in subparagraph (A), in the matter preceding clause (i), by striking ''paragraph (12)(A)'' and inserting ''paragraph (18)(A)'';

(9) in paragraph (18) (as redesignated by paragraph (1))—

(A) in subparagraph (A)—

(i) in the matter following clause (vii)(III)—

(I) by striking ''section 1a (11)(A)'' and inserting ''paragraph (17)(A)''; and

(II) by striking ''$25,000,000'' and inserting ''$50,000,000''; and

(ii) in clause (xi), in the matter preceding subclause (I), by striking ''total assets in an amount'' and inserting ''amounts invested on a discretionary basis, the aggregate of which is'';

(10) by striking paragraph (22) (as redesignated by paragraph (1)) and inserting the following:

''(22) FLOOR BROKER.—

''(A) IN GENERAL.—The term 'floor broker' means any person—

''(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person—

''(I) any commodity for future delivery, security futures product, or swap; or

''(II) any commodity option authorized under section 4c; or

''(ii) who is registered with the Commission as a floor broker.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'floor broker' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades for any other person if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(11) by striking paragraph (23) (as redesignated by paragraph (1)) and inserting the following:

''(23) FLOOR TRADER.—

''(A) IN GENERAL.—The term 'floor trader' means any person—

''(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account—

''(I) any commodity for future delivery, security futures product, or swap; or

''(II) any commodity option authorized under section 4c; or

''(ii) who is registered with the Commission as a floor trader.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'floor trader' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades solely for such person's own account if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(12) by inserting after paragraph (23) (as redesignated by paragraph (1)) the following:

''(24) FOREIGN EXCHANGE FORWARD.—The term 'foreign exchange forward' means a transaction that solely involves the exchange of 2 different currencies on a specific future date at a fixed rate agreed upon on the inception of the contract covering the exchange.

''(25) FOREIGN EXCHANGE SWAP.—The term 'foreign exchange swap' means a transaction that solely involves—

''(A) an exchange of 2 different currencies on a specific date at a fixed rate that is agreed upon on the inception of the contract covering the exchange; and

''(B) a reverse exchange of the 2 currencies described in subparagraph (A) at a later date and at a fixed rate that is agreed upon on the inception of the contract covering the exchange.'';

(13) by striking paragraph (28) (as redesignated by paragraph (1)) and inserting the following:

''(28) FUTURES COMMISSION MERCHANT.—

''(A) IN GENERAL.—The term 'futures commission merchant' means an individual, association, partnership, corporation, or trust—

''(i) that—

''(I) is engaged in soliciting or in accepting orders for—

''(aa) the purchase or sale of a commodity for future delivery;

''(bb) a security futures product;

''(cc) a swap;

''(dd) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(ee) any commodity option authorized under section 4c; or

''(ff) any leverage transaction authorized under section 19; or

''(II) is acting as a counterparty in any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i); and

''(III) in or in connection with the activities described in subclause (I) or (II), accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or

''(ii) that is registered with the Commission as a futures commission merchant.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'futures commission merchant' any person who engages in soliciting or accepting orders for, or acting as a counterparty in, any agreement, contract, or transaction subject to this Act, and who accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(14) in paragraph (30) (as redesignated by paragraph (1)), in subparagraph (B), by striking ''state'' and inserting ''State'';

(15) by striking paragraph (31) (as redesignated by paragraph (1)) and inserting the following:

''(31) INTRODUCING BROKER.—

''(A) IN GENERAL.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant)—

''(i) who—

''(I) is engaged in soliciting or in accepting orders for—

''(aa) the purchase or sale of any commodity for future delivery, security futures product, or swap;

''(bb) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(cc) any commodity option authorized under section 4c; or

''(dd) any leverage transaction authorized under section 19; and

''(II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or

''(ii) who is registered with the Commission as an introducing broker.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'introducing broker' any person who engages in soliciting or accepting orders for any agreement, contract, or transaction subject to this Act, and who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(16) by inserting after paragraph (31) (as redesignated by paragraph (1)) the following:

''(32) MAJOR SECURITY-BASED SWAP PARTICIPANT.—The term 'major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(33) MAJOR SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major swap participant' means any person who is not a swap dealer, and—

''(i) maintains a substantial position in swaps for any of the major swap categories as determined by the Commission, excluding—

''(I) positions held for hedging or mitigating commercial risk; and

''(II) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; or

''(ii) whose outstanding swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

''(iii)(I) is a financial entity, other than an entity predominantly engaged in providing financing for the purchase of an affiliate's merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds; and

''(II) maintains a substantial position in outstanding swaps in any major swap category as determined by the Commission.

''(B) DEFINITION OF SUBSTANTIAL POSITION.—For purposes of subparagraph (A), the Commission shall define by rule or regulation the term 'substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

''(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.

''(D) CAPITAL.—In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major swap participant.'';

(17) by inserting after paragraph (38) (as redesignated by paragraph (1)) the following:

''(39) PRUDENTIAL REGULATOR.—The term 'prudential regulator' means—

''(A) the Office of the Comptroller of the Currency, in the case of—

''(i) any national banking association;

''(ii) any Federal branch or agency of a foreign bank; or

''(iii) any Federal savings association;

''(B) the Federal Deposit Insurance Corporation, in the case of—

''(i) any insured State bank;

''(ii) any foreign bank having an insured branch; or

''(iii) any State savings association;

''(C) the Board of Governors of the Federal Reserve System, in the case of—

''(i) any noninsured State member bank;

''(ii) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act (12 U.S.C. 221 et seq.) which is made applicable under the International Banking Act of 1978 (12 U.S.C. 3101 et seq.);

''(iii) any foreign bank which does not operate an insured branch;

''(iv) any agency or commercial lending company other than a Federal agency; or

''(v) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(1)), including such proceedings under the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1464 et seq.); and

''(D) the Farm Credit Administration, in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is an institution chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).'';

(18) in paragraph (40) (as redesignated by paragraph (1))—

(A) by striking subparagraph (B);

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

(C) in subparagraph (C) (as so redesignated), by striking ''and'';

(D) by inserting after subparagraph (C) (as so redesignated) the following:

''(D) a swap execution facility registered under section 5h;

''(E) a swap data repository; and'';

(19) by inserting after paragraph (41) (as redesignated by paragraph (1)) the following:

''(42) SECURITY-BASED SWAP.—The term 'security-based swap' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(43) SECURITY-BASED SWAP DEALER.—The term 'security-based swap dealer' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).'';

(20) in paragraph (46) (as redesignated by paragraph (1)), by striking ''subject to section 2(h)(7)'' and inserting ''subject to section 2(h)(5)'';

(21) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

''(47) SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'swap' means any agreement, contract, or transaction—

''(i) that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;

''(ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

''(iii) that provides on an executory basis for the exchange, on a fixed or contingent basis, of 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as—

''(I) an interest rate swap;

''(II) a rate floor;

''(III) a rate cap;

''(IV) a rate collar;

''(V) a cross-currency rate swap;

''(VI) a basis swap;

''(VII) a currency swap;

''(VIII) a foreign exchange swap;

''(IX) a total return swap;
''(X) an equity index swap;
''(XI) an equity swap;
''(XII) a debt index swap;
''(XIII) a debt swap;
''(XIV) a credit spread;
''(XV) a credit default swap;
''(XVI) a credit swap;
''(XVII) a weather swap;
''(XVIII) an energy swap;
''(XIX) a metal swap;
''(XX) an agricultural swap;
''(XXI) an emissions swap; and
''(XXII) a commodity swap;

''(iv) that is an agreement, contract, or transaction that is, or in the future becomes commonly known to the trade as a swap;

''(v) including any security-based swap agreement which meets the definition of 'swap agreement' as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein; or

''(vi) that is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v).

''(B) EXCLUSIONS.—The term 'swap' does not include—

''(i) any contract of sale of a commodity for future delivery (or option on such a contract), leverage contract authorized under section 19, security futures product, or agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled;

''(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to—

''(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

''(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(iv) any put, call, straddle, option, or privilege relating to a foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));

''(v) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a fixed basis that is subject to—

''(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

''(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(vi) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless the agreement, contract, or transaction predicates the purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

''(vii) any note, bond, or evidence of indebtedness that is a security, as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a));

''(viii) any agreement, contract, or transaction that is—

''(I) based on a security; and

''(II) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a))) by the issuer of such security for the purposes of raising capital, unless the agreement, contract, or transaction is entered into to manage a risk associated with capital raising;

''(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the Federal Government, or a Federal agency that is expressly backed by the full faith and credit of the United States; and

''(x) any security-based swap, other than a security-based swap as described in subparagraph (D).

''(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'swap' includes a master agreement that provides for an agreement, contract, or transaction that is a swap under subparagraph (A), together with each supplement to any master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A).

''(ii) EXCEPTION.—For purposes of clause (i), the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction covered by the master agreement that is a swap pursuant to subparagraph (A).

''(D) MIXED SWAP.—The term 'security-based swap' includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii)).

''(E) TREATMENT OF FOREIGN EXCHANGE SWAPS AND FORWARDS.—

''(i) IN GENERAL.—Foreign exchange swaps and foreign exchange forwards shall be considered swaps under this paragraph unless the Secretary makes a written determination that either foreign exchange swaps or foreign exchange forwards or both—

''(I) should be not be regulated as swaps under this Act; and

''(II) are not structured to evade the Wall Street Transparency and Accountability Act of 2010 in violation of any rule promulgated by the Commission pursuant to section 111(c) of that Act.

''(ii) CONGRESSIONAL NOTICE; EFFECTIVENESS.—The Secretary shall submit any written determination under clause (i) to the appropriate committees of Congress, including the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Any such written determination by the Secretary shall not be effective until it is submitted to the appropriate committees of Congress.

''(iii) REPORTING.—Notwithstanding a written determination by the Secretary under clause (i), all foreign exchange swaps and foreign exchange forwards shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such swaps or forwards, to the Commission pursuant to section 4r within such time period as the Commission may by rule or regulation prescribe.

''(iv) BUSINESS STANDARDS.—Notwithstanding clauses (ix) and (x) of subparagraph (B) and clause (ii), any party to a foreign exchange swap or forward that is a swap dealer or major swap participant shall conform to the business conduct standards contained in section 4s(h).

''(v) SECRETARY.—For purposes of this subparagraph only, the term 'Secretary' means the Secretary of the Treasury.

''(F) EXCEPTION FOR CERTAIN FOREIGN EXCHANGE SWAPS AND FORWARDS.—

''(i) REGISTERED ENTITIES.—Any foreign exchange swap and any foreign exchange forward that is listed and traded on or subject to the rules of a designated contract market or a swap execution facility, or that is cleared by a derivatives clearing organization shall not be exempt from any provision of this Act or amendments made by the Wall Street Transparency and Accountability Act of 2010 prohibiting fraud or manipulation.

''(ii) RETAIL TRANSACTIONS.—Nothing in subparagraph (E) shall affect, or be construed to affect, the applicability of this Act or the jurisdiction of the Commission with respect to agreements, contracts, or transactions in foreign currency pursuant to section 2(c)(2).

''(48) SWAP DATA REPOSITORY.—The term 'swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties.

''(49) SWAP DEALER.—

''(A) IN GENERAL.—The term 'swap dealer' means any person who—

''(i) holds itself out as a dealer in swaps;

''(ii) makes a market in swaps;

''(iii) regularly engages in the purchase and sale of swaps in the ordinary course of business; or

''(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.

''(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

''(C) CAPITAL.—In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a swap dealer.

''(D) EXCEPTION.—The term 'swap dealer' does not include a person that buys or sells swaps for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(50) SWAP EXECUTION FACILITY.—The term 'swap execution facility' means a facility in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, through any means of interstate commerce, including any trading facility, that—

''(A) facilitates the execution of swaps between persons; and

''(B) is not a designated contract market.''; and

(22) in paragraph (51) (as redesignated by paragraph (1)), in subparagraph (A)(i), by striking ''partipants'' and inserting ''participants''.

(b) AUTHORITY TO DEFINE TERMS.—The Commodity Futures Trading Commission may adopt a rule to define—

(1) the term ''commercial risk''; and

(2) any other term included in an amendment to the Commodity Exchange Act (7 U.S.C. 1 et seq.) made by this subtitle.

(c) MODIFICATION OF DEFINITIONS.—To include transactions and entities that have been structured to evade this subtitle (or an amendment made by this subtitle), the Commodity Futures Trading Commission shall adopt a rule to further define the terms ''swap'', ''swap dealer'', ''major swap participant'', and ''eligible contract participant''.

(d) EXEMPTIONS.—Section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) is amended by striking ''except that'' and all that follows through the period at the end and inserting the following: ''except that—

''(A) unless the Commission is expressly authorized by any provision described in this subparagraph to grant exemptions, with respect to

amendments made by subtitle A of the Wall Street Transparency and Accountability Act of 2010—

''(i) with respect to—

''(I) paragraphs (2), (3), (4), (5), and (7), clause (vii)(III) of paragraph (17), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section 1a, and sections 2(a)(13), 2(c)(D), 4a(a), 4a(b), 4d(c), 4d(d), 4r, 4s, 5b(a), 5b(b), 5(d), 5(g), 5(h), 5b(c), 5b(i), 8e, and 21; and

''(II) section 206(e) of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note); and

''(ii) in subsection (c) of section 111 and section 132; and

''(B) the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D)) if the Commission determines that the exemption would be consistent with the public interest.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended—

(A) in item (cc)—

(i) in subitem (AA), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(ii) in subitem (BB), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(B) in item (dd), by striking ''section 1a(12)(A)(ii)'' and inserting ''section 1a(18)(A)(ii)''.

(2) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended by striking ''section 1a(6)'' and inserting ''section 1a''.

(3) Section 4q(a)(1) of the Commodity Exchange Act (7 U.S.C. 6o–1(a)(1)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(4) Section 5(e)(1) of the Commodity Exchange Act (7 U.S.C. 7(e)(1)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(5) Section 5a(b)(2)(F) of the Commodity Exchange Act (7 U.S.C. 7a(b)(2)(F)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(6) Section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a–1(a)) is amended, in the matter preceding paragraph (1), by striking ''section 1a(9)'' and inserting ''section 1a''.

(7) Section 5c(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)(2)(B)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(8) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is amended—

(A) in subclause (I), by striking ''section 1a(12)(B)(ii)'' and inserting ''section 1a(18)(B)(ii)''; and

(B) in subclause (II), by striking ''section 1a(12)'' and inserting ''section 1a(18)''.

(9) The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended—

(A) in section 402—

(i) in subsection (a)(7), by striking ''section 1a(20)'' and inserting ''section 1a'';

(ii) in subsection (b)(2), by striking ''section 1a(12)'' and inserting ''section 1a'';

(iii) in subsection (c), by striking ''section 1a(4)'' and inserting ''section 1a''; and

(iv) in subsection (d)—

(I) in the matter preceding paragraph (1), by striking ''section 1a(4)'' and inserting ''section 1a(9)'';

(II) in paragraph (1)—

(aa) in subparagraph (A), by striking ''section 1a(12)'' and inserting ''section 1a''; and

(bb) in subparagraph (B), by striking ''section 1a(33)'' and inserting ''section 1a'';

(III) in paragraph (2)—

(aa) in subparagraph (A), by striking ''section 1a(10)'' and inserting ''section 1a'';

(bb) in subparagraph (B), by striking ''section 1a(12)(B)(ii)'' and inserting ''section 1a(18)(B)(ii)'';

(cc) in subparagraph (C), by striking ''section 1a(12)'' and inserting ''section 1a(18)''; and

(dd) in subparagraph (D), by striking ''section 1a(13)'' and inserting ''section 1a''; and

(B) in section 404(1), by striking ''section 1a(4)'' and inserting ''section 1a''.

SEC. 722. JURISDICTION.

(a) EXCLUSIVE JURISDICTION.—Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) is amended in the first sentence—

(1) by inserting ''the Wall Street Transparency and Accountability Act of 2010 (including an amendment made by that Act) and'' after ''otherwise provided in'';

(2) by striking ''(c) through (i) of this section'' and inserting ''(c) and (f)'';

(3) by striking ''contracts of sale'' and inserting ''swaps or contracts of sale''; and

(4) by striking ''or derivatives transaction execution facility registered pursuant to section 5 or 5a'' and inserting ''pursuant to section 5''.

(b) REGULATION OF SWAPS UNDER FEDERAL AND STATE LAW.—Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end the following:

''(h) REGULATION OF SWAPS AS INSURANCE UNDER STATE LAW.—A swap—

''(1) shall not be considered to be insurance; and

''(2) may not be regulated as an insurance contract under the law of any State.''.

(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS TRADED ON AN ORGANIZED EXCHANGE.—Section 2(c)(2)(A) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(A)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) by redesignating clause (ii) as clause (iii); and

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

''(ii) a swap; or''.

(d) APPLICABILITY.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by section 723(a)(3)) is amended by adding at the end the following:

''(i) APPLICABILITY.—The provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities—

''(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or

''(2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Wall Street Transparency and Accountability Act of 2010.''.

(e) JUST AND REASONABLE RATES.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:

''(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed—

''(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.);

''(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I); or

''(III) to supersede or limit the authority of a State regulatory authority (as defined in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)) that has jurisdiction to regulate rates and charges for the sale of electric energy within the State, or restrict that State regulatory authority from carrying out the duties and responsibilities of the State regulatory authority pursuant to the jurisdiction of the State regulatory authority to regulate rates and charges for the transmission or sale of electric energy.

''(vii) Nothing in clause (vi) shall affect the Commission's authority with respect to the trading, execution, or clearing of any agreement, contract, or transaction on or subject to the rules of a registered entity, including a designated contract market, derivatives clearing organization, or swaps execution facility.''.

(f) PUBLIC INTEREST WAIVER.—Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:

''(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into—

''(A) pursuant to a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission;

''(B) pursuant to a tariff or rate schedule establishing rates or charges for, or protocols governing, the sale of electric energy approved or permitted to take effect by the regulatory authority of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy within the State or municipality; or

''(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).''.

SEC. 723. CLEARING.

(a) CLEARING REQUIREMENT.—

(1) IN GENERAL.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(A) by striking subsections (d), (e), (g), and (h); and

(B) by redesignating subsection (i) as subsection (g).

(2) SWAPS; LIMITATION ON PARTICIPATION.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by paragraph (1)) is amended by inserting after subsection (c) the following:

''(d) SWAPS.—Nothing in this Act (other than subparagraphs (A), (B), (C), and (D) of subsection (a)(1), subsections (f) and (g), sections 1a, 2(c)(2)(A)(ii), 2(e), 2(h), 4(c), 4a, 4b, and 4b–1, subsections (a), (b), and (g) of section 4c, sections 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4r, 4s, 4t, 5, 5b, 5c, 5e, and 5h, subsections (c) and (d) of section 6, sections 6c, 6d, 8, 8a, and 9, subsections (e)(2) and (f) of section 12, subsections (a) and (b) of section 13, sections 17, 20, 21, and 22(a)(4), and any other provision of this Act that is applicable to registered entities and Commission registrants) governs or applies to a swap.

''(e) LIMITATION ON PARTICIPATION.—It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a board of trade designated as a contract market under section 5.''.

(3) MANDATORY CLEARING OF SWAPS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after subsection (g) (as redesignated by paragraph (1)(B)) the following:

''(h) CLEARING REQUIREMENT.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Except as provided in paragraphs (9) and (10), any person who is a party to a swap shall submit such swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(j) of this Act.

''(B) OPEN ACCESS.—The rules of a registered derivatives clearing organization shall—

''(i) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and

''(ii) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5(b).

''(2) COMMISSION APPROVAL.—

''(A) IN GENERAL.—A derivatives clearing organization shall submit to the Commission for prior approval any group, category, type, or class of swaps that the derivatives clearing organization seeks to accept for clearing, which submission the Commission shall make available to the public.

''(B) DEADLINE.—The Commission shall take final action on a request submitted pursuant to subparagraph (A) not later than 90 days after submission of the request, unless the derivatives clearing organization submitting the request agrees to an extension of the time limitation established under this subparagraph.

''(C) APPROVAL.—The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with section 5b(c)(2). The Commission shall not approve any such request if the Commission does not make such finding.

''(D) RULES.—The Commission shall adopt rules for a derivatives clearing organization's submission for approval, pursuant to this paragraph, of any group, category, type, or class of swaps that the derivative clearing organization seeks to accept for clearing.

''(3) STAY OF CLEARING REQUIREMENT.—At any time after issuance of an approval pursuant to paragraph (2):

''(A) REVIEW PROCESS.—The Commission, on application of a counterparty to a swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the swap, or the group, category, type, or class of swaps, and the clearing arrangement.

''(B) DEADLINE.—The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the derivatives clearing organization that clears the swap, or the group, category, type, or class of swaps, agrees to an extension of the time limitation established under this subparagraph.

''(C) DETERMINATION.—Upon completion of the review undertaken pursuant to subparagraph (A)—

''(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the swap, or the group, category, type, or class of swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing—

''(I) is consistent with section 5b(c)(2); and

''(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this Act;

''(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the swap, or the group, category, type, or class of swaps; or

''(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then it shall still be permissible to clear such swap, or the group, category, type, or class of swaps.

''(D) RULES.—The Commission shall adopt rules for reviewing, pursuant to this paragraph, a derivatives clearing organization's clearing of a swap, or a group, category, type, or class of swaps that the Commission has accepted for clearing.

''(4) SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING.—

''(A) RULEMAKING.—The Commission shall adopt rules to further identify any group, category, type, or class of swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors:

''(i) The extent to which any of the terms of the group, category, type, or class of swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.

''(ii) The volume of transactions in the group, category, type, or class of swaps.

''(iii) The extent to which the terms of the group, category, type, or class of swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.

''(iv) Whether any differences in the terms of the group, category, type, or class of swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.

''(v) Whether a derivatives clearing organization is prepared to clear the group, category, type, or class of swaps and such derivatives clearing organization has in place effective risk management systems.

''(vi) Any other factors the Commission determine to be appropriate.

''(B) OTHER DESIGNATIONS.—At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular swap or class of swaps as subject to the clearing requirement in paragraph (1), taking into account the factors described in clauses (i) through (vi) of subparagraph (A) and the rules adopted under such subparagraph.

''(C) IN GENERAL.—In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.

''(D) EXPEDITED RULEMAKING AUTHORITY.—

''(i) PROCEDURE.—The promulgation of regulations under subparagraph (A) may be made without regard to—

''(I) the notice and comment provisions of section 553 of title 5, United States Code; and

''(II) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(ii) AGENCY RULEMAKING.—In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.

''(5) PREVENTION OF EVASION.—

''(A) IN GENERAL.—The Commission may prescribe rules under this subsection (and issue interpretations of rules prescribed under this subsection) as determined by the Commission to be necessary to prevent evasions of the mandatory clearing requirements under this Act.

''(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS.—To the extent the Commission finds that a particular swap, group, category, type, or class of swaps would otherwise be subject to mandatory clearing but no derivatives clearing organization has listed the swap, group, category, type, or class of swaps for clearing, the Commission shall—

''(i) investigate the relevant facts and circumstances;

''(ii) within 30 days issue a public report containing the results of the investigation; and

''(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the swap, group, category, type, or class of swaps.

''(C) EFFECT ON AUTHORITY.—Nothing in this paragraph shall—

''(i) authorize the Commission to require a derivatives clearing organization to list for clearing a swap, group, category, type, or class of swaps if the clearing of the swap, group, category, type, or class of swaps would adversely affect the business operations of the derivatives clearing organization, threaten the financial integrity of the derivatives clearing organization, or pose a systemic risk to the derivatives clearing organization; and

''(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a swap, group, category, type, or class of swaps that is listed for clearing by a derivatives clearing organization.

''(6) REQUIRED REPORTING.—

''(A) BOTH COUNTERPARTIES.—Both counterparties to a swap that is not cleared by any derivatives clearing organization shall report such a swap either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.

''(B) TIMING.—Counterparties to a swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.

''(7) TRANSITION RULES.—

''(A) REPORTING TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.

''(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than the later of—

''(I) 90 days after such effective date; or

''(II) such other time after entering into the swap as the Commission may prescribe by rule or regulation.

''(B) CLEARING TRANSITION RULES.—

''(i) SWAPS ENTERED INTO BEFORE THE DATE OF THE ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).

''(ii) SWAPS ENTERED INTO BEFORE APPLICATION OF CLEARING REQUIREMENT.—Swaps entered into before application of the clearing requirement pursuant to this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(ii).

''(8) TRADE EXECUTION.—

''(A) IN GENERAL.—With respect to transactions involving swaps subject to the clearing requirement of paragraph (1), counterparties shall—

''(i) execute the transaction on a board of trade designated as a contract market under section 5; or

''(ii) execute the transaction on a swap execution facility registered under section 5h or a swap execution facility that is exempt from registration under section 5h(f) of this Act.

''(B) EXCEPTION.—The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply if no board of trade or swap execution facility makes the swap available to trade or a swap transactions where a commercial end user opts to use the clearing exemption under paragraph (9).

''(9) REQUIRED EXEMPTION.—Subject to paragraph (4), the Commission shall exempt a swap from the requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap from clearing.

''(10) END USER CLEARING EXEMPTION.—

''(A) DEFINITION OF COMMERCIAL END USER.—

''(i) IN GENERAL.—In this paragraph, the term 'commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets goods, services,

or commodities (which shall include but not be limited to coal, natural gas, electricity, ethanol, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

''(ii) FINANCIAL ENTITY.—The term 'financial entity' means—

''(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;

''(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;

''(III) a person predominantly engaged in activities that are financial in nature;

''(IV) a commodity pool or a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); or

''(V) a person that is registered or required to be registered with the Commission.

''(B) END USER CLEARING EXEMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the swap is a commercial end user, that counterparty—

''(I)(aa) may elect not to clear the swap, as required under paragraph (1); or

''(bb) may elect to require clearing of the swap; and

''(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

''(ii) LIMITATION.—A commercial end user may only make an election under clause (i) if the end user is using the swap to hedge its own commercial risk.

''(C) TREATMENT OF AFFILIATES.—

''(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliate of the commercial end user that is not a financial entity.

''(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is—

''(I) a swap dealer;

''(II) a security-based swap dealer;

''(III) a major swap participant;

''(IV) a major security-based swap participant;

''(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for paragraph (1) or (7) of subsection (c) of that Act (15 U.S.C. 80a–3(c));

''(VI) a commodity pool;

''(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or

''(VIII) an affiliate of any entity described in subclauses (I) through (VII).

''(D) ABUSE OF EXEMPTION.—The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B). The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).

''(E) OPTION TO CLEAR.—

''(i) SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY.—With respect to any swap that is required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity, the financial entity shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

''(ii) SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER.—With respect to any swap that is not required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity or commercial end user, the financial entity or commercial end user—

''(I) may elect to require clearing of the swap; and

''(II) shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.''.

(b) COMMODITY EXCHANGE ACT.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

''(j) AUDIT COMMITTEE APPROVAL.—Exemptions from the requirements of subsection (h)(2)(F) to clear a swap and subsection (b) to trade a swap through a board of trade or swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) only if the issuer's audit committee has reviewed and approved its decision to enter into swaps that are subject to such exemptions.''.

(c) GRANDFATHER PROVISIONS.—

(1) LEGAL CERTAINTY FOR CERTAIN TRANSACTIONS IN EXEMPT COMMODITIES.—Not later than 60 days after the date of enactment of this Act, a person may submit to the Commodity Futures Trading Commission a petition to remain subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act).

(2) CONSIDERATION; AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION.—The Commodity Futures Trading Commission—

(A) shall consider any petition submitted under subparagraph (A) in a prompt manner; and

(B) may allow a person to continue operating subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act) for not longer than a 1-year period.

(3) AGRICULTURAL SWAPS.—

(A) IN GENERAL.—Except as provided in paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity (as defined by the Commodity Futures Trading Commission).

(B) EXCEPTION.—Notwithstanding paragraph (1), a person may offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity pursuant to section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) or any rule, regulation, or order issued thereunder (including any rule, regulation, or order in effect as of the date of enactment of this Act) by the Commodity Futures Trading Commission to allow swaps under such terms and conditions as the Commission shall prescribe.

(4) REQUIRED REPORTING.—If the exception described in paragraph (2) applies, and there is no facility that makes the swap available to trade, the counterparties shall comply with any recordkeeping and transaction reporting requirements that may be prescribed by the Commission with respect to swaps subject to the requirements of paragraph (1).

SEC. 724. SWAPS; SEGREGATION AND BANKRUPTCY TREATMENT.

(a) SEGREGATION REQUIREMENTS FOR CLEARED SWAPS.—Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 732) is amended by adding at the end the following:

''(f) SWAPS.—

''(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a swaps customer to margin, guarantee, or secure a swap cleared by or through a derivatives clearing organization (including money, securities, or property accruing to the customer as the result of such a swap), unless the person shall have registered under this Act with the Commission as a futures commission merchant, and the registration shall not have expired nor been suspended nor revoked.

''(2) CLEARED SWAPS.—

''(A) SEGREGATION REQUIRED.—A futures commission merchant shall treat and deal with all money, securities, and property of any swaps customer received to margin, guarantee, or secure a swap cleared by or though a derivatives clearing organization (including money, securities, or property accruing to the swaps customer as the result of such a swap) as belonging to the swaps customer.

''(B) COMMINGLING PROHIBITED.—Money, securities, and property of a swaps customer described in subparagraph (A) shall be separately accounted for and shall not be commingled with the funds of the futures commission merchant or be used to margin, secure, or guarantee any trades or contracts of any swaps customer or person other than the person for whom the same are held.

''(3) EXCEPTIONS.—

''(A) USE OF FUNDS.—

''(i) IN GENERAL.—Notwithstanding paragraph (2), money, securities, and property of a swaps customer of a futures commission merchant described in paragraph (2) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a derivatives clearing organization.

''(ii) WITHDRAWAL.—Notwithstanding paragraph (2), such share of the money, securities, and property described in clause (i) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared swap with a derivatives clearing organization, or with any member of the derivatives clearing organization, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared swap.

''(B) COMMISSION ACTION.—Notwithstanding paragraph (2), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the swaps customer of a futures commission merchant described in paragraph (2) may be commingled and deposited as provided in this section with any other money, securities, or property received by the futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the swaps customer of the futures commission merchant.

''(4) PERMITTED INVESTMENTS.—Money described in paragraph (2) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

''(5) COMMODITY CONTRACT.—A swap cleared by or through a derivatives clearing organization shall be considered to be a commodity contract as such term is defined in section 761 of title 11, United States Code, with regard to all money, securities, and property of any swaps customer received by a futures commission merchant or a derivatives clearing organization to margin, guarantee, or secure the swap (including money, securities, or property accruing to the customer as the result of the swap).

''(6) PROHIBITION.—It shall be unlawful for any person, including any derivatives clearing organization and any depository institution, that has received any money, securities, or

property for deposit in a separate account or accounts as provided in paragraph (2) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the swaps customer of the futures commission merchant.''.

(b) BANKRUPTCY TREATMENT OF CLEARED SWAPS.—Section 761 of title 11, United States Code, is amended—

(1) in paragraph (4), by striking subparagraph (F) and inserting the following:

''(F)(i) any other contract, option, agreement, or transaction that is similar to a contract, option, agreement, or transaction referred to in this paragraph; and

''(ii) with respect to a futures commission merchant or a clearing organization, any other contract, option, agreement, or transaction, in each case, that is cleared by a clearing organization;''; and

(2) in paragraph (9)(A)(i), by striking ''the commodity futures account'' and inserting ''a commodity contract account''.

(c) SEGREGATION REQUIREMENTS FOR UNCLEARED SWAPS.—Section 4s of the Commodity Exchange Act (as added by section 731) is amended by adding at the end the following:

''(l) SEGREGATION REQUIREMENTS.—

''(1) SEGREGATION OF ASSETS HELD AS COLLATERAL IN UNCLEARED SWAP TRANSACTIONS.—

''(A) NOTIFICATION.—A swap dealer or major swap participant shall be required to notify the counterparty of the swap dealer or major swap participant at the beginning of a swap transaction that the counterparty has the right to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty.

''(B) SEGREGATION AND MAINTENANCE OF FUNDS.—At the request of a counterparty to a swap that provides funds or other property to a swap dealer or major swap participant to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall—

''(i) segregate the funds or other property for the benefit of the counterparty; and

''(ii) in accordance with such rules and regulations as the Commission may promulgate, maintain the funds or other property in a segregated account separate from the assets and other interests of the swap dealer or major swap participant.

''(2) APPLICABILITY.—The requirements described in paragraph (1) shall—

''(A) apply only to a swap between a counterparty and a swap dealer or major swap participant that is not submitted for clearing to a derivatives clearing organization; and

''(B)(i) not apply to variation margin payments; or

''(ii) not preclude any commercial arrangement regarding—

''(I) the investment of segregated funds or other property that may only be invested in such investments as the Commission may permit by rule or regulation; and

''(II) the related allocation of gains and losses resulting from any investment of the segregated funds or other property.

''(3) USE OF INDEPENDENT THIRD-PARTY CUSTODIANS.—The segregated account described in paragraph (1) shall be—

''(A) carried by an independent third-party custodian; and

''(B) designated as a segregated account for and on behalf of the counterparty.

''(4) REPORTING REQUIREMENT.—If the counterparty does not choose to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall report to the counterparty of the swap dealer or major swap participant on a quarterly basis that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.''.

SEC. 725. DERIVATIVES CLEARING ORGANIZATIONS.

(a) REGISTRATION REQUIREMENT.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) is amended by striking subsections (a) and (b) and inserting the following:

''(a) REGISTRATION REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a derivatives clearing organization, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization with respect to—

''(A) a contract of sale of a commodity for future delivery (or an option on the contract of sale) or option on a commodity, in each case, unless the contract or option is—

''(i) excluded from this Act by subsection (a)(1)(C)(i), (c), or (f) of section 2; or

''(ii) a security futures product cleared by a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

''(B) a swap.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a derivatives clearing organization that is registered with the Commission.

''(b) VOLUNTARY REGISTRATION.—A person that clears 1 or more agreements, contracts, or transactions that are not required to be cleared under this Act may register with the Commission as a derivatives clearing organization.''.

(b) REGISTRATION FOR DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES; EXEMPTIONS; COMPLIANCE OFFICER; ANNUAL REPORTS.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) is amended by adding at the end the following:

''(g) REQUIRED REGISTRATION FOR DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES.—A person that is required to be registered as a derivatives clearing organization under this section shall register with the Commission regardless of whether the person is also licensed as a depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(h) EXISTING DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES.—

''(1) IN GENERAL.—A depository institution or clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) that is required to be registered as a derivatives clearing organization under this section is deemed to be registered under this section to the extent that, before the date of enactment of this subsection—

''(A) the depository institution cleared swaps as a multilateral clearing organization; or

''(B) the clearing agency cleared swaps.

''(2) CONVERSION OF DEPOSITORY INSTITUTIONS.—A depository institution to which this paragraph applies may, by the vote of the shareholders owning not less than 51 percent of the voting interests of the depository institution, be converted into a State corporation, partnership, limited liability company, or similar legal form pursuant to a plan of conversion, if the conversion is not in contravention of applicable State law.

''(i) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a derivatives clearing organization from registration under this section for the clearing of swaps if the Commission determines that the derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by the Securities and Exchange Commission or the appropriate government authorities in the home country of the organization. Such conditions may include, but are not limited to, requiring that the derivatives clearing organization be available for inspection by the Commission and make available all information requested by the Commission.

''(j) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each derivatives clearing organization shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the derivatives clearing organization;

''(B) review the compliance of the derivatives clearing organization with respect to the core principles described in subsection (c)(2);

''(C) in consultation with the board of the derivatives clearing organization, a body performing a function similar to the board of the derivatives clearing organization, or the senior officer of the derivatives clearing organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the derivatives clearing organization of the compliance officer with respect to this Act (including regulations); and

''(ii) each policy and procedure of the derivatives clearing organization of the compliance officer (including the code of ethics and conflict of interest policies of the derivatives clearing organization).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the derivatives clearing organization that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

(c) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS.—Section 5b(c) of the Commodity Exchange Act (7 U.S.C. 7a–1(c)) is amended by striking paragraph (2) and inserting the following:

''(2) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS.—

''(A) COMPLIANCE.—

''(i) IN GENERAL.—To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with each core principle described in this paragraph and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(ii) DISCRETION OF DERIVATIVES CLEARING ORGANIZATION.—Subject to any rule or regulation prescribed by the Commission, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle described in this paragraph.

''(B) FINANCIAL RESOURCES.—

''(i) IN GENERAL.—Each derivatives clearing organization shall have adequate financial,

operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the derivatives clearing organization.

''(ii) MINIMUM AMOUNT OF FINANCIAL RESOURCES.—Each derivatives clearing organization shall possess financial resources that, at a minimum, exceed the total amount that would—

''(I) enable the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and

''(II) enable the derivatives clearing organization to cover the operating costs of the derivatives clearing organization for a period of 1 year (as calculated on a rolling basis).

''(C) PARTICIPANT AND PRODUCT ELIGIBILITY.—

''(i) IN GENERAL.—Each derivatives clearing organization shall establish—

''(I) appropriate admission and continuing eligibility standards (including sufficient financial resources and operational capacity to meet obligations arising from participation in the derivatives clearing organization) for members of, and participants in, the derivatives clearing organization; and

''(II) appropriate standards for determining the eligibility of agreements, contracts, and transactions submitted to the derivatives clearing organization for clearing.

''(ii) REQUIRED PROCEDURES.—Each derivatives clearing organization shall establish and implement procedures to verify, on an ongoing basis, the compliance of each participation and membership requirement of the derivatives clearing organization.

''(iii) REQUIREMENTS.—The participation and membership requirements of each derivatives clearing organization shall—

''(I) be objective;

''(II) be publicly disclosed; and

''(III) permit fair and open access.

''(D) RISK MANAGEMENT.—

''(i) IN GENERAL.—Each derivatives clearing organization shall ensure that the derivatives clearing organization possesses the ability to manage the risks associated with discharging the responsibilities of the derivatives clearing organization through the use of appropriate tools and procedures.

''(ii) MEASUREMENT OF CREDIT EXPOSURE.—Each derivatives clearing organization shall—

''(I) not less than once during each business day of the derivatives clearing organization, measure the credit exposures of the derivatives clearing organization to each member and participant of the derivatives clearing organization; and

''(II) monitor each exposure described in subclause (I) periodically during the business day of the derivatives clearing organization.

''(iii) LIMITATION OF EXPOSURE TO POTENTIAL LOSSES FROM DEFAULTS.—Each derivatives clearing organization, through margin requirements and other risk control mechanisms, shall limit the exposure of the derivatives clearing organization to potential losses from defaults by members and participants of the derivatives clearing organization to ensure that—

''(I) the operations of the derivatives clearing organization would not be disrupted; and

''(II) nondefaulting members or participants would not be exposed to losses that nondefaulting members or participants cannot anticipate or control.

''(iv) MARGIN REQUIREMENTS.—The margin required from each member and participant of a derivatives clearing organization shall be sufficient to cover potential exposures in normal market conditions.

''(v) REQUIREMENTS REGARDING MODELS AND PARAMETERS.—Each model and parameter used in setting margin requirements under clause (iv) shall be—

''(I) risk-based; and

''(II) reviewed on a regular basis.

''(E) SETTLEMENT PROCEDURES.—Each derivatives clearing organization shall—

''(i) complete money settlements on a timely basis (but not less frequently than once each business day);

''(ii) employ money settlement arrangements to eliminate or strictly limit the exposure of the derivatives clearing organization to settlement bank risks (including credit and liquidity risks from the use of banks to effect money settlements);

''(iii) ensure that money settlements are final when effected;

''(iv) maintain an accurate record of the flow of funds associated with each money settlement;

''(v) possess the ability to comply with each term and condition of any permitted netting or offset arrangement with any other clearing organization;

''(vi) regarding physical settlements, establish rules that clearly state each obligation of the derivatives clearing organization with respect to physical deliveries; and

''(vii) ensure that each risk arising from an obligation described in clause (vi) is identified and managed.

''(F) TREATMENT OF FUNDS.—

''(i) REQUIRED STANDARDS AND PROCEDURES.—Each derivatives clearing organization shall establish standards and procedures that are designed to protect and ensure the safety of member and participant funds and assets.

''(ii) HOLDING OF FUNDS AND ASSETS.—Each derivatives clearing organization shall hold member and participant funds and assets in a manner by which to minimize the risk of loss or of delay in the access by the derivatives clearing organization to the assets and funds.

''(iii) PERMISSIBLE INVESTMENTS.—Funds and assets invested by a derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks.

''(G) DEFAULT RULES AND PROCEDURES.—

''(i) IN GENERAL.—Each derivatives clearing organization shall have rules and procedures designed to allow for the efficient, fair, and safe management of events during which members or participants—

''(I) become insolvent; or

''(II) otherwise default on the obligations of the members or participants to the derivatives clearing organization.

''(ii) DEFAULT PROCEDURES.—Each derivatives clearing organization shall—

''(I) clearly state the default procedures of the derivatives clearing organization;

''(II) make publicly available the default rules of the derivatives clearing organization; and

''(III) ensure that the derivatives clearing organization may take timely action—

''(aa) to contain losses and liquidity pressures; and

''(bb) to continue meeting each obligation of the derivatives clearing organization.

''(H) RULE ENFORCEMENT.—Each derivatives clearing organization shall—

''(i) maintain adequate arrangements and resources for—

''(I) the effective monitoring and enforcement of compliance with the rules of the derivatives clearing organization; and

''(II) the resolution of disputes;

''(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant due to a violation by the member or participant of any rule of the derivatives clearing organization; and

''(iii) report to the Commission regarding rule enforcement activities and sanctions imposed against members and participants as provided in clause (ii).

''(I) SYSTEM SAFEGUARDS.—Each derivatives clearing organization shall—

''(i) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures, and automated systems, that are reliable, secure, and have adequate scalable capacity;

''(ii) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for—

''(I) the timely recovery and resumption of operations of the derivatives clearing organization; and

''(II) the fulfillment of each obligation and responsibility of the derivatives clearing organization; and

''(iii) periodically conduct tests to verify that the backup resources of the derivatives clearing organization are sufficient to ensure daily processing, clearing, and settlement.

''(J) REPORTING.—Each derivatives clearing organization shall provide to the Commission all information that the Commission determines to be necessary to conduct oversight of the derivatives clearing organization.

''(K) RECORDKEEPING.—Each derivatives clearing organization shall maintain records of all activities related to the business of the derivatives clearing organization as a derivatives clearing organization—

''(i) in a form and manner that is acceptable to the Commission; and

''(ii) for a period of not less than 5 years.

''(L) PUBLIC INFORMATION.—

''(i) IN GENERAL.—Each derivatives clearing organization shall provide to market participants sufficient information to enable the market participants to identify and evaluate accurately the risks and costs associated with using the services of the derivatives clearing organization.

''(ii) AVAILABILITY OF INFORMATION.—Each derivatives clearing organization shall make information concerning the rules and operating procedures governing the clearing and settlement systems of the derivatives clearing organization available to market participants.

''(iii) PUBLIC DISCLOSURE.—Each derivatives clearing organization shall disclose publicly and to the Commission information concerning—

''(I) the terms and conditions of each contract, agreement, and other transaction cleared and settled by the derivatives clearing organization;

''(II) each clearing and other fee that the derivatives clearing organization charges the members and participants of the derivatives clearing organization;

''(III) the margin-setting methodology, and the size and composition, of the financial resource package of the derivatives clearing organization;

''(IV) daily settlement prices, volume, and open interest for each contract settled or cleared by the derivatives clearing organization; and

''(V) any other matter relevant to participation in the settlement and clearing activities of the derivatives clearing organization.

''(M) INFORMATION-SHARING.—Each derivatives clearing organization shall—

''(i) enter into, and abide by the terms of, each appropriate and applicable domestic and international information-sharing agreement; and

''(ii) use relevant information obtained from each agreement described in clause (i) in carrying out the risk management program of the derivatives clearing organization.

''(N) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a derivatives clearing organization shall not—

''(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(ii) impose any material anticompetitive burden.

''(O) GOVERNANCE FITNESS STANDARDS.—

''(i) GOVERNANCE ARRANGEMENTS.—Each derivatives clearing organization shall establish governance arrangements that are transparent—

''(I) to fulfill public interest requirements; and

''(II) to support the objectives of owners and participants.

''(ii) FITNESS STANDARDS.—Each derivatives clearing organization shall establish and enforce appropriate fitness standards for—

''(I) directors;

''(II) members of any disciplinary committee;

''(III) members of the derivatives clearing organization;

''(IV) any other individual or entity with direct access to the settlement or clearing activities of the derivatives clearing organization; and

''(V) any party affiliated with any individual or entity described in this clause.

''(P) CONFLICTS OF INTEREST.—Each derivatives clearing organization shall—

''(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the derivatives clearing organization; and

''(ii) establish a process for resolving conflicts of interest described in clause (i).

''(Q) COMPOSITION OF GOVERNING BOARDS.—Each derivatives clearing organization shall ensure that the composition of the governing board or committee of the derivatives clearing organization includes market participants.

''(R) LEGAL RISK.—Each derivatives clearing organization shall have a well-founded, transparent, and enforceable legal framework for each aspect of the activities of the derivatives clearing organization.

''(S) MODIFICATION OF CORE PRINCIPLES.—The Commission may conform the core principles established in this paragraph to reflect evolving United States and international standards.''.

(d) CONFLICTS OF INTEREST.—The Commodity Futures Trading Commission shall adopt rules mitigating conflicts of interest in connection with the conduct of business by a swap dealer or a major swap participant with a derivatives clearing organization, board of trade, or a swap execution facility that clears or trades swaps in which the swap dealer or major swap participant has a material debt or material equity investment.

(e) REPORTING REQUIREMENTS.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) (as amended by subsection (b)) is amended by adding at the end the following:

''(k) REPORTING REQUIREMENTS.—

''(1) DUTY OF DERIVATIVES CLEARING ORGANIZATIONS.—Each derivatives clearing organization that clears swaps shall provide to the Commission all information that is determined by the Commission to be necessary to perform each responsibility of the Commission under this Act.

''(2) DATA COLLECTION AND MAINTENANCE REQUIREMENTS.—The Commission shall adopt data collection and maintenance requirements for swaps cleared by derivatives clearing organizations that are comparable to the corresponding requirements for—

''(A) swaps data reported to swap data repositories; and

''(B) swaps traded on swap execution facilities.

''(3) REPORTS ON SECURITY-BASED SWAP AGREEMENTS TO BE SHARED WITH THE SECURITIES AND EXCHANGE COMMISSION.—

''(A) IN GENERAL.—A derivatives clearing organization that clears security-based swap agreements (as defined in section 3(a)(79) of the Securities Exchange Act) shall, upon request, make available to the Securities and Exchange Commission all books and records relating to such security-based swap agreements, consistent with the confidentiality and disclosure requirements of section 8.

''(B) JURISDICTION.—Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for a derivatives clearing organization that is registered with the Commission.''

''(4) INFORMATION SHARING.—Subject to section 8, and upon request, the Commission shall share information collected under paragraph (2) with—

''(A) the Board;

''(B) the Securities and Exchange Commission;

''(C) each appropriate prudential regulator;

''(D) the Financial Stability Oversight Council;

''(E) the Department of Justice; and

''(F) any other person that the Commission determines to be appropriate, including—

''(i) foreign financial supervisors (including foreign futures authorities);

''(ii) foreign central banks; and

''(iii) foreign ministries.

''(5) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the Commission may share information with any entity described in paragraph (4)—

''(A) the Commission shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided; and

''(B) each entity shall agree to indemnify the Commission for any expenses arising from litigation relating to the information provided under section 8.

''(6) PUBLIC INFORMATION.—Each derivatives clearing organization that clears swaps shall provide to the Commission (including any designee of the Commission) information under paragraph (2) in such form and at such frequency as is required by the Commission to comply with the public reporting requirements contained in section 2(a)(13).''.

(f) PUBLIC DISCLOSURE.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended in the last sentence—

(1) by inserting '', central bank and ministries,'' after ''department'' each place it appears; and

(2) by striking ''. is a party.'' and inserting '', is a party.''.

(g) LEGAL CERTAINTY FOR IDENTIFIED BANKING PRODUCTS.—

(1) REPEALS.—The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended—

(A) by striking sections 404 and 407 (7 U.S.C. 27b, 27e);

(B) in section 402 (7 U.S.C. 27), by striking subsection (d); and

(C) in section 408 (7 U.S.C. 27f)—

(i) in subsection (c)—

(I) by striking ''in the case'' and all that follows through ''a hybrid'' and inserting ''in the case of a hybrid'';

(II) by striking ''; or'' and inserting a period; and

(III) by striking paragraph (2);

(ii) by striking subsection (b); and

(iii) by redesignating subsection (c) as subsection (b).

(2) LEGAL CERTAINTY FOR BANK PRODUCTS ACT OF 2000.—Section 403 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a) is amended to read as follows:

''SEC. 403. EXCLUSION OF IDENTIFIED BANKING PRODUCT.

''(a) EXCLUSION.—Except as provided in subsection (b) or (c)—

''(1) the Commodity Exchange Act (7 U.S.C. 1 et seq.) shall not apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) with respect to, an identified banking product; and

''(2) the definitions of 'security-based swap' in section 3(a)(68) of the Securities Exchange Act of 1934 and 'security-based swap agreement' in section 3(a)(79) of the Securities Exchange Act of 1934 do not include any identified bank product.

''(b) EXCEPTION.—An appropriate Federal banking agency may except an identified banking product of a bank under its regulatory jurisdiction from the exclusion in subsection (a) if the agency determines, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, that the product—

''(1) would meet the definition of a 'swap' under section 1a(46) of the Commodity Exchange Act (7 U.S.C. 1a) or a 'security-based swap' under that section 3(a)(68) of the Securities Exchange Act of 1934; and

''(2) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(c) EXCEPTION.—The exclusions in subsection (a) shall not apply to an identified bank product that—

''(1) is a product of a bank that is not under the regulatory jurisdiction of an appropriate Federal banking agency;

''(2) meets the definition of swap in section 1a(46) of the Commodity Exchange Act or security-based swap in section 3(a)(68) of the Securities Exchange Act of 1934; and

''(3) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).''.

SEC. 726. RULEMAKING ON CONFLICT OF INTEREST.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commodity Futures Trading Commission shall determine whether to adopt rules to establish limits on the control of any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, an affiliate of such a bank holding company or nonbank financial company, a swap dealer, major swap participant, or associated person of a swap dealer or major swap participant.

(b) PURPOSES.—The Commission shall adopt rules if it determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a swap dealer or major swap participant's conduct of business with, a derivatives clearing organization, contract market, or swap execution facility that clears or posts swaps or makes swaps available for trading and in which such swap dealer or major swap participant has a material debt or equity investment.

SEC. 727. PUBLIC REPORTING OF SWAP TRANSACTION DATA.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(13) PUBLIC AVAILABILITY OF SWAP TRANSACTION DATA.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a swap transaction as soon as technologically practicable after the time at which the swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized and required to provide by rule for the

public availability of swap transaction and pricing data as follows:

''(i) With respect to those swaps that are subject to the mandatory clearing requirement described in subsection (h)(2) (including those swaps that are exempted from the requirement pursuant to subsection (h)(10)), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those swaps that are not subject to the mandatory clearing requirement described in subsection (h)(2), but are cleared at a registered derivatives clearing organization, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to swaps that are not cleared at a registered derivatives clearing organization and which are reported to a swap data repository or the Commission under subsection (h), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such swap trading volumes and positions.

''(iv) With respect to swaps that are exempt from the requirements of subsection (h)(1), pursuant to subsection (h)(10), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a swap (including agents of the parties to a swap) shall be responsible for reporting swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(14) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from swap data repositories and derivatives clearing organizations; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.''.

SEC. 728. SWAP DATA REPOSITORIES.

The Commodity Exchange Act is amended by inserting after section 20 (7 U.S.C. 24) the following:

''SEC. 21. SWAP DATA REPOSITORIES.

''(a) REGISTRATION REQUIREMENT.—

''(1) IN GENERAL.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a swap data repository.

''(2) INSPECTION AND EXAMINATION.—Each registered swap data repository shall be subject to inspection and examination by any representative of the Commission.

''(3) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a swap data repository, the swap data repository shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission by rule or regulation, a swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap data repository complies with the core principles described in this subsection.

''(b) STANDARD SETTING.—

''(1) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository.

''(2) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for swap data repositories.

''(3) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations in connection with their clearing of swaps.

''(4) SHARING OF INFORMATION WITH SECURITIES AND EXCHANGE COMMISSION.—Registered swap data repositories shall make available to the Securities and Exchange Commission, upon request, all books and records relating to security-based swap agreements that are maintained by such swap data repository, consistent with the confidentiality and disclosure requirements of section 8. Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for a swap data repository that is registered with the Commission.

''(c) DUTIES.—A swap data repository shall—

''(1) accept data prescribed by the Commission for each swap under subsection (b);

''(2) confirm with both counterparties to the swap the accuracy of the data that was submitted;

''(3) maintain the data described in paragraph (1) in such form, in such manner, and for such period as may be required by the Commission;

''(4)(A) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

''(B) provide the information described in paragraph (1) in such form and at such frequency as the Commission may require to comply with the public reporting requirements contained in section 2(a)(13);

''(5) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing swap data, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities;

''(6) maintain the privacy of any and all swap transaction information that the swap data repository receives from a swap dealer, counterparty, or any other registered entity; and

''(7) on a confidential basis pursuant to section 8, upon request, and after notifying the Commission of the request, make available all data obtained by the swap data repository, including individual counterparty trade and position data, to—

''(A) each appropriate prudential regulator;

''(B) the Financial Stability Oversight Council;

''(C) the Securities and Exchange Commission;

''(D) the Department of Justice; and

''(E) any other person that the Commission determines to be appropriate, including—

''(i) foreign financial supervisors (including foreign futures authorities);

''(ii) foreign central banks;

''(iii) foreign ministries; and

''(8) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the organization.

''(d) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the swap data repository may share information with any entity described above—

''(1) the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided; and

''(2) each entity shall agree to indemnify the swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 8.

''(e) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each swap data repository shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the swap data repository;

''(B) review the compliance of the swap data repository with respect to the core principles described in subsection (f);

''(C) in consultation with the board of the swap data repository, a body performing a function similar to the board of the swap data repository, or the senior officer of the swap data repository, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the swap data repository of the chief compliance officer with respect to this Act (including regulations); and

''(ii) each policy and procedure of the swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the swap data repository).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the swap data repository that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(f) CORE PRINCIPLES APPLICABLE TO SWAP DATA REPOSITORIES.—

''(1) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a swap data repository shall not

''(A) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

''(2) GOVERNANCE ARRANGEMENTS.—Each swap data repository shall establish governance arrangements that are transparent—

''(A) to fulfill public interest requirements; and

''(B) to support the objectives of the Federal Government, owners, and participants.

''(3) CONFLICTS OF INTEREST.—Each swap data repository shall—

''(A) establish and enforce rules to minimize conflicts of interest in the decision-making process of the swap data repository; and

''(B) establish a process for resolving conflicts of interest described in subparagraph (A).

''(g) REQUIRED REGISTRATION FOR SWAP DATA REPOSITORIES.—Any person that is required to be registered as a swap data repository under this section shall register with the Commission regardless of whether that person is also licensed as a bank or registered with the Securities and Exchange Commission as a swap data repository.

''(h) RULES.—The Commission shall adopt rules governing persons that are registered under this section.''.

SEC. 729. REPORTING AND RECORDKEEPING.

The Commodity Exchange Act is amended by inserting after section 4q (7 U.S.C. 6o–1) the following:

''SEC. 4r. REPORTING AND RECORDKEEPING FOR UNCLEARED SWAPS.

''(a) REQUIRED REPORTING OF SWAPS NOT ACCEPTED BY ANY DERIVATIVES CLEARING ORGANIZATION.—

''(1) IN GENERAL.—Each swap that is not accepted for clearing by any derivatives clearing organization shall be reported to—

''(A) a swap data repository described in section 21; or

''(B) in the case in which there is no swap data repository that would accept the swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.

''(2) TRANSITION RULE FOR PREENACTMENT SWAPS.—

''(A) SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered swap data repository or the Commission by a date that is not later than—

''(i) 30 days after issuance of the interim final rule; or

''(ii) such other period as the Commission determines to be appropriate.

''(B) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each swap entered into before the date of enactment as referenced in subparagraph (A).

''(C) EFFECTIVE DATE.—The reporting provisions described in this section shall be effective upon the enactment of this section.

''(3) REPORTING OBLIGATIONS.—

''(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (1) and (2).

''(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT.—With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (1) and (2).

''(C) OTHER SWAPS.—With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (1) and (2).

''(b) DUTIES OF CERTAIN INDIVIDUALS.—Any individual or entity that enters into a swap shall meet each requirement described in subsection (c) if the individual or entity did not—

''(1) clear the swap in accordance with section 2(h)(1); or

''(2) have the data regarding the swap accepted by a swap data repository in accordance with rules (including timeframes) adopted by the Commission under section 21.

''(c) REQUIREMENTS.—An individual or entity described in subsection (b) shall—

''(1) upon written request from the Commission, provide reports regarding the swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and

''(2) maintain books and records pertaining to the swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by—

''(A) any representative of the Commission;

''(B) an appropriate prudential regulator;

''(C) the Securities and Exchange Commission;

''(D) the Financial Stability Oversight Council; and

''(E) the Department of Justice.

''(d) IDENTICAL DATA.—In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by swap data repositories under section 21.''.

SEC. 730. LARGE SWAP TRADER REPORTING.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding after section 4s (as added by section 731) the following:

''SEC. 4t. LARGE SWAP TRADER REPORTING.

''(a) PROHIBITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to enter into any swap that the Commission determines to perform a significant price discovery function with respect to registered entities if—

''(A) the person directly or indirectly enters into the swap during any 1 day in an amount equal to or in excess of such amount as shall be established periodically by the Commission; and

''(B) the person directly or indirectly has or obtains a position in the swap equal to or in excess of such amount as shall be established periodically by the Commission.

''(2) EXCEPTION.—Paragraph (1) shall not apply if—

''(A) the person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in subparagraphs (A) and (B) of paragraph (1) as the Commission may require by rule or regulation; and

''(B) in accordance with the rules and regulations of the Commission, the person keeps books and records of all such swaps and any transactions and positions in any related commodity traded on or subject to the rules of any board of trade, and of cash or spot transactions in, inventories of, and purchase and sale commitments of, such a commodity.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—Books and records described in subsection (a)(2)(B) shall—

''(A) show such complete details concerning all transactions and positions as the Commission may prescribe by rule or regulation;

''(B) be open at all times to inspection and examination by any representative of the Commission; and

''(C) be open at all times to inspection and examination by the Securities and Exchange Commission, to the extent such books and records relate to transactions in security-based swap agreements (as that term is defined in section 3(a)(79) of the Securities Exchange Act of 1934), and consistent with the confidentiality and disclosure requirements of section 8.

''(2) JURISDICTION.—Nothing in paragraph (1) shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for large swap traders under this section.

''(c) APPLICABILITY.—For purposes of this section, the swaps, futures, and cash or spot transactions and positions of any person shall include the swaps, futures, and cash or spot transactions and positions of any persons directly or indirectly controlled by the person.

''(d) SIGNIFICANT PRICE DISCOVERY FUNCTION.—In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider the factors described in section 4a(a)(3).''.

SEC. 731. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4r (as added by section 729) the following:

''SEC. 4s. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.

''(a) REGISTRATION.—

''(1) SWAP DEALERS.—It shall be unlawful for any person to act as a swap dealer unless the person is registered as a swap dealer with the Commission.

''(2) MAJOR SWAP PARTICIPANTS.—It shall be unlawful for any person to act as a major swap participant unless the person is registered as a major swap participant with the Commission.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A person shall register as a swap dealer or major swap participant by filing a registration application with the Commission.

''(2) CONTENTS.—

''(A) IN GENERAL.—The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.

''(B) CONTINUAL REPORTING.—A person that is registered as a swap dealer or major swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.

''(3) EXPIRATION.—Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.

''(4) RULES.—Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to non-bank swap dealers and non-bank major swap participants, including rules that limit the activities of swap dealers and major swap participants.

''(5) TRANSITION.—Rules under this section shall provide for the registration of swap dealers and major swap participants not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(6) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the

exercise of reasonable care should have known, of the statutory disqualification.

''(c) DUAL REGISTRATION.—

''(1) SWAP DEALER.—Any person that is required to be registered as a swap dealer under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a security-based swap dealer.

''(2) MAJOR SWAP PARTICIPANT.—Any person that is required to be registered as a major swap participant under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a major security-based swap participant.

''(d) RULEMAKINGS.—

''(1) IN GENERAL.—The Commission shall adopt rules for persons that are registered as swap dealers or major swap participants under this section.

''(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS.—

''(A) IN GENERAL.—The Commission may not prescribe rules imposing prudential requirements on swap dealers or major swap participants for which there is a prudential regulator.

''(B) APPLICABILITY.—Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements to protect investors.

''(e) CAPITAL AND MARGIN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—Each registered swap dealer and major swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the swap dealer or major swap participant.

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—Each registered swap dealer and major swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission and the Securities and Exchange Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and soundness of the swap dealer or major swap participant.

''(2) RULES.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agencies, in consultation with the Commission and the Securities and Exchange Commission, shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) CAPITAL.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(A) for swap dealers and major swap participants that are depository institutions shall contain—

''(i) a capital requirement that is greater than zero for swaps that are cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j); and

''(ii) to offset the greater risk to the swap dealer or major swap participant and to the financial system arising from the use of swaps that are not cleared, substantially higher capital requirements for swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j) than for swaps that are cleared.

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for swap dealers and major swap participants that are depository institutions under paragraph (2)(A).

''(C) RULE OF CONSTRUCTION.—

''(i) IN GENERAL.—Nothing in this section shall limit, or be construed to limit, the authority—

''(I) of the Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) (except for section 4f(a)(3)) in accordance with section 4f(b); or

''(II) of the Securities and Exchange Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) (except for section 15(b)(11) of that Act (15 U.S.C. 78o(b)(11)) in accordance with section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)).

''(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS.—A futures commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under this Act or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(4) MARGIN.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agency for swap dealers and major swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j).

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission and the Securities and Exchange Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j). Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).

''(5) MARGIN REQUIREMENTS.—In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to swap dealers and major swap participants that are depository institutions and the Commission with respect to swap dealers and major swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with—

''(A) preserving the financial integrity of markets trading swaps; and

''(B) preserving the stability of the United States financial system.

''(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS.—

''(A) IN GENERAL.—The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation margin requirements.

''(B) COMPARABILITY.—The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of non cash collateral, for—

''(i) swap dealers; and

''(ii) major swap participants.

''(7) REQUESTED MARGIN.—If any party to a swap that is exempt from the margin requirements of paragraph (4)(A)(i) pursuant to the provisions of paragraph (4)(A)(ii), or from the margin requirements of paragraph (4)(B)(i) pursuant to the provisions of paragraph (4)(B)(ii), requests that such swap be margined, then—

''(A) the exemption shall not apply; and

''(B) the counterparty to such swap shall provide the requested margin.

''(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—Paragraph (4) shall not apply to initial and variation margin for swaps in which 1 of the counterparties is not—

''(A) a swap dealer;

''(B) a major swap participant; or

''(C) a financial entity as described in section 2(h)(9)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 2(h)(9).

''(f) REPORTING AND RECORDKEEPING.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant—

''(A) shall make such reports as are required by the Commission by rule or regulation regarding the transactions and positions and financial condition of the registered swap dealer or major swap participant;

''(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a swap dealer or major swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.

''(2) RULES.—The Commission shall adopt rules governing reporting and recordkeeping for swap dealers and major swap participants.

''(g) DAILY TRADING RECORDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall maintain daily trading records of the swaps of the registered swap dealer and major swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.

''(2) INFORMATION REQUIREMENTS.—The daily trading records shall include such information as the Commission shall require by rule or regulation.

''(3) COUNTERPARTY RECORDS.—Each registered swap dealer and major swap participant shall maintain daily trading records for each counterparty in a manner and form that is identifiable with each swap transaction.

''(4) AUDIT TRAIL.—Each registered swap dealer and major swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

''(5) RULES.—The Commission shall adopt rules governing daily trading records for swap dealers and major swap participants.

''(h) BUSINESS CONDUCT STANDARDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall conform with such business conduct standards as may be prescribed by the Commission by rule or regulation that relate to—

''(A) fraud, manipulation, and other abusive practices involving swaps (including swaps that are offered but not entered into);

''(B) diligent supervision of the business of the registered swap dealer and major swap participant;

''(C) adherence to all applicable position limits; and

''(D) such other matters as the Commission determines to be appropriate.

''(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES.—

''(A) GOVERNMENTAL ENTITIES.—A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a State, State agency, city, county, municipality, or other political subdivision of a State or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of a State, or the Federal agency, as appropriate.

''(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS.—A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate.

''(3) BUSINESS CONDUCT REQUIREMENTS.—Business conduct requirements adopted by the Commission shall—

''(A) establish the standard of care for a swap dealer or major swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant;

''(B) require disclosure by the swap dealer or major swap participant to any counterparty to the transaction (other than a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant) of—

''(i) information about the material risks and characteristics of the swap;

''(ii) the source and amount of any fees or other material remuneration that the swap dealer or major swap participant would directly or indirectly expect to receive in connection with the swap;

''(iii) any other material incentives or conflicts of interest that the swap dealer or major swap participant may have in connection with the swap; and

''(iv)(I) for cleared swaps, upon the request of the counterparty, the daily mark from the appropriate derivatives clearing organization; and

''(II) for uncleared swaps, the daily mark of the swap dealer or the major swap participant;

''(C) establish a standard of conduct for a swap dealer or major swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;

''(D) establish a standard of conduct for a swap dealer or major swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of this Act, to have a reasonable basis to believe that the counterparty has an independent representative that—

''(i) has sufficient knowledge to evaluate the transaction and risks;

''(ii) is not subject to a statutory disqualification;

''(iii) is independent of the swap dealer or major swap participant;

''(iv) undertakes a duty to act in the best interests of the counterparty it represents;

''(v) makes appropriate disclosures; and

''(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and

''(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act.

''(4) RULES.—The Commission shall prescribe rules under this subsection governing business conduct standards for swap dealers and major swap participants.

''(i) DOCUMENTATION AND BACK OFFICE STANDARDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps.

''(2) RULES.—The Commission shall adopt rules governing documentation and back office standards for swap dealers and major swap participants.

''(j) DUTIES.—Each registered swap dealer and major swap participant at all times shall comply with the following requirements:

''(1) MONITORING OF TRADING.—The swap dealer or major swap participant shall monitor its trading in swaps to prevent violations of applicable position limits.

''(2) RISK MANAGEMENT PROCEDURES.—The swap dealer or major swap participant shall establish robust and professional risk management systems adequate for managing the day-to-day business of the swap dealer or major swap participant.

''(3) DISCLOSURE OF GENERAL INFORMATION.—The swap dealer or major swap participant shall disclose to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, information concerning—

''(A) terms and conditions of its swaps;

''(B) swap trading operations, mechanisms, and practices;

''(C) financial integrity protections relating to swaps; and

''(D) other information relevant to its trading in swaps.

''(4) ABILITY TO OBTAIN INFORMATION.—The swap dealer or major swap participant shall—

''(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and

''(B) provide the information to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, on request.

''(5) CONFLICTS OF INTEREST.—The swap dealer and major swap participant shall implement conflict-of-interest systems and procedures that—

''(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity or swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and

''(B) address such other issues as the Commission determines to be appropriate.

''(6) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a swap dealer or major swap participant shall not—

''(A) adopt any process or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(k) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each swap dealer and major swap participant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the swap dealer or major swap participant;

''(B) review the compliance of the swap dealer or major swap participant with respect to the swap dealer and major swap participant requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to swaps, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the swap dealer or major swap participant with respect to this Act (including regulations); and

''(ii) each policy and procedure of the swap dealer or major swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the swap dealer or major swap participant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

SEC. 732. CONFLICTS OF INTEREST.

Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended—

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

(2) by inserting after subsection (b) the following:

''(c) CONFLICTS OF INTEREST.—The Commission shall require that futures commission merchants and introducing brokers implement conflict-of-interest systems and procedures that—

''(1) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in trading or clearing activities might potentially bias the judgment or supervision of the persons; and

''(2) address such other issues as the Commission determines to be appropriate.

''(d) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each futures commission merchant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the futures commission merchant;

''(B) review the compliance of the futures commission merchant with respect to requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations and each rule prescribed by the Commission under this section) relating, but not limited, to—

''(i) contracts of sale of a commodity for future delivery;

''(ii) options on the contracts described in clause (i);

''(iii) commodity options;

''(iv) retail commodity transactions;

''(v) security futures products;

''(vi) leverage contracts; and

''(vii) swaps;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the futures commission merchant with respect to this Act (including regulations); and

''(ii) each policy and procedure of the futures commission merchant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the futures commission merchant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

SEC. 733. SWAP EXECUTION FACILITIES.

The Commodity Exchange Act is amended by inserting after section 5g (7 U.S.C. 7b–2) the following:

''SEC. 5h. SWAP EXECUTION FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—No person may operate a facility for the trading or processing of swaps unless the facility is registered as a swap execution facility or as a designated contract market under this section.

''(2) DUAL REGISTRATION.—Any person that is registered as a swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Securities and Exchange Commission as a swap execution facility.

''(b) TRADING AND TRADE PROCESSING.—A swap execution facility that is registered under subsection (a) may—

''(1) make available for trading any swap; and

''(2) facilitate trade processing of any swap.

''(c) IDENTIFICATION OF FACILITY USED TO TRADE SWAPS BY CONTRACT MARKETS.—A board of trade that operates a contract market shall, to the extent that the board of trade also operates a swap execution facility and uses the same electronic trade execution system for listing and executing trades of swaps on or through the contract market and the swap execution facility, identify whether the electronic trading of such swaps is taking place on or through the contract market or the swap execution facility.

''(d) CORE PRINCIPLES FOR SWAP EXECUTION FACILITIES.—

''(1) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a swap execution facility, the swap execution facility shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF SWAP EXECUTION FACILITY.—Unless otherwise determined by the Commission by rule or regulation, a swap execution facility described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap execution facility complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—A swap execution facility shall—

''(A) monitor and enforce compliance with any rule of the swap execution facility, including—

''(i) the terms and conditions of the swaps traded or processed on or through the swap execution facility; and

''(ii) any limitation on access to the swap execution facility;

''(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means—

''(i) to provide market participants with impartial access to the market; and

''(ii) to capture information that may be used in establishing whether rule violations have occurred;

''(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades; and

''(D) provide by its rules that when a swap dealer or major swap participant enters into or facilitates a swap that is subject to the mandatory clearing requirement of section 2(h)(2)(F), the swap dealer or major swap participant shall be responsible for compliance with the mandatory trading requirement of section 113(d) of the Wall Street Transparency and Accountability Act of 2010.

''(3) SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.

''(4) MONITORING OF TRADING AND TRADE PROCESSING.—The swap execution facility shall—

''(A) establish and enforce rules or terms and conditions defining, or specifications detailing—

''(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the swap execution facility; and

''(ii) procedures for trade processing of swaps on or through the facilities of the swap execution facility; and

''(B) monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(5) ABILITY TO OBTAIN INFORMATION.—The swap execution facility shall—

''(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section;

''(B) provide the information to the Commission on request; and

''(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(6) POSITION LIMITS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) POSITION LIMITS.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the swap execution facility shall set its position limitation at a level no higher than the Commission limitation.

''(C) POSITION ENFORCEMENT.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), a swap execution facility shall reject any proposed swap transaction if, based on information readily available to a swap execution facility, any proposed swap transaction would cause a swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.

''(7) FINANCIAL INTEGRITY OF TRANSACTIONS.—The swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of swaps entered on or through the facilities of the swap execution facility, including the clearance and settlement of the swaps pursuant to section 2(h)(1).

''(8) EMERGENCY AUTHORITY.—The swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any swap or to suspend or curtail trading in a swap.

''(9) TIMELY PUBLICATION OF TRADING INFORMATION.—

''(A) IN GENERAL.—The swap execution facility shall make public timely information on price, trading volume, and other trading data on swaps to the extent prescribed by the Commission.

''(B) CAPACITY OF SWAP EXECUTION FACILITY.—The swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.

''(10) RECORDKEEPING AND REPORTING.—

''(A) IN GENERAL.—A swap execution facility shall—

''(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and

''(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this Act.

''(B) REQUIREMENTS.—The Commission shall adopt data collection and reporting requirements for swap execution facilities that are comparable to corresponding requirements for derivatives clearing organizations and swap data repositories.

''(11) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the swap execution facility shall not—

''(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(12) CONFLICTS OF INTEREST.—The swap execution facility shall—

''(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(B) establish a process for resolving the conflicts of interest.

''(13) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the swap execution facility.

''(B) DETERMINATION OF RESOURCE ADEQUACY.—The financial resources of a swap execution facility shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the swap execution facility to cover the operating costs of the swap execution facility for a 1-year period, as calculated on a rolling basis.

''(14) SYSTEM SAFEGUARDS.—The swap execution facility shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that—

''(i) are reliable and secure; and

''(ii) have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for—

''(i) the timely recovery and resumption of operations; and

''(ii) the fulfillment of the responsibilities and obligation of the swap execution facility; and

''(C) periodically conduct tests to verify that the backup resources of the swap execution facility are sufficient to ensure continued—

''(i) order processing and trade matching;

''(ii) price reporting;

''(iii) market surveillance and

''(iv) maintenance of a comprehensive and accurate audit trail.

''(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each swap execution facility shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the facility;

''(ii) review compliance with the core principles in this subsection;

''(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise;

''(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;

''(v) ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and

''(vi) establish procedures for the remediation of noncompliance issues found during compliance office reviews, look backs, internal or external audit findings, self-reported errors, or through validated complaints.

''(C) REQUIREMENTS FOR PROCEDURES.—In establishing procedures under subparagraph (B)(vi), the chief compliance officer shall design the procedures to establish the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(D) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the swap execution facility with this Act; and

''(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the swap execution facility.

''(ii) REQUIREMENTS.—The chief compliance officer shall—

''(I) submit each report described in clause (i) with the appropriate financial report of the swap execution facility that is required to be submitted to the Commission pursuant to this section; and

''(II) include in the report a certification that, under penalty of law, the report is accurate and complete.

''(e) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Securities and Exchange Commission, a prudential regulator, or the appropriate governmental authorities in the home country of the facility.

''(f) RULES.—The Commission shall prescribe rules governing the regulation of alternative swap execution facilities under this section.''.

SEC. 734. DERIVATIVES TRANSACTION EXECUTION FACILITIES AND EXEMPT BOARDS OF TRADE.

(a) IN GENERAL.—Sections 5a and 5d of the Commodity Exchange Act (7 U.S.C. 7a, 7a–3) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(A) in subsection (a)(1)(A), in the first sentence, by striking ''or 5a''; and

(B) in paragraph (2) of subsection (g) (as redesignated by section 723(a)(1)(B)), by striking ''section 5a of this Act'' and all that follows through ''5d of this Act'' and inserting ''section 5b of this Act''.

(2) Section 6(g)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(1)(A)) is amended—

(A) by striking ''that—'' and all that follows through ''(i) has been designated'' and inserting ''that has been designated'';

(B) by striking ''; or'' and inserting ''; and'' and

(C) by striking clause (ii).

SEC. 735. DESIGNATED CONTRACT MARKETS.

(a) CRITERIA FOR DESIGNATION.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (b).

(b) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (d) and inserting the following:

''(d) CORE PRINCIPLES FOR CONTRACT MARKETS.—

''(1) DESIGNATION AS CONTRACT MARKET.—

''(A) IN GENERAL.—To be designated, and maintain a designation, as a contract market, a board of trade shall comply with—

''(i) any core principle described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF CONTRACT MARKET.—Unless otherwise determined by the Commission by rule or regulation, a board of trade described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the board of trade complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—

''(A) IN GENERAL.—The board of trade shall establish, monitor, and enforce compliance with the rules of the contract market, including—

''(i) access requirements;

''(ii) the terms and conditions of any contracts to be traded on the contract market; and

''(iii) rules prohibiting abusive trade practices on the contract market.

''(B) CAPACITY OF CONTRACT MARKET.—The board of trade shall have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the contract market.

''(C) REQUIREMENT OF RULES.—The rules of the contract market shall provide the board of trade with the ability and authority to obtain any necessary information to perform any function described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.

''(3) CONTRACTS NOT READILY SUBJECT TO MANIPULATION.—The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.

''(4) PREVENTION OF MARKET DISRUPTION.—The board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including—

''(A) methods for conducting real-time monitoring of trading; and

''(B) comprehensive and accurate trade reconstructions.

''(5) POSITION LIMITATIONS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion (especially during trading in the delivery month), the board of trade shall adopt for each contract of the board of trade, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) MAXIMUM ALLOWABLE POSITION LIMITATION.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the board of trade shall set the position limitation of the board of trade at a level not higher than the position limitation established by the Commission.

''(6) EMERGENCY AUTHORITY.—The board of trade, in consultation or cooperation with the Commission, shall adopt rules to provide for the exercise of emergency authority, as is necessary and appropriate, including the authority—

''(A) to liquidate or transfer open positions in any contract;

''(B) to suspend or curtail trading in any contract; and

''(C) to require market participants in any contract to meet special margin requirements.

''(7) AVAILABILITY OF GENERAL INFORMATION.—The board of trade shall make available to market authorities, market participants, and the public accurate information concerning—

''(A) the terms and conditions of the contracts of the contract market; and

''(B)(i) the rules, regulations, and mechanisms for executing transactions on or through the facilities of the contract market; and

''(ii) the rules and specifications describing the operation of the contract market's—

''(I) electronic matching platform; or

''(II) trade execution facility.

''(8) DAILY PUBLICATION OF TRADING INFORMATION.—The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market.

''(9) EXECUTION OF TRANSACTIONS.—

''(A) IN GENERAL.—The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the board of trade.

''(B) RULES.—The rules of the board of trade may authorize, for bona fide business purposes—

''(i) transfer trades or office trades;

''(ii) an exchange of—

''(I) futures in connection with a cash commodity transaction;

''(II) futures for cash commodities; or

''(III) futures for swaps; or

''(iii) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.

''(10) TRADE INFORMATION.—The board of trade shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the contract market to use the information—

''(A) to assist in the prevention of customer and market abuses; and

''(B) to provide evidence of any violations of the rules of the contract market.

''(11) FINANCIAL INTEGRITY OF TRANSACTIONS.—The board of trade shall establish and enforce—

''(A) rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization); and

''(B) rules to ensure—

''(i) the financial integrity of any—

''(I) futures commission merchant; and

''(II) introducing broker; and

''(ii) the protection of customer funds.

''(12) PROTECTION OF MARKETS AND MARKET PARTICIPANTS.—The board of trade shall establish and enforce rules—

''(A) to protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and

''(B) to promote fair and equitable trading on the contract market.

''(13) DISCIPLINARY PROCEDURES.—The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

''(14) DISPUTE RESOLUTION.—The board of trade shall establish and enforce rules regarding, and provide facilities for alternative dispute resolution as appropriate for, market participants and any market intermediaries.

''(15) GOVERNANCE FITNESS STANDARDS.—The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other person with direct access to the facility (including any party affiliated with any person described in this paragraph).

''(16) CONFLICTS OF INTEREST.—The board of trade shall establish and enforce rules—

''(A) to minimize conflicts of interest in the decision-making process of the contract market; and

''(B) to establish a process for resolving conflicts of interest described in subparagraph (A).

''(17) COMPOSITION OF GOVERNING BOARDS OF CONTRACT MARKETS.—The governance arrangements of the board of trade shall be designed to promote the objectives of market participants.

''(18) RECORDKEEPING.—The board of trade shall maintain records of all activities relating to the business of the contract market—

''(A) in a form and manner that is acceptable to the Commission; and

''(B) for a period of at least 5 years.

''(19) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the board of trade shall not—

''(A) adopt any rule or taking any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading on the contract market.

''(20) SYSTEM SAFEGUARDS.—The board of trade shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the board of trade; and

''(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.

''(21) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The board of trade shall have adequate financial, operational, and managerial resources to discharge each responsibility of the board of trade.

''(B) DETERMINATION OF ADEQUACY.—The financial resources of the board of trade shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the contract market to cover the operating costs of the contract market for a 1-year period, as calculated on a rolling basis.''.

SEC. 736. MARGIN.

Section 8a(7) of the Commodity Exchange Act (7 U.S.C. 12a(7)) is amended—

(1) in subparagraph (C), by striking '', excepting the setting of levels of margin'';

(2) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(3) by inserting after subparagraph (C) the following:

''(D) margin requirements, provided that the rules, regulations, or orders shall—

''(i) be limited to protecting the financial integrity of the derivatives clearing organization;

''(ii) be designed for risk management purposes to protect the financial integrity of transactions; and

''(iii) not set specific margin amounts;''.

SEC. 737. POSITION LIMITS.

(a) AGGREGATE POSITION LIMITS.—Section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) is amended—

(1) by inserting after ''(a)'' the following:

''(1) IN GENERAL.—'';

(2) in the first sentence, by striking ''on electronic trading facilities with respect to a significant price discovery contract'' and inserting ''swaps that perform or affect a significant price discovery function with respect to registered entities'';

(3) in the second sentence—

(A) by inserting '', including any group or class of traders,'' after ''held by any person''; and

(B) by striking ''on an electronic trading facility with respect to a significant price discovery contract,'' and inserting ''swaps traded on or subject to the rules of an swaps execution facility, or swaps not traded on or subject to the rules of an swaps execution facility that perform a significant price discovery function with respect to a registered entity,''; and

(4) by adding at the end the following:

''(2) AGGREGATE POSITION LIMITS.—The Commission shall, by rule or regulation, establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in contracts based on the same underlying commodity (as defined by the Commission) that may be held by any person, including any group or class of traders, for each month across—

''(A) contracts listed by designated contract markets;

''(B) with respect to an agreement, contract, or transaction that settles against, or in relation to, any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, contracts traded on a foreign board of trade that provides members or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade;

''(C) swaps traded on or subject to the rules of a swap execution facility; and

''(D) swaps not traded on or subject to the rules of a swap execution facility that perform or affect a significant price discovery function with respect to a registered entity.

''(3) SIGNIFICANT PRICE DISCOVERY FUNCTION.—In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider, as appropriate, the following factors:

''(A) PRICE LINKAGE.—The extent to which the swap uses or otherwise relies on a daily or final settlement price, or other major price parameter, of another contract traded on a registered entity based on the same underlying commodity, to value a position, transfer or convert a position, financially settle a position, or close out a position.

''(B) ARBITRAGE.—The extent to which the price for the swap is sufficiently related to the price of another contract traded on a registered entity based on the same underlying commodity so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the swaps on a frequent and recurring basis.

''(C) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a contract traded on a registered entity are directly based on, or are determined by referencing, the price generated by the swap.

''(D) MATERIAL LIQUIDITY.—The extent to which the volume of swaps being traded in the commodity is sufficient to have a material effect on another contract traded on a registered entity.

''(E) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule or regulation as relevant to determine whether a swap serves a significant price discovery function with respect to a regulated market.

''(4) EXEMPTIONS.—The Commission, by rule, regulation, or order, may exempt, conditionally or unconditionally, any person or class of persons, any swap or class of swaps, or any transaction or class of transactions from any requirement that the Commission establishes under this section with respect to position limits.''.

(b) CONFORMING AMENDMENTS.—Section 4a(b) of the Commodity Exchange Act (7 U.S.C. 6a(b)) is amended—

(1) in paragraph (1), by striking ''or derivatives transaction execution facility or facilities or electronic trading facility'' and inserting ''or swap execution facility or facilities''; and

(2) in paragraph (2), by striking ''or derivatives transaction execution facility or facilities or electronic trading facility'' and inserting ''or swap execution facility''.

SEC. 738. FOREIGN BOARDS OF TRADE.

(a) IN GENERAL.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended—

(1) in the first sentence, by striking ''The Commission'' and inserting the following:

''(2) PERSONS LOCATED IN THE UNITED STATES.—

''(A) IN GENERAL.—The Commission'';

(2) in the second sentence, by striking ''Such rules and regulations'' and inserting the following:

''(B) DIFFERENT REQUIREMENTS.—Rules and regulations described in subparagraph (A)'';

(3) in the third sentence—

(A) by striking ''No rule or regulation'' and inserting the following:

''(C) PROHIBITION.—Except as provided in paragraphs (1) and (2), no rule or regulation'';

(B) by striking ''that (1) requires'' and inserting the following: ''that—

''(i) requires''; and

(C) by striking ''market, or (2) governs'' and inserting the following: ''market; or

''(ii) governs''; and

(4) by inserting before paragraph (2) (as designated by paragraph (1)) the following:

''(1) FOREIGN BOARDS OF TRADE.—

''(A) IN GENERAL.—It shall be unlawful for a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that—

''(i) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

''(ii) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

''(I) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

''(II) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

''(III) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding—

''(aa) the information that the foreign board of trade will make publicly available;

''(bb) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

''(cc) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

''(dd) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

''(IV) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

''(V) provides the Commission such information as is necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

''(B) EXISTING FOREIGN BOARDS OF TRADE.—Subparagraph (A) shall not be effective with respect to any foreign board of trade to which, prior to the date of enactment of this paragraph, the Commission granted direct access permission until the date that is 180 days after that date of enactment.''.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''or by subsection (e)'' after ''Unless exempted by the Commission pursuant to subsection (c)''; and

(2) by adding at the end the following:

''(e) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that has complied with paragraphs (1) and (2) of subsection (b).''.

(c) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) (as amended by section 739) is amended by adding at the end the following:

''(6) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the contract, based on the failure of the foreign board of trade to comply with any provision of this Act.''.

SEC. 739. LEGAL CERTAINTY FOR SWAPS.

Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) is amended by striking paragraph (4) and inserting the following:

''(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.—

''(A) IN GENERAL.—No hybrid instrument sold to any investor shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, the hybrid instrument under this section or any other provision of Federal or State law, based solely on the failure of the hybrid instrument to comply with the terms or conditions of section 2(f) or regulations of the Commission.

''(B) SWAPS.—No agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants shall be void, voidable, or unenforceable, and no party to an agreement, contract, or transaction shall be entitled to rescind, or recover any payment made with respect to, the agreement, contract, or transaction under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, or transaction—

''(i) to meet the definition of a swap under section 1a; or

''(ii) to be cleared in accordance with section 2(h)(1).

''(5) LEGAL CERTAINTY FOR LONG-TERM SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—

''(A) IN GENERAL.—Any swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment, shall not be subject to the mandatory clearing requirements under this Act.

''(B) EFFECT ON SWAPS.—Unless specifically reserved in the applicable bilateral trading agreement, neither the enactment of the Wall Street Transparency and Accountability Act of 2010, nor any requirement under that Act or an amendment made by that Act, shall constitute a termination event, force majeure, illegality, increased costs, regulatory change, or similar event under a bilateral trading agreement (including any related credit support arrangement) that would permit a party to terminate, renegotiate, modify, amend, or supplement 1 or more transactions under the bilateral trading agreement.

''(C) POSITION LIMITS.—Any position limit established under the Wall Street Transparency and Accountability Act of 2010 shall not apply to a position acquired in good faith prior to the effective date of any rule, regulation, or order under the Act that establishes the position limit; provided, however, that such positions shall be attributed to the trader if the trader's position is increased after the effective date such position limit rule, regulation, or order.''.

SEC. 740. MULTILATERAL CLEARING ORGANIZATIONS.

Sections 408 and 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421, 4422) are repealed.

SEC. 741. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The Commodity Exchange Act is amended by inserting after section 4b (7 U.S.C. 6b) the following:

''SEC. 4b–1. ENFORCEMENT AUTHORITY.

''(a) COMMISSION.—Except as provided in subsections (b), (c), and (d), the Commission shall have primary authority to enforce the amendments made by the Wall Street Transparency and Accountability Act of 2010 with respect to any person.

''(b) APPROPRIATE FEDERAL BANKING AGENCIES.—The appropriate Federal banking agency for swap dealers or major swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of section 4s(e) and other prudential requirements of this Act, with respect to depository institutions that are swap dealers or major swap participants.

''(c) REFERRALS.—

''(1) PRUDENTIAL REGULATORS.—If the prudential regulator for a swap dealer or major swap participant has cause to believe that the swap dealer or major swap participant, or any affiliate or division of the swap dealer or major swap participant, may have engaged in conduct that constitutes a violation of the nonprudential requirements of this Act (including section 4s or rules adopted by the Commission under that section), the prudential regulator shall promptly notify the Commission in a written report that includes—

''(A) a request that the Commission initiate an enforcement proceeding under this Act; and

''(B) an explanation of the facts and circumstances that led to the preparation of the written report.

''(2) COMMISSION.—If the Commission has cause to believe that a swap dealer or major swap participant that has a prudential regulator may have engaged in conduct that constitutes a violation of any prudential requirement of section 4s or rules adopted by the Commission under that section, the Commission may notify the prudential regulator of the conduct in a written report that includes—

''(A) a request that the prudential regulator initiate an enforcement proceeding under this Act or any other Federal law (including regulations); and

''(B) an explanation of the concerns of the Commission, and a description of the facts and circumstances, that led to the preparation of the written report.

''(d) BACKSTOP ENFORCEMENT AUTHORITY.—

''(1) INITIATION OF ENFORCEMENT PROCEEDING BY PRUDENTIAL REGULATOR.—If the Commission does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the Commission receives a written report under subsection (c)(1), the prudential regulator may initiate an enforcement proceeding.

''(2) INITIATION OF ENFORCEMENT PROCEEDING BY COMMISSION.—If the prudential regulator

does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the prudential regulator receives a written report under subsection (c)(2), the Commission may initiate an enforcement proceeding.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(A) in subsection (a)(2), by striking ''or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g),'' and inserting ''or swap,'';

(B) in subsection (b), by striking ''or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g),'' and inserting ''or swap,''; and

(C) by adding at the end the following:

''(e) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any registered entity, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery (or option on such a contract), or any swap, on a group or index of securities (or any interest therein or based on the value thereof)—

''(1) to employ any device, scheme, or artifice to defraud;

''(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

''(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.''.

(2) Section 4c(a)(1) of the Commodity Exchange Act (7 U.S.C. 6c(a)(1)) is amended by inserting ''or swap'' before ''if the transaction is used or may be used''.

(3) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the first sentence by inserting ''or of any swap,'' before ''or has willfully made''.

(4) Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence, in the matter preceding the proviso, by inserting ''or of any swap,'' before ''or otherwise is violating''.

(5) Section 6c(a) of the Commodity Exchange Act (7 U.S.C. 13a–1(a)) is amended in the matter preceding the proviso by inserting ''or any swap'' after ''commodity for future delivery''.

(6) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(A) in subsection (a)—

(i) in paragraph (2), by inserting ''or of any swap,'' before ''or to corner''; and

(ii) in paragraph (4), by inserting ''swap data repository,'' before ''or futures association'' and

(B) in subsection (e)(1)—

(i) by inserting ''swap data repository,'' before ''or registered futures association''; and

(ii) by inserting '', or swaps,'' before ''on the basis''.

(7) Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by adding at the end the following:

''(6) Any person to abuse the end user clearing exemption under section 2(h)(4), as determined by the Commission.''.

(8) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end the following:

''(11) SWAPS.—

''(A) IN GENERAL.—Subject to subparagraph (B), this section shall apply to any swap dealer, major swap participant, security-based swap dealer, major security-based swap participant, derivatives clearing organization, swap data repository, or swap execution facility, regardless of whether the dealer, participant, organization, repository, or facility is an insured depository institution, for which the Board, the Corporation, or the Office of the Comptroller of the Currency is the appropriate Federal banking agency or prudential regulator for purposes of the amendments made by the Wall Street Transparency and Accountability Act of 2010.

''(B) LIMITATION.—The authority described in subparagraph (A) shall be limited by, and exercised in accordance with, section 4b–1 of the Commodity Exchange Act.''.

(9) Section 2(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)) is amended—

(A) by striking ''(dd),'' each place it appears;

(B) in clause (iii), by inserting '', and accounts or pooled investment vehicles described in clause (vi),'' before ''shall be subject to''; and

(C) by adding at the end the following:

''(vi) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).''.

(10) Section 2(c)(2)(C) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(C)) is amended—

(A) by striking ''(dd),'' each place it appears;

(B) in clause (ii)(I), by inserting '', and accounts or pooled investment vehicles described in clause (vii),'' before ''shall be subject to''; and

(C) by adding at the end the following:

''(vii) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).''.

(11) Section 1a(19)(A)(iv)(II) of the Commodity Exchange Act (7 U.S.C. 1a(19)(A)(iv)(II)) (as redesignated by section 721(a)(1)) is amended by inserting before the semicolon at the end the following: ''provided, however, that for purposes of section 2(c)(2)(B)(vi) and section 2(c)(2)(C)(vii), the term 'eligible contract participant' shall not include a commodity pool in which any participant is not otherwise an eligible contract participant''.

SEC. 742. RETAIL COMMODITY TRANSACTIONS.

(a) IN GENERAL.—Section 2(c) of the Commodity Exchange Act (7 U.S.C. 2(c)) is amended—

(1) in paragraph (1), by striking ''(to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B))'' and inserting '', 5b, or 12(e)(2)(B))''; and

(2) in paragraph (2), by adding at the end the following:

''(D) RETAIL COMMODITY TRANSACTIONS.—

''(i) APPLICABILITY.—Except as provided in clause (ii), this subparagraph shall apply to any agreement, contract, or transaction in any commodity that is—

''(I) entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity; and

''(II) entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

''(ii) EXCEPTIONS.—This subparagraph shall not apply to—

''(I) an agreement, contract, or transaction described in paragraph (1) or subparagraphs (A), (B), or (C), including any agreement, contract, or transaction specifically excluded from subparagraph (A), (B), or (C);

''(II) any security;

''(III) a contract of sale that—

''(aa) results in actual delivery within 28 days or such other period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the commodity involved; or

''(bb) creates an enforceable obligation to deliver between a seller and a buyer that have the ability to deliver and accept delivery, respectively, in connection with the line of business of the seller and buyer; or

''(IV) an agreement, contract, or transaction that is listed on a national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(V) an identified banking product, as defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C.27(b)).

''(iii) ENFORCEMENT.—Sections 4(a), 4(b), and 4b apply to any agreement, contract, or transaction described in clause (i), as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery.

''(iv) ELIGIBLE COMMERCIAL ENTITY.—For purposes of this subparagraph, an agricultural producer, packer, or handler shall be considered to be an eligible commercial entity for any agreement, contract, or transaction for a commodity in connection with the line of business of the agricultural producer, packer, or handler.

''(v) ACTUAL DELIVERY.—For purposes of clause (ii)(III), the term 'actual delivery' does not include delivery to a third party in a financed transaction in which the commodity is held as collateral.''.

(b) GRAMM-LEACH-BLILEY ACT.—Section 206(a) of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note) is amended, in the matter preceding paragraph (1), by striking ''For purposes of'' and inserting ''Except as provided in subsection (e), for purposes of''.

(c) CONFORMING AMENDMENTS RELATING TO RETAIL FOREIGN EXCHANGE TRANSACTIONS.—

(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended—

(A) in item (aa), by inserting ''United States'' before ''financial institution'';

(B) by striking items (dd) and (ff);

(C) by redesignating items (ee) and (gg) as items (dd) and (ff), respectively; and

(D) in item (dd) (as so redesignated), by striking the semicolon and inserting ''; or''.

(2) Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) (as amended by subsection (a)(2)) is amended by adding at the end the following:

''(E) PROHIBITION.—

''(i) DEFINITION OF FEDERAL REGULATORY AGENCY.—In this subparagraph, the term 'Federal regulatory agency' means—

''(I) the Commission;

''(II) the Securities and Exchange Commission;

''(III) an appropriate Federal banking agency;

''(IV) the National Credit Union Association; and

''(V) the Farm Credit Administration.

''(ii) PROHIBITION.—A person described in subparagraph (B)(i)(II) for which there is a Federal regulatory agency shall not offer to, or enter into with, a person that is not an eligible contract participant, any agreement, contract, or transaction in foreign currency described in subparagraph (B)(i)(I) except pursuant to a rule or regulation of a Federal regulatory agency allowing the agreement, contract, or transaction under such terms and conditions as the Federal regulatory agency shall prescribe.

''(iii) REQUIREMENTS OF RULES AND REGULATIONS.—

''(I) IN GENERAL.—The rules and regulations described in clause (ii) shall prescribe appropriate requirements with respect to—

''(aa) disclosure;

''(bb) recordkeeping;

''(cc) capital and margin;

''(dd) reporting;

''(ee) business conduct;

''(ff) documentation; and

''(gg) such other standards or requirements as the Federal regulatory agency shall determine to be necessary.

''(II) TREATMENT.—The rules or regulations described in clause (ii) shall treat all agreements, contracts, and transactions in foreign currency described in subparagraph (B)(i)(I), and all agreements, contracts, and transactions

in foreign currency that are functionally or economically similar to agreements, contracts, or transactions described in subparagraph (B)(i)(I), similarly.''.

SEC. 743. OTHER AUTHORITY.

Unless otherwise provided by the amendments made by this subtitle, the amendments made by this subtitle do not divest any appropriate Federal banking agency, the Commodity Futures Trading Commission, the Securities and Exchange Commission, or other Federal or State agency of any authority derived from any other applicable law.

SEC. 744. RESTITUTION REMEDIES.

Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by adding at the end the following:

''(3) EQUITABLE REMEDIES.—In any action brought under this section, the Commission may seek, and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation, equitable remedies including—

''(A) restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses); and

''(B) disgorgement of gains received in connection with such violation.''.

SEC. 745. ENHANCED COMPLIANCE BY REGISTERED ENTITIES.

(a) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5(d) of the Commodity Exchange Act (7 U.S.C. 7(d)) (as amended by section 735(b)) is amended by striking paragraph (1) and inserting the following:

''(1) DESIGNATION.—

''(A) IN GENERAL.—To be designated as, and to maintain the designation of, a board of trade as a contract market, the board of trade shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) DISCRETION OF BOARD OF TRADE.—Unless the Commission determines otherwise by rule or regulation, the board of trade shall have reasonable discretion in establishing the manner by which the board of trade complies with each core principle.''.

(b) CORE PRINCIPLES.—Section 5b(c)(2) of the Commodity Exchange Act (7 U.S.C. 7a–1(c)(2)) (as amended by section 725(c)) is amended by striking subparagraph (A) and inserting the following:

''(A) REGISTRATION.—

''(i) IN GENERAL.—To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with—

''(I) the core principles described in this paragraph; and

''(II) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(ii) DISCRETION OF COMMISSION.—Unless the Commission determines otherwise by rule or regulation, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle.''.

(c) EFFECT OF INTERPRETATION.—Section 5c(a) of the Commodity Exchange Act (7 U.S.C. 7a–2(a)) is amended by striking paragraph (2) and inserting the following:

''(2) EFFECT OF INTERPRETATION.—An interpretation issued under paragraph (1) may provide the exclusive means for complying with each section described in paragraph (1).''.

(d) NEW CONTRACTS, NEW RULES, AND RULE AMENDMENTS.—

(1) IN GENERAL.—A registered entity may elect to list for trading or accept for clearing any new contract, or other instrument, or may elect to approve and implement any new rule or rule amendment, by providing to the Commission (and the Secretary of the Treasury, in the case of a contract of sale of a government security for future delivery (or option on such a contract) or a rule or rule amendment specifically related to such a contract) a written certification that the new contract or instrument or clearing of the new contract or instrument, new rule, or rule amendment complies with this Act (including regulations under this Act).

(2) RULE REVIEW.—The new rule or rule amendment described in paragraph (1) shall become effective, pursuant to the certification of the registered entity, on the date that is 10 business days after the date on which the Commission receives the certification (or such shorter period as determined by the Commission by rule or regulation) unless the Commission notifies the registered entity within such time that it is staying the certification because there exist novel or complex issues that require additional time to analyze, an inadequate explanation by the submitting registered entity, or a potential inconsistency with this Act (including regulations under this Act).

(3) STAY OF CERTIFICATION FOR RULES.—

(A) A notification by the Commission pursuant to paragraph (2) shall stay the certification of the new rule or rule amendment for up to an additional 90 days from the date of the notification.

(B) A rule or rule amendment subject to a stay pursuant to subparagraph (A) shall become effective, pursuant to the certification of the registered entity, at the expiration of the period described in subparagraph (A) unless the Commission—

(i) withdraws the stay prior to that time; or

(ii) notifies the registered entity during such period that it objects to the proposed certification on the grounds that it is inconsistent with this Act (including regulations under this Act).

(4) PRIOR APPROVAL.—

(A) IN GENERAL.—A registered entity may request that the Commission grant prior approval to any new contract or other instrument, new rule, or rule amendment.

(B) PRIOR APPROVAL REQUIRED.—Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(10) (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

(C) DEADLINE.—If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

(5) APPROVAL.—

(A) RULES.—The Commission shall approve a new rule, or rule amendment, of a registered entity unless the Commission finds that the new rule, or rule amendment, is inconsistent with this subtitle (including regulations).

(B) CONTRACTS AND INSTRUMENTS.—The Commission shall approve a new contract or other instrument unless the Commission finds that the new contract or other instrument would violate this subtitle (including regulations).

(C) SPECIAL RULE FOR REVIEW AND APPROVAL OF EVENT CONTRACTS AND SWAPS CONTRACTS.—

(i) EVENT CONTRACTS.—In connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i)), by a designated contract market or swap execution facility, the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—

(I) activity that is unlawful under any Federal or State law;

(II) terrorism;

(III) assassination;

(IV) war;

(V) gaming; or

(VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.

(ii) PROHIBITION.—No agreement, contract, or transaction determined by the Commission to be contrary to the public interest under clause (i) may be listed or made available for clearing or trading on or through a registered entity.

(iii) SWAPS CONTRACTS.—

(I) IN GENERAL.—In connection with the listing of a swap for clearing by a derivatives clearing organization, the Commission shall determine, upon request or on its own motion, the initial eligibility, or the continuing qualification, of a derivatives clearing organization to clear such a swap under those criteria, conditions, or rules that the Commission, in its discretion, determines.

(II) REQUIREMENTS.—Any such criteria, conditions, or rules shall consider—

(aa) the financial integrity of the derivatives clearing organization; and

(bb) any other factors which the Commission determines may be appropriate.

(iv) DEADLINE.—The Commission shall take final action under clauses (i) and (ii) in not later than 90 days from the commencement of its review unless the party seeking to offer the contract or swap agrees to an extension of this time limitation.

(e) VIOLATION OF CORE PRINCIPLES.—Section 5c of the Commodity Exchange Act (7 U.S.C. 7a–2) is amended by striking subsection (d).

SEC. 746. INSIDER TRADING.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended by adding at the end the following:

''(3) CONTRACT OF SALE.—It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to use the information in his personal capacity and for personal gain to enter into, or offer to enter into—

''(A) a contract of sale of a commodity for future delivery (or option on such a contract);

''(B) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(C) a swap.

''(4) NONPUBLIC INFORMATION.—

''(A) IMPARTING OF NONPUBLIC INFORMATION.—It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally

available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to impart the information in his personal capacity and for personal gain with intent to assist another person, directly or indirectly, to use the information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

''(B) KNOWING USE.—It shall be unlawful for any person who receives information imparted by any employee or agent of any department or agency of the Federal Government as described in subparagraph (A) to knowingly use such information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

''(C) THEFT OF NONPUBLIC INFORMATION.—It shall be unlawful for any person to steal, convert, or misappropriate, by any means whatsoever, information held or created by any department or agency of the Federal Government that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, where such person knows, or acts in reckless disregard of the fact, that such information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, and to use such information, or to impart such information with the intent to assist another person, directly or indirectly, to use such information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

Provided, however, that nothing in this subparagraph shall preclude a person that has provided information concerning, or generated by, the person, its operations or activities, to any employee or agent of any department or agency of the Federal Government, voluntarily or as required by law, from using such information to enter into, or offer to enter into, a contract of sale, option, or swap described in clauses (i), (ii), or (iii).''.

SEC. 747. ANTIDISRUPTIVE PRACTICES AUTHORITY.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (as amended by section 746) is amended by adding at the end the following:

''(5) DISRUPTIVE PRACTICES.—It shall be unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that—

''(A) violates bids or offers;

''(B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or

''(C) is, is of the character of, or is commonly known to the trade as, 'spoofing' (bidding or offering with the intent to cancel the bid or offer before execution).

''(6) RULEMAKING AUTHORITY.—The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices described in paragraph (5) and any other trading practice that is disruptive of fair and equitable trading.

''(7) USE OF SWAPS TO DEFRAUD.—It shall be unlawful for any person to enter into a swap knowing, or acting in reckless disregard of the fact, that its counterparty will use the swap as part of a device, scheme, or artifice to defraud any third party.''.

SEC. 748. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:

''SEC. 23. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION.

''(a) DEFINITIONS.—In this section:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by the Commission under this Act that results in monetary sanctions exceeding $1,000,000.

''(2) FUND.—The term 'Fund' means the Commodity Futures Trading Commission Customer Protection Fund established under subsection (g).

''(3) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action means—

''(A) any monies, including penalties, disgorgement, restitution, and interest ordered to be paid; and

''(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.

''(4) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Commission under this Act, means any judicial or administrative action brought by an entity described in subclauses (i) through (vi) of subsection (g)(2)(B) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.

''(6) SUCCESSFUL RESOLUTION.—The term 'successful resolution', when used with respect to any judicial or administrative action brought by the Commission under this Act, includes any settlement of such action.

''(7) WHISTLEBLOWER.—The term 'whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of this Act to the Commission, in a manner established by rule or regulation, by the Commission.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

''(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

''(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

''(2) PAYMENT OF AWARDS.—Any amount paid under paragraph (1) shall be paid from the Fund.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.

''(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Commission shall take into account—

''(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(iii) the programmatic interest of the Commission in deterring violations of the Act (including regulations under the Act) by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and

''(iv) such additional relevant factors as the Commission may establish by rule or regulation.

''(2) DENIAL OF AWARD.—No award under subsection (b) shall be made—

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of—

''(i) a appropriate regulatory agency;

''(ii) the Department of Justice;

''(iii) a registered entity;

''(iv) a registered futures association; or

''(v) a self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or

''(vi) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;

''(C) to any whistleblower who submits information to the Commission that is based on the facts underlying the covered action submitted previously by another whistleblower;

''(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule or regulation, require.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.

''(e) NO CONTRACT NECESSARY.—No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission, by rule or regulation.

''(f) APPEALS.—

''(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission.

''(2) APPEALS.—Any determination described in paragraph (1) may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission.

''(3) REVIEW.—The court shall review the determination made by the Commission in accordance with section 7064 of title 5, United States Code.

''(g) COMMODITY FUTURES TRADING COMMISSION CUSTOMER PROTECTION FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the 'Commodity Futures Trading Commission Customer Protection Fund'.

''(2) USE OF FUND.—The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for—

''(A) the payment of awards to whistleblowers as provided in subsection (a); and

''(B) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act, or the rules and regulations thereunder.

''(3) DEPOSITS AND CREDITS.—There shall be deposited into or credited to the Fund—

''(A) any monetary judgment collected by the Commission in any judicial or administrative action brought by the Commission under this Act, that is not otherwise distributed to victims of a violation of this Act or the rules and regulations thereunder underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeds $100,000,000; and

''(B) all income from investments made under paragraph (4).

''(4) INVESTMENTS.—

''(A) AMOUNTS IN FUND MAY BE INVESTED.—The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund.

''(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission.

''(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

''(5) REPORTS TO CONGRESS.—Not later than October 30 of each year, the Commission shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report on—

''(A) the Commission's whistleblower award program under this section, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;

''(B) customer education initiatives described in paragraph (2)(B) that were funded by the Fund during the preceding fiscal year;

''(C) the balance of the Fund at the beginning of the preceding fiscal year;

''(D) the amounts deposited into or credited to the Fund during the preceding fiscal year;

''(E) the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;

''(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

''(G) the amount paid from the Fund during the preceding fiscal year for customer education initiatives described in paragraph (2)(B);

''(H) the balance of the Fund at the end of the preceding fiscal year; and

''(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.

''(h) PROTECTION OF WHISTLEBLOWERS.—

''(1) PROHIBITION AGAINST RETALIATION.—

''(A) IN GENERAL.—No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

''(i) in providing information to the Commission in accordance with subsection (b); or

''(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

''(B) ENFORCEMENT.—

''(i) CAUSE OF ACTION.—An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C), unless the individual who is alleging discharge or other discrimination in violation of subparagraph (A) is an employee of the federal government, in which case the individual shall only bring an action under section 1221 of title 5 United States Code.

''(ii) SUBPOENAS.—A subpoena requiring the attendance of a witness at a trial or hearing conducted under this subsection may be served at any place in the United States.

''(iii) STATUTE OF LIMITATIONS.—An action under this subsection may not be brought more than 2 years after the date on which the violation reported in subparagraph (A) is committed.

''(C) RELIEF.—Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

''(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;

''(ii) the amount of back pay otherwise owed to the individual, with interest; and

''(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

''(2) CONFIDENTIALITY.—

''(A) INFORMATION PROVIDED.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), all information provided to the Commission by a whistleblower shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of a department or agency of the Federal Government, under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act') or otherwise, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B).

''(ii) CONSTRUCTION.—For purposes of section 552 of title 5, United States Code, this paragraph shall be considered to be a statute described in subsection (b)(3)(B) of that section.

''(iii) EFFECT.—Nothing in this paragraph is intended to limit the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

''(B) AVAILABILITY TO GOVERNMENT AGENCIES.—

''(i) IN GENERAL.—Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary or appropriate to accomplish the purposes of this Act and protect customers and in accordance with clause (ii), be made available to—

''(I) the Department of Justice;

''(II) an appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction;

''(III) a registered entity, registered futures association, or self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

''(IV) a State attorney general in connection with any criminal investigation;

''(V) an appropriate department or agency of any State, acting within the scope of its jurisdiction; and

''(VI) a foreign futures authority.

''(ii) MAINTENANCE OF INFORMATION.—Each of the entities, agencies, or persons described in clause (i) shall maintain information described in that clause as confidential and privileged, in accordance with the requirements in subparagraph (A).

''(3) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

''(i) RULEMAKING AUTHORITY.—The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.

''(j) IMPLEMENTING RULES.—The Commission shall issue final rules or regulations implementing the provisions of this section not later than 270 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(k) ORIGINAL INFORMATION.—Information submitted to the Commission by a whistleblower in accordance with rules or regulations implementing this section shall not lose its status as original information solely because the whistleblower submitted such information prior to the effective date of such rules or regulations, provided such information was submitted after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(l) AWARDS.—A whistleblower may receive an award pursuant to this section regardless of whether any violation of a provision of this Act, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(m) PROVISION OF FALSE INFORMATION.—A whistleblower who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or who makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section and shall be subject to prosecution under section 1001 of title 18, United States Code.''.

SEC. 749. CONFORMING AMENDMENTS.

(a) Section 2(c)(1) of the Commodity Exchange Act (7 U.S.C. 2(c)(1)) is amended, in the matter preceding subparagraph (A), by striking ''5a (to the extent provided in section 5a(g)),''.

(b) Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 724) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''engage as'' and inserting ''be a''; and

(ii) by striking ''or introducing broker'' and all that follows through ''or derivatives transaction execution facility'';

(B) in paragraph (1), by striking ''or introducing broker''; and

(C) in paragraph (2), by striking ''if a futures commission merchant,''; and

(2) by adding at the end the following:

''(g) It shall be unlawful for any person to be an introducing broker unless such person shall have registered under this Act with the Commission as an introducing broker and such registration shall not have expired nor been suspended nor revoked.''.

(c) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended—

(1) by striking ''(3) Subsection (1) of this section'' and inserting the following:

''(3) EXCEPTION.—

''(A) IN GENERAL.—Paragraph (1)''; and

(2) by striking ''to any investment trust'' and all that follows through the period at the end

and inserting the following: ''to any commodity pool that is engaged primarily in trading commodity interests.

''(B) ENGAGED PRIMARILY.—For purposes of subparagraph (A), a commodity trading advisor or a commodity pool shall be considered to be 'engaged primarily' in the business of being a commodity trading advisor or commodity pool if it is or holds itself out to the public as being engaged primarily, or proposes to engage primarily, in the business of advising on commodity interests or investing, reinvesting, owning, holding, or trading in commodity interests, respectively.

''(C) COMMODITY INTERESTS.—For purposes of this paragraph, commodity interests shall include contracts of sale of a commodity for future delivery, options on such contracts, security futures, swaps, leverage contracts, foreign exchange, spot and forward contracts on physical commodities, and any monies held in an account used for trading commodity interests.''.

(d) Section 5c of the Commodity Exchange Act (7 U.S.C. 7a–2) is amended—

(1) in subsection (a)(1)—

(A) by striking '', 5a(d),''; and

(B) by striking ''and section (2)(h)(7) with respect to significant price discovery contracts,''; and

(2) in subsection (f)(1), by striking ''section 4d(c) of this Act'' and inserting ''section 4d(e)''.

(e) Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) is amended by striking ''or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,''.

(f) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended in the first sentence by striking '', or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,''.

(g) Section 12(e)(2)(B) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)(B)) is amended—

(1) by striking ''section 2(c), 2(d), 2(f), or 2(g) of this Act'' and inserting ''section 2(c), 2(f), or 2(i) of this Act''; and

(2) by striking ''2(h) or''.

(h) Section 17(r)(1) of the Commodity Exchange Act (7 U.S.C. 21(r)(1)) is amended by striking ''section 4d(c) of this Act'' and inserting ''section 4d(e)''.

(i) Section 22(b)(1)(A) of the Commodity Exchange Act (7 U.S.C. 25(b)(1)(A)) is amended by striking ''section 2(h)(7) or''.

(j) Section 408(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421(2)(C)) is amended—

(1) by striking ''section 2(c), 2(d), 2(f), or (2)(g) of such Act'' and inserting ''section 2(c), 2(f), or 2(i) of that Act''; and

(2) by striking ''2(h) or''.

SEC. 750. STUDY ON OVERSIGHT OF CARBON MARKETS.

(a) INTERAGENCY WORKING GROUP.—There is established to carry out this section an interagency working group (referred to in this section as the ''interagency group'') composed of the following members or designees:

(1) The Chairman of the Commodity Futures Trading Commission (referred to in this section as the ''Commission''), who shall serve as Chairman of the interagency group.

(2) The Secretary of Agriculture.

(3) The Secretary of the Treasury.

(4) The Chairman of the Securities and Exchange Commission.

(5) The Administrator of the Environmental Protection Agency.

(6) The Chairman of the Federal Energy Regulatory Commission.

(7) The Commissioner of the Federal Trade Commission.

(8) The Administrator of the Energy Information Administration.

(b) ADMINISTRATIVE SUPPORT.—The Commission shall provide the interagency group such administrative support services as are necessary to enable the interagency group to carry out the functions of the interagency group under this section.

(c) CONSULTATION.—In carrying out this section, the interagency group shall consult with representatives of exchanges, clearinghouses, self-regulatory bodies, major carbon market participants, consumers, and the general public, as the interagency group determines to be appropriate.

(d) STUDY.—The interagency group shall conduct a study on the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.

(e) REPORT.—Not later than 180 days after the date of enactment of this Act, the interagency group shall submit to Congress a report on the results of the study conducted under subsection (b), including recommendations for the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.

SEC. 751. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) (as amended by section 727) is amended by adding at the end the following:

''(15) ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—An Energy and Environmental Markets Advisory Committee is hereby established.

''(ii) MEMBERSHIP.—The Committee shall have 9 members.

''(iii) ACTIVITIES.—The Committee's objectives and scope of activities shall be—

''(I) to conduct public meetings;

''(II) to submit reports and recommendations to the Commission (including dissenting or minority views, if any); and

''(III) otherwise to serve as a vehicle for discussion and communication on matters of concern to exchanges, firms, end users, and regulators regarding energy and environmental markets and their regulation by the Commission.

''(B) REQUIREMENTS.—

''(i) IN GENERAL.—The Committee shall hold public meetings at such intervals as are necessary to carry out the functions of the Committee, but not less frequently than 2 times per year.

''(ii) MEMBERS.—Members shall be appointed to 3-year terms, but may be removed for cause by vote of the Commission.

''(C) APPOINTMENT.—The Commission shall appoint members with a wide diversity of opinion and who represent a broad spectrum of interests, including hedgers and consumers.

''(D) REIMBURSEMENT.—Members shall be entitled to per diem and travel expense reimbursement by the Commission.

''(E) FACA.—The Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 752. INTERNATIONAL HARMONIZATION.

In order to promote effective and consistent global regulation of swaps and security-based swaps, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Financial Stability Oversight Council, and the Treasury Department—

(1) shall, both individually and collectively, consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of such swaps; and

(2) may, both individually and collectively, agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors and swap counterparties.

SEC. 753. ANTIMARKET MANIPULATION AUTHORITY.

(a) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—Subsection (c) of section 6 of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended to read as follows:

''(c) PROHIBITION REGARDING MANIPULATION AND FALSE INFORMATION.—

''(1) PROHIBITION AGAINST MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010.

''(A) SPECIAL PROVISION FOR MANIPULATION BY FALSE REPORTING.—Unlawful manipulation for purposes of this paragraph shall include, but not be limited to, delivering, or causing to be delivered for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact, that such report is false, misleading or inaccurate.

''(B) EFFECT ON OTHER LAW.—Nothing in this paragraph shall affect, or be construed to affect, the applicability of section 9(a)(2).

''(2) PROHIBITION REGARDING FALSE INFORMATION.—It shall be unlawful for any person to make any false or misleading statement of a material fact to the Commission, including in any registration application or any report filed with the Commission under this Act, or any other information relating to a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to omit to state in any such statement any material fact that is necessary to make any statement of a material fact made not misleading in any material respect, if the person knew, or reasonably should have known, the statement to be false or misleading.

''(3) OTHER MANIPULATION.—In addition to the prohibition in paragraph (1), it shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.

''(4) ENFORCEMENT.—

''(A) AUTHORITY OF COMMISSION.—If the Commission has reason to believe that any person (other than a registered entity) is violating or has violated this subsection, or any other provision of this Act (including any rule, regulation, or order of the Commission promulgated in accordance with this subsection or any other provision of this Act), the Commission may serve upon the person a complaint.

''(B) CONTENTS OF COMPLAINT.—A complaint under subparagraph (A) shall—

''(i) contain a description of the charges against the person that is the subject of the complaint; and

''(ii) have attached or contain a notice of hearing that specifies the date and location of the hearing regarding the complaint.

''(C) HEARING.—A hearing described in subparagraph (B)(ii)—

''(i) shall be held not later than 3 days after service of the complaint described in subparagraph (A);

''(ii) shall require the person to show cause regarding why—

''(I) an order should not be made—

''(aa) to prohibit the person from trading on, or subject to the rules of, any registered entity; and

''(bb) to direct all registered entities to refuse all privileges to the person until further notice of the Commission; and

''(II) the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked; and

''(iii) may be held before—

''(I) the Commission; or

''(II) an administrative law judge designated by the Commission, under which the administrative law judge shall ensure that all evidence is recorded in written form and submitted to the Commission.

''(5) SUBPOENA.—For the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation or proceeding under this Act, and for the purpose of any action taken under section 12(f) of this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (7)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

''(6) WITNESSES.—The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing.

''(7) SERVICE.—A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission.

''(8) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.

''(9) FAILURE TO OBEY.—Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

''(10) EVIDENCE.—On the receipt of evidence under paragraph (4)(C)(iii), the Commission may—

''(A) prohibit the person that is the subject of the hearing from trading on, or subject to the rules of, any registered entity and require all registered entities to refuse the person all privileges on the registered entities for such period as the Commission may require in the order;

''(B) if the person is registered with the Commission in any capacity, suspend, for a period not to exceed 180 days, or revoke, the registration of the person;

''(C) assess such person—

''(i) a civil penalty of not more than an amount equal to the greater of—

''(I) $140,000; or

''(II) triple the monetary gain to such person for each such violation; or

''(ii) in any case of manipulation or attempted manipulation in violation of this subsection or section 9(a)(2), a civil penalty of not more than an amount equal to the greater of—

''(I) $1,000,000; or

''(II) triple the monetary gain to the person for each such violation; and

''(D) require restitution to customers of damages proximately caused by violations of the person.

''(11) ORDERS.—

''(A) NOTICE.—The Commission shall provide to a person described in paragraph (10) and the appropriate governing board of the registered entity notice of the order described in paragraph (10) by—

''(i) registered mail;

''(ii) certified mail; or

''(iii) personal delivery.

''(B) REVIEW.—

''(i) IN GENERAL.—A person described in paragraph (10) may obtain a review of the order or such other equitable relief as determined to be appropriate by a court described in clause (ii).

''(ii) PETITION.—To obtain a review or other relief under clause (i), a person may, not later than 15 days after notice is given to the person under clause (i), file a written petition to set aside the order with the United States Court of Appeals—

''(I) for the circuit in which the petitioner carries out the business of the petitioner; or

''(II) in the case of an order denying registration, the circuit in which the principal place of business of the petitioner is located, as listed on the application for registration of the petitioner.

''(C) PROCEDURE.—

''(i) DUTY OF CLERK OF APPROPRIATE COURT.—The clerk of the appropriate court under subparagraph (B)(ii) shall transmit to the Commission a copy of a petition filed under subparagraph (B)(ii).

''(ii) DUTY OF COMMISSION.—In accordance with section 2112 of title 28, United States Code, the Commission shall file in the appropriate court described in subparagraph (B)(ii) the record theretofore made.

''(iii) JURISDICTION OF APPROPRIATE COURT.—Upon the filing of a petition under subparagraph (B)(ii), the appropriate court described in subparagraph (B)(ii) shall have jurisdiction to affirm, set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.''.

(b) CEASE AND DESIST ORDERS, FINES.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended to read as follows:

''(d) If any person (other than a registered entity), is violating or has violated subsection (c) or any other provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in subsection (c), make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of $140,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within subsection (a) or (b) of section 9 of this Act, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said subsection (a) or (b): Provided, That any such cease and desist order under this subsection against any respondent in any case of manipulation shall be issued only in conjunction with an order issued against such respondent under subsection (c). Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.''.

(c) MANIPULATIONS; PRIVATE RIGHTS OF ACTION.—Section 22(a)(1) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)) is amended by striking subparagraph (D) and inserting the following:

''(D) who purchased or sold a contract referred to in subparagraph (B) hereof or swap if the violation constitutes—

''(i) the use or employment of, or an attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative device or contrivance in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010; or

''(ii) a manipulation of the price of any such contract or swap or the price of the commodity underlying such contract or swap.''.

(d) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on the date on which the final rule promulgated by the Commodity Futures Trading Commission pursuant to this Act takes effect.

(2) Paragraph (1) shall not preclude the Commission from undertaking prior to the effective date any rulemaking necessary to implement the amendments contained in this section.

SEC. 754. EFFECTIVE DATE.

Unless otherwise provided in this title, this subtitle shall take effect on the date that is 180 days after the date of enactment of this Act.

Subtitle B—Regulation of Security-Based Swap Markets

SEC. 761. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(a) DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in subparagraphs (A) and (B) of paragraph (5), by inserting ''(not including security-based swaps, other than security-based swaps with or for persons that are not eligible contract participants)'' after ''securities'' each place that term appears;

(2) in paragraph (10), by inserting ''security-based swap,'' after ''security future,'';

(3) in paragraph (13), by adding at the end the following: ''For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'';

(4) in paragraph (14), by adding at the end the following: ''For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'';

(5) in paragraph (39)—

(A) in subparagraph (B)(i)—

(i) in subclause (I), by striking ''or government securities dealer'' and inserting ''government securities dealer, security-based swap dealer, or major security-based swap participant''; and

(ii) in subclause (II), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,'';

(B) in subparagraph (C), by striking ''or government securities dealer'' and inserting ''government securities dealer, security-based swap dealer, or major security-based swap participant''; and

(C) in subparagraph (D), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,''; and

(6) by adding at the end the following:

''(65) ELIGIBLE CONTRACT PARTICIPANT.—The term 'eligible contract participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(66) MAJOR SWAP PARTICIPANT.—The term 'major swap participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(67) MAJOR SECURITY-BASED SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major security-based swap participant' means any person—

''(i) who is not a security-based swap dealer; and

''(ii)(I) who maintains a substantial position in security-based swaps for any of the major security-based swap categories, as such categories are determined by the Commission, excluding—

''(aa) positions held for hedging or mitigating commercial risk; and

''(bb) positions maintained by any employee benefit plan (or any contract held by such a plan), as that term is defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan;

''(II) whose outstanding security-based swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

''(III) that is a financial entity that—

''(aa) is highly leveraged relative to the amount of capital such entity holds; and

''(bb) maintains a substantial position in outstanding security-based swaps in any major security-based swap category, as such categories are determined by the Commission.

''(B) DEFINITION OF SUBSTANTIAL POSITION.—For purposes of subparagraph (A), the Commission shall define, by rule or regulation, the term 'substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

''(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major security-based swap participant for 1 or more categories of security-based swaps without being classified as a major security-based swap participant for all classes of security-based swaps.

''(D) CAPITAL.—In setting capital requirements for a person that is designated as a major security-based swap participant for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major security-based swap participant.

''(68) SECURITY-BASED SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'security-based swap' means any agreement, contract, or transaction that—

''(i) is a swap, as that term is defined under section 1a of the Commodity Exchange Act; and

''(ii) is based on—

''(I) an index that is a narrow-based security index, including any interest therein or on the value thereof;

''(II) a single security or loan, including any interest therein or on the value thereof; or

''(III) the occurrence, nonoccurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer.

''(B) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—The term 'security-based swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a security-based swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a security-based swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a security-based swap only with respect to each agreement, contract, or transaction under the master agreement that is a security-based swap pursuant to subparagraph (A).

''(C) EXCLUSIONS.—The term 'security-based swap' does not include any agreement, contract, or transaction that meets the definition of a security-based swap only because such agreement, contract, or transaction references, is based upon, or settles through the transfer, delivery, or receipt of an exempted security under paragraph (12), as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in paragraph (29) as in effect on the date of enactment of the Futures Trading Act of 1982), unless such agreement, contract, or transaction is of the character of, or is commonly known in the trade as, a put, call, or other option.

''(D) MIXED SWAP.—The term 'security-based swap' includes any agreement, contract, or transaction that is as described in subparagraph (A) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(ii)(III)).

''(69) SWAP.—The term 'swap' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(70) PERSON ASSOCIATED WITH A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'person associated with a security-based swap dealer or major security-based swap participant' or 'associated person of a security-based swap dealer or major security-based swap participant' means—

''(i) any partner, officer, director, or branch manager of such security-based swap dealer or major security-based swap participant (or any person occupying a similar status or performing similar functions);

''(ii) any person directly or indirectly controlling, controlled by, or under common control with such security-based swap dealer or major security-based swap participant; or

''(iii) any employee of such security-based swap dealer or major security-based swap participant.

''(B) EXCLUSION.—Other than for purposes of section 15F(l)(2), the term 'person associated with a security-based swap dealer or major security-based swap participant' or 'associated person of a security-based swap dealer or major security-based swap participant' does not include any person associated with a security-based swap dealer or major security-based swap participant whose functions are solely clerical or ministerial.

''(71) SECURITY-BASED SWAP DEALER.—

''(A) IN GENERAL.—The term 'security-based swap dealer' means any person who—

''(i) holds themself out as a dealer in security-based swaps;

''(ii) makes a market in security-based swaps;

''(iii) regularly engages in the purchase and sale of security-based swaps in the ordinary course of a business; or

''(iv) engages in any activity causing it to be commonly known in the trade as a dealer or market maker in security-based swaps.

''(B) DESIGNATION BY TYPE OR CLASS.—A person may be designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities and considered not to be a security-based swap dealer for other types, classes, or categories of security-based swaps or activities.

''(C) CAPITAL.—In setting capital requirements for a person that is designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a security-based swap dealer.

''(72) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(73) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(74) PRUDENTIAL REGULATOR.—The term 'prudential regulator' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(75) SECURITY-BASED SWAP DATA REPOSITORY.—The term 'security-based swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, security-based swaps entered into by third parties.

''(76) SWAP DEALER.—The term 'swap dealer' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(77) SWAP EXECUTION FACILITY.—The term 'swap execution facility' means a facility in which multiple participants have the ability to execute or trade security-based swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, or confirmation facility, that—

''(A) facilitates the execution of security-based swaps between persons; and

''(B) is not a designated contract market.

''(78) SECURITY-BASED SWAP AGREEMENT.—

''(A) IN GENERAL.—For purposes of sections 9, 10, 16, 20, and 21A of this Act, and section 17 of the Securities Act of 1933 (15 U.S.C. 77q), the term 'security-based swap agreement' means a swap agreement as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

''(B) EXCLUSIONS.—The term 'security-based swap agreement' does not include any security-based swap.''.

(b) AUTHORITY TO FURTHER DEFINE TERMS.—The Securities and Exchange Commission may, by rule, further define the terms ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', and ''eligible contract participant'' with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this subtitle or the amendments made by this subtitle.

(c) OTHER INCORPORATED DEFINITIONS.—Except as the context otherwise requires, in this subtitle, the terms ''prudential regulator'', ''swap'', ''swap dealer'', ''major swap participant'', ''swap data repository'', ''associated person of a swap dealer or major swap participant'', ''eligible contract participant'', ''swap execution facility'', ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', ''security-based swap data repository'', and ''associated person of a security-based swap dealer or major security-based swap participant'' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a), as amended by this Act.

SEC. 762. REPEAL OF PROHIBITION ON REGULATION OF SECURITY-BASED SWAP AGREEMENTS.

(a) REPEAL.—Sections 206B and 206C of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note) are repealed.

(b) CONFORMING AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) Section 2A of the Securities Act of 1933 (15 U.S.C. 77b–1) is amended—

(A) by striking subsection (a) and reserving that subsection; and

(B) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that such term appears and inserting ''(as defined in section 3(a)(78) of the Securities Exchange Act of 1934)''.

(2) Section 17 of the Securities Act of 1933 (15 U.S.C. 77q) is amended—

(A) in subsection (a)—

(i) by inserting ''(including security-based swaps)'' after ''securities''; and

(ii) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' and inserting ''(as defined in section 3(a)(78) of the Securities Exchange Act)''; and

(B) in subsection (d), by striking ''206B of the Gramm-Leach-Bliley Act'' and inserting ''3(a)(78) of the Securities Exchange Act of 1934''.

(c) CONFORMING AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 3A (15 U.S.C. 78c–1)—

(A) by striking subsection (a) and reserving that subsection; and

(B) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that the term appears;

(2) in section 9 (15 U.S.C. 78i)—

(A) in subsection (a), by striking paragraphs (2) through (5) and inserting the following:

''(2) To effect, alone or with 1 or more other persons, a series of transactions in any security registered on a national securities exchange, any security not so registered, or in connection with any security-based swap or security-based swap agreement with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

''(3) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or a security-based swap agreement with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.

''(4) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to make, regarding any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security, for the purpose of inducing the purchase or sale of such security, such security-based swap, or such security-based swap agreement any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which that person knew or had reasonable ground to believe was so false or misleading.

''(5) For a consideration, received directly or indirectly from a broker, dealer, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to induce the purchase of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.''; and

(B) in subsection (i), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(3) in section 10 (15 U.S.C. 78j)—

(A) in subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act),'' each place that term appears; and

(B) in the matter following subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(4) in section 15 (15 U.S.C. 78o)—

(A) in subsection (c)(1)(A), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act),'';

(B) in subparagraphs (B) and (C) of subsection (c)(1), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that term appears;

(C) by redesignating subsection (i), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106–554; 114 Stat. 2763A–455)), as subsection (j); and

(D) in subsection (j), as redesignated by subparagraph (C), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(5) in section 16 (15 U.S.C. 78p)—

(A) in subsection (a)(2)(C), by striking ''(as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note))'';

(B) in subsection (a)(3)(B), by inserting ''or security-based swaps'' after ''security-based swap agreement'';

(C) in the first sentence of subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(D) in the third sentence of subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach Bliley Act)'' and inserting ''or a security-based swap''; and

(E) in subsection (g), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(6) in section 20 (15 U.S.C. 78t),

(A) in subsection (d), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''; and

(B) in subsection (f), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(7) in section 21A (15 U.S.C. 78u–1)—

(A) in subsection (a)(1), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''; and

(B) in subsection (g), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''.

SEC. 763. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) CLEARING FOR SECURITY-BASED SWAPS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3B (as added by section 717 of this Act):

''SEC. 3C. CLEARING FOR SECURITY-BASED SWAPS.

''(a) CLEARING REQUIREMENT.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Except as provided in paragraphs (9) and (10), any person who is a party to a security-based swap shall submit such security-based swap for clearing to a clearing agency registered under section 17A of this title.

''(B) OPEN ACCESS.—The rules of a registered clearing agency shall—

''(i) prescribe that all security-based swaps with the same terms and conditions are economically equivalent and may be offset with each other within the clearing agency; and

''(ii) provide for nondiscriminatory clearing of a security-based swap executed bilaterally or on or through the rules of an unaffiliated national securities exchange or swap execution facility, subject to the requirements of section 5(b).

''(2) COMMISSION APPROVAL.—

''(A) IN GENERAL.—A clearing agency shall submit to the Commission for prior approval any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing, which submission the Commission shall make available to the public.

''(B) DEADLINE.—The Commission shall take final action on a request submitted pursuant to subparagraph (A) not later than 90 days after submission of the request, unless the clearing agency submitting the request agrees to an extension of the time limitation established under this subparagraph.

''(C) APPROVAL.—The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with the requirements of section 17A. The Commission shall not approve any such request if the Commission does not make such finding.

''(D) RULES.—The Commission shall adopt rules for a clearing agency's submission for approval, pursuant to this paragraph, of any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing.

''(3) STAY OF CLEARING REQUIREMENT.—At any time after issuance of an approval pursuant to paragraph (2):

''(A) REVIEW PROCESS.—The Commission, on application of a counterparty to a security-based swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the security-based swap, or the group, category, type, or class of security-based swaps, and the clearing arrangement.

''(B) DEADLINE.—The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the clearing agency that clears the security-based swap, or the group, category, type, or class of security-based swaps, agrees to an extension of the time limitation established under this subparagraph.

''(C) DETERMINATION.—Upon completion of the review undertaken pursuant to subparagraph (A)—

''(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the security-based swap, or the group, category, type, or class of security-based swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing—

''(I) is consistent with the requirements of section 17A; and

''(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this title;

''(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the security-based swap, or the group, category, type, or class of security-based swaps; or

''(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then the Commission may still permit such security-based swap, or the group, category, type, or class of security-based swaps to be cleared.

''(D) RULES.—The Commission shall adopt rules for reviewing, pursuant to this paragraph, a clearing agency's clearing of a security-based swap, or a group, category, type, or class of security-based swaps that the Commission has accepted for clearing.

''(4) SECURITY-BASED SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING.—

''(A) RULEMAKING.—The Commission shall adopt rules to further identify any group, category, type, or class of security-based swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors:

''(i) The extent to which any of the terms of the group, category, type, or class of security-based swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.

''(ii) The volume of transactions in the group, category, type, or class of security-based swaps.

''(iii) The extent to which the terms of the group, category, type, or class of security-based swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.

''(iv) Whether any differences in the terms of the group, category, type, or class of security-based swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.

''(v) Whether a clearing agency is prepared to clear the group, category, type, or class of security-based swaps and such clearing agency has in place effective risk management systems.

''(vi) Any other factor the Commission determines to be appropriate.

''(B) OTHER DESIGNATIONS.—At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular security-based swap or class of security-based swaps as subject to the clearing requirement of paragraph (1), taking into account the factors established in clauses (i) through (vi) of subparagraph (A) and the rules adopted in such subparagraph.

''(C) IN GENERAL.—In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.

''(D) EXPEDITED RULEMAKING AUTHORITY.—

''(i) PROCEDURE.—The promulgation of regulations under subparagraph (A) may be made without regard to—

''(I) the notice and comment provisions of section 553 of title 5, United States Code; and

''(II) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(ii) AGENCY RULEMAKING.—In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.

''(5) PREVENTION OF EVASION.—

''(A) IN GENERAL.—The Commission shall have authority to prescribe rules under this section, or issue interpretations of such rules, as necessary to prevent evasions of this section.

''(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS.—To the extent the Commission finds that a particular security-based swap or any group, category, type, or class of security-based swaps that would otherwise be subject to mandatory clearing but no clearing agency has listed the security-based swap or the group, category, type, or class of security-based swaps for clearing, the Commission shall—

''(i) investigate the relevant facts and circumstances;

''(ii) within 30 days issue a public report containing the results of the investigation; and

''(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the security-based swap or the group, category, type, or class of security-based swaps.

''(C) EFFECT ON AUTHORITY.—Nothing in this paragraph—

''(i) authorize the Commission to require a clearing agency to list for clearing a security-based swap or any group, category, type, or class of security-based swaps if the clearing of the security-based swap or the group, category, type, or class of security-based swaps would adversely affect the business operations of the clearing agency, threaten the financial integrity of the clearing agency, or pose a systemic risk to the clearing agency; and

''(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a security-based swap or the group, category, type, or class of security-based swaps that is listed for clearing by a clearing agency.

''(6) REQUIRED REPORTING.—

''(A) BOTH COUNTERPARTIES.—Both counterparties to a security-based swap that is not cleared by any clearing agency shall report such a security-based swap either to a registered security-based swap repository described in section 13(n) or, if there is no repository that would accept the security-based swap, to the Commission pursuant to section 13A.

''(B) TIMING.—Counterparties to a security-based swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.

''(7) TRANSITION RULES.—

''(A) REPORTING TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(i) Security-based swaps entered into before the date of the enactment of this section shall be reported to a registered security-based swap repository or the Commission not later than 180 days after the effective date of this section.

''(ii) Security-based swaps entered into on or after such date of enactment shall be reported to a registered security-based swap repository or the Commission not later than the later of—

''(I) 90 days after such effective date; or

''(II) such other time after entering into the security-based swap as the Commission may prescribe by rule or regulation.

''(B) CLEARING TRANSITION RULES.—

''(i) Security-based swaps entered into before the date of the enactment of this section are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).

''(ii) Security-based swaps entered into before application of the clearing requirement pursuant to this section are exempt from the clearing requirements of this section if reported pursuant to subparagraph (A)(ii).

''(8) TRADE EXECUTION.—

''(A) IN GENERAL.—With respect to transactions involving security-based swaps subject to the clearing requirement of paragraph (1), counterparties shall—

''(i) execute the transaction on an exchange; or

''(ii) execute the transaction on a swap execution facility registered under section 3D or a swap execution facility that is exempt from registration under section 3D(e).

''(B) EXCEPTION.—The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply—

''(i) if no national securities exchange or security-based swap execution facility makes the security-based swap available to trade; or

''(ii) to swap transactions where a commercial end user opts to use the clearing exemption under paragraph (10).

''(9) REQUIRED EXEMPTION.—Subject to paragraph (4), the Commission shall exempt a security-based swap from the requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no clearing agency registered under this Act will accept the security-based swap from clearing.

''(10) END USER CLEARING EXEMPTION.—

''(A) DEFINITION OF COMMERCIAL END USER.—

''(i) IN GENERAL.—In this paragraph, the term 'commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets services or commodities (which shall include coal, natural gas, electricity, ethanol, crude oil, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

''(ii) FINANCIAL ENTITY.—The term 'financial entity' means—

''(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;

''(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;

''(III) a person predominantly engaged in activities that are financial in nature;

''(IV) a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) or a commodity pool as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or

''(V) a person that is registered or required to be registered with the Commission, but does not include a public company which registers its securities with the Commission.

''(B) END USER CLEARING EXEMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), in the event that a security-based swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the security-based swap is a commercial end user that counterparty—

''(I)(aa) may elect not to clear the security-based swap, as required under paragraph (1); or

''(bb) may elect to require clearing of the security-based swap; and

''(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the clearing agency at which the security-based swap will be cleared.

''(ii) LIMITATION.—A commercial end user may only make an election under clause (i) if the end user is using the security-based swap to hedge its own commercial risk.

''(C) TREATMENT OF AFFILIATES.—

''(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the security-based swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliates of the commercial end user that is not a financial entity.

''(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is—

''(I) a security-based swap dealer;

''(II) a security-based security-based swap dealer;

''(III) a major security-based swap participant;

''(IV) a major security-based security-based swap participant;

''(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for paragraph (1) or (7) of subsection (c) of that section 3 (15 U.S.C. 80a–3(c));

''(VI) a commodity pool;

''(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or

''(VIII) an affiliate of any entity described in subclauses (I) through (VII).

''(iii) ABUSE OF EXEMPTION.—The Commission may prescribe such rules, or issue interpretations of the rules, as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B).

''(D) OPTION TO CLEAR.—

''(i) SECURITY-BASED SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY.—With respect to any securities-based swap that is required to be cleared by a clearing agency and entered into by a securities-based swap dealer or a major securities-based swap participant with a financial entity, the financial entity shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.

''(ii) SECURITY-BASED SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER.—With respect to any securities-based swap that is not required to be cleared by a clearing agency and entered into by a securities-based swap dealer or a major securities-based swap participant with a financial entity or commercial end user, the financial entity or commercial end user—

''(I) may elect to require clearing of the securities-based swap; and

''(II) shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.

''(b) AUDIT COMMITTEE APPROVAL.—Exemptions from the requirements of this section to clear or trade a security-based swap through a national securities exchange or security-based swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 or that is required to file reports pursuant to section 15(d), only if the issuer's audit committee has reviewed and approved the issuer's decision to enter into security-based swaps that are subject to such exemptions.

''(c) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

''(1) IN GENERAL.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a security-based swap transaction as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:

''(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in subsection (a)(1) (including those security-based swaps that are exempted from those requirements), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in subsection (a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under subsection (a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.

''(iv) With respect to security-based swaps that are exempt from the requirements of subsection (a)(1), but are subject to the requirements of subsection (a)(8), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major security-based swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from security-based swap data repositories and clearing agencies; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

''(C) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS.—

''(i) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than—

''(I) 30 days after the date of issuance of the interim final rule; or

''(II) such other period as the Commission determines to be appropriate.

''(ii) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in clause (i).

''(D) EFFECTIVE DATE.—The reporting provisions described in this paragraph shall be effective upon the date of enactment of this section.

''(d) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each registered clearing agency shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the clearing agency;

''(B) in consultation with its board, a body performing a function similar thereto, or the senior officer of the registered clearing agency, resolve any conflicts of interest that may arise;

''(C) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(D) ensure compliance with this title (including regulations issued under this title) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(E) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(F) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the registered clearing agency or security-based swap execution facility of the compliance officer with respect to this title (including regulations under this title); and

''(ii) each policy and procedure of the registered clearing agency of the compliance officer (including the code of ethics and conflict of interest policies of the registered clearing agency).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the registered clearing agency that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

(b) CLEARING AGENCY REQUIREMENTS.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) is amended by adding at the end the following:

''(g) REGISTRATION REQUIREMENT.—It shall be unlawful for a clearing agency, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to a security-based swap.

''(h) VOLUNTARY REGISTRATION.—A person that clears agreements, contracts, or transactions that are not required to be cleared under this title may register with the Commission as a clearing agency.

''(i) STANDARDS FOR CLEARING AGENCIES CLEARING SECURITY-BASED SWAP TRANSACTIONS.—To be registered and to maintain registration as a clearing agency that clears security-based swap transactions, a clearing agency shall comply with such standards as the Commission may establish by rule. In establishing any such standards, and in the exercise of its oversight of such a clearing agency pursuant to this title, the Commission may conform such standards or oversight to reflect evolving United States and international standards. Except where the Commission determines otherwise by rule or regulation, a clearing agency shall have reasonable discretion in establishing the manner in which it complies with any such standards.

''(j) RULES.—The Commission shall adopt rules governing persons that are registered as clearing agencies for security-based swaps under this title.

''(k) EXEMPTIONS.—

''(1) IN GENERAL.—The Commission may exempt, conditionally or unconditionally, a clearing agency from registration under this section for the clearing of security-based swaps if the Commission determines that the clearing agency

is subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission or the appropriate government authorities in the home country of the agency. Such conditions may include, but are not limited to, requiring that the clearing agency be available for inspection by the Commission and make available all information requested by the Commission.

''(2) DERIVATIVES CLEARING ORGANIZATIONS.—A person that is required to be registered as a derivatives clearing organization under the Commodity Exchange Act, whose principal business is clearing commodity futures and options on commodity futures transactions and swaps and which is a derivatives clearing organization registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.), shall be unconditionally exempt from registration under this section solely for the purpose of clearing security-based swaps, unless the Commission finds that such derivatives clearing organization is not subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission.

''(l) MODIFICATION OF CORE PRINCIPLES.—The Commission may conform the core principles established in this section to reflect evolving United States and international standards.''.

(c) SECURITY-BASED SWAP EXECUTION FACILITIES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3C (as added by subsection (a) of this section) the following:

"SEC. 3D. SECURITY-BASED SWAP EXECUTION FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—No person may operate a facility for the trading or processing of security-based swaps, unless the facility is registered as a security-based swap execution facility or as a national securities exchange under this section.

''(2) DUAL REGISTRATION.—Any person that is registered as a security-based swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap execution facility.

''(b) TRADING AND TRADE PROCESSING.—A security-based swap execution facility that is registered under subsection (a) may—

''(1) make available for trading any security-based swap; and

''(2) facilitate trade processing of any security-based swap.

''(c) IDENTIFICATION OF FACILITY USED TO TRADE SECURITY-BASED SWAPS BY NATIONAL SECURITIES EXCHANGES.—A national securities exchange shall, to the extent that the exchange also operates a security-based swap execution facility and uses the same electronic trade execution system for listing and executing trades of security-based swaps on or through the exchange and the facility, identify whether electronic trading of such security-based swaps is taking place on or through the national securities exchange or the security-based swap execution facility.

''(d) CORE PRINCIPLES FOR SECURITY-BASED SWAP EXECUTION FACILITIES.—

''(1) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap execution facility, the security-based swap execution facility shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation.

''(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP EXECUTION FACILITY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap execution facility described in subparagraph (A) shall have reasonable discretion in establishing the manner in which it complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—A security-based swap execution facility shall—

''(A) monitor and enforce compliance with any rule established by such security-based swap execution facility, including—

''(i) the terms and conditions of the security-based swaps traded or processed on or through the facility; and

''(ii) any limitation on access to the facility;

''(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means—

''(i) to provide market participants with impartial access to the market; and

''(ii) to capture information that may be used in establishing whether rule violations have occurred; and

''(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades.

''(3) SECURITY-BASED SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The security-based swap execution facility shall permit trading only in security-based swaps that are not readily susceptible to manipulation.

''(4) MONITORING OF TRADING AND TRADE PROCESSING.—The security-based swap execution facility shall—

''(A) establish and enforce rules or terms and conditions defining, or specifications detailing—

''(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the security-based swap execution facility; and

''(ii) procedures for trade processing of security-based swaps on or through the facilities of the security-based swap execution facility; and

''(B) monitor trading in security-based swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(5) ABILITY TO OBTAIN INFORMATION.—The security-based swap execution facility shall—

''(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this subsection;

''(B) provide the information to the Commission on request; and

''(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(6) POSITION LIMITS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a security-based swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) POSITION LIMITS.—For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, the security-based swap execution facility shall set its position limitation at a level no higher than the limitation established by the Commission.

''(C) POSITION ENFORCEMENT.—For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, a security-based swap execution facility shall reject any proposed security-based swap transaction if, based on information readily available to a security-based swap execution facility, any proposed security-based swap transaction would cause a security-based swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.

''(7) FINANCIAL INTEGRITY OF TRANSACTIONS.—The security-based swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of security-based swaps entered on or through the facilities of the security-based swap execution facility, including the clearance and settlement of security-based swaps pursuant to section 3C(a)(1).

''(8) EMERGENCY AUTHORITY.—The security-based swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any security-based swap or to suspend or curtail trading in a security-based swap.

''(9) TIMELY PUBLICATION OF TRADING INFORMATION.—

''(A) IN GENERAL.—The security-based swap execution facility shall make public timely information on price, trading volume, and other trading data on security-based swaps to the extent prescribed by the Commission.

''(B) CAPACITY OF SECURITY-BASED SWAP EXECUTION FACILITY.—The security-based swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.

''(10) RECORDKEEPING AND REPORTING.—

''(A) IN GENERAL.—A security-based swap execution facility shall—

''(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and

''(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this title.

''(B) REQUIREMENTS.—The Commission shall adopt data collection and reporting requirements for security-based swap execution facilities that are comparable to corresponding requirements for clearing agencies and security-based swap data repositories.

''(11) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the security-based swap execution facility shall not—

''(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(12) CONFLICTS OF INTEREST.—The security-based swap execution facility shall—

''(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(B) establish a process for resolving the conflicts of interest.

''(13) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The security-based swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the security-based swap execution facility, as determined by the Commission.

''(B) DETERMINATION OF RESOURCE ADEQUACY.—The financial resources of a security-based swap execution facility shall be considered to be adequate if the value of the financial resources—

''(i) enables the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and

''(ii) exceeds the total amount that would enable the security-based swap execution facility to cover the operating costs of the security-based swap execution facility for a 1-year period, as calculated on a rolling basis.

''(14) SYSTEM SAFEGUARDS.—The security-based swap execution facility shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that—

''(i) are reliable and secure; and

''(ii) have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for—

''(i) the timely recovery and resumption of operations; and

''(ii) the fulfillment of the responsibilities and obligation of the security-based swap execution facility; and

''(C) periodically conduct tests to verify that the backup resources of the security-based swap execution facility are sufficient to ensure continued—

''(i) order processing and trade matching;

''(ii) price reporting;

''(iii) market surveillance; and

''(iv) maintenance of a comprehensive and accurate audit trail.

''(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each security-based swap execution facility shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the facility;

''(ii) review compliance with the core principles in this subsection;

''(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise;

''(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;

''(v) ensure compliance with this title and the rules and regulations issued under this title, including rules prescribed by the Commission pursuant to this section;

''(vi) establish procedures for the remediation of noncompliance issues found during—

''(I) compliance office reviews;

''(II) look backs;

''(III) internal or external audit findings;

''(IV) self-reported errors; or

''(V) through validated complaints; and

''(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(C) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the security-based swap execution facility with this title; and

''(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the security-based security-based swap execution facility.

''(ii) REQUIREMENTS.—The chief compliance officer shall—

''(I) submit each report described in clause (i) with the appropriate financial report of the security-based swap execution facility that is required to be submitted to the Commission pursuant to this section; and

''(II) include in the report a certification that, under penalty of law, the report is accurate and complete.

''(e) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a security-based swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Commodity Futures Trading Commission.

''(f) RULES.—The Commission shall prescribe rules governing the regulation of security-based swap execution facilities under this section.''.

(d) SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3D (as added by subsection (b)) the following:

''SEC. 3E. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.

''(a) REGISTRATION REQUIREMENT.—It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a security-based swaps customer or to margin, guarantee, or secure a security-based swap cleared by or through a clearing agency (including money, securities, or property accruing to the customer as the result of such a security-based swap), unless the person shall have registered under this title with the Commission as a broker, dealer, or security-based swap dealer, and the registration shall not have expired nor been suspended nor revoked.

''(b) CLEARED SECURITY-BASED SWAPS.—

''(1) SEGREGATION REQUIRED.—A broker, dealer, or security-based swap dealer shall treat and deal with all money, securities, and property of any security-based swaps customer received to margin, guarantee, or secure a security-based swap cleared by or through a clearing agency (including money, securities, or property accruing to the security-based swaps customer as the result of such a security-based swap) as belonging to the security-based swaps customer.

''(2) COMMINGLING PROHIBITED.—Money, securities, and property of a security-based swaps customer described in paragraph (1) shall be separately accounted for and shall not be commingled with the funds of the broker, dealer, or security-based swap dealer or be used to margin, secure, or guarantee any trades or contracts of any security-based swaps customer or person other than the person for whom the same are held.

''(c) EXCEPTIONS.—

''(1) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding subsection (b), money, securities, and property of a security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a clearing agency.

''(B) WITHDRAWAL.—Notwithstanding subsection (b), such share of the money, securities, and property described in subparagraph (A) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared security-based swap with a clearing agency, or with any member of the clearing agency, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared security-based swap.

''(2) COMMISSION ACTION.—Notwithstanding subsection (b), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may be commingled and deposited as provided in this section with any other money, securities, or property received by the broker, dealer, or security-based swap dealer and required by the Commission to be separately accounted for and treated and dealt with as belonging to the security-based swaps customer of the broker, dealer, or security-based swap dealer.

''(d) PERMITTED INVESTMENTS.—Money described in subsection (b) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

''(e) PROHIBITION.—It shall be unlawful for any person, including any clearing agency and any depository institution, that has received any money, securities, or property for deposit in a separate account or accounts as provided in subsection (b) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing broker, dealer, or security-based swap dealer or any person other than the swaps customer of the broker, dealer, or security-based swap dealer.''.

(e) TRADING IN SECURITY-BASED SWAPS.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

''(l) SECURITY-BASED SWAPS.—It shall be unlawful for any person to effect a transaction in a security-based swap with or for a person that is not an eligible contract participant, unless such transaction is effected on a national securities exchange registered pursuant to subsection (b).''.

(f) ADDITIONS OF SECURITY-BASED SWAPS TO CERTAIN ENFORCEMENT PROVISIONS.—Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(b)) is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) any transaction in connection with any security whereby any party to such transaction acquires—

''(A) any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so;

''(B) any security futures product on the security; or

''(C) any security-based swap involving the security or the issuer of the security;

''(2) any transaction in connection with any security with relation to which such person has, directly or indirectly, any interest in any—

''(A) such put, call, straddle, option, or privilege;

''(B) such security futures product; or

''(C) such security-based swap; or

''(3) any transaction in any security for the account of any person who such person has reason to believe has, and who actually has, directly or indirectly, any interest in any—

''(A) such put, call, straddle, option, or privilege;

''(B) such security futures product with relation to such security; or

''(C) any security-based swap involving such security or the issuer of such security.''.

(g) RULEMAKING AUTHORITY TO PREVENT FRAUD, MANIPULATION AND DECEPTIVE CONDUCT IN SECURITY-BASED SWAPS.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end the following:

''(j) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security-based swap, in connection with which such person engages in any fraudulent, deceptive, or manipulative act or practice, makes any fictitious quotation, or engages in any transaction, practice, or course of business which operates as a fraud or deceit upon any person. The Commission shall, for the purposes of this subsection, by rules and regulations define, and prescribe means reasonably designed to prevent, such transactions, acts, practices, and courses of business as are fraudulent, deceptive, or manipulative, and such quotations as are fictitious.''.

(h) POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS.—The Securities Exchange Act of 1934 is amended by inserting after section 10A (15 U.S.C. 78j–1) the following:

"SEC. 10B. POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS AND LARGE TRADER REPORTING.

''(a) POSITION LIMITS.—As a means reasonably designed to prevent fraud and manipulation, the Commission shall, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors, establish limits (including related hedge exemption provisions) on the size of positions in any security-based swap that may be held by any person. In establishing such limits, the Commission may require any person to aggregate positions in—

''(1) any security-based swap and any security or loan or group of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in paragraph (68) of section 3(a), and any other instrument relating to such security or loan or group or index of securities or loans; or

''(2) any security-based swap and—

''(A) any security or group or index of securities, the price, yield, value, or volatility of which, or of which any interest therein, is the basis for a material term of such security-based swap as described in paragraph (68) of section 3(a); and

''(B) any other instrument relating to the same security or group or index of securities described under subparagraph (A).

''(b) EXEMPTIONS.—The Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person or class of persons, any security-based swap or class of security-based swaps, or any transaction or class of transactions from any requirement the Commission may establish under this section with respect to position limits.

''(c) SRO RULES.—

''(1) IN GENERAL.—As a means reasonably designed to prevent fraud or manipulation, the Commission, by rule, regulation, or order, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, may direct a self-regulatory organization—

''(A) to adopt rules regarding the size of positions in any security-based swap that may be held by—

''(i) any member of such self-regulatory organization; or

''(ii) any person for whom a member of such self-regulatory organization effects transactions in such security-based swap; and

''(B) to adopt rules reasonably designed to ensure compliance with requirements prescribed by the Commission under this subsection.

''(2) REQUIREMENT TO AGGREGATE POSITIONS.—In establishing the limits under paragraph (1), the self-regulatory organization may require such member or person to aggregate positions in—

''(A) any security-based swap and any security or loan or group or narrow-based security narrow-based security index of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in section 3(a)(68), and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans; or

''(B)(i) any security-based swap; and

''(ii) any security-based swap and any other instrument relating to the same security or group or narrow-based security index of securities.

''(d) LARGE TRADER REPORTING.—The Commission, by rule or regulation, may require any person that effects transactions for such person's own account or the account of others in any securities-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section to report such information as the Commission may prescribe regarding any position or positions in any security-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section.''.

(i) PUBLIC REPORTING AND REPOSITORIES FOR SECURITY-BASED SWAPS.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(m) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

''(1) IN GENERAL.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a security-based swap transaction as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:

''(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in section 3C(a)(1) (including those security-based swaps that are exempted from the requirement pursuant to section 3C(a)(10)), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in subsection section 3C(a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under section 3C(a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.

''(iv) With respect to security-based swaps that are exempt from the requirements of section 3C(a)(1), but are subject to the requirements of section 3C(a)(8), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major security-based swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from security-based swap data repositories and derivatives clearing organizations; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

''(n) SECURITY-BASED SWAP DATA REPOSITORIES.—

''(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap data repository.

''(2) INSPECTION AND EXAMINATION.—Each registered security-based swap data repository shall be subject to inspection and examination by any representative of the Commission.

''(3) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap data repository, the security-based swap data repository shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation.

''(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the security-based swap data repository complies with the core principles described in this subsection.

''(4) STANDARD SETTING.—

''(A) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each registered security-based swap data repository.

''(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for security-based swap data repositories.

''(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies in connection with their clearing of security-based swaps.

''(5) DUTIES.—A security-based swap data repository shall—

''(A) accept data prescribed by the Commission for each security-based swap under subsection (b);

''(B) confirm with both counterparties to the security-based swap the accuracy of the data that was submitted;

''(C) maintain the data described in subparagraph (A) in such form, in such manner, and for

such period as may be required by the Commission;

''(D)(i) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

''(ii) provide the information described in subparagraph (A) in such form and at such frequency as the Commission may require to comply with the public reporting requirements set forth in subsection (m);

''(E) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing security-based swap data;

''(F) maintain the privacy of any and all security-based swap transaction information that the security-based swap data repository receives from a security-based swap dealer, counterparty, or any other registered entity; and

''(G) on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available all data obtained by the security-based swap data repository, including individual counterparty trade and position data, to—

''(i) each appropriate prudential regulator;

''(ii) the Financial Stability Oversight Council;

''(iii) the Commodity Futures Trading Commission;

''(iv) the Department of Justice; and

''(v) any other person that the Commission determines to be appropriate, including—

''(I) foreign financial supervisors (including foreign futures authorities);

''(II) foreign central banks; and

''(III) foreign ministries.

''(H) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G)—

''(i) the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided; and

''(ii) each entity shall agree to indemnify the security-based swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 24.

''(6) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each security-based swap data repository shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the security-based swap data repository;

''(ii) review the compliance of the security-based swap data repository with respect to the core principles described in paragraph (7);

''(iii) in consultation with the board of the security-based swap data repository, a body performing a function similar to the board of the security-based swap data repository, or the senior officer of the security-based swap data repository, resolve any conflicts of interest that may arise;

''(iv) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(v) ensure compliance with this title (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(vi) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(I) compliance office review;

''(II) look-back;

''(III) internal or external audit finding;

''(IV) self-reported error; or

''(V) validated complaint; and

''(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(C) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the security-based swap data repository of the chief compliance officer with respect to this title (including regulations); and

''(II) each policy and procedure of the security-based swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the security-based swap data repository).

''(ii) REQUIREMENTS.—A compliance report under clause (i) shall—

''(I) accompany each appropriate financial report of the security-based swap data repository that is required to be furnished to the Commission pursuant to this section; and

''(II) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(7) CORE PRINCIPLES APPLICABLE TO SECURITY-BASED SWAP DATA REPOSITORIES.—

''(A) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the swap data repository shall not—

''(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(ii) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

''(B) GOVERNANCE ARRANGEMENTS.—Each security-based swap data repository shall establish governance arrangements that are transparent—

''(i) to fulfill public interest requirements; and

''(ii) to support the objectives of the Federal Government, owners, and participants.

''(C) CONFLICTS OF INTEREST.—Each security-based swap data repository shall—

''(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the security-based swap data repository; and

''(ii) establish a process for resolving any conflicts of interest described in clause (i).

''(8) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP DATA REPOSITORIES.—Any person that is required to be registered as a security-based swap data repository under this subsection shall register with the Commission, regardless of whether that person is also licensed under the Commodity Exchange Act as a swap data repository.

''(9) RULES.—The Commission shall adopt rules governing persons that are registered under this subsection.''.

SEC. 764. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15E (15 U.S.C. 78o–7) the following:

''SEC. 15F. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.

''(a) REGISTRATION.—

''(1) SECURITY-BASED SWAP DEALERS.—It shall be unlawful for any person to act as a security-based swap dealer unless the person is registered as a security-based swap dealer with the Commission.

''(2) MAJOR SECURITY-BASED SWAP PARTICIPANTS.—It shall be unlawful for any person to act as a major security-based swap participant unless the person is registered as a major security-based swap participant with the Commission.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A person shall register as a security-based swap dealer or major security-based swap participant by filing a registration application with the Commission.

''(2) CONTENTS.—

''(A) IN GENERAL.—The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.

''(B) CONTINUAL REPORTING.—A person that is registered as a security-based swap dealer or major security-based swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.

''(3) EXPIRATION.—Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.

''(4) RULES.—Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to security-based swap dealers and major security-based swap participants, including rules that limit the activities of non-bank security-based swap dealers and non-bank major security-based swap participants.

''(5) TRANSITION.—Not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commission shall issue rules under this section to provide for the registration of security-based swap dealers and major security-based swap participants.

''(6) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, it shall be unlawful for a security-based swap dealer or a major security-based swap participant to permit any person associated with a security-based swap dealer or a major security-based swap participant who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant, if the security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

''(c) DUAL REGISTRATION.—

''(1) SECURITY-BASED SWAP DEALER.—Any person that is required to be registered as a security-based swap dealer under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap dealer.

''(2) MAJOR SECURITY-BASED SWAP PARTICIPANT.—Any person that is required to be registered as a major security-based swap participant under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a major swap participant.

''(d) RULEMAKING.—

''(1) IN GENERAL.—The Commission shall adopt rules for persons that are registered as security-based swap dealers or major security-based swap participants under this section.

''(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS.—

''(A) IN GENERAL.—The Commission may not prescribe rules imposing prudential requirements on security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) APPLICABILITY.—Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements on security-based swap dealers or major security-based swap participants that are depository institutions to protect investors.

''(e) CAPITAL AND MARGIN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT

ARE DEPOSITORY INSTITUTIONS.—Each registered security-based swap dealer and major security-based swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the security-based swap dealer or major security-based swap participant.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—Each registered security-based swap dealer and major security-based swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and soundness of the security-based swap dealer or major security-based swap participant.

''(2) RULES.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agencies, in consultation with the Commission and the Commodity Futures Trading Commission, shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) CAPITAL.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(A) for security-based swap dealers and major security-based swap participants that are depository institutions shall contain—

''(i) a capital requirement that is greater than zero for security-based swaps that are cleared by a clearing agency; and

''(ii) to offset the greater risk to the security-based swap dealer or major security-based swap participant and to the financial system arising from the use of security-based swaps that are not cleared, substantially higher capital requirements for security-based swaps that are not cleared by a clearing agency than for security-based swaps that are cleared.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for security-based swap dealers and major security-based swap participants that are depository institutions under paragraph (2)(A).

''(C) RULE OF CONSTRUCTION.—

''(i) IN GENERAL.—Nothing in this section shall limit, or be construed to limit, the authority—

''(I) of the Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) (except for section 15(b)(11) thereof) in accordance with section 15(c)(3); or

''(II) of the Commodity Futures Trading Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) of the Commodity Exchange Act (except for section 4f(a)(3) thereof) in accordance with section 4f(b) of the Commodity Exchange Act.

''(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS.—A futures commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under this title or the Commodity Exchange Act.

''(4) MARGIN.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agency for security-based swap dealers and major security-based swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all security-based swaps that are not cleared by a clearing agency.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions on all security-based swaps that are not cleared by a clearing agency. Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).

''(5) MARGIN REQUIREMENTS.—In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to security-based swap dealers and major security-based swap participants that are depository institutions, and the Commission with respect to security-based swap dealers and major security-based swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with—

''(A) preserving the financial integrity of markets trading security-based swaps; and

''(B) preserving the stability of the United States financial system.

''(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS.—

''(A) IN GENERAL.—The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation margin requirements.

''(B) COMPARABILITY.—The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of noncash collateral, for—

''(i) security-based swap dealers; and

''(ii) major security-based swap participants.

''(7) REQUESTED MARGIN.—If any party to a security-based swap that is exempt from the margin requirements of paragraph (4)(A) or paragraph (4)(B) requests that such security-based swap be margined, then—

''(A) the exemption shall not apply; and

''(B) the counterparty to such security-based swap shall provide the requested margin.

''(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—Paragraphs (4) and (5) shall not apply to initial and variation margin for security-based swaps in which 1 of the counterparties is not—

''(A) a security-based swap dealer;

''(B) a major security-based swap participant; or

''(C) a financial entity as described in section 3C(a)(10)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 3C(a)(10).

''(f) REPORTING AND RECORDKEEPING.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant—

''(A) shall make such reports as are required by the Commission, by rule or regulation, regarding the transactions and positions and financial condition of the registered security-based swap dealer or major security-based swap participant;

''(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a security-based swap dealer or major security-based swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.

''(2) RULES.—The Commission shall adopt rules governing reporting and recordkeeping for security-based swap dealers and major security-based swap participants.

''(g) DAILY TRADING RECORDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records of the security-based swaps of the registered security-based swap dealer and major security-based swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.

''(2) INFORMATION REQUIREMENTS.—The daily trading records shall include such information as the Commission shall require by rule or regulation.

''(3) CUSTOMER RECORDS.—Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records for each customer or counterparty in a manner and form that is identifiable with each security-based swap transaction.

''(4) AUDIT TRAIL.—Each registered security-based swap dealer and major security-based swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

''(5) RULES.—The Commission shall adopt rules governing daily trading records for security-based swap dealers and major security-based swap participants.

''(h) BUSINESS CONDUCT STANDARDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall conform with such business conduct standards as may be prescribed by the Commission, by rule or regulation, that relate to—

''(A) fraud, manipulation, and other abusive practices involving security-based swaps (including security-based swaps that are offered but not entered into);

''(B) diligent supervision of the business of the registered security-based swap dealer and major security-based swap participant;

''(C) adherence to all applicable position limits; and

''(D) such other matters as the Commission determines to be appropriate.

''(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES.—

''(A) GOVERNMENTAL ENTITIES.—A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a State, State agency, city, county, municipality, or other political subdivision of a State, or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of the State, or the Federal agency, as appropriate.

''(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS.—A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate.

''(3) BUSINESS CONDUCT REQUIREMENTS.—Business conduct requirements adopted by the Commission under this subsection shall—

''(A) establish the standard of care for a security-based swap dealer or major security-based swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant;

''(B) require disclosure by the security-based swap dealer or major security-based swap participant to any counterparty to the transaction (other than a security-based swap dealer or a major security-based swap participant) of—

''(i) information about the material risks and characteristics of the security-based swap;

''(ii) the source and amount of any fees or other material remuneration that the security-based swap dealer or major security-based swap participant would directly or indirectly expect to receive in connection with the security-based swap;

''(iii) any other material incentives or conflicts of interest that the security-based swap dealer or major security-based swap participant may have in connection with the security-based swap; and

''(iv)(I) for cleared security-based swaps, upon the request of the counterparty, the daily mark from the appropriate clearing agency; and

''(II) for uncleared security-based swaps, the daily mark of the security-based swap dealer or the major security-based swap participant;

''(C) establish a standard of conduct for a security-based swap dealer or major security-based swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;

''(D) establish a standard of conduct for a security-based swap dealer or major security-based swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of the Commodity Exchange Act, to have a reasonable basis to believe that the counterparty has an independent representative that—

''(i) has sufficient knowledge to evaluate the transaction and risks;

''(ii) is not subject to a statutory disqualification;

''(iii) is independent of the security-based swap dealer or major security-based swap participant;

''(iv) undertakes a duty to act in the best interests of the counterparty it represents;

''(v) makes appropriate disclosures; and

''(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and

''(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

''(4) RULES.—The Commission shall prescribe rules under this subsection governing business conduct standards for security-based swap dealers and major security-based swap participants.

''(i) DOCUMENTATION AND BACK OFFICE STANDARDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall conform with such standards as may be prescribed by the Commission, by rule or regulation, that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all security-based swaps.

''(2) RULES.—The Commission shall adopt rules governing documentation and back office standards for security-based swap dealers and major security-based swap participants.

''(j) DUTIES.—Each registered security-based swap dealer and major security-based swap participant shall, at all times, comply with the following requirements:

''(1) MONITORING OF TRADING.—The security-based swap dealer or major security-based swap participant shall monitor its trading in security-based swaps to prevent violations of applicable position limits.

''(2) RISK MANAGEMENT PROCEDURES.—The security-based swap dealer or major security-based swap participant shall establish robust and professional risk management systems adequate for managing the day-to-day business of the security-based swap dealer or major security-based swap participant.

''(3) DISCLOSURE OF GENERAL INFORMATION.—The security-based swap dealer or major security-based swap participant shall disclose to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, information concerning—

''(A) terms and conditions of its security-based swaps;

''(B) security-based swap trading operations, mechanisms, and practices;

''(C) financial integrity protections relating to security-based swaps; and

''(D) other information relevant to its trading in security-based swaps.

''(4) ABILITY TO OBTAIN INFORMATION.—The security-based swap dealer or major security-based swap participant shall—

''(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and

''(B) provide the information to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, on request.

''(5) CONFLICTS OF INTEREST.—The security-based swap dealer and major security-based swap participant shall implement conflict-of-interest systems and procedures that—

''(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any security-based swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this title; and

''(B) address such other issues as the Commission determines to be appropriate.

''(6) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the security-based swap dealer or major security-based swap participant shall not—

''(A) adopt any process or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(k) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each security-based swap dealer and major security-based swap participant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the security-based swap dealer or major security-based swap participant;

''(B) review the compliance of the security-based swap dealer or major security-based swap participant with respect to the security-based swap dealer and major security-based swap participant requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this title (including regulations) relating to security-based swaps, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the security-based swap dealer or major swap participant with respect to this title (including regulations); and

''(ii) each policy and procedure of the security-based swap dealer or major security-based swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the security-based swap dealer or major security-based swap participant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(l) ENFORCEMENT AND ADMINISTRATIVE PROCEEDING AUTHORITY.—

''(1) PRIMARY ENFORCEMENT AUTHORITY.—

''(A) SECURITIES AND EXCHANGE COMMISSION.—Except as provided in subparagraph (B), the Commission shall have primary authority to enforce subtitle B, and the amendments made by subtitle B of the Wall Street Transparency and Accountability Act of 2010, with respect to any person.

''(B) APPROPRIATE FEDERAL BANKING AGENCIES.—The appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of subsection (e) and other prudential requirements of this title, with respect to depository institutions that are security-based swap dealers or major security-based swap participants.

''(C) REFERRAL.—

''(i) VIOLATIONS OF NONPRUDENTIAL REQUIREMENTS.—If the appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions has cause to believe that such security-based swap dealer or major security-based swap participant may have engaged in

conduct that constitutes a violation of the nonprudential requirements of this section or rules adopted by the Commission thereunder, the agency may recommend in writing to the Commission that the Commission initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

''(ii) VIOLATIONS OF PRUDENTIAL REQUIREMENTS.—If the Commission has cause to believe that a securities-based swap dealer or major securities-based swap participant that has a prudential regulator may have engaged in conduct that constitute a violation of the prudential requirements of subsection (e) or rules adopted thereunder, the Commission may recommend in writing to the prudential regulator that the prudential regulator initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

''(2) CENSURE, DENIAL, SUSPENSION; NOTICE AND HEARING.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission pursuant to subsection (b) if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, or revocation is in the public interest and that such security-based swap dealer or major security-based swap participant, or any person associated with such security-based swap dealer or major security-based swap participant effecting or involved in effecting transactions in security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, whether prior or subsequent to becoming so associated—

''(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b);

''(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection;

''(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4);

''(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or

''(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).

''(3) ASSOCIATED PERSONS.—With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a security-based swap dealer or major security-based swap participant for the purpose of effecting or being involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a security-based swap dealer or major security-based swap participant, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

''(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b);

''(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection;

''(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4);

''(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or

''(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).

''(4) UNLAWFUL CONDUCT.—It shall be unlawful—

''(A) for any person as to whom an order under paragraph (3) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a security-based swap dealer or major security-based swap participant in contravention of such order; or

''(B) for any security-based swap dealer or major security-based swap participant to permit such a person, without the consent of the Commission, to become or remain a person associated with the security-based swap dealer or major security-based swap participant in contravention of such order, if such security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of such order.''.

SEC. 765. RULEMAKING ON CONFLICT OF INTEREST.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Securities and Exchange Commission shall determine whether to adopt rules to establish limits on the control of any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or national securities exchange that posts or makes available for trading security-based swaps, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, affiliate of such a bank holding company or nonbank financial company, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant.

(b) PURPOSES.—The Commission shall adopt rules if the Commission determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a security-based swap dealer or major security-based swap participant's conduct of business with, a clearing agency, national securities exchange, or security-based swap execution facility that clears, posts, or makes available for trading security-based swaps and in which such security-based swap dealer or major security-based swap participant has a material debt or equity investment.

SEC. 766. REPORTING AND RECORDKEEPING.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 13 the following:

''SEC. 13A. REPORTING AND RECORDKEEPING FOR CERTAIN SECURITY-BASED SWAPS.

''(a) REQUIRED REPORTING OF SECURITY-BASED SWAPS NOT ACCEPTED BY ANY CLEARING AGENCY OR DERIVATIVES CLEARING ORGANIZATION.—

''(1) IN GENERAL.—Each security-based swap that is not accepted for clearing by any clearing agency or derivatives clearing organization shall be reported to—

''(A) a security-based swap data repository described in section 10B(n); or

''(B) in the case in which there is no security-based swap data repository that would accept the security-based swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.

''(2) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS.—

''(A) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than—

''(i) 30 days after issuance of the interim final rule; or

''(ii) such other period as the Commission determines to be appropriate.

''(B) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in subparagraph (A).

''(C) EFFECTIVE DATE.—The reporting provisions described in this section shall be effective upon the date of the enactment of this section.

''(3) REPORTING OBLIGATIONS.—

''(A) SECURITY-BASED SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—With respect to a security-based swap in which only 1 counterparty is a security-based swap dealer or major security-based swap participant, the security-based swap dealer or major security-based swap participant shall report the security-based swap as required under paragraphs (1) and (2).

''(B) SECURITY-BASED SWAPS IN WHICH 1 COUNTERPARTY IS A SECURITY-BASED SWAP DEALER AND THE OTHER A MAJOR SECURITY-BASED SWAP PARTICIPANT.—With respect to a security-based swap in which 1 counterparty is a security-based swap dealer and the other a major security-based swap participant, the security-based swap dealer shall report the security-based swap as required under paragraphs (1) and (2).

''(C) OTHER SECURITY-BASED SWAPS.—With respect to any other security-based swap not described in subparagraph (A) or (B), the counterparties to the security-based swap shall select a counterparty to report the security-based swap as required under paragraphs (1) and (2).

''(b) DUTIES OF CERTAIN INDIVIDUALS.—Any individual or entity that enters into a security-based swap shall meet each requirement described in subsection (c) if the individual or entity did not—

''(1) clear the security-based swap in accordance with section 3C(a)(1); or

''(2) have the data regarding the security-based swap accepted by a security-based swap data repository in accordance with rules (including timeframes) adopted by the Commission under this title.

''(c) REQUIREMENTS.—An individual or entity described in subsection (b) shall—

''(1) upon written request from the Commission, provide reports regarding the security-based swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and

''(2) maintain books and records pertaining to the security-based swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by—

''(A) any representative of the Commission;

''(B) an appropriate prudential regulator;

''(C) the Commodity Futures Trading Commission;

''(D) the Financial Stability Oversight Council; and

''(E) the Department of Justice.

''(d) IDENTICAL DATA.—In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by security-based swap data repositories under this title.''.

(b) BENEFICIAL OWNERSHIP REPORTING.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended—

(1) in subsection (d)(1), by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap that the Commission may define by rule, and'' after ''Alaska Native Claims Settlement Act,''; and

(2) in subsection (g)(1), by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule'' after ''subsection (d)(1) of this section''.

(c) REPORTS BY INSTITUTIONAL INVESTMENT MANAGERS.—Section 13(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(1)) is amended by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule,'' after ''subsection (d)(1) of this section''.

(d) ADMINISTRATIVE PROCEEDING AUTHORITY.—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4)) is amended—

(1) in subparagraph (C), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,''; and

(2) in subparagraph (F), by striking ''broker or dealer'' and inserting ''broker, dealer, security-based swap dealer, or a major security-based swap participant''.

(e) SECURITY-BASED SWAP BENEFICIAL OWNERSHIP.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(o) BENEFICIAL OWNERSHIP.—For purposes of this section and section 16, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap, only to the extent that the Commission, by rule, determines after consultation with the prudential regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap, or class of security-based swap, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swaps, or class of security-based swap, be deemed the acquisition of beneficial ownership of the equity security.''.

SEC. 767. STATE GAMING AND BUCKET SHOP LAWS.

Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended to read as follows:

''(a) LIMITATION ON JUDGMENTS.—

''(1) IN GENERAL.—No person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in 1 or more actions, a total amount in excess of the actual damages to that person on account of the act complained of. Except as otherwise specifically provided in this title, nothing in this title shall affect the jurisdiction of the securities commission (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations under this title.

''(2) RULE OF CONSTRUCTION.—Except as provided in subsection (f), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

''(3) STATE BUCKET SHOP LAWS.—No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of 'bucket shops' or other similar or related activities, shall invalidate—

''(A) any put, call, straddle, option, privilege, or other security subject to this title (except any security that has a pari-mutuel payout or otherwise is determined by the Commission, acting by rule, regulation, or order, to be appropriately subject to such laws), or apply to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such security;

''(B) any security-based swap between eligible contract participants; or

''(C) any security-based swap effected on a national securities exchange registered pursuant to section 6(b).

''(4) OTHER STATE PROVISIONS.—No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security-based swap or a security futures product, except that this paragraph may not be construed as limiting any State antifraud law of general applicability. A security-based swap may not be regulated as an insurance contract under any provision of State law.''.

SEC. 768. AMENDMENTS TO THE SECURITIES ACT OF 1933; TREATMENT OF SECURITY-BASED SWAPS.

(a) DEFINITIONS.—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended—

(1) in paragraph (1), by inserting ''security-based swap,'' after ''security future,'';

(2) in paragraph (3), by adding at the end the following: ''Any offer or sale of a security-based swap by or on behalf of the issuer of the securities upon which such security-based swap is based or is referenced, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell such securities.''; and

(3) by adding at the end the following:

''(17) The terms 'swap' and 'security-based swap' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(18) The terms 'purchase' or 'sale' of a security-based swap shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.''.

(b) REGISTRATION OF SECURITY-BASED SWAPS.—Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) is amended by adding at the end the following:

''(d) Notwithstanding the provisions of section 3 or 4, unless a registration statement meeting the requirements of section 10(a) is in effect as to a security-based swap, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, offer to buy or purchase or sell a security-based swap to any person who is not an eligible contract participant as defined in section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)).''.

SEC. 769. DEFINITIONS UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended by adding at the end the following:

''(54) The terms 'commodity pool', 'commodity pool operator', 'commodity trading advisor', 'major swap participant', 'swap', 'swap dealer', and 'swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).''.

SEC. 770. DEFINITIONS UNDER THE INVESTMENT ADVISORS ACT OF 1940.

Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following:

''(29) The terms 'commodity pool', 'commodity pool operator', 'commodity trading advisor', 'major swap participant', 'swap', 'swap dealer', and 'swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).''.

SEC. 771. OTHER AUTHORITY.

Unless otherwise provided by its terms, this subtitle does not divest any appropriate Federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, or any other Federal or State agency, of any authority derived from any other provision of applicable law.

SEC. 772. JURISDICTION.

(a) IN GENERAL.—Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) is amended by adding at the end the following:

''(c) DERIVATIVES.—The Commission shall not grant exemptions from the security-based swap provisions of the Wall Street Transparency and Accountability Act of 2010 or the amendments made by that Act, except as expressly authorized under the provisions of that Act.''.

(b) RULE OF CONSTRUCTION.—Section 30 of the Securities Exchange Act of 1934 (15 U.S.C. 78dd) is amended by adding at the end the following:

''(c) RULE OF CONSTRUCTION.—No provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010, or any rule or regulation thereunder, shall apply to any person insofar as such person transacts a business in security-based swaps without the jurisdiction of the United States, unless such person transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of any provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010. This subsection shall not be construed to limit the jurisdiction of the Commission under any provision of this title, as in effect prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.''.

SEC. 773. EFFECTIVE DATE.

Unless otherwise specifically provided in this subtitle, this subtitle, the provisions of this subtitle, and the amendments made by this subtitle shall become effective 180 days after the date of enactment of this Act.

TITLE VIII—PAYMENT, CLEARING, AND SETTLEMENT SUPERVISION

SEC. 801. SHORT TITLE.

This title may be cited as the ''Payment, Clearing, and Settlement Supervision Act of 2010''.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payment, securities, and other financial transactions.

(2) Financial market utilities that conduct or support multilateral payment, clearing, or settlement activities may reduce risks for their participants and the broader financial system, but such utilities may also concentrate and create new risks and thus must be well designed and operated in a safe and sound manner.

(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.

(4) Enhancements to the regulation and supervision of systemically important financial market utilities and the conduct of systemically important payment, clearing, and settlement activities by financial institutions are necessary—

(A) to provide consistency;

(B) to promote robust risk management and safety and soundness;

(C) to reduce systemic risks; and

(D) to support the stability of the broader financial system.

(b) PURPOSE.—The purpose of this title is to mitigate systemic risk in the financial system and promote financial stability by—

(1) authorizing the Board of Governors to prescribe uniform standards for the—

(A) management of risks by systemically important financial market utilities; and

(B) conduct of systemically important payment, clearing, and settlement activities by financial institutions;

(2) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important financial market utilities;

(3) strengthening the liquidity of systemically important financial market utilities; and

(4) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important payment, clearing, and settlement activities by financial institutions.

SEC. 803. DEFINITIONS.

In this title, the following definitions shall apply:

(1) APPROPRIATE FINANCIAL REGULATOR.—The term ''appropriate financial regulator'' means—

(A) the primary financial regulatory agency, as defined in section 2 of this Act;

(B) the National Credit Union Administration, with respect to any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.); and

(C) the Board of Governors, with respect to organizations operating under section 25A of the Federal Reserve Act (12 U.S.C. 611), and any other financial institution engaged in a designated activity.

(2) DESIGNATED ACTIVITY.—The term ''designated activity'' means a payment, clearing, or settlement activity that the Council has designated as systemically important under section 804.

(3) DESIGNATED FINANCIAL MARKET UTILITY.—The term ''designated financial market utility'' means a financial market utility that the Council has designated as systemically important under section 804.

(4) FINANCIAL INSTITUTION.—The term ''financial institution'' means—

(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(B) a branch or agency of a foreign bank, as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101);

(C) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a and 611 through 631);

(D) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(E) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(F) an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3);

(G) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2);

(H) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2);

(I) a futures commission merchant, commodity trading advisor, or commodity pool operator, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); and

(J) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(5) FINANCIAL MARKET UTILITY.—The term ''financial market utility'' means any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.

(6) PAYMENT, CLEARING, OR SETTLEMENT ACTIVITY.—

(A) IN GENERAL.—The term ''payment, clearing, or settlement activity'' means an activity carried out by 1 or more financial institutions to facilitate the completion of financial transactions.

(B) FINANCIAL TRANSACTION.—For the purposes of subparagraph (A), the term ''financial transaction'' includes—

(i) funds transfers;

(ii) securities contracts;

(iii) contracts of sale of a commodity for future delivery;

(iv) forward contracts;

(v) repurchase agreements;

(vi) swaps;

(vii) security-based swaps;

(viii) swap agreements;

(ix) security-based swap agreements;

(x) foreign exchange contracts;

(xi) financial derivatives contracts; and

(xii) any similar transaction that the Council determines to be a financial transaction for purposes of this title.

(C) INCLUDED ACTIVITIES.—When conducted with respect to a financial transaction, payment, clearing, and settlement activities may include—

(i) the calculation and communication of unsettled financial transactions between counterparties;

(ii) the netting of transactions;

(iii) provision and maintenance of trade, contract, or instrument information;

(iv) the management of risks and activities associated with continuing financial transactions;

(v) transmittal and storage of payment instructions;

(vi) the movement of funds;

(vii) the final settlement of financial transactions; and

(viii) other similar functions that the Council may determine.

(7) SUPERVISORY AGENCY.—

(A) IN GENERAL.—The term ''Supervisory Agency'' means the Federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws, as follows:

(i) The Securities and Exchange Commission, with respect to a designated financial market utility that is a clearing agency registered with the Securities and Exchange Commission.

(ii) The Commodity Futures Trading Commission, with respect to a designated financial market utility that is a derivatives clearing organization registered with the Commodity Futures Trading Commission.

(iii) The appropriate Federal banking agency, with respect to a designated financial market utility that is an institution described in section 3(q) of the Federal Deposit Insurance Act.

(iv) The Board of Governors, with respect to a designated financial market utility that is otherwise not subject to the jurisdiction of any agency listed in clauses (i), (ii), and (iii).

(B) MULTIPLE AGENCY JURISDICTION.—If a designated financial market utility is subject to the jurisdictional supervision of more than 1 agency listed in subparagraph (A), then such agencies should agree on 1 agency to act as the Supervisory Agency, and if such agencies cannot agree on which agency has primary jurisdiction, the Council shall decide which agency is the Supervisory Agency for purposes of this title.

(8) SYSTEMICALLY IMPORTANT AND SYSTEMIC IMPORTANCE.—The terms ''systemically important'' and ''systemic importance'' mean a situation where the failure of or a disruption to the functioning of a financial market utility or the conduct of a payment, clearing, or settlement activity could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system.

SEC. 804. DESIGNATION OF SYSTEMIC IMPORTANCE.

(a) DESIGNATION.—

(1) FINANCIAL STABILITY OVERSIGHT COUNCIL.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of members then serving, including an affirmative vote by the Chairperson of the Council, shall designate those financial market utilities or payment, clearing, or settlement activities that the Council determines are, or are likely to become, systemically important.

(2) CONSIDERATIONS.—In determining whether a financial market utility or payment, clearing, or settlement activity is, or is likely to become, systemically important, the Council shall take into consideration the following:

(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.

(B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.

(C) The relationship, interdependencies, or other interactions of the financial market utility or payment, clearing, or settlement activity with other financial market utilities or payment, clearing, or settlement activities.

(D) The effect that the failure of or a disruption to the financial market utility or payment, clearing, or settlement activity would have on critical markets, financial institutions, or the broader financial system.

(E) Any other factors that the Council deems appropriate.

(b) RESCISSION OF DESIGNATION.—

(1) IN GENERAL.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of members then serving, including an affirmative vote by the Chairperson of the Council, shall rescind a designation of systemic importance for a designated financial market utility or designated activity if the Council determines that the utility or activity no longer meets the standards for systemic importance.

(2) EFFECT OF RESCISSION.—Upon rescission, the financial market utility or financial institutions conducting the activity will no longer be subject to the provisions of this title or any rules or orders prescribed by the Council under this title.

(c) CONSULTATION AND NOTICE AND OPPORTUNITY FOR HEARING.—

(1) CONSULTATION.—Before making any determination under subsection (a) or (b), the Council shall consult with the relevant Supervisory Agency and the Board of Governors.

(2) ADVANCE NOTICE AND OPPORTUNITY FOR HEARING.—

(A) IN GENERAL.—Before making any determination under subsection (a) or (b), the Council shall provide the financial market utility or, in the case of a payment, clearing, or settlement activity, financial institutions with advance notice of the proposed determination of the Council.

(B) NOTICE IN FEDERAL REGISTER.—The Council shall provide such advance notice to financial institutions by publishing a notice in the Federal Register.

(C) REQUESTS FOR HEARING.—Within 30 days from the date of any notice of the proposed determination of the Council, the financial market utility or, in the case of a payment, clearing, or settlement activity, a financial institution engaged in the designated activity may request, in writing, an opportunity for a written or oral hearing before the Council to demonstrate that the proposed designation or rescission of designation is not supported by substantial evidence.

(D) WRITTEN SUBMISSIONS.—Upon receipt of a timely request, the Council shall fix a time, not more than 30 days after receipt of the request, unless extended at the request of the financial market utility or financial institution, and place at which the financial market utility or financial institution may appear, personally or through counsel, to submit written materials, or,

at the sole discretion of the Council, oral testimony or oral argument.

(3) EMERGENCY EXCEPTION.—

(A) WAIVER OR MODIFICATION BY VOTE OF THE COUNCIL.—The Council may waive or modify the requirements of paragraph (2) if the Council determines, by an affirmative vote of not less than ⅔ of all members then serving, including an affirmative vote by the Chairperson of the Council, that the waiver or modification is necessary to prevent or mitigate an immediate threat to the financial system posed by the financial market utility or the payment, clearing, or settlement activity.

(B) NOTICE OF WAIVER OR MODIFICATION.—The Council shall provide notice of the waiver or modification to the financial market utility concerned or, in the case of a payment, clearing, or settlement activity, to financial institutions, as soon as practicable, which shall be no later than 24 hours after the waiver or modification in the case of a financial market utility and 3 business days in the case of financial institutions. The Council shall provide the notice to financial institutions by posting a notice on the website of the Council and by publishing a notice in the Federal Register.

(d) NOTIFICATION OF FINAL DETERMINATION.—

(1) AFTER HEARING.—Within 60 days of any hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing, which shall include findings of fact upon which the determination of the Council is based.

(2) WHEN NO HEARING REQUESTED.—If the Council does not receive a timely request for a hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing not later than 30 days after the expiration of the date by which a financial market utility or a financial institution could have requested a hearing. All notices to financial institutions under this subsection shall be published in the Federal Register.

(e) EXTENSION OF TIME PERIODS.—The Council may extend the time periods established in subsections (c) and (d) as the Council determines to be necessary or appropriate.

SEC. 805. STANDARDS FOR SYSTEMICALLY IMPORTANT FINANCIAL MARKET UTILITIES AND PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.

(a) AUTHORITY TO PRESCRIBE STANDARDS.—The Board, by rule or order, and in consultation with the Council and the Supervisory Agencies, shall prescribe risk management standards, taking into consideration relevant international standards and existing prudential requirements, governing—

(1) the operations related to the payment, clearing, and settlement activities of designated financial market utilities; and

(2) the conduct of designated activities by financial institutions.

(b) OBJECTIVES AND PRINCIPLES.—The objectives and principles for the risk management standards prescribed under subsection (a) shall be to—

(1) promote robust risk management;

(2) promote safety and soundness;

(3) reduce systemic risks; and

(4) support the stability of the broader financial system.

(c) SCOPE.—The standards prescribed under subsection (a) may address areas such as—

(1) risk management policies and procedures;

(2) margin and collateral requirements;

(3) participant or counterparty default policies and procedures;

(4) the ability to complete timely clearing and settlement of financial transactions;

(5) capital and financial resource requirements for designated financial market utilities; and

(6) other areas that the Board determines are necessary to achieve the objectives and principles in subsection (b).

(d) THRESHOLD LEVEL.—The standards prescribed under subsection (a) governing the conduct of designated activities by financial institutions shall, where appropriate, establish a threshold as to the level or significance of engagement in the activity at which a financial institution will become subject to the standards with respect to that activity.

(e) COMPLIANCE REQUIRED.—Designated financial market utilities and financial institutions subject to the standards prescribed by the Board of Governors for a designated activity shall conduct their operations in compliance with the applicable risk management standards prescribed by the Board of Governors.

SEC. 806. OPERATIONS OF DESIGNATED FINANCIAL MARKET UTILITIES.

(a) FEDERAL RESERVE ACCOUNT AND SERVICES.—The Board of Governors may authorize a Federal Reserve Bank to establish and maintain an account for a designated financial market utility and provide services to the designated financial market utility that the Federal Reserve Bank is authorized under the Federal Reserve Act to provide to a depository institution, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(b) ADVANCES.—The Board of Governors may authorize a Federal Reserve Bank to provide to a designated financial market utility the same discount and borrowing privileges as the Federal Reserve Bank may provide to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(c) EARNINGS ON FEDERAL RESERVE BALANCES.—A Federal Reserve Bank may pay earnings on balances maintained by or on behalf of a designated financial market utility in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(d) RESERVE REQUIREMENTS.—The Board of Governors may exempt a designated financial market utility from, or modify any, reserve requirements under section 19 of the Federal Reserve Act (12 U.S.C. 461) applicable to a designated financial market utility.

(e) CHANGES TO RULES, PROCEDURES, OR OPERATIONS.—

(1) ADVANCE NOTICE.—

(A) ADVANCE NOTICE OF PROPOSED CHANGES REQUIRED.—A designated financial market utility shall provide notice 60 days in advance advance notice to its Supervisory Agency and the Board of Governors of any proposed change to its rules, procedures, or operations that could, as defined in rules of the Board of Governors, materially affect, the nature or level of risks presented by the designated financial market utility.

(B) TERMS AND STANDARDS PRESCRIBED BY THE BOARD OF GOVERNORS.—The Board of Governors shall prescribe regulations that define and describe the standards for determining when notice is required to be provided under subparagraph (A).

(C) CONTENTS OF NOTICE.—The notice of a proposed change shall describe—

(i) the nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market; and

(ii) how the designated financial market utility plans to manage any identified risks.

(D) ADDITIONAL INFORMATION.—The Supervisory Agency or the Board of Governors may require a designated financial market utility to provide any information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the designated financial market utility's payment, clearing, or settlement activities and the sufficiency of any proposed risk management techniques.

(E) NOTICE OF OBJECTION.—The Supervisory Agency or the Board of Governors shall notify the designated financial market utility of any objection regarding the proposed change within 60 days from the later of—

(i) the date that the notice of the proposed change is received; or

(ii) the date any further information requested for consideration of the notice is received.

(F) CHANGE NOT ALLOWED IF OBJECTION.—A designated financial market utility shall not implement a change to which the Board of Governors or the Supervisory Agency has an objection.

(G) CHANGE ALLOWED IF NO OBJECTION WITHIN 60 DAYS.—A designated financial market utility may implement a change if it has not received an objection to the proposed change within 60 days of the later of—

(i) the date that the Supervisory Agency or the Board of Governors receives the notice of proposed change; or

(ii) the date the Supervisory Agency or the Board of Governors receives any further information it requests for consideration of the notice.

(H) REVIEW EXTENSION FOR NOVEL OR COMPLEX ISSUES.—The Supervisory Agency or the Board of Governors may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Supervisory Agency or the Board of Governors providing the designated financial market utility with prompt written notice of the extension. Any extension under this subparagraph will extend the time periods under subparagraphs (D) and (F).

(I) CHANGE ALLOWED EARLIER IF NOTIFIED OF NO OBJECTION.—A designated financial market utility may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Supervisory Agency or the Board of Governors, or the date the Supervisory Agency or the Board of Governors receives any further information it requested, if the Supervisory Agency or the Board of Governors notifies the designated financial market utility in writing that it does not object to the proposed change and authorizes the designated financial market utility to implement the change on an earlier date, subject to any conditions imposed by the Supervisory Agency or the Board of Governors.

(2) EMERGENCY CHANGES.—

(A) IN GENERAL.—A designated financial market utility may implement a change that would otherwise require advance notice under this subsection if it determines that—

(i) an emergency exists; and

(ii) immediate implementation of the change is necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(B) NOTICE REQUIRED WITHIN 24 HOURS.—The designated financial market utility shall provide notice of any such emergency change to its Supervisory Agency and the Board of Governors, as soon as practicable, which shall be no later than 24 hours after implementation of the change.

(C) CONTENTS OF EMERGENCY NOTICE.—In addition to the information required for changes requiring advance notice, the notice of an emergency change shall describe—

(i) the nature of the emergency; and

(ii) the reason the change was necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(D) MODIFICATION OR RESCISSION OF CHANGE MAY BE REQUIRED.—The Supervisory Agency or the Board of Governors may require modification or rescission of the change if it finds that the change is not consistent with the purposes of this Act or any rules, orders, or standards prescribed by the Board of Governors hereunder.

(3) COPYING THE BOARD OF GOVERNORS.—The Supervisory Agency shall provide the Board of

Governors concurrently with a complete copy of any notice, request, or other information it issues, submits, or receives under this subsection.

(4) CONSULTATION WITH BOARD OF GOVERNORS.—Before taking any action on, or completing its review of, a change proposed by a designated financial market utility, the Supervisory Agency shall consult with the Board of Governors.

SEC. 807. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST DESIGNATED FINANCIAL MARKET UTILITIES.

(a) EXAMINATION.—Notwithstanding any other provision of law and subject to subsection (d), the Supervisory Agency shall conduct examinations of a designated financial market utility at least once annually in order to determine the following:

(1) The nature of the operations of, and the risks borne by, the designated financial market utility.

(2) The financial and operational risks presented by the designated financial market utility to financial institutions, critical markets, or the broader financial system.

(3) The resources and capabilities of the designated financial market utility to monitor and control such risks.

(4) The safety and soundness of the designated financial market utility.

(5) The designated financial market utility's compliance with—

(A) this title; and

(B) the rules and orders prescribed by the Board of Governors under this title.

(b) SERVICE PROVIDERS.—Whenever a service integral to the operation of a designated financial market utility is performed for the designated financial market utility by another entity, whether an affiliate or non-affiliate and whether on or off the premises of the designated financial market utility, the Supervisory Agency may examine whether the provision of that service is in compliance with applicable law, rules, orders, and standards to the same extent as if the designated financial market utility were performing the service on its own premises.

(c) ENFORCEMENT.—For purposes of enforcing the provisions of this section, a designated financial market utility shall be subject to, and the appropriate Supervisory Agency shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Supervisory Agency was the appropriate Federal banking agency for such insured depository institution.

(d) BOARD OF GOVERNORS INVOLVEMENT IN EXAMINATIONS.—

(1) BOARD OF GOVERNORS CONSULTATION ON EXAMINATION PLANNING.—The Supervisory Agency shall consult with the Board of Governors regarding the scope and methodology of any examination conducted under subsections (a) and (b).

(2) BOARD OF GOVERNORS PARTICIPATION IN EXAMINATION.—The Board of Governors may, in its discretion, participate in any examination led by a Supervisory Agency and conducted under subsections (a) and (b).

(e) BOARD OF GOVERNORS ENFORCEMENT RECOMMENDATIONS.—

(1) RECOMMENDATION.—The Board of Governors may at any time recommend to the Supervisory Agency that such agency take enforcement action against a designated financial market utility. Any such recommendation for enforcement action shall provide a detailed analysis supporting the recommendation of the Board of Governors.

(2) CONSIDERATION.—The Supervisory Agency shall consider the recommendation of the Board of Governors and submit a response to the Board of Governors within 60 days.

(3) MEDIATION.—If the Supervisory Agency rejects, in whole or in part, the recommendation of the Board of Governors, the Board of Governors may dispute the matter by referring the recommendation to the Council, which shall attempt to resolve the dispute.

(4) ENFORCEMENT ACTION.—If the Council is unable to resolve the dispute under paragraph (3) within 30 days from the date of referral, the Board of Governors may, upon a vote of its members—

(A) exercise the enforcement authority referenced in subsection (c) as if it were the Supervisory Agency; and

(B) take enforcement action against the designated financial market utility.

(f) EMERGENCY ENFORCEMENT ACTIONS BY THE BOARD OF GOVERNORS.—

(1) IMMINENT RISK OF SUBSTANTIAL HARM.—The Board of Governors may, after consulting with the Council and the Supervisory Agency, take enforcement action against a designated financial market utility if the Board of Governors has reasonable cause to believe that—

(A) either—

(i) an action engaged in, or contemplated by, a designated financial market utility (including any change proposed by the designated financial market utility to its rules, procedures, or operations that would otherwise be subject to section 806(e)) poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; or

(ii) the condition of a designated financial market utility poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; and

(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).

(2) ENFORCEMENT AUTHORITY.—For purposes of taking enforcement action under paragraph (1), a designated financial market utility shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(3) PROMPT NOTICE TO SUPERVISORY AGENCY OF ENFORCEMENT ACTION.—Within 24 hours of taking an enforcement action under this subsection, the Board of Governors shall provide written notice to the designated financial market utility's Supervisory Agency containing a detailed analysis of the action of the Board of Governors, with supporting documentation included.

SEC. 808. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.

(a) EXAMINATION.—The appropriate financial regulator is authorized to examine a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to determine the following:

(1) The nature and scope of the designated activities engaged in by the financial institution.

(2) The financial and operational risks the designated activities engaged in by the financial institution may pose to the safety and soundness of the financial institution.

(3) The financial and operational risks the designated activities engaged in by the financial institution may pose to other financial institutions, critical markets, or the broader financial system.

(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).

(5) The financial institution's compliance with this title and the rules and orders prescribed by the Board of Governors under this title.

(b) ENFORCEMENT.—For purposes of enforcing the provisions of this section, and the rules and orders prescribed by the Board of Governors under this section, a financial institution subject to the standards prescribed by the Board of Governors for a designated activity shall be subject to, and the appropriate financial regulator shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the appropriate financial regulator was the appropriate Federal banking agency for such insured depository institution.

(c) TECHNICAL ASSISTANCE.—The Board of Governors shall consult with and provide such technical assistance as may be required by the appropriate financial regulators to ensure that the rules and orders prescribed by the Board of Governors under this title are interpreted and applied in as consistent and uniform a manner as practicable.

(d) DELEGATION.—

(1) EXAMINATION.—

(A) REQUEST TO BOARD OF GOVERNORS.—The appropriate financial regulator may request the Board of Governors to conduct or participate in an examination of a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to assess the compliance of such financial institution with—

(i) this title; or

(ii) the rules or orders prescribed by the Board of Governors under this title.

(B) EXAMINATION BY BOARD OF GOVERNORS.—Upon receipt of an appropriate written request, the Board of Governors will conduct the examination under such terms and conditions to which the Board of Governors and the appropriate financial regulator mutually agree.

(2) ENFORCEMENT.—

(A) REQUEST TO BOARD OF GOVERNORS.—The appropriate financial regulator may request the Board of Governors to enforce this title or the rules or orders prescribed by the Board of Governors under this title against a financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(B) ENFORCEMENT BY BOARD OF GOVERNORS.—Upon receipt of an appropriate written request, the Board of Governors shall determine whether an enforcement action is warranted, and, if so, it shall enforce compliance with this title or the rules or orders prescribed by the Board of Governors under this title and, if so, the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(e) BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS.—

(1) EXAMINATION AND ENFORCEMENT.—Notwithstanding any other provision of law, the Board of Governors may—

(A) conduct an examination of the type described in subsection (a) of any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity; and

(B) enforce the provisions of this title or any rules or orders prescribed by the Board of Governors under this title against any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(2) LIMITATIONS.—

(A) EXAMINATION.—The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or

the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included;

(iii) requested the appropriate financial regulator to conduct a prompt examination of the financial institution; and

(iv) either—

(I) not been afforded a reasonable opportunity to participate in an examination of the financial institution by the appropriate financial regulator within 30 days after the date of the Board's notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors affording the appropriate financial regulator a reasonable opportunity to participate in the examination.

(B) ENFORCEMENT.—The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included and with a recommendation that the appropriate financial regulator take 1 or more specific enforcement actions against the financial institution; and

(iii) either—

(I) not been notified, in writing, by the appropriate financial regulator of the commencement of an enforcement action recommended by the Board of Governors against the financial institution within 60 days from the date of the notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors notifying the appropriate financial regulator of the Board's enforcement action.

(3) ENFORCEMENT PROVISIONS.—For purposes of taking enforcement action under paragraph (1), the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

SEC. 809. REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.

(a) INFORMATION TO ASSESS SYSTEMIC IMPORTANCE.—

(1) FINANCIAL MARKET UTILITIES.—The Council is authorized to require any financial market utility to submit such information as the Council may require for the sole purpose of assessing whether that financial market utility is systemically important, but only if the Council has reasonable cause to believe that the financial market utility meets the standards for systemic importance set forth in section 804.

(2) FINANCIAL INSTITUTIONS ENGAGED IN PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.—The Council is authorized to require any financial institution to submit such information as the Council may require for the sole purpose of assessing whether any payment, clearing, or settlement activity engaged in or supported by a financial institution is systemically important, but only if the Council has reasonable cause to believe that the activity meets the standards for systemic importance set forth in section 804.

(b) REPORTING AFTER DESIGNATION.—

(1) DESIGNATED FINANCIAL MARKET UTILITIES.—The Board of Governors and the Council may require a designated financial market utility to submit reports or data to the Board of Governors and the Council in such frequency and form as deemed necessary by the Board of Governors and the Council in order to assess the safety and soundness of the utility and the systemic risk that the utility's operations pose to the financial system.

(2) FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.—The Board of Governors and the Council may require 1 or more financial institutions subject to the standards prescribed by the Board of Governors for a designated activity to submit, in such frequency and form as deemed necessary by the Board of Governors and the Council, reports and data to the Board of Governors and the Council solely with respect to the conduct of the designated activity and solely to assess whether—

(A) the rules, orders, or standards prescribed by the Board of Governors with respect to the designated activity appropriately address the risks to the financial system presented by such activity; and

(B) the financial institutions are in compliance with this title and the rules and orders prescribed by the Board of Governors under this title with respect to the designated activity.

(c) COORDINATION WITH APPROPRIATE FEDERAL SUPERVISORY AGENCY.—

(1) ADVANCE COORDINATION.—Before directly requesting any material information from, or imposing reporting or recordkeeping requirements on, any financial market utility or any financial institution engaged in a payment, clearing, or settlement activity, the Board of Governors and the Council shall coordinate with the Supervisory Agency for a financial market utility or the appropriate financial regulator for a financial institution to determine if the information is available from or may be obtained by the agency in the form, format, or detail required by the Board of Governors and the Council.

(2) SUPERVISORY REPORTS.—Notwithstanding any other provision of law, the Supervisory Agency, the appropriate financial regulator, and the Board of Governors are authorized to disclose to each other and the Council copies of its examination reports or similar reports regarding any financial market utility or any financial institution engaged in payment, clearing, or settlement activities.

(d) TIMING OF RESPONSE FROM APPROPRIATE FEDERAL SUPERVISORY AGENCY.—If the information, report, records, or data requested by the Board of Governors or the Council under subsection (c)(1) are not provided in full by the Supervisory Agency or the appropriate financial regulator in less than 15 days after the date on which the material is requested, the Board of Governors or the Council may request the information or impose recordkeeping or reporting requirements directly on such persons as provided in subsections (a) and (b) with notice to the agency.

(e) SHARING OF INFORMATION.—

(1) MATERIAL CONCERNS.—Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency are authorized to—

(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and

(B) share appropriate reports, information, or data relating to such concerns.

(2) OTHER INFORMATION.—Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, or any Supervisory Agency may, under such terms and conditions as it deems appropriate, provide confidential supervisory information and other information obtained under this title to other persons it deems appropriate, including the Secretary, State financial institution supervisory agencies, foreign financial supervisors, foreign central banks, and foreign finance ministries, subject to reasonable assurances of confidentiality.

(f) PRIVILEGE MAINTAINED.—The Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency providing reports or data under this section shall not be deemed to have waived any privilege applicable to those reports or data, or any portion thereof, by providing the reports or data to the other party or by permitting the reports or data, or any copies thereof, to be used by the other party.

(g) DISCLOSURE EXEMPTION.—Information obtained by the Board of Governors or the Council under this section and any materials prepared by the Board of Governors or the Council regarding its assessment of the systemic importance of financial market utilities or any payment, clearing, or settlement activities engaged in by financial institutions, and in connection with its supervision of designated financial market utilities and designated activities, shall be confidential supervisory information exempt from disclosure under section 552 of title 5, United States Code. For purposes of such section 552, this subsection shall be considered a statute described in subsection (b)(3) of such section 552.

SEC. 810. RULEMAKING.

The Board of Governors and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out the authorities and duties granted to the Board of Governors or the Council, respectively, and prevent evasions thereof.

SEC. 811. OTHER AUTHORITY.

Unless otherwise provided by its terms, this title does not divest any appropriate financial regulator, any Supervisory Agency, or any other Federal or State agency, of any authority derived from any other applicable law, except that any standards prescribed by the Board of Governors under section 805 shall supersede any less stringent requirements established under other authority to the extent of any conflict.

SEC. 812. EFFECTIVE DATE.

This title is effective as of the date of enactment of this Act.

TITLE IX—INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES

Subtitle A—Increasing Investor Protection

SEC. 911. INVESTOR ADVISORY COMMITTEE ESTABLISHED.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

"SEC. 39. INVESTOR ADVISORY COMMITTEE.

''(a) ESTABLISHMENT AND PURPOSE.—

''(1) ESTABLISHMENT.—There is established within the Commission the Investor Advisory Committee (referred to in this section as the 'Committee').

''(2) PURPOSE.—The Committee shall—

''(A) advise and consult with the Commission on—

''(i) regulatory priorities of the Commission;

''(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;

''(iii) initiatives to protect investor interest; and

''(iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and

''(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Committee shall be—

''(A) the Investor Advocate;

''(B) a representative of State securities commissions;

''(C) a representative of the interests of senior citizens; and

''(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals who—

''(i) represent the interests of individual equity and debt investors, including investors in mutual funds;

''(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;

''(iii) are knowledgeable about investment issues and decisions; and

''(iv) have reputations of integrity.

''(2) TERM.—Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.

''(3) MEMBERS NOT COMMISSION EMPLOYEES.—Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.

''(c) CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.—

''(1) IN GENERAL.—The members of the Committee shall elect, from among the members of the Committee—

''(A) a chairman, who may not be employed by an issuer;

''(B) a vice chairman, who may not be employed by an issuer;

''(C) a secretary; and

''(D) an assistant secretary.

''(2) TERM.—Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).

''(d) MEETINGS.—

''(1) FREQUENCY OF MEETINGS.—The Committee shall meet—

''(A) not less frequently than twice annually, at the call of the chairman of the Committee; and

''(B) from time to time, at the call of the Commission.

''(2) NOTICE.—The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.

''(e) COMPENSATION AND TRAVEL EXPENSES.—Each member of the Committee who is not a full-time employee of the United States shall—

''(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and

''(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

''(f) STAFF.—The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.

''(g) REVIEW BY COMMISSION.—The Commission shall—

''(1) review the findings and recommendations of the Committee; and

''(2) each time the Committee submits a finding or recommendation to the Commission, issue a public statement—

''(A) assessing the finding or recommendation of the Committee; and

''(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.

''(h) COMMITTEE FINDINGS.—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.

''(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.''.

SEC. 912. CLARIFICATION OF AUTHORITY OF THE COMMISSION TO ENGAGE IN INVESTOR TESTING.

Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following:

''(e) EVALUATION OF RULES OR PROGRAMS.—For the purpose of evaluating any rule or program of the Commission issued or carried out under any provision of the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), and the purposes of considering, proposing, adopting, or engaging in any such rule or program or developing new rules or programs, the Commission may—

''(1) gather information from and communicate with investors or other members of the public;

''(2) engage in such temporary investor testing programs as the Commission determines are in the public interest or would protect investors; and

''(3) consult with academics and consultants, as necessary to carry out this subsection.

''(f) RULE OF CONSTRUCTION.—For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), any action taken under subsection (e) shall not be construed to be a collection of information.''.

SEC. 913. STUDY AND RULEMAKING REGARDING OBLIGATIONS OF BROKERS, DEALERS, AND INVESTMENT ADVISERS.

(a) DEFINITIONS.—In this section—

(1) the term ''FINRA'' means the Financial Industry Regulatory Authority; and

(2) the term ''retail customer'' means an individual customer of a broker, dealer, investment adviser, person associated with a broker or dealer, or a person associated with an investment adviser.

(b) IN GENERAL.—The Commission shall conduct a study to evaluate—

(1) the effectiveness of existing legal or regulatory standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice and recommendations about securities to retail customers imposed by the Commission and FINRA, and other Federal and State legal or regulatory standards; and

(2) whether there are legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers that should be addressed by rule or statute.

(c) CONSIDERATIONS.—In conducting the study required under subsection (b), the Commission shall consider—

(1) the regulatory, examination, and enforcement resources devoted to, and activities of, the Commission and FINRA to enforce the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers when providing personalized investment advice and recommendations about securities to retail customers, including—

(A) the frequency of examinations of brokers, dealers, and investment advisers; and

(B) the length of time of the examinations;

(2) the substantive differences, compared and contrasted in detail, in the regulation of brokers, dealers, and investment advisers, when providing personalized investment advice and recommendations about securities to retail customers, including the differences in the amount of resources devoted to the regulation and examination of brokers, dealers, and investment advisers, by the Commission and FINRA;

(3) the specific instances in which—

(A) the regulation and oversight of investment advisers provide greater protection to retail customers than the regulation and oversight of brokers and dealers; and

(B) the regulation and oversight of brokers and dealers provide greater protection to retail customers than the regulation and oversight of investment advisers;

(4) the existing legal or regulatory standards of State securities regulators and other regulators intended to protect retail customers;

(5) the potential impact on retail customers, including the potential impact on access of retail customers to the range of products and services offered by brokers and dealers, of imposing upon brokers, dealers, and persons associated with brokers or dealers—

(A) the standard of care applied under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) for providing personalized investment advice about securities to retail customers of investment advisers; and

(B) other requirements of the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

(6) the potential impact of—

(A) imposing on investment advisers the standard of care applied by the Commission and FINRA under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) for providing recommendations about securities to retail customers of brokers and dealers and other Commission and FINRA requirements applicable to brokers and dealers; and

(B) authorizing the Commission to designate 1 or more self-regulatory organizations to augment the efforts of the Commission to oversee investment advisers;

(7) the potential impact of eliminating the broker and dealer exclusion from the definition of ''investment adviser'' under section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(C)), in terms of—

(A) the potential benefits or harm to retail customers that could result from such a change, including any potential impact on access to personalized investment advice and recommendations about securities to retail customers or the availability of such advice and recommendations;

(B) the number of additional entities and individuals that would be required to register under, or become subject to, the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), and the additional requirements to which brokers, dealers, and persons associated with brokers and dealers would become subject, including—

(i) any potential additional associated person licensing, registration, and examination requirements; and

(ii) the additional costs, if any, to the additional entities and individuals; and

(C) the impact on Commission resources to—

(i) conduct examinations of registered investment advisers and the representatives of registered investment advisers, including the impact on the examination cycle; and

(ii) enforce the standard of care and other applicable requirements imposed under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

(8) the ability of investors to understand the differences in terms of regulatory oversight and examinations between brokers, dealers, and investment advisers;

(9) the varying level of services provided by brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers to retail customers and the varying scope and terms of retail customer relationships of brokers, dealers,

investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers with such retail customers;

(10) any potential benefits or harm to retail customers that could result from any potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers, including any potential impact on—

(A) protection from fraud;

(B) access to personalized investment advice, and recommendations about securities to retail customers; or

(C) the availability of such advice and recommendations;

(11) the additional costs and expenses to retail customers and to brokers, dealers, and investment advisers resulting from potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers; and

(12) any other consideration that the Commission deems necessary and appropriate to effectively execute the study required under subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (b) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(2) CONTENT REQUIREMENTS.—The report required under paragraph (1) shall describe the findings, conclusions, and recommendations of the Commission from the study required under subsection (b), including—

(A) a description of the considerations, analysis, and public and industry input that the Commission considered, as required under subsection (e), to make such findings, conclusions, and policy recommendations; and

(B) an analysis of—

(i) whether any identified legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers can be addressed by rule; and

(ii) whether, and the extent to which, the Commission would require additional statutory authority to address such gaps or overlap.

(e) PUBLIC COMMENT.—The Commission shall seek and consider public input, comments, and data in order to prepare the report required under subsection (d).

(f) RULEMAKING.—

(1) IN GENERAL.—If the study required under subsection (b) identifies any gaps or overlap in the legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to such retail customers, the Commission, not later than 2 years after the date of enactment of this Act, shall—

(A) commence a rulemaking, as necessary or appropriate in the public interest and for the protection of retail customers, to address such regulatory gaps and overlap that can be addressed by rule, using its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.); and

(B) consider and take into account the findings, conclusions, and recommendations of the study required under this section.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the rulemaking authority of the Commission under any other provision of Federal law.

SEC. 914. OFFICE OF THE INVESTOR ADVOCATE.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(g) OFFICE OF THE INVESTOR ADVOCATE.—

''(1) OFFICE ESTABLISHED.—There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the 'Office').

''(2) INVESTOR ADVOCATE.—

''(A) IN GENERAL.—The head of the Office shall be the Investor Advocate, who shall—

''(i) report directly to the Chairman; and

''(ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.

''(B) COMPENSATION.—The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for a Senior Executive Service position within the Commission.

''(C) LIMITATION ON SERVICE.—An individual who serves as the Investor Advocate may not be employed by the Commission—

''(i) during the 2-year period ending on the date of appointment as Investor Advocate; or

''(ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.

''(3) STAFF OF OFFICE.—The Investor Advocate may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.

''(4) FUNCTIONS OF THE INVESTOR ADVOCATE.—The Investor Advocate shall—

''(A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;

''(B) identify areas in which investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;

''(C) identify problems that investors have with financial service providers and investment products;

''(D) analyze the potential impact on investors of—

''(i) proposed regulations of the Commission; and

''(ii) proposed rules of self-regulatory organizations registered under this title; and

''(E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.

''(5) ACCESS TO DOCUMENTS.—The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.

''(6) ANNUAL REPORTS.—

''(A) REPORT ON OBJECTIVES.—

''(i) IN GENERAL.—Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.

''(ii) CONTENTS.—Each report required under clause (i) shall contain full and substantive analysis and explanation.

''(B) REPORT ON ACTIVITIES.—

''(i) IN GENERAL.—Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.

''(ii) CONTENTS.—Each report required under clause (i) shall include—

''(I) appropriate statistical information and full and substantive analysis;

''(II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns;

''(III) a summary of the most serious problems encountered by investors during the reporting period;

''(IV) an inventory of the items described in subclauses (III) that includes—

''(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;

''(bb) the length of time that each item has remained on such inventory; and

''(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;

''(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and

''(VI) any other information, as determined appropriate by the Investor Advocate.

''(iii) INDEPENDENCE.—Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

''(iv) CONFIDENTIALITY.—No report required under clause (i) may contain confidential information.

''(7) REGULATIONS.—The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.''.

SEC. 915. STREAMLINING OF FILING PROCEDURES FOR SELF-REGULATORY ORGANIZATIONS.

(a) FILING PROCEDURES.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by striking paragraph (2) (including the undesignated matter immediately following subparagraph (B)) and inserting the following:

''(2) APPROVAL PROCESS.—

''(A) APPROVAL PROCESS ESTABLISHED.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 45 days after the date of publication of a proposed rule change under paragraph (1), the Commission shall—

''(I) by order, approve the proposed rule change; or

''(II) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved.

''(ii) EXTENSION OF TIME PERIOD.—The Commission may extend the period established under clause (i) by not more than an additional 45 days, if—

''(I) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or

''(II) the self-regulatory organization that filed the proposed rule change consents to the longer period.

''(B) PROCEEDINGS.—

''(i) NOTICE AND HEARING.—If the Commission does not approve a proposed rule change under subparagraph (A), the Commission shall provide to the self-regulatory organization that filed the proposed rule change—

''(I) notice of the grounds for disapproval under consideration; and

''(II) opportunity for hearing, to be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change.

''(ii) ORDER OF APPROVAL OR DISAPPROVAL.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than 180 days after the date of publication under paragraph (1), the Commission shall issue an order approving or disapproving the proposed rule change.

''(II) EXTENSION OF TIME PERIOD.—The Commission may extend the period for issuance under clause (I) by not more than 60 days, if—

''(aa) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or

''(bb) the self-regulatory organization that filed the proposed rule change consents to the longer period.

''(C) STANDARDS FOR APPROVAL AND DISAPPROVAL.—

''(i) APPROVAL.—The Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations issued under this title that are applicable to such organization.

''(ii) DISAPPROVAL.—The Commission shall disapprove a proposed rule change of a self-regulatory organization if it does not make a finding described in clause (i).

''(iii) TIME FOR APPROVAL.—The Commission may not approve a proposed rule change earlier than 30 days after the date of publication under paragraph (1), unless the Commission finds good cause for so doing and publishes the reason for the finding.

''(D) RESULT OF FAILURE TO INSTITUTE OR CONCLUDE PROCEEDINGS.—A proposed rule change shall be deemed to have been approved by the Commission, if—

''(i) the Commission does not approve the proposed rule change or begin proceedings under subparagraph (B) within the period described in subparagraph (A); or

''(ii) the Commission does not issue an order approving or disapproving the proposed rule change under subparagraph (B) within the period described in subparagraph (B)(ii).

''(E) PUBLICATION DATE BASED ON FEDERAL REGISTER PUBLISHING.—For purposes of this paragraph, if, after filing a proposed rule change with the Commission pursuant to paragraph (1), a self-regulatory organization publishes a notice of the filing of such proposed rule change, together with the substantive terms of such proposed rule change, on a publicly accessible website, the Commission shall thereafter send the notice to the Federal Register for publication thereof under paragraph (1) within 15 days of the date on which such website publication is made. If the Commission fails to send the notice for publication thereof within such 15 day period, then the date of publication shall be deemed to be the date on which such website publication was made.''.

(b) CLARIFICATION OF FILING DATE.—

(1) RULE OF CONSTRUCTION.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:

''(10) RULE OF CONSTRUCTION RELATING TO FILING DATE OF PROPOSED RULE CHANGES.—

''(A) IN GENERAL.—For purposes of this subsection, the date of filing of a proposed rule change shall be deemed to be the date on which the Commission receives the proposed rule change.

''(B) EXCEPTION.—A proposed rule change has not been received by the Commission for purposes of subparagraph (A) if, not later than 7 days after the date of receipt by the Commission, the Commission notifies the self-regulatory organization that such proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change.''.

(2) PUBLICATION.—Section 19(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(1)) is amended by striking ''upon'' and inserting ''as soon as practicable after the date of''.

(c) EFFECTIVE DATE OF PROPOSED RULES.—Section 19(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''may take effect'' and inserting ''shall take effect''; and

(B) by inserting ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''charge imposed by the self-regulatory organization''; and

(2) in subparagraph (C)—

(A) by amending the second sentence to read as follows: ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1), the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.'';

(B) by inserting after the second sentence the following: ''If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) to determine whether the proposed rule should be approved or disapproved.''; and

(C) in the third sentence, by striking ''the preceding sentence'' and inserting ''this subparagraph''.

(d) CONFORMING CHANGE.—Section 19(b)(4)(D) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(4)(D)) is amended to read as follows:

''(D)(i) The Commission shall order the temporary suspension of any change in the rules of a clearing agency made by a proposed rule change that has taken effect under paragraph (3), if the appropriate regulatory agency for the clearing agency notifies the Commission not later than 30 days after the date on which the proposed rule change was filed of—

''(I) the determination by the appropriate regulatory agency that the rules of such clearing agency, as so changed, may be inconsistent with the safeguarding of securities or funds in the custody or control of such clearing agency or for which it is responsible; and

''(II) the reasons for the determination described in subclause (I).

''(ii) If the Commission takes action under clause (i), the Commission shall institute proceedings under paragraph (2)(B) to determine if the proposed rule change should be approved or disapproved.''.

SEC. 916. STUDY REGARDING FINANCIAL LITERACY AMONG INVESTORS.

(a) IN GENERAL.—The Commission shall conduct a study to identify—

(1) the existing level of financial literacy among retail investors, including subgroups of investors identified by the Commission;

(2) methods to improve the timing, content, and format of disclosures to investors with respect to financial intermediaries, investment products, and investment services;

(3) the most useful and understandable relevant information that retail investors need to make informed financial decisions before engaging a financial intermediary or purchasing an investment product or service that is typically sold to retail investors, including shares of open-end companies, as that term is defined in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5) that are registered under section 8 of that Act;

(4) methods to increase the transparency of expenses and conflicts of interests in transactions involving investment services and products, including shares of open-end companies described in paragraph (3);

(5) the most effective existing private and public efforts to educate investors; and

(6) in consultation with the Financial Literacy and Education Commission, a strategy (including, to the extent practicable, measurable goals and objectives) to increase the financial literacy of investors in order to bring about a positive change in investor behavior.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 917. STUDY REGARDING MUTUAL FUND ADVERTISING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify—

(1) existing and proposed regulatory requirements for open-end investment company advertisements;

(2) current marketing practices for the sale of open-end investment company shares, including the use of past performance data, funds that have merged, and incubator funds;

(3) the impact of such advertising on consumers; and

(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 918. CLARIFICATION OF COMMISSION AUTHORITY TO REQUIRE INVESTOR DISCLOSURES BEFORE PURCHASE OF INVESTMENT PRODUCTS AND SERVICES.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

''(k) DISCLOSURES TO RETAIL INVESTORS.—

''(1) IN GENERAL.—Notwithstanding any other provision of the securities laws, the Commission may issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor.

''(2) CONSIDERATIONS.—In developing any rules under paragraph (1), the Commission shall consider whether the rules will promote investor protection, efficiency, competition, and capital formation.

''(3) FORM AND CONTENTS OF DOCUMENTS AND INFORMATION.—Any documents or information designated under a rule promulgated under paragraph (1) shall—

''(A) be in a summary format; and

''(B) contain clear and concise information about—

''(i) investment objectives, strategies, costs, and risks; and

''(ii) any compensation or other financial incentive received by a broker, dealer, or other intermediary in connection with the purchase of retail investment products.''.

SEC. 919. STUDY ON CONFLICTS OF INTEREST.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study—

(1) to identify and examine potential conflicts of interest that exist between the staffs of the investment banking and equity and fixed income securities analyst functions within the same firm; and

(2) to make recommendations to Congress designed to protect investors in light of such conflicts.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall—

(1) consider—

(A) the potential for investor harm resulting from conflicts, including consideration of the forms of misconduct engaged in by the several securities firms and individuals that entered into the Global Analyst Research Settlements in 2003 (also known as the ''Global Settlement'');

(B) the nature and benefits of the undertakings to which those firms agreed in enforcement proceedings, including firewalls between research and investment banking, separate reporting lines, dedicated legal and compliance staffs, allocation of budget, physical separation, compensation, employee performance evaluations, coverage decisions, limitations on soliciting investment banking business, disclosures, transparency, and other measures;

(C) whether any such undertakings should be codified and applied permanently to securities firms, or whether the Commission should adopt rules applying any such undertakings to securities firms; and

(D) whether to recommend regulatory or legislative measures designed to mitigate possible adverse consequences to investors arising from the conflicts of interest or to enhance investor protection or confidence in the integrity of the securities markets; and

(2) consult with State attorneys general, State securities officials, the Commission, the Financial Industry Regulatory Authority (''FINRA''), NYSE Regulation, investor advocates, brokers, dealers, retail investors, institutional investors, and academics.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 18 months after the date of enactment of this Act.

SEC. 919A. STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.

(2) CONTENTS.—The study required by subsection (a) shall include an analysis of the advantages and disadvantages of further centralizing access to the information contained in the 2 systems, including—

(A) identification of those data pertinent to investors; and

(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.

(b) IMPLEMENTATION.—Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.

SEC. 919B. STUDY ON FINANCIAL PLANNERS AND THE USE OF FINANCIAL DESIGNATIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to evaluate—

(1) the effectiveness of State and Federal regulations to protect consumers from individuals who hold themselves out as financial planners through the use of misleading designations;

(2) current State and Federal oversight structure and regulations for financial planners; and

(3) legal or regulatory gaps in the regulation of financial planners and other individuals who provide or offer to provide financial planning services to consumers.

(b) CONSIDERATIONS.—In conducting the study required under subsection (a), the Comptroller General shall consider—

(1) the role of financial planners in providing advice regarding the management of financial resources, including investment planning, income tax planning, education planning, retirement planning, estate planning, and risk management;

(2) whether current regulations at the State and Federal level provide adequate ethical and professional standards for financial planners;

(3) the use of the title ''financial planner'' and misleading designations in connection with sale of financial products, including insurance and securities;

(4) the possible risk posed to consumers by individuals who hold themselves out as financial planners through the use of misleading designations, including ''financial advisor'' and ''financial consultant'';

(5) the ability of consumers to understand licensing requirements and standards of care that apply to individuals who provide financial advice;

(6) the possible benefits to consumers of regulation and professional oversight of financial planners; and

(7) any other consideration that the Comptroller General deems necessary or appropriate to effectively execute the study required under subsection (a).

(c) RECOMMENDATIONS.—In providing recommendations for the appropriate regulation of financial planners and other individuals who provide or offer to provide financial planning services, in order to protect consumers of financial planning services, the Comptroller General shall consider—

(1) the appropriate structure for regulation of financial planners and individuals providing financial planning services; and

(2) the appropriate scope of the regulations needed to protect consumers, including but not limited to the need to establish competency standards, practice standards, ethical guidelines, disciplinary authority, and transparency to consumers.

(d) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report on the study required under subsection (a) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Special Committee on Aging of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENT REQUIREMENTS.—The report required under paragraph (1) shall describe the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including a description of the considerations, analysis, and government, public, industry, nonprofit and consumer input that the Comptroller General considered to make such findings, conclusions, and legislative, regulatory, or other recommendations.

Subtitle B—Increasing Regulatory Enforcement and Remedies

SEC. 921. AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.

(a) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 918, is amended by adding at the end the following:

''(l) AUTHORITY TO RESTRICT MANDATORY PREDISPUTE ARBITRATION.—The Commission may conduct a rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any dispute between them and such broker, dealer, or municipal securities dealer that arises under the securities laws or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.''.

(b) AMENDMENT TO INVESTMENT ADVISERS ACT OF 1940.—Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended by adding at the end the following:

''(f) AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.—The Commission may conduct rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any dispute between them and such investment adviser that arises under the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.''.

SEC. 922. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21E the following:

"SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.

''(a) DEFINITIONS.—In this section the following definitions shall apply:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding $1,000,000.

''(2) FUND.—The term 'Fund' means the Securities and Exchange Commission Investor Protection Fund.

''(3) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(4) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action, means—

''(A) any monies, including penalties, disgorgement, and interest, ordered to be paid; and

''(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subclauses (I) through (IV) of subsection (h)(2)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.

''(6) WHISTLEBLOWER.—The term 'whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of the securities laws to the Commission, in a manner established, by rule or regulation, by the Commission.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

''(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

''(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

''(2) PAYMENT OF AWARDS.—Any amount paid under paragraph (1) shall be paid from the Fund.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.

''(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Commission shall take into account—

''(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(iii) the programmatic interest of the Commission in deterring violations of the securities laws by making awards to whistleblowers who provide information that lead to the successful enforcement of such laws; and

''(iv) such additional relevant factors as the Commission may establish by rule or regulation.

''(2) DENIAL OF AWARD.—No award under subsection (b) shall be made—

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of—

''(i) an appropriate regulatory agency;

''(ii) the Department of Justice;

''(iii) a self-regulatory organization;

''(iv) the Public Company Accounting Oversight Board; or

''(v) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;

''(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws and for whom such submission would be contrary to the requirements of section 101A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1); or

''(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.

''(e) NO CONTRACT NECESSARY.—No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission by rule or regulation.

''(f) APPEALS.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission. Any such determination may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission. The court shall review the determination made by the Commission in accordance with section 706 of title 5, United States Code.

''(g) INVESTOR PROTECTION FUND.—

''(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the 'Securities and Exchange Commission Investor Protection Fund'.

''(2) USE OF FUND.—The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for—

''(A) paying awards to whistleblowers as provided in subsection (b); and

''(B) funding the activities of the Inspector General of the Commission under section 4(i).

''(3) DEPOSITS AND CREDITS.—There shall be deposited into or credited to the Fund an amount equal to—

''(A) the amount awarded under subsection (b) from any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission that is based on information provided by a whistleblower under the securities laws, unless, the balance of the Fund at the time the monetary sanction is collected exceeds $200,000,000;

''(B) any monetary sanction added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) that is not distributed to the victims for whom the disgorgement fund was established, unless the balance of the disgorgement fund at the time the determination is made not to distribute the monetary sanction to such victims exceeds $100,000,000; and

''(C) all income from investments made under paragraph (4).

''(4) INVESTMENTS.—

''(A) AMOUNTS IN FUND MAY BE INVESTED.—The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the discretion of the Commission, required to meet the current needs of the Fund.

''(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission on the record.

''(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.

''(5) REPORTS TO CONGRESS.—Not later than October 30 of each fiscal year beginning after the date of enactment of this subsection, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on—

''(A) the whistleblower award program, established under this section, including—

''(i) a description of the number of awards granted; and

''(ii) the types of cases in which awards were granted during the preceding fiscal year;

''(B) the balance of the Fund at the beginning of the preceding fiscal year;

''(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;

''(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;

''(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

''(F) the balance of the Fund at the end of the preceding fiscal year; and

''(G) a complete set of audited financial statements, including—

''(i) a balance sheet;

''(ii) income statement; and

''(iii) cash flow analysis.

''(h) PROTECTION OF WHISTLEBLOWERS.—

''(1) PROHIBITION AGAINST RETALIATION.—

''(A) IN GENERAL.—No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

''(i) in providing information to the Commission in accordance with subsection (a); or

''(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

''(B) ENFORCEMENT.—

''(i) CAUSE OF ACTION.—An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).

''(ii) SUBPOENAS.—A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

''(iii) STATUTE OF LIMITATIONS.—

''(I) IN GENERAL.—An action under this subsection may not be brought—

''(aa) more than 6 years after the date on which the violation of subparagraph (A) occurred; or

''(bb) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subparagraph (A).

''(II) REQUIRED ACTION WITHIN 10 YEARS.—Notwithstanding subclause (I), an action under this subsection may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

''(C) RELIEF.—Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

''(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;

''(ii) 2 times the amount of back pay otherwise owed to the individual, with interest; and

''(iii) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees.

''(2) CONFIDENTIALITY.—

''(A) IN GENERAL.—Unless and until required to be disclosed to a defendant or respondent in connection with a proceeding instituted by the Commission or any entity described in subparagraph (D), all information provided to the Commission by a whistleblower—

''(i) in any proceeding in any Federal or State court or administrative agency—

''(I) shall be confidential and privileged as an evidentiary matter; and

''(II) shall not be subject to civil discovery or other legal process; and

''(ii) shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) or under any proceeding under that section.

''(B) EXEMPTED STATUTE.—For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(C) RULE OF CONSTRUCTION.—Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

''(D) AVAILABILITY TO GOVERNMENT AGENCIES.—

''(i) IN GENERAL.—Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and to protect investors, be made available to—

''(I) the Attorney General of the United States;

''(II) an appropriate regulatory authority;

''(III) a self-regulatory organization;

''(IV) a State attorney general in connection with any criminal investigation;

''(V) any appropriate State regulatory authority;

''(VI) the Public Company Accounting Oversight Board;

''(VII) a foreign securities authority; and

''(VIII) a foreign law enforcement authority.

''(ii) CONFIDENTIALITY.—

''(I) IN GENERAL.—Each of the entities described in subclauses (I) through (VI) of clause (i) shall maintain such information as confidential and privileged, in accordance with the requirements established under subparagraph (A).

''(II) FOREIGN AUTHORITIES.—Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate.

''(3) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

''(i) PROVISION OF FALSE INFORMATION.—A whistleblower shall not be entitled to an award under this section if the whistleblower—

''(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

''(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

''(j) RULEMAKING AUTHORITY.—The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.''.

(b) PROTECTION FOR EMPLOYEES OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—Section 1514A(a) of title 18, United States Code, is amended—

(1) by inserting ''or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),'' after ''78o(d)),''; and

(2) by inserting ''or nationally recognized statistical rating organization'' after ''such company''.

SEC. 923. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(2) INVESTMENT COMPANY ACT OF 1940.—Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(3) INVESTMENT ADVISERS ACT OF 1940.—Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(b) SECURITIES EXCHANGE ACT.—

(1) SECTION 21.—Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)) is amended by inserting ''and section 21F of this title'' after ''the Sarbanes-Oxley Act of 2002''.

(2) SECTION 21A.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended—

(A) in subsection (d)(1) by—

(i) striking ''(subject to subsection (e))''; and

(ii) inserting ''and section 21F of this title'' after ''the Sarbanes-Oxley Act of 2002'';

(B) by striking subsection (e); and

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

SEC. 924. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTION.

(a) IMPLEMENTING RULES.—The Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, not later than 270 days after the date of enactment of this Act.

(b) ORIGINAL INFORMATION.—Information provided to the Commission by a whistleblower in accordance with the regulations referenced in subsection (a) shall not lose the status of original information (as defined in section 21F(i)(1) of the Securities Exchange Act of 1934, as added by this subtitle) solely because the whistleblower provided the information prior to the effective date of the regulations, provided that the information is—

(1) provided by the whistleblower after the date of enactment of this subtitle, or monetary sanctions are collected after the date of enactment of this subtitle; or

(2) related to a violation for which an award under section 21F of the Securities Exchange Act of 1934, as added by this subtitle, could have been paid at the time the information was provided by the whistleblower.

(c) AWARDS.—A whistleblower may receive an award pursuant to section 21F of the Securities Exchange Act of 1934, as added by this subtitle, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based, occurred prior to the date of enactment of this subtitle.

SEC. 925. COLLATERAL BARS.

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 15.—Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking ''12 months, or bar such person from being associated with a broker or dealer,'' and inserting ''12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

(2) SECTION 15B.—Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is amended by striking ''twelve months or bar any such person from being associated with a municipal securities dealer,'' and inserting ''12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

(3) SECTION 17A.—Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)(4)(C)) is amended by striking ''twelve months or bar any such person from being associated with the transfer agent,'' and inserting ''12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or nationally recognized statistical rating organization,''.

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended by striking ''twelve months or bar any such person from being associated with an investment adviser,'' and inserting ''12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

SEC. 926. DISQUALIFYING FELONS AND OTHER "BAD ACTORS" FROM REGULATION D OFFERINGS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that—

(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and

(2) disqualify any offering or sale of securities by a person that—

(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that—

(i) bars the person from—

(I) association with an entity regulated by such commission, authority, agency, or officer;

(II) engaging in the business of securities, insurance, or banking; or

(III) engaging in savings association or credit union activities; or

(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or

(B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.

SEC. 927. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES.

Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking ''an exchange required thereby'' and inserting ''a self-regulatory organization,''.

SEC. 928. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS.

Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5(a)) is amended, in the matter preceding paragraph (1)—

(1) by striking '', unless exempt from registration pursuant to section 203(b),'' and inserting ''registered or required to be registered with the Commission'';

(2) by striking ''make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to''; and

(3) by striking ''to'' after ''in any way''.

SEC. 929. UNLAWFUL MARGIN LENDING.

Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(c)(1)(A)) is amended by striking ''; and'' and inserting ''; or''.

SEC. 929A. PROTECTION FOR EMPLOYEES OF SUBSIDIARIES AND AFFILIATES OF PUBLICLY TRADED COMPANIES.

Section 1514A of title 18, United States Code, is amended by inserting ''including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company'' after ''the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))''.

SEC. 929B. FAIR FUND AMENDMENTS.

Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) CIVIL PENALTIES TO BE USED FOR THE RELIEF OF VICTIMS.—If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on

the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.'';

(2) in subsection (b)—

(A) by striking ''for a disgorgement fund described in subsection (a)'' and inserting ''for a disgorgement fund or other fund described in subsection (a)''; and

(B) by striking ''in the disgorgement fund'' and inserting ''in such fund''; and

(3) by striking subsection (e).

SEC. 929C. INCREASING THE BORROWING LIMIT ON TREASURY LOANS.

Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended in the first sentence, by striking ''$1,000,000,000'' and inserting ''$2,500,000,000''.

Subtitle C—Improvements to the Regulation of Credit Rating Agencies

SEC. 931. FINDINGS.

Congress finds the following:

(1) Because of the systemic importance of credit ratings and the reliance placed on credit ratings by individual and institutional investors and financial regulators, the activities and performances of credit rating agencies, including nationally recognized statistical rating organizations, are matters of national public interest, as credit rating agencies are central to capital formation, investor confidence, and the efficient performance of the United States economy.

(2) Credit rating agencies, including nationally recognized statistical rating organizations, play a critical ''gatekeeper'' role in the debt market that is functionally similar to that of securities analysts, who evaluate the quality of securities in the equity market, and auditors, who review the financial statements of firms. Such role justifies a similar level of public oversight and accountability.

(3) Because credit rating agencies perform evaluative and analytical services on behalf of clients, much as other financial ''gatekeepers'' do, the activities of credit rating agencies are fundamentally commercial in character and should be subject to the same standards of liability and oversight as apply to auditors, securities analysts, and investment bankers.

(4) In certain activities, particularly in advising arrangers of structured financial products on potential ratings of such products, credit rating agencies face conflicts of interest that need to be carefully monitored and that therefore should be addressed explicitly in legislation in order to give clearer authority to the Securities and Exchange Commission.

(5) In the recent financial crisis, the ratings on structured financial products have proven to be inaccurate. This inaccuracy contributed significantly to the mismanagement of risks by financial institutions and investors, which in turn adversely impacted the health of the economy in the United States and around the world. Such inaccuracy necessitates increased accountability on the part of credit rating agencies.

SEC. 932. ENHANCED REGULATION, ACCOUNTABILITY, AND TRANSPARENCY OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7) is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in the second sentence, by inserting ''any other provision of this section, or'' after ''Notwithstanding''; and

(ii) by inserting after the period at the end the following: ''Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.''; and

(B) by adding at the end the following:

''(3) INTERNAL CONTROLS OVER PROCESSES FOR DETERMINING CREDIT RATINGS.—

''(A) IN GENERAL.—Each nationally recognized statistical rating organization shall establish, maintain, enforce, and document an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings, taking into consideration such factors as the Commission may prescribe, by rule.

''(B) ATTESTATION REQUIREMENT.—The Commission shall prescribe rules requiring each nationally recognized statistical rating organization to submit to the Commission an annual internal controls report, which shall contain—

''(i) a description of the responsibility of the management of the nationally recognized statistical rating organization in establishing and maintaining an effective internal control structure under subparagraph (A);

''(ii) an assessment of the effectiveness of the internal control structure of the nationally recognized statistical rating organization; and

''(iii) the attestation of the chief executive officer, or equivalent individual, of the nationally recognized statistical rating organization.'';

(2) in subsection (d)—

(A) in the subsection heading, by inserting ''FINE,'' after ''CENSURE,'';

(B) by inserting ''fine,'' after ''censure,'' each place that term appears;

(C) in paragraph (2), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;

(D) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and adjusting the subparagraph margins accordingly;

(E) in the matter preceding subparagraph (A), as so redesignated, by striking ''The Commission'' and inserting the following:

''(1) IN GENERAL.—The Commission'';

(F) in subparagraph (D), as so redesignated, by striking ''or'' at the end;

(G) in subparagraph (E), as so redesignated, by striking the period at the end and inserting a semicolon; and

(H) by adding at the end the following:

''(F) has failed reasonably to supervise, with a view to preventing a violation of the securities laws, an individual who commits such a violation, if the individual is subject to the supervision of that person.

''(2) SUSPENSION OR REVOCATION FOR PARTICULAR CLASS OF SECURITIES.—

''(A) IN GENERAL.—The Commission may temporarily suspend or permanently revoke the registration of a nationally recognized statistical rating organization with respect to a particular class or subclass of securities, if the Commission finds, on the record after notice and opportunity for hearing, that the nationally recognized statistical rating organization does not have adequate financial and managerial resources to consistently produce credit ratings with integrity.

''(B) CONSIDERATIONS.—In making any determination under subparagraph (A), the Commission shall consider—

''(i) whether the nationally recognized statistical rating organization has failed over a sustained period of time, as determined by the Commission, to produce ratings that are accurate for that class or subclass of securities; and

''(ii) such other factors as the Commission may determine.'';

(3) in subsection (h), by adding at the end the following:

''(3) SEPARATION OF RATINGS FROM SALES AND MARKETING.—

''(A) RULES REQUIRED.—The Commission shall issue rules to prevent the sales and marketing considerations of a nationally recognized statistical rating organization from influencing the production of ratings by the nationally recognized statistical rating organization.

''(B) CONTENTS OF RULES.—The rules issued under subparagraph (A) shall provide for—

''(i) exceptions for small nationally recognized statistical rating organizations with respect to which the Commission determines that the separation of the production of ratings and sales and marketing activities is not appropriate; and

''(ii) suspension or revocation of the registration of a nationally recognized statistical rating organization, if the Commission finds, on the record, after notice and opportunity for a hearing, that—

''(I) the nationally recognized statistical rating organization has committed a violation of a rule issued under this subsection; and

''(II) the violation of a rule issued under this subsection affected a rating.'';

(4) in subsection (j)—

(A) by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Each''; and

(B) by adding at the end the following:

''(2) LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an individual designated under paragraph (1) may not, while serving in the designated capacity—

''(i) perform credit ratings;

''(ii) participate in the development of ratings methodologies or models;

''(iii) perform marketing or sales functions; or

''(iv) participate in establishing compensation levels, other than for employees working for that individual.

''(B) EXCEPTION.—The Commission may exempt a small nationally recognized statistical rating organization from the limitations under this paragraph, if the Commission finds that compliance with such limitations would impose an unreasonable burden on the nationally recognized statistical rating organization.

''(3) OTHER DUTIES.—Each individual designated under paragraph (1) shall establish procedures for the receipt, retention, and treatment of—

''(A) complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures developed under this section; and

''(B) confidential, anonymous complaints by employees or users of credit ratings.

''(4) ANNUAL REPORTS REQUIRED.—

''(A) ANNUAL REPORTS REQUIRED.—Each individual designated under paragraph (1) shall submit to the nationally recognized statistical rating organization an annual report on the compliance of the nationally recognized statistical rating organization with the securities laws and the policies and procedures of the nationally recognized statistical rating organization that includes—

''(i) a description of any material changes to the code of ethics and conflict of interest policies of the nationally recognized statistical rating organization; and

''(ii) a certification that the report is accurate and complete.

''(B) SUBMISSION OF REPORTS TO THE COMMISSION.—Each nationally recognized statistical rating organization shall file the reports required under subparagraph (A) together with the financial report that is required to be submitted to the Commission under this section.''; and

(5) by striking subsection (p) and inserting the following:

''(p) REGULATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—

''(1) ESTABLISHMENT OF OFFICE OF CREDIT RATINGS.—

''(A) OFFICE ESTABLISHED.—The Commission shall establish within the Commission an Office of Credit Ratings (referred to in this subsection as the 'Office') to administer the rules of the Commission—

''(i) with respect to the practices of nationally recognized statistical rating organizations in determining ratings, for the protection of users of credit ratings and in the public interest;

''(ii) to promote accuracy in credit ratings issued by nationally recognized statistical rating organizations; and

''(iii) to ensure that such ratings are not unduly influenced by conflicts of interest.

''(B) DIRECTOR OF THE OFFICE.—The head of the Office shall be the Director, who shall report to the Chairman.

''(2) STAFFING.—The Office established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section. The staff shall include persons with knowledge of and expertise in corporate, municipal, and structured debt finance.

''(3) COMMISSION EXAMINATIONS.—

''(A) ANNUAL EXAMINATIONS REQUIRED.—The Office shall conduct an examination of each nationally recognized statistical rating organization at least annually.

''(B) CONDUCT OF EXAMINATIONS.—Each examination under subparagraph (A) shall include a review of—

''(i) whether the nationally recognized statistical rating organization conducts business in accordance with the policies, procedures, and rating methodologies of the nationally recognized statistical rating organization;

''(ii) the management of conflicts of interest by the nationally recognized statistical rating organization;

''(iii) implementation of ethics policies by the nationally recognized statistical rating organization;

''(iv) the internal supervisory controls of the nationally recognized statistical rating organization;

''(v) the governance of the nationally recognized statistical rating organization;

''(vi) the activities of the individual designated by the nationally recognized statistical rating organization under subsection (j)(1);

''(vii) the processing of complaints by the nationally recognized statistical rating organization; and

''(viii) the policies of the nationally recognized statistical rating organization governing the post-employment activities of former staff of the nationally recognized statistical rating organization.

''(C) INSPECTION REPORTS.—The Commission shall make available to the public, in an easily understandable format, an annual report summarizing—

''(i) the essential findings of all examinations conducted under subparagraph (A), as deemed appropriate by the Commission;

''(ii) the responses by the nationally recognized statistical rating organizations to any material regulatory deficiencies identified by the Commission under clause (i); and

''(iii) whether the nationally recognized statistical rating organizations have appropriately addressed the recommendations of the Commission contained in previous reports under this subparagraph.

''(4) RULEMAKING AUTHORITY.—The Commission shall—

''(A) establish, by rule, fines, and other penalties applicable to any nationally recognized statistical rating organization that violates the requirements of this subsection and the rules thereunder; and

''(B) issue such rules as may be necessary to carry out this subsection.

''(q) TRANSPARENCY OF RATINGS PERFORMANCE.—

''(1) RULEMAKING REQUIRED.—The Commission shall, by rule, require that each nationally recognized statistical rating organization publicly disclose information on the initial credit ratings determined by the nationally recognized statistical rating organization for each type of obligor, security, and money market instrument, and any subsequent changes to such credit ratings, for the purpose of allowing users of credit ratings to evaluate the accuracy of ratings and compare the performance of ratings by different nationally recognized statistical rating organizations.

''(2) CONTENT.—The rules of the Commission under this subsection shall require, at a minimum, disclosures that—

''(A) are comparable among nationally recognized statistical rating organizations, to allow users of credit ratings to compare the performance of credit ratings across nationally recognized statistical rating organizations;

''(B) are clear and informative for investors who use or might use credit ratings;

''(C) include performance information over a range of years and for a variety of types of credit ratings, including for credit ratings withdrawn by the nationally recognized statistical rating organization;

''(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website, and in writing, when requested; and

''(E) are appropriate to the business model of a nationally recognized statistical rating organization.

''(r) CREDIT RATINGS METHODOLOGIES.—The Commission shall prescribe rules, for the protection of investors and in the public interest, with respect to the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations that require each nationally recognized statistical rating organization—

''(1) to ensure that credit ratings are determined using procedures and methodologies, including qualitative and quantitative data and models, that are—

''(A) approved by the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior credit officer of the nationally recognized statistical rating organization; and

''(B) in accordance with the policies and procedures of the nationally recognized statistical rating organization for the development and modification of credit rating procedures and methodologies;

''(2) to ensure that when material changes to credit rating procedures and methodologies (including changes to qualitative and quantitative data and models) are made, that—

''(A) the changes are applied consistently to all credit ratings to which the changed procedures and methodologies apply;

''(B) to the extent that changes are made to credit rating surveillance procedures and methodologies, the changes are applied to then-current credit ratings by the nationally recognized statistical rating organization within a reasonable time period determined by the Commission, by rule; and

''(C) the nationally recognized statistical rating organization publicly discloses the reason for the change; and

''(3) to notify users of credit ratings—

''(A) of the version of a procedure or methodology, including the qualitative methodology or quantitative inputs, used with respect to a particular credit rating;

''(B) when a material change is made to a procedure or methodology, including to a qualitative model or quantitative inputs;

''(C) when a significant error is identified in a procedure or methodology, including a qualitative or quantitative model, that may result in credit rating actions; and

''(D) of the likelihood of a material change described in subparagraph (B) resulting in a change in current credit ratings.

''(s) TRANSPARENCY OF CREDIT RATING METHODOLOGIES AND INFORMATION REVIEWED.—

''(1) FORM FOR DISCLOSURES.—The Commission shall require, by rule, each nationally recognized statistical rating organization to prescribe a form to accompany the publication of each credit rating that discloses—

''(A) information relating to—

''(i) the assumptions underlying the credit rating procedures and methodologies;

''(ii) the data that was relied on to determine the credit rating; and

''(iii) if applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and

''(B) information that can be used by investors and other users of credit ratings to better understand credit ratings in each class of credit rating issued by the nationally recognized statistical rating organization.

''(2) FORMAT.—The form developed under paragraph (1) shall—

''(A) be easy to use and helpful for users of credit ratings to understand the information contained in the report;

''(B) require the nationally recognized statistical rating organization to provide the content described in paragraph (3)(B) in a manner that is directly comparable across types of securities; and

''(C) be made readily available to users of credit ratings, in electronic or paper form, as the Commission may, by rule, determine.

''(3) CONTENT OF FORM.—

''(A) QUALITATIVE CONTENT.—Each nationally recognized statistical rating organization shall disclose on the form developed under paragraph (1)—

''(i) the credit ratings produced by the nationally recognized statistical rating organization;

''(ii) the main assumptions and principles used in constructing procedures and methodologies, including qualitative methodologies and quantitative inputs and assumptions about the correlation of defaults across obligors used in rating structured products;

''(iii) the potential limitations of the credit ratings, and the types of risks excluded from the credit ratings that the nationally recognized statistical rating organization does not comment on, including liquidity, market, and other risks;

''(iv) information on the uncertainty of the credit rating, including—

''(I) information on the reliability, accuracy, and quality of the data relied on in determining the credit rating; and

''(II) a statement relating to the extent to which data essential to the determination of the credit rating were reliable or limited, including—

''(aa) any limits on the scope of historical data; and

''(bb) any limits in accessibility to certain documents or other types of information that would have better informed the credit rating;

''(v) whether and to what extent third party due diligence services have been used by the nationally recognized statistical rating organization, a description of the information that such third party reviewed in conducting due diligence services, and a description of the findings or conclusions of such third party;

''(vi) a description of the data about any obligor, issuer, security, or money market instrument that were relied upon for the purpose of determining the credit rating;

''(vii) a statement containing an overall assessment of the quality of information available and considered in producing a rating for an obligor, security, or money market instrument, in relation to the quality of information available to the nationally recognized statistical rating organization in rating similar issuances;

''(viii) information relating to conflicts of interest of the nationally recognized statistical rating organization; and

''(ix) such additional information as the Commission may require.

''(B) QUANTITATIVE CONTENT.—Each nationally recognized statistical rating organization shall disclose on the form developed under this subsection—

''(i) an explanation or measure of the potential volatility of the credit rating, including—

''(I) any factors that might lead to a change in the credit ratings; and

''(II) the magnitude of the change that a user can expect under different market conditions;

''(ii) information on the content of the rating, including—

''(I) the historical performance of the rating; and

''(II) the expected probability of default and the expected loss in the event of default;

''(iii) information on the sensitivity of the rating to assumptions made by the nationally recognized statistical rating organization; and

''(iv) such additional information as may be required by the Commission.

''(4) DUE DILIGENCE SERVICES FOR ASSET-BACKED SECURITIES.—

''(A) FINDINGS.—The issuer or underwriter of any asset-backed security shall make publicly available the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter.

''(B) CERTIFICATION REQUIRED.—In any case in which third-party due diligence services are employed by a nationally recognized statistical rating organization, an issuer, or an underwriter, the person providing the due diligence services shall provide to any nationally recognized statistical rating organization that produces a rating to which such services relate, written certification, as provided in subparagraph (C).

''(C) FORMAT AND CONTENT.—The Commission shall establish the appropriate format and content for the written certifications required under subparagraph (B), to ensure that providers of due diligence services have conducted a thorough review of data, documentation, and other relevant information necessary for a nationally recognized statistical rating organization to provide an accurate rating.

''(D) DISCLOSURE OF CERTIFICATION.—The Commission shall adopt rules requiring a nationally recognized statistical rating organization, at the time at which the nationally recognized statistical rating organization produces a rating, to disclose the certification described in subparagraph (B) to the public in a manner that allows the public to determine the adequacy and level of due diligence services provided by a third party.

''(t) CORPORATE GOVERNANCE, ORGANIZATION, AND MANAGEMENT OF CONFLICTS OF INTEREST.—

''(1) BOARD OF DIRECTORS.—Each nationally recognized statistical rating organization shall have a board of directors.

''(2) INDEPENDENT DIRECTORS.—

''(A) IN GENERAL.—At least ½ of the board of directors, but not fewer than 2 of the members thereof, shall be independent of the nationally recognized statistical rating agency. A portion of the independent directors shall include users of ratings from a nationally recognized statistical rating organization.

''(B) INDEPENDENCE DETERMINATION.—In order to be considered independent for purposes of this subsection, a member of the board of directors of a nationally recognized statistical rating organization—

''(i) may not, other than in his or her capacity as a member of the board of directors or any committee thereof—

''(I) accept any consulting, advisory, or other compensatory fee from the nationally recognized statistical rating organization; or

''(II) be a person associated with the nationally recognized statistical rating organization or with any affiliated company thereof; and

''(ii) shall be disqualified from any deliberation involving a specific rating in which the independent board member has a financial interest in the outcome of the rating.

''(C) COMPENSATION AND TERM.—The compensation of the independent members of the board of directors of a nationally recognized statistical rating organization shall not be linked to the business performance of the nationally recognized statistical rating organization, and shall be arranged so as to ensure the independence of their judgment. The term of office of the independent directors shall be for a pre-agreed fixed period, not to exceed 5 years, and shall not be renewable.

''(3) DUTIES OF BOARD OF DIRECTORS.—In addition to the overall responsibilities of the board of directors, the board shall oversee—

''(A) the establishment, maintenance, and enforcement of policies and procedures for determining credit ratings;

''(B) the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest;

''(C) the effectiveness of the internal control system with respect to policies and procedures for determining credit ratings; and

''(D) the compensation and promotion policies and practices of the nationally recognized statistical rating organization.

''(4) TREATMENT OF NRSRO SUBSIDIARIES.—If a nationally recognized statistical rating organization is a subsidiary of a parent entity, the board of the directors of the parent entity may satisfy the requirements of this subsection by assigning to a committee of such board of directors the duties under paragraph (3), if—

''(A) at least ½ of the members of the committee (including the chairperson of the committee) are independent, as defined in this section; and

''(B) at least 1 member of the committee is a user of ratings from a nationally recognized statistical rating organization.

''(5) EXCEPTION AUTHORITY.—If the Commission finds that compliance with the provisions of this subsection present an unreasonable burden on a small nationally recognized statistical rating organization, the Commission may permit the nationally recognized statistical rating organization to delegate such responsibilities to a committee that includes at least one individual who is a user of ratings of a nationally recognized statistical rating organization.''.

SEC. 933. STATE OF MIND IN PRIVATE ACTIONS.

(a) ACCOUNTABILITY.—Section 15E(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7(m)) is amended to read as follows:

''(m) ACCOUNTABILITY.—

''(1) IN GENERAL.—The enforcement and penalty provisions of this title shall apply to statements made by a credit rating agency in the same manner and to the same extent as such provisions apply to statements made by a registered public accounting firm or a securities analyst under the securities laws, and such statements shall not be deemed forward-looking statements for the purposes of section 21E.

''(2) RULEMAKING.—The Commission shall issue such rules as may be necessary to carry out this subsection.''.

(b) STATE OF MIND.—Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(b)(2)) is amended—

(1) by striking ''In any'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), in any''; and

(2) by adding at the end the following:

''(B) EXCEPTION.—In the case of an action for money damages brought against a credit rating agency or a controlling person under this title, it shall be sufficient, for purposes of pleading any required state of mind in relation to such action, that the complaint state with particularity facts giving rise to a strong inference that the credit rating agency knowingly or recklessly failed—

''(i) to conduct a reasonable investigation of the rated security with respect to the factual elements relied upon by its own methodology for evaluating credit risk; or

''(ii) to obtain reasonable verification of such factual elements (which verification may be based on a sampling technique that does not amount to an audit) from other sources that the credit rating agency considered to be competent and that were independent of the issuer and underwriter.''.

SEC. 934. REFERRING TIPS TO LAW ENFORCEMENT OR REGULATORY AUTHORITIES.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(u) DUTY TO REPORT TIPS ALLEGING MATERIAL VIOLATIONS OF LAW.—

''(1) DUTY TO REPORT.—Each nationally recognized statistical rating organization shall refer to the appropriate law enforcement or regulatory authorities any information that the nationally recognized statistical rating organization receives from a third party and finds credible that alleges that an issuer of securities rated by the nationally recognized statistical rating organization has committed or is committing a material violation of law that has not been adjudicated by a Federal or State court.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to require a nationally recognized statistical rating organization to verify the accuracy of the information described in paragraph (1).''.

SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(v) INFORMATION FROM SOURCES OTHER THAN THE ISSUER.—In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or receives from a source other than the issuer, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.''.

SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings—

(1) meets standards of training, experience, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates; and

(2) is tested for knowledge of the credit rating process.

SEC. 937. TIMING OF REGULATIONS.

Unless otherwise specifically provided in this subtitle, the Commission shall issue final regulations, as required by this subtitle and the amendments made by this subtitle, not later than 1 year after the date of enactment of this Act.

SEC. 938. UNIVERSAL RATINGS SYMBOLS.

(a) RULEMAKING.—The Commission shall require, by rule, each nationally recognized statistical rating organization to establish, maintain, and enforce written policies and procedures that—

(1) assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument;

(2) clearly define and disclose the meaning of any symbol used by the nationally recognized statistical rating organization to denote a credit rating; and

(3) apply any symbol described in paragraph (2) in a manner that is consistent for all types of securities and money market instruments for which the symbol is used.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall prohibit a nationally recognized statistical rating organization from using distinct sets of symbols to denote credit ratings for different types of securities or money market instruments.

SEC. 939. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS.

(a) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 7(b)(1)(E)(i), by striking ''credit rating entities, and other private economic'' and insert ''private economic, credit,'';

(2) in section 28(d)—

(A) in the subsection heading, by striking ''NOT OF INVESTMENT GRADE'';

(B) in paragraph (1), by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation'';

(C) in paragraph (2), by striking ''not of investment grade'';

(D) by striking paragraph (3);

(E) by redesignating paragraph (4) as paragraph (3); and

(F) in paragraph (3), as so redesignated—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (B), as so redesignated, by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation''; and

(3) in section 28(e)—

(A) in the subsection heading, by striking ''NOT OF INVESTMENT GRADE'';

(B) in paragraph (1), by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation''; and

(C) in paragraphs (2) and (3), by striking ''not of investment grade'' each place that it appears and inserting ''that does not meet standards of credit-worthiness established by the Corporation''.

(b) FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended by striking ''that is a nationally registered statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934,''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 6(a)(5)(A)(iv)(I) Investment Company Act of 1940 (15 U.S.C. 80a–6(a)(5)(A)(iv)(I)) is amended by striking ''is rated investment grade by not less than 1 nationally registered statistical rating organization'' and inserting ''meets such standards of credit-worthiness as the Commission shall adopt''.

(d) REVISED STATUTES.—Section 5136A of title LXII of the Revised Statutes of the United States (12 U.S.C. 24a) is amended—

(1) in subsection (a)(2)(E), by striking ''any applicable rating'' and inserting ''standards of credit-worthiness established by the Comptroller of the Currency'';

(2) in the heading for subsection (a)(3) by striking ''RATING OR COMPARABLE REQUIREMENT'' and inserting ''REQUIREMENT'';

(3) subsection (a)(3), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.''.

(4) in the heading for subsection (f), by striking ''MAINTAIN PUBLIC RATING OR'' and inserting ''MEET STANDARDS OF CREDIT-WORTHINESS''; and

(5) in subsection (f)(1), by striking ''any applicable rating'' and inserting ''standards of credit-worthiness established by the Comptroller of the Currency''.

(e) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) Securities Exchange Act of 1934 (15 U.S.C. 78a(3)(a)) is amended—

(1) in paragraph (41), by striking ''is rated in one of the two highest rating categories by at least one nationally registered statistical rating organization'' and inserting ''meets standards of credit-worthiness as established by the Commission''; and

(2) in paragraph (53)(A), by striking ''is rated in 1 of the 4 highest rating categories by at least 1 nationally registered statistical rating organization'' and inserting ''meets standards of credit-worthiness as established by the Commission''.

(f) WORLD BANK DISCUSSIONS.—Section 3(a)(6) of the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, as enacted into law by section 555 of Public Law 100–461, (22 U.S.C. 286hh(a)(6)), is amended by striking ''credit rating'' and inserting ''credit-worthiness''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

(1) IN GENERAL.—Commission shall undertake a study on the feasability and desirability of—

(A) standardizing credit ratings terminology, so that all credit rating agencies issue credit ratings using identical terms;

(B) standardizing the market stress conditions under which ratings are evaluated;

(C) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and

(D) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to Congress a report containing the findings of the study under paragraph (1) and the recommendations, if any, of the Commission with respect to the study.

SEC. 939A. SECURITIES AND EXCHANGE COMMISSION STUDY ON STRENGTHENING CREDIT RATING AGENCY INDEPENDENCE.

(a) STUDY.—The Commission shall conduct a study of—

(1) the independence of nationally recognized statistical rating organizations; and

(2) how the independence of nationally recognized statistical rating organizations affects the ratings issued by the nationally recognized statistical rating organizations.

(b) SUBJECTS FOR EVALUATION.—In conducting the study under subsection (a), the Commission shall evaluate—

(1) the management of conflicts of interest raised by a nationally recognized statistical rating organization providing other services, including risk management advisory services, ancillary assistance, or consulting services;

(2) the potential impact of rules prohibiting a nationally recognized statistical rating organization that provides a rating to an issuer from providing other services to the issuer; and

(3) any other issue relating to nationally recognized statistical rating organizations, as the Chairman of the Commission determines is appropriate.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Chairman of the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for improving the integrity of ratings issued by nationally recognized statistical rating organizations.

SEC. 939B. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ALTERNATIVE BUSINESS MODELS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on alternative means for compensating nationally recognized statistical rating organizations in order to create incentives for nationally recognized statistical rating organizations to provide more accurate credit ratings, including any statutory changes that would be required to facilitate the use of an alternative means of compensation.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for providing incentives to credit rating agencies to improve the credit rating process.

SEC. 939C. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE CREATION OF AN INDEPENDENT PROFESSIONAL ANALYST ORGANIZATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility and merits of creating an independent professional organization for rating analysts employed by nationally recognized statistical rating organizations that would be responsible for—

(1) establishing independent standards for governing the profession of rating analysts;

(2) establishing a code of ethical conduct; and

(3) overseeing the profession of rating analysts.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a).

SEC. 939D. INITIAL CREDIT RATING ASSIGNMENTS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this Act, is amended by adding at the end the following:

''(w) INITIAL CREDIT RATING ASSIGNMENTS.—

''(1) DEFINITIONS.—In this subsection the following definitions shall apply:

''(A) BOARD.—The term 'Board' means the Credit Rating Agency Board established under paragraph (2).

''(B) QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term 'qualified nationally recognized statistical rating organization', with respect to a category of structured finance products, means a nationally recognized statistical rating organization that the Board determines, under paragraph (3)(B), to be qualified to issue initial credit ratings with respect to such category.

''(C) REGULATIONS.—

''(i) CATEGORY OF STRUCTURED FINANCE PRODUCTS.—

''(I) IN GENERAL.—The term 'category of structured finance products'—

''(aa) shall include any asset backed security and any structured product based on an asset-backed security; and

''(bb) shall be further defined and expanded by the Commission, by rule, as necessary.

''(II) CONSIDERATIONS.—In issuing the regulations required under subclause (I), the Commission shall consider—

''(aa) the types of issuers that issue structured finance products;

''(bb) the types of investors who purchase structured finance products;

''(cc) the different categories of structured finance products according to—

''(AA) the types of capital flow and legal structure used;

''(BB) the types of underlying products used; and

''(CC) the types of terms used in debt securities;

''(dd) the different values of debt securities; and

''(ee) the different numbers of units of debt securities that are issued together.

''(ii) REASONABLE FEE.—The Board shall issue regulations to define the term 'reasonable fee'.

''(2) CREDIT RATING AGENCY BOARD.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall—

''(i) establish the Credit Rating Agency Board, which shall be a self-regulatory organization;

''(ii) subject to subparagraph (C), select the initial members of the Board; and

''(iii) establish a schedule to ensure that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings not later than 1 year after the selection of the members of the Board.

''(B) SCHEDULE.—The schedule established under subparagraph (A)(iii) shall prescribe when—

''(i) the Board will conduct a study of the securitization and ratings process and provide recommendations to the Commission;

''(ii) the Commission will issue rules and regulations under this section;

''(iii) the Board may issue rules under this subsection; and

''(iv) the Board will—

''(I) begin accepting applications to select qualified national recognized statistical rating organizations; and

''(II) begin assigning qualified national recognized statistical rating organizations to provide initial ratings.

''(C) MEMBERSHIP.—

''(i) IN GENERAL.—The Board shall initially be composed of an odd number of members selected from the industry, with the total numerical membership of the Board to be determined by the Commission.

''(ii) SPECIFICATIONS.—Of the members initially selected to serve on the Board—

''(I) not less than a majority of the members shall be representatives of the investor industry who do not represent issuers;

''(II) not less than 1 member should be a representative of the issuer industry;

''(III) not less than 1 member should be a representative of the credit rating agency industry; and

''(IV) not less than 1 member should be an independent member.

''(iii) TERMS.—Initial members shall be appointed by the Commission for a term of 4 years.

''(iv) NOMINATION AND ELECTION OF MEMBERS.—

''(I) IN GENERAL.—Prior to the expiration of the terms of office of the initial members, the Commission shall establish fair procedures for the nomination and election of future members of the Board.

''(II) MODIFICATIONS OF THE BOARD.—Prior to the expiration of the terms of office of the initial members, the Commission—

''(aa) may increase the size of the board to a larger odd number and adjust the length of future terms; and

''(bb) shall retain the composition of members described in clause (ii).

''(v) RESPONSIBILITIES OF MEMBERS.—Members shall perform, at a minimum, the duties described in this subsection.

''(vi) RULEMAKING AUTHORITY.—The Commission shall, if it determines necessary and appropriate, issue further rules and regulations on the composition of the membership of the Board and the responsibilities of the members.

''(D) OTHER AUTHORITIES OF THE BOARD.—The Board shall have the authority to levy fees from qualified nationally recognized statistical rating organization applicants, and periodically from qualified nationally recognized statistical rating organizations as necessary to fund expenses of the Board.

''(E) REGULATION.—The Commission has the authority to regulate the activities of the Board, and issue any further regulations of the Board it deems necessary, not in contravention with the intent of this section.

''(3) BOARD SELECTION OF QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—

''(A) APPLICATION.—

''(i) IN GENERAL.—A nationally recognized statistical rating organization may submit an application to the Board, in such form and manner as the Board may require, to become a qualified nationally recognized statistical rating organization with respect to a category of structured finance products.

''(ii) CONTENTS.—An application submitted under clause (i) shall contain—

''(I) information regarding the institutional and technical capacity of the nationally recognized statistical rating organization to issue credit ratings;

''(II) information on whether the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section; and

''(III) any additional information the Board may require.

''(iii) REJECTION OF APPLICATIONS.—The Board may reject an application submitted under this paragraph if the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section.

''(B) SELECTION.—The Board shall select qualified national recognized statistical rating organizations with respect to each category of structured finance products from among nationally recognized statistical rating organizations that submit applications under subparagraph (A).

''(C) RETENTION OF STATUS AND OBLIGATIONS AFTER SELECTION.—An entity selected as a qualified nationally recognized statistical rating organization shall retain its status and obligations under the law as a nationally recognized statistical rating organization, and nothing in this subsection grants authority to the Commission or the Board to exempt qualified nationally recognized statistical rating organizations from obligations or requirements otherwise imposed by Federal law on nationally recognized statistical rating organizations.

''(4) REQUESTING AN INITIAL CREDIT RATING.—An issuer that seeks an initial credit rating for a structured finance product—

''(A) may not request an initial credit rating from a nationally recognized statistical rating organization; and

''(B) shall submit a request for an initial credit rating to the Board, in such form and manner as the Board may prescribe.

''(5) ASSIGNMENT OF RATING DUTIES.—

''(A) IN GENERAL.—For each request received by the Board under paragraph (4)(B), the Board shall select a qualified nationally recognized statistical rating organization to provide the initial credit rating to the issuer.

''(B) METHOD OF SELECTION.—

''(i) IN GENERAL.—The Board shall—

''(I) evaluate a number of selection methods, including a lottery or rotating assignment system, incorporating the factors described in clause (ii), to reduce the conflicts of interest that exist under the issuer-pays model; and

''(II) prescribe and publish the selection method to be used under subparagraph (A).

''(ii) CONSIDERATION.—In evaluating a selection method described in clause (i)(I), the Board shall consider—

''(I) the information submitted by the qualified nationally recognized statistical rating organization under paragraph (3)(A)(ii) regarding the institutional and technical capacity of the qualified nationally recognized statistical rating organization to issue credit ratings;

''(II) evaluations conducted under paragraph (7);

''(III) formal feedback from institutional investors; and

''(IV) information from subclauses (I) and (II) to implement a mechanism which increases or decreases assignments based on past performance.

''(iii) PROHIBITION.—The Board, in choosing a selection method, may not use a method that would allow for the solicitation or consideration of the preferred national recognized statistical rating organizations of the issuer.

''(iv) ADJUSTMENT OF PROCESS.—The Board shall issue rules describing the process by which it can modify the assignment process described in clause (i).

''(C) RIGHT OF REFUSAL.—

''(i) REFUSAL.—A qualified nationally recognized statistical rating organization selected under subparagraph (A) may refuse to accept a selection for a particular request by—

''(I) notifying the Board of such refusal; and

''(II) submitting to the Board a written explanation of the refusal.

''(ii) SELECTION.—Upon receipt of a notification under clause (i), the Board shall make an additional selection under subparagraph (A).

''(iii) INSPECTION REPORTS.—The Board shall annually submit any explanations of refusals received under clause (i)(II) to the Commission, and such explanatory submissions shall be published in the annual inspection reports required under subsection (p)(3)(C).

''(6) DISCLAIMER REQUIRED.—Each initial credit rating issued under this subsection shall include, in writing, the following disclaimer: 'This initial rating has not been evaluated, approved, or certified by the Government of the United States or by a Federal agency.'.

''(7) EVALUATION OF PERFORMANCE.—

''(A) IN GENERAL.—The Board shall prescribe rules by which the Board will evaluate the performance of each qualified nationally recognized statistical rating organization, including rules that require, at a minimum, an annual evaluation of each qualified nationally recognized statistical rating organization.

''(B) CONSIDERATIONS.—The Board, in conducting an evaluation under subparagraph (A), shall consider—

''(i) the results of the annual examination conducted under subsection (p)(3);

''(ii) surveillance of credit ratings conducted by the qualified nationally recognized statistical rating organization after the credit ratings are issued, including—

''(I) how the rated instruments perform;

''(II) the accuracy of the ratings provided by the qualified nationally recognized statistical rating organization as compared to the other nationally recognized statistical rating organizations; and

''(III) the effectiveness of the methodologies used by the qualified nationally recognized statistical rating organization; and

''(iii) any additional factors the Board determines to be relevant.

''(C) REQUEST FOR REEVALUATION.—Subject to rules prescribed by the Board, and not less frequently than once a year, a qualified nationally recognized statistical rating organization may request that the Board conduct an evaluation under this paragraph.

''(D) DISCLOSURE.—The Board shall make the evaluations conducted under this paragraph available to Congress.

''(8) RATING FEES CHARGED TO ISSUERS.—

''(A) LIMITED TO REASONABLE FEES.—A qualified nationally recognized statistical rating organization shall charge an issuer a reasonable fee, as determined by the Commission, for an initial credit rating provided under this section.

''(B) FEES.—Fees may be determined by the qualified national recognized statistical rating organizations unless the Board determines it is necessary to issue rules on fees.

''(9) NO PROHIBITION ON ADDITIONAL RATINGS.—Nothing in this section shall prohibit an issuer from requesting or receiving additional credit ratings with respect to a debt security, if the initial credit rating is provided in accordance with this section.

''(10) NO PROHIBITION ON INDEPENDENT RATINGS OFFERED BY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—

''(A) IN GENERAL.—Nothing in this section shall prohibit a nationally recognized statistical

rating organization from independently providing a credit rating with respect to a debt security, if—

''(i) the nationally recognized statistical rating organization does not enter into a contract with the issuer of the debt security to provide the initial credit rating; and

''(ii) the nationally recognized statistical rating organization is not paid by the issuer of the debt security to provide the initial credit rating.

''(B) RULE OF CONSTRUCTION.—For purposes of this section, a credit rating described in subparagraph (A) may not be construed to be an initial credit rating.

''(11) PUBLIC COMMUNICATIONS.—Any communications made with the public by an issuer with respect to the credit rating of a debt security shall clearly specify whether the credit rating was made by—

''(A) a qualified nationally recognized statistical rating organization selected under paragraph (5)(A) to provide the initial credit rating for such debt security; or

''(B) a nationally recognized statistical rating organization not selected under paragraph (5)(A).

''(12) PROHIBITION ON MISREPRESENTATION.—With respect to a debt security, it shall be unlawful for any person to misrepresent any subsequent credit rating provided for such debt security as an initial credit rating provided for such debt security by a qualified nationally recognized statistical rating organization selected under paragraph (5)(A).

''(13) INITIAL CREDIT RATING REVISION AFTER MATERIAL CHANGE IN CIRCUMSTANCE.—If the Board determines that it is necessary or appropriate in the public interest or for the protection of investors, the Board may issue regulations requiring that an issuer that has received an initial credit rating under this subsection request a revised initial credit rating, using the same method as provided under paragraph (4), each time the issuer experiences a material change in circumstances, as defined by the Board.

''(14) CONFLICTS.—

''(A) MEMBERS OR EMPLOYEES OF THE BOARD.—

''(i) LOAN OF MONEY OR SECURITIES PROHIBITED.—

''(I) IN GENERAL.—A member or employee of the Board shall not accept any loan of money or securities, or anything above nominal value, from any nationally recognized statistical rating organization, issuer, or investor.

''(II) EXCEPTION.—The prohibition in subclause (I) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

''(ii) EMPLOYMENT NEGOTIATIONS PROHIBITION.—A member or employee of the Board shall not engage in employment negotiations with any nationally recognized statistical rating organization, issuer, or investor, unless the member or employee—

''(I) discloses the negotiations immediately upon initiation of the negotiations; and

''(II) recuses himself from all proceedings concerning the entity involved in the negotiations until termination of negotiations or until termination of his employment by the Board, if an offer of employment is accepted.

''(B) CREDIT ANALYSTS.—

''(i) IN GENERAL.—A credit analyst of a qualified nationally recognized statistical rating organization shall not accept any loan of money or securities, or anything above nominal value, from any issuer or investor.

''(ii) EXCEPTION.—The prohibition described in clause (i) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.

''(15) EVALUATION OF CREDIT RATING AGENCY BOARD.—Not later than 5 years after the date that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings, the Commission shall submit to Congress a report that provides recommendations of—

''(A) the continuation of the Board;

''(B) any modification to the procedures of the Board; and

''(C) modifications to the provisions in this subsection.''.

Subtitle D—Improvements to the Asset-Backed Securitization Process

SEC. 941. REGULATION OF CREDIT RISK RETENTION.

(a) DEFINITION OF ASSET-BACKED SECURITY.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

''(77) ASSET-BACKED SECURITY.—The term 'asset-backed security'—

''(A) means a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including—

''(i) a collateralized mortgage obligation;

''(ii) a collateralized debt obligation;

''(iii) a collateralized bond obligation;

''(iv) a collateralized debt obligation of asset-backed securities;

''(v) a collateralized debt obligation of collateralized debt obligations; and

''(vi) a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section; and

''(B) does not include a security issued by a finance subsidiary held by the parent company or a company controlled by the parent company, if none of the securities issued by the finance subsidiary are held by an entity that is not controlled by the parent company.''.

(b) CREDIT RISK RETENTION.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15F, as added by this Act, the following:

''SEC. 15G. CREDIT RISK RETENTION.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

''(2) the term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

''(3) the term 'securitizer' means—

''(A) an issuer of an asset-backed security; or

''(B) a person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer; and

''(4) the term 'originator' means a person who—

''(A) through the extension of credit or otherwise, creates a financial asset that collateralizes an asset-backed security; and

''(B) sells an asset to a securitizer.

''(b) IN GENERAL.—Not later than 270 days after the date of enactment of this section, the Federal banking agencies and the Commission shall jointly prescribe regulations to require any securitizer to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party.

''(c) STANDARDS FOR REGULATIONS.—

''(1) STANDARDS.—The regulations prescribed under subsection (b) shall—

''(A) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain with respect to an asset;

''(B) require a securitizer to retain—

''(i) not less than 5 percent of the credit risk for any asset—

''(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

''(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or

''(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

''(C) specify—

''(i) the permissible forms of risk retention for purposes of this section;

''(ii) the minimum duration of the risk retention required under this section; and

''(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;

''(D) apply, regardless of whether the securitizer is an insured depository institution; and

''(E) with respect to a commercial mortgage, specify the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), such as—

''(i) retention of a specified amount or percentage of the total credit risk of the asset;

''(ii) retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;

''(iii) a determination by a Federal banking agency or the Commission that the underwriting standards and controls for the asset are adequate; and

''(iv) provision of adequate representations and warranties and related enforcement mechanisms; and

''(F) provide for—

''(i) a total or partial exemption of any securitization, as may be appropriate in the public interest and for the protection of investors; and

''(ii) the allocation of risk retention obligations between a securitizer and an originator in the case of a securitizer that purchases assets from an originator, as the Federal banking agencies and the Commission jointly determine appropriate.

''(2) ASSET CLASSES.—

''(A) ASSET CLASSES.—The regulations prescribed under subsection (b) shall establish asset classes with separate rules for securitizers of different classes of assets, including residential mortgages, commercial mortgages, commercial loans, auto loans, and any other class of assets that the Federal banking agencies and the Commission deem appropriate.

''(B) CONTENTS.—For each asset class established under subparagraph (A), the regulations prescribed under subsection (b) shall establish underwriting standards that specify the terms, conditions, and characteristics of a loan within the asset class that indicate a reduced credit risk with respect to the loan.

''(d) ORIGINATORS.—In determining how to allocate risk retention obligations between a securitizer and an originator under subsection (c)(1)(E)(ii), the Federal banking agencies and the Commission shall—

''(1) reduce the percentage of risk retention obligations required of the securitizer by the percentage of risk retention obligations required of the originator; and

''(2) consider—

''(A) whether the assets sold to the securitizer have terms, conditions, and characteristics that reflect reduced credit risk;

''(B) whether the form or volume of transactions in securitization markets creates incentives for imprudent origination of the type of loan or asset to be sold to the securitizer; and

''(C) the potential impact of the risk retention obligations on the access of consumers and businesses to credit on reasonable terms, which may not include the transfer of credit risk to a third party.

''(e) EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS.—

''(1) IN GENERAL.—The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement and the prohibition on hedging under subsection (c)(1).

''(2) APPLICABLE STANDARDS.—Any exemption, exception, or adjustment adopted or issued by the Federal banking agencies and the Commission under this paragraph shall—

''(A) help ensure high quality underwriting standards for the securitizers and originators of assets that are securitized or available for securitization; and

''(B) encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors.

''(3) FARM CREDIT SYSTEM INSTITUTIONS.—A Farm Credit System institution, including the Federal Agricultural Mortgage Corporation, that is chartered and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), shall be exempt from the risk retention provisions of this subsection.

''(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES.—

''(A) IN GENERAL.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection.

''(B) QUALIFIED RESIDENTIAL MORTGAGE.—The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term 'qualified residential mortgage' for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as—

''(i) documentation and verification of the financial resources relied upon to qualify the mortgagor;

''(ii) standards with respect to—

''(I) the residual income of the mortgagor after all monthly obligations;

''(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;

''(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;

''(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;

''(iv) mortgage guarantee insurance obtained at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and

''(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

''(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION.—The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.

''(6) CERTIFICATION.—The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.

''(f) ENFORCEMENT.—The regulations issued under this section shall be enforced by—

''(1) the appropriate Federal banking agency, with respect to any securitizer that is an insured depository institution; and

''(2) the Commission, with respect to any securitizer that is not an insured depository institution.

''(g) AUTHORITY OF COMMISSION.—The authority of the Commission under this section shall be in addition to the authority of the Commission to otherwise enforce the securities laws.

''(h) EFFECTIVE DATE OF REGULATIONS.—The regulations issued under this section shall become effective—

''(1) with respect to securitizers and originators of asset-backed securities backed by residential mortgages, 1 year after the date on which final rules under this section are published in the Federal Register; and

''(2) with respect to securitizers and originators of all other classes of asset-backed securities, 2 years after the date on which final rules under this section are published in the Federal Register.''.

SEC. 942. DISCLOSURES AND REPORTING FOR ASSET-BACKED SECURITIES.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended—

(1) by striking ''(d) Each'' and inserting the following:

''(d) SUPPLEMENTARY AND PERIODIC INFORMATION.—

''(1) IN GENERAL.—Each'';

(2) in the third sentence, by inserting after ''securities of each class'' the following: '', other than any class of asset-backed securities,''; and

(3) by adding at the end the following:

''(2) ASSET-BACKED SECURITIES.—

''(A) SUSPENSION OF DUTY TO FILE.—The Commission may, by rule or regulation, provide for the suspension or termination of the duty to file under this subsection for any class of asset-backed security, on such terms and conditions and for such period or periods as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

''(B) CLASSIFICATION OF ISSUERS.—The Commission may, for purposes of this subsection, classify issuers and prescribe requirements appropriate for each class of issuers of asset-backed securities.''.

(b) SECURITIES ACT OF 1933.—Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended by adding at the end the following:

''(c) DISCLOSURE REQUIREMENTS.—

''(1) IN GENERAL.—The Commission shall adopt regulations under this subsection requiring each issuer of an asset-backed security to disclose, for each tranche or class of security, information regarding the assets backing that security.

''(2) CONTENT OF REGULATIONS.—In adopting regulations under this subsection, the Commission shall—

''(A) set standards for the format of the data provided by issuers of an asset-backed security, which shall, to the extent feasible, facilitate comparison of such data across securities in similar types of asset classes; and

''(B) require issuers of asset-backed securities, at a minimum, to disclose asset-level or loan-level data necessary for investors to independently perform due diligence, including—

''(i) data having unique identifiers relating to loan brokers or originators;

''(ii) the nature and extent of the compensation of the broker or originator of the assets backing the security; and

''(iii) the amount of risk retention by the originator and the securitizer of such assets.''.

SEC. 943. REPRESENTATIONS AND WARRANTIES IN ASSET-BACKED OFFERINGS.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations on the use of representations and warranties in the market for asset-backed securities (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934, as added by this subtitle) that—

(1) require each national recognized statistical rating organization to include in any report accompanying a credit rating a description of—

(A) the representations, warranties, and enforcement mechanisms available to investors; and

(B) how they differ from the representations, warranties, and enforcement mechanisms in issuances of similar securities; and

(2) require any securitizer (as that term is defined in section 15G(a) of the Securities Exchange Act of 1934, as added by this subtitle) to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by the securitizer, so that investors may identify asset originators with clear underwriting deficiencies.

SEC. 944. EXEMPTED TRANSACTIONS UNDER THE SECURITIES ACT OF 1933.

(a) EXEMPTION ELIMINATED.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by striking paragraph (5); and

(2) by striking ''(6) transactions'' and inserting the following:

''(5) transactions''.

(b) CONFORMING AMENDMENT.—Section 3(a)(4)(B)(vii)(I) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)(vii)(I)) is amended by striking ''4(6)'' and inserting ''4(5)''.

SEC. 945. DUE DILIGENCE ANALYSIS AND DISCLOSURE IN ASSET-BACKED SECURITIES ISSUES.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g), as amended by this subtitle, is amended by adding at the end the following:

''(d) REGISTRATION STATEMENT FOR ASSET-BACKED SECURITIES.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules relating to the registration statement required to be filed by any issuer of an asset-backed security (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934) that require any issuer of an asset-backed security—

''(1) to perform a due diligence analysis of the assets underlying the asset-backed security; and

''(2) to disclose the nature of the analysis under paragraph (1).''.

Subtitle E—Accountability and Executive Compensation

SEC. 951. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION DISCLOSURES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14 (15 U.S.C. 78n) the following:

''SEC. 14A. ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

''(a) SEPARATE RESOLUTION REQUIRED.—Any proxy or consent or authorization for an annual or other meeting of the shareholders occurring after the end of the 6-month period beginning on the date of enactment of this section, for which the proxy solicitation rules of the Commission require compensation disclosure, shall include a separate resolution subject to shareholder vote to approve the compensation of executives, as disclosed pursuant to section 229.402 of title 17, Code of Federal Regulations, or any successor thereto.

''(b) RULE OF CONSTRUCTION.—The shareholder vote referred to in subsection (a) shall

not be binding on the issuer or the board of directors of an issuer, and may not be construed—

''(1) as overruling a decision by such issuer or board of directors;

''(2) to create or imply any change to the fiduciary duties of such issuer or board of directors;

''(3) to create or imply any additional fiduciary duties for such issuer or board of directors; or

''(4) to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.''.

SEC. 952. COMPENSATION COMMITTEE INDEPENDENCE.

The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended by inserting after section 10B, as added by section 753, the following:

''SEC. 10C. COMPENSATION COMMITTEES.

''(a) INDEPENDENCE OF COMPENSATION COMMITTEES.—

''(1) LISTING STANDARDS.—The Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this subsection.

''(2) INDEPENDENCE OF COMPENSATION COMMITTEES.—The rules of the Commission under paragraph (1) shall require that each member of the compensation committee of the board of directors of an issuer be—

''(A) a member of the board of directors of the issuer; and

''(B) independent.

''(3) INDEPENDENCE.—The rules of the Commission under paragraph (1) shall require that, in determining the definition of the term 'independence' for purposes of paragraph (2), the national securities exchanges and the national securities associations shall consider relevant factors, including—

''(A) the source of compensation of a member of the board of directors of an issuer, including any consulting, advisory, or other compensatory fee paid by the issuer to such member of the board of directors; and

''(B) whether a member of the board of directors of an issuer is affiliated with the issuer, a subsidiary of the issuer, or an affiliate of a subsidiary of the issuer.

''(4) EXEMPTION AUTHORITY.—The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a particular relationship from the requirements of paragraph (2), with respect to the members of a compensation committee, as the national securities exchange or national securities association determines is appropriate, taking into consideration the size of an issuer and any other relevant factors.

''(b) INDEPENDENCE OF COMPENSATION CONSULTANTS AND OTHER COMPENSATION COMMITTEE ADVISERS.—

''(1) IN GENERAL.—The compensation committee of an issuer may only select a compensation consultant, legal counsel, or other adviser to the compensation committee after taking into consideration the factors identified by the Commission under paragraph (2).

''(2) RULES.—The Commission shall identify factors that affect the independence of a compensation consultant, legal counsel, or other adviser to a compensation committee of an issuer, including—

''(A) the provision of other services to the issuer by the person that employs the compensation consultant, legal counsel, or other adviser;

''(B) the amount of fees received from the issuer by the person that employs the compensation consultant, legal counsel, or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel, or other adviser;

''(C) the policies and procedures of the person that employs the compensation consultant, legal counsel, or other adviser that are designed to prevent conflicts of interest;

''(D) any business or personal relationship of the compensation consultant, legal counsel, or other adviser with a member of the compensation committee; and

''(E) any stock of the issuer owned by the compensation consultant, legal counsel, or other adviser.

''(c) COMPENSATION COMMITTEE AUTHORITY RELATING TO COMPENSATION CONSULTANTS.—

''(1) AUTHORITY TO RETAIN COMPENSATION CONSULTANT.—

''(A) IN GENERAL.—The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain or obtain the advice of a compensation consultant.

''(B) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE.—The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of a compensation consultant.

''(C) RULE OF CONSTRUCTION.—This paragraph may not be construed—

''(i) to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant; or

''(ii) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

''(2) DISCLOSURE.—In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 1 year after the date of enactment of this section, each issuer shall disclose in the proxy or consent material, in accordance with regulations of the Commission, whether—

''(A) the compensation committee of the issuer retained or obtained the advice of a compensation consultant; and

''(B) the work of the compensation consultant has raised any conflict of interest and, if so, the nature of the conflict and how the conflict is being addressed.

''(d) AUTHORITY TO ENGAGE INDEPENDENT LEGAL COUNSEL AND OTHER ADVISERS.—

''(1) IN GENERAL.—The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain and obtain the advice of independent legal counsel and other advisers.

''(2) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE.—The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of independent legal counsel and other advisers.

''(3) RULE OF CONSTRUCTION.—This subsection may not be construed—

''(A) to require a compensation committee to implement or act consistently with the advice or recommendations of independent legal counsel or other advisers under this subsection; or

''(B) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

''(e) COMPENSATION OF COMPENSATION CONSULTANTS, INDEPENDENT LEGAL COUNSEL, AND OTHER ADVISERS.—Each issuer shall provide for appropriate funding, as determined by the compensation committee in its capacity as a committee of the board of directors, for payment of reasonable compensation—

''(1) to a compensation consultant; and

''(2) to independent legal counsel or any other adviser to the compensation committee.

''(f) COMMISSION RULES.—

''(1) IN GENERAL.—Not later than 360 days after the date of enactment of this section, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of this section.

''(2) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under paragraph (1) shall provide for appropriate procedures for an issuer to have a reasonable opportunity to cure any defects that would be the basis for the prohibition under paragraph (1), before the imposition of such prohibition.

''(3) EXEMPTION AUTHORITY.—

''(A) IN GENERAL.—The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a category of issuers from the requirements under this section, as the national securities exchange or the national securities association determines is appropriate.

''(B) CONSIDERATIONS.—In determining appropriate exemptions under subparagraph (A), the national securities exchange or the national securities association shall take into account the potential impact of the requirements of this section on smaller reporting issuers.''.

SEC. 953. EXECUTIVE COMPENSATION DISCLOSURES.

(a) DISCLOSURE OF PAY VERSUS PERFORMANCE.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:

''(i) DISCLOSURE OF PAY VERSUS PERFORMANCE.—The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer a clear description of any compensation required to be disclosed by the issuer under section 229.402 of title 17, Code of Federal Regulations (or any successor thereto), including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions. The disclosure under this subsection may include a graphic representation of the information required to be disclosed.''.

(b) ADDITIONAL DISCLOSURE REQUIREMENTS.—

(1) IN GENERAL.—The Commission shall amend section 229.402 of title 17, Code of Federal Regulations, to require each issuer to disclose in any filing of the issuer described in section 229.10(a) of title 17, Code of Federal Regulations (or any successor thereto)—

(A) the median of the annual total compensation of all employees of the issuer, except the chief executive officer (or any equivalent position) of the issuer;

(B) the annual total compensation of the chief executive officer (or any equivalent position) of the issuer; and

(C) the ratio of the amount described in subparagraph (A) to the amount described in subparagraph (B).

(2) TOTAL COMPENSATION.—For purposes of this subsection, the total compensation of an employee of an issuer shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

SEC. 954. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION.

The Securities Exchange Act of 1934 is amended by inserting after section 10C, as added by section 952, the following:

''SEC. 10D. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION POLICY.

''(a) LISTING STANDARDS.—The Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this section.

''(b) RECOVERY OF FUNDS.—The rules of the Commission under subsection (a) shall require each issuer to develop and implement a policy providing—

''(1) for disclosure of the policy of the issuer on incentive-based compensation that is based on financial information required to be reported under the securities laws; and

''(2) that, in the event that the issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws, the issuer will recover from any current or former executive officer of the issuer who received incentive-based compensation (including stock options awarded as compensation) during the 3-year period preceding the date on which the issuer is required to prepare an accounting restatement, based on the erroneous data, in excess of what would have been paid to the executive officer under the accounting restatement.''.

SEC. 955. DISCLOSURE REGARDING EMPLOYEE AND DIRECTOR HEDGING.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:

''(j) DISCLOSURE OF HEDGING BY EMPLOYEES AND DIRECTORS.—The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer whether any employee or member of the board of directors of the issuer, or any designee of such employee or member, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) that are designed to hedge or offset any decrease in the market value of equity securities—

''(1) granted to the employee or member of the board of directors by the issuer as part of the compensation of the employee or member of the board of directors; or

''(2) held, directly or indirectly, by the employee or member of the board of directors.''.

SEC. 956. EXCESSIVE COMPENSATION BY HOLDING COMPANIES OF DEPOSITORY INSTITUTIONS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

''(i) EXCESSIVE COMPENSATION.—

''(1) IN GENERAL.—Not later than 180 days after the transfer date established under section 311 of the Restoring American Financial Stability Act of 2010, the Board of Governors, in consultation with the Comptroller of the Currency and the Federal Deposit Insurance Corporation, shall, by rule, establish standards prohibiting as an unsafe and unsound practice any compensation plan of a bank holding company that—

''(A) provides an executive officer, employee, director, or principal shareholder of the bank holding company with excessive compensation, fees, or benefits; or

''(B) could lead to material financial loss to the bank holding company.

''(2) CONSIDERATIONS.—In establishing the standards under paragraph (1), the Board of Governors shall take into consideration the compensation standards described in section 39(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(c)) and the views and recommendations of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.''.

SEC. 957. VOTING BY BROKERS.

Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended—

(1) in paragraph (9)—

(A) in subparagraph (A), by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively, and adjusting the margins accordingly;

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the margins accordingly;

(C) by inserting ''(A)'' after ''(9)''; and

(D) in the matter immediately following clause (iv), as so redesignated, by striking ''As used'' and inserting the following:

''(B) As used''.

(2) by adding at the end the following:

''(10)(A) The rules of the exchange prohibit any member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote described in subparagraph (B), unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner.

''(B) A shareholder vote described in this subparagraph is a shareholder vote with respect to the election of a member of the board of directors of an issuer, executive compensation, or any other significant matter, as determined by the Commission, by rule.

''(C) Nothing in this paragraph shall be construed to prohibit a national securities exchange from prohibiting a member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote not described in subparagraph (A).''.

Subtitle F—Improvements to the Management of the Securities and Exchange Commission

SEC. 961. REPORT AND CERTIFICATION OF INTERNAL SUPERVISORY CONTROLS.

(a) ANNUAL REPORTS AND CERTIFICATION.—Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the conduct by the Commission of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.

(b) CONTENTS OF REPORTS.—Each report under subsection (a) shall contain—

(1) an assessment, as of the end of the most recent fiscal year, of the effectiveness of—

(A) the internal supervisory controls of the Commission; and

(B) the procedures of the Commission applicable to the staff of the Commission who perform examinations of registered entities, enforcement investigations, and reviews of corporate financial securities filings;

(2) a certification that the Commission has adequate internal supervisory controls to carry out the duties of the Commission described in paragraph (1)(B); and

(3) a summary by the Comptroller General of the United States of the review carried out under subsection (d).

(c) CERTIFICATION.—

(1) SIGNATURE.—The certification under subsection (b)(2) shall be signed by the Director of the Division of Enforcement, the Director of the Division of Corporation Finance, and the Director of the Office of Compliance Inspections and Examinations (or the head of any successor division or office).

(2) CONTENT OF CERTIFICATION.—Each individual described in paragraph (1) shall certify that the individual—

(A) is directly responsible for establishing and maintaining the internal supervisory controls of the Division or Office of which the individual is the head;

(B) is knowledgeable about the internal supervisory controls of the Division or Office of which the individual is the head;

(C) has evaluated the effectiveness of the internal supervisory controls during the 90-day period ending on the final day of the fiscal year to which the report relates; and

(D) has disclosed to the Commission any significant deficiencies in the design or operation of internal supervisory controls that could adversely affect the ability of the Division or Office to consistently conduct inspections, or investigations, or reviews of filings with professional competence and integrity.

(d) REVIEW BY THE COMPTROLLER GENERAL.—Not later than the date on which the first report is submitted under subsection (a), the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an initial report that contains a review of the adequacy and effectiveness of the internal supervisory control structure and procedures described in subsection (b)(1).

SEC. 962. TRIENNIAL REPORT ON PERSONNEL MANAGEMENT.

(a) TRIENNIAL REPORT REQUIRED.—Once every 3 years, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the quality of personnel management by the Commission.

(b) CONTENTS OF REPORT.—Each report under subsection (a) shall include—

(1) an evaluation of—

(A) the effectiveness of supervisors in using the skills, talents, and motivation of the employees of the Commission to achieve the goals of the Commission;

(B) the criteria for promoting employees of the Commission to supervisory positions;

(C) the fairness of the application of the promotion criteria to the decisions of the Commission;

(D) the competence of the professional staff of the Commission;

(E) the efficiency of communication between the units of the Commission regarding the work of the Commission (including communication between divisions and between subunits of a division) and the efforts by the Commission to promote such communication;

(F) the turnover within subunits of the Commission, including the identification of supervisors whose subordinates have an unusually high rate of turnover;

(G) whether there are excessive numbers of low-level, mid-level, or senior-level managers;

(H) any initiatives of the Commission that increase the competence of the staff of the Commission;

(I) the actions taken by the Commission regarding employees of the Commission who have failed to perform their duties; and

(J) such other factors relating to the management of the Commission as the Comptroller General determines are appropriate;

(2) an evaluation of any improvements made with respect to the areas described in paragraph (1) since the date of submission of the previous report; and

(3) recommendations for how the Commission can use the human resources of the Commission more effectively and efficiently to carry out the mission of the Commission.

(c) CONSULTATION.—In preparing the report under subsection (a), the Comptroller General shall consult with current employees of the Commission, retired employees and other former employees of the Commission, the Inspector General of the Commission, persons that have business before the Commission, any union representing the employees of the Commission, private management consultants, academics, and any other source that the Comptroller General deems appropriate.

(d) REPORT BY COMMISSION.—Not later than 90 days after the date on which the Comptroller General submits each report under subsection (a), the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing the actions taken by the Commission in response to the recommendations contained in the report under subsection (a).

(e) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under this section, as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 963. ANNUAL FINANCIAL CONTROLS AUDIT.

(a) REPORTS OF COMMISSION.—

(1) ANNUAL REPORTS REQUIRED.—Not later than 6 months after the end of each fiscal year, the Commission shall publish and submit to Congress a report that—

(A) describes the responsibility of the management of the Commission for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(B) contains an assessment of the effectiveness of the internal control structure and procedures for financial reporting of the Commission during that fiscal year.

(2) ATTESTATION.—The reports required under paragraph (1) shall be attested to by the Chairman and chief financial officer of the Commission.

(b) REPORT BY COMPTROLLER GENERAL.—

(1) REPORT REQUIRED.—Not later than 6 months after the end of the first fiscal year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that assesses—

(A) the effectiveness of the internal control structure and procedures of the Commission for financial reporting; and

(B) the assessment of the Commission under subsection (a)(1)(B).

(2) ATTESTATION.—The Comptroller General shall attest to, and report on, the assessment made by the Commission under subsection (a).

(c) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (b), as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 964. REPORT ON OVERSIGHT OF NATIONAL SECURITIES ASSOCIATIONS.

(a) REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that includes an evaluation of the oversight by the Commission of national securities associations registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) with respect to—

(1) the governance of such national securities associations, including the identification and management of conflicts of interest by such national securities associations, together with an analysis of the impact of any conflicts of interest on the regulatory enforcement or rulemaking by such national securities associations;

(2) the examinations carried out by the national securities associations, including the expertise of the examiners;

(3) the executive compensation practices of such national securities associations;

(4) the arbitration services provided by the national securities associations;

(5) the review performed by national securities associations of advertising by the members of the national securities associations;

(6) the cooperation with and assistance to State securities administrators by the national securities associations to promote investor protection;

(7) how the funding of national securities associations is used to support the mission of the national securities associations, including—

(A) the methods of funding;

(B) the sufficiency of funds;

(C) how funds are invested by the national securities association pending use; and

(D) the impact of the methods, sufficiency, and investment of funds on regulatory enforcement by the national securities associations;

(8) the policies regarding the employment of former employees of national securities associations by regulated entities;

(9) the ongoing effectiveness of the rules of the national securities associations in achieving the goals of the rules;

(10) the transparency of governance and activities of the national securities associations; and

(11) any other issue that has an impact, as determined by the Comptroller General, on the effectiveness of such national securities associations in performing their mission and in dealing fairly with investors and members;

(b) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (a), as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 965. COMPLIANCE EXAMINERS.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(h) EXAMINERS.—

''(1) DIVISION OF TRADING AND MARKETS.—The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

''(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

''(B) report to the Director of that Division.

''(2) DIVISION OF INVESTMENT MANAGEMENT.—The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

''(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

''(B) report to the Director of that Division.''.

SEC. 966. SUGGESTION PROGRAM FOR EMPLOYEES OF THE COMMISSION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (15 U.S.C. 78d–3) the following:

''SEC. 4D. ADDITIONAL DUTIES OF INSPECTOR GENERAL.

''(a) SUGGESTION SUBMISSIONS BY COMMISSION EMPLOYEES.—

''(1) HOTLINE ESTABLISHED.—The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of—

''(A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and

''(B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.

''(2) CONFIDENTIALITY.—The Inspector General shall maintain as confidential—

''(A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and

''(B) at the request of any such individual, any specific information provided by the individual.

''(b) CONSIDERATION OF REPORTS.—The Inspector General shall consider any suggestions or allegations received by the means established under subsection (a)(1), and shall recommend appropriate action in relation to such suggestions or allegations.

''(c) RECOGNITION.—The Inspector General may recognize any employee who makes a suggestion under subsection (a)(1) (or by other means) that would or does—

''(1) increase the work efficiency, effectiveness, or productivity of the Commission; or

''(2) reduce waste, abuse, misconduct, or mismanagement within the Commission.

''(d) REPORT.—The Inspector General of the Commission shall submit to Congress an annual report containing a description of—

''(1) the nature, number, and potential benefits of any suggestions received under subsection (a);

''(2) the nature, number, and seriousness of any allegations received under subsection (a);

''(3) any recommendations made or actions taken by the Inspector General in response to substantiated allegations received under subsection (a); and

''(4) any action the Commission has taken in response to suggestions or allegations received under subsection (a).

''(e) FUNDING.—The activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under section 21F.''.

Subtitle G—Strengthening Corporate Governance

SEC. 971. ELECTION OF DIRECTORS BY MAJORITY VOTE IN UNCONTESTED ELECTIONS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following:

''SEC. 14B. CORPORATE GOVERNANCE.

''(a) CORPORATE GOVERNANCE STANDARDS.—

''(1) LISTING STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with any of the requirements of this subsection.

''(B) OPPORTUNITY TO COMPLY AND CURE.—The rules established under this paragraph shall allow an issuer to have an opportunity to come into compliance with the requirements of this subsection, and to cure any defect that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(C) AUTHORITY TO EXEMPT.—The Commission may, by rule or order, exempt an issuer from any or all of the requirements of this subsection and the rules issued under this subsection, based on the size of the issuer, the market capitalization of the issuer, the number of shareholders of record of the issuer, or any other criteria, as the Commission deems necessary and appropriate in the public interest or for the protection of investors.

''(2) COMMISSION RULES ON ELECTIONS.—In an election for membership on the board of directors of an issuer—

''(A) that is uncontested, each director who receives a majority of the votes cast shall be deemed to be elected;

''(B) that is contested, if the number of nominees exceeds the number of directors to be elected, each director shall be elected by the vote of a plurality of the shares represented at a meeting and entitled to vote; and

''(C) if a director of an issuer receives less than a majority of the votes cast in an uncontested election—

''(i) the director shall tender the resignation of the director to the board of directors; and

''(ii) the board of directors—

''(I) shall—

''(aa) accept the resignation of the director;

''(bb) determine a date on which the resignation will take effect, within a reasonable period of time, as established by the Commission; and

''(cc) make the date under item (bb) public within a reasonable period of time, as established by the Commission; or

''(II) shall, upon a unanimous vote of the board, decline to accept the resignation and, not later than 30 days after the date of the vote (or within such shorter period as the Commission may establish), make public, together with a discussion of the analysis used in reaching the conclusion, the specific reasons that—

''(aa) the board chose not to accept the resignation; and

''(bb) the decision was in the best interests of the issuer and the shareholders of the issuer.''.

SEC. 972. PROXY ACCESS.

(a) PROXY ACCESS.—Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) The rules and regulations prescribed by the Commission under paragraph (1) may include—

''(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and

''(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).''.

(b) REGULATIONS.—The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.

SEC. 973. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

Section 14B of the Securities Exchange Act of 1934, as added by section 971, is amended by adding at the end the following:

''(b) DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules that require an issuer to disclose in the annual proxy sent to investors the reasons why the issuer has chosen—

''(1) the same person to serve as chairman of the board of directors and chief executive officer (or in equivalent positions); or

''(2) different individuals to serve as chairman of the board of directors and chief executive officer (or in equivalent positions of the issuer).''.

Subtitle H—Municipal Securities

SEC. 975. REGULATION OF MUNICIPAL SECURITIES AND CHANGES TO THE BOARD OF THE MSRB.

(a) REGISTRATION OF MUNICIPAL SECURITIES DEALERS AND MUNICIPAL ADVISORS.—Section 15B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(a)) is amended—

(1) in paragraph (1)—

(A) by inserting ''(A)'' after ''(1)''; and

(B) by adding at the end the following:

''(B) It shall be unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered in accordance with this subsection.'';

(2) in paragraph (2), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(3) in paragraph (3), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(4) in paragraph (4), by striking ''dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers'' and inserting ''dealer, municipal securities dealer, or municipal advisor, or class of brokers, dealers, municipal securities dealers, or municipal advisors''; and

(5) by adding at the end the following:

''(5) No municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, in connection with which such municipal advisor engages in any fraudulent, deceptive, or manipulative act or practice.''.

(b) MUNICIPAL SECURITIES RULEMAKING BOARD.—Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(b)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''Not later than'' and all that follows through ''appointed by the Commission'' and inserting ''The Municipal Securities Rulemaking Board shall be composed of 15 members, or such other number of members as specified by rules of the Board pursuant to paragraph (2)(B),'';

(B) by striking the second sentence and inserting the following: ''The members of the Board shall serve as members for a term of 3 years or for such other terms as specified by rules of the Board pursuant to paragraph (2)(B), and shall consist of (A) 8 individuals who are not associated with any broker, dealer, municipal securities dealer, or municipal advisor (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a municipal securities broker or municipal securities dealer), at least 1 of whom shall be representative of institutional or retail investors in municipal securities, at least 1 of whom shall be representative of municipal entities, and at least 1 of whom shall be a member of the public with knowledge of or experience in the municipal industry (which members are hereinafter referred to as 'public representatives'); and (B) 7 individuals who are associated with a broker, dealer, municipal securities dealer, or municipal advisor, including at least 1 individual who is associated with and representative of brokers, dealers, or municipal securities dealers that are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'broker-dealer representatives'), at least 1 individual who is associated with and representative of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'bank representatives'), and at least 1 individual who is associated with a municipal advisor (which member is hereinafter referred to as the 'advisor representative').''; and

(C) in the third sentence, by striking ''initial'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting before the period at the end of the first sentence the following: ''and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors''; and

(ii) by striking the second sentence;

(B) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting '', and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities'' after ''sale of, any municipal security''; and

(II) by inserting ''and municipal entities or obligated persons'' after ''protection of investors'';

(ii) in clause (i), by striking ''municipal securities brokers and municipal securities dealers'' each place that term appears and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors'';

(iii) in clause (ii), by adding ''and'' at the end;

(iv) in clause (iii), by striking ''; and'' and inserting a period; and

(v) by striking clause (iv);

(C) in subparagraph (B), by striking ''nominations and elections'' and all that follows through ''specify'' and inserting ''nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives. Such rules shall provide that the membership of the Board shall at all times be as evenly divided in number as possible between entities or individuals who are subject to regulation by the Board and entities or individuals not subject to regulation by the Board, provided, however, that a majority of the members of the Board shall at all times be public representatives. Such rules shall also specify'';

(D) in subparagraph (C)—

(i) by inserting ''and municipal financial products'' after ''municipal securities'' the first two times that term appears;

(ii) by inserting '', municipal entities, obligated persons,'' before ''and the public interest'';

(iii) by striking ''between'' and inserting ''among'';

(iv) by striking ''issuers, municipal securities brokers, or municipal securities dealers, to fix'' and inserting ''municipal entities, obligated persons, municipal securities brokers, municipal securities dealers, or municipal advisors, to fix''; and

(v) by striking ''brokers or municipal securities dealers, to regulate'' and inserting ''brokers, municipal securities dealers, or municipal advisors, to regulate'';

(E) in subparagraph (D)—

(i) by inserting ''and advice concerning municipal financial products'' after ''transactions in municipal securities'';

(ii) by striking ''That no'' and inserting ''that no'';

(iii) by inserting ''municipal advisor,'' before ''or person associated''; and

(iv) by striking ''a municipal securities broker or municipal securities dealer may be compelled'' and inserting ''a municipal securities broker, municipal securities dealer, or municipal advisor may be compelled'';

(F) in subparagraph (E)—

(i) by striking ''municipal securities brokers and municipal securities dealers'' and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors''; and

(ii) by striking ''municipal securities broker or municipal securities dealer'' and inserting ''municipal securities broker, municipal securities dealer, or municipal advisor'';

(G) in subparagraph (G), by striking ''municipal securities brokers and municipal securities dealers'' and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors'';

(H) in subparagraph (J)—

(i) by striking ''municipal securities broker and each municipal securities dealer'' and inserting ''municipal securities broker, municipal securities dealer, and municipal advisor''; and

(ii) by striking the period at the end of the second sentence and inserting '', which may include charges for failure to submit to the Board required information or documents to any information system operated by the Board in a full, accurate, or timely manner, or any other failure to comply with the rules of the Board.'';

(I) in subparagraph (K)—

(i) by inserting ''broker, dealer, or'' before ''municipal securities dealer'' each place that term appears; and

(ii) by striking ''municipal securities investment portfolio'' and inserting ''related account of a broker, dealer, or municipal securities dealer''; and

(J) by adding at the end the following:

''(L) provide continuing education requirements for municipal advisors.

''(M) provide professional standards.

''(N) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons.'';

(3) by redesignating paragraph (3) as paragraph (7); and

(4) by inserting after paragraph (2) the following:

''(3) The Board, in conjunction with or on behalf of any Federal financial regulator or self-regulatory organization, may—

''(A) establish information systems; and

''(B) assess such reasonable fees and charges for the submission of information to, or the receipt of information from, such systems from any persons which systems may be developed for the purposes of serving as a repository of information from municipal market participants or otherwise in furtherance of the purposes of the Board, a Federal financial regulator, or a self-regulatory organization.

''(4) The Board shall provide guidance and assistance in the enforcement of, and examination for, compliance with the rules of the Board to the Commission, a registered securities association under section 15A, or any other appropriate regulatory agency, as applicable.''.

(c) DISCIPLINE OF DEALERS AND MUNICIPAL ADVISORS AND OTHER MATTERS.—Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)) is amended—

(1) in paragraph (1), by inserting '', and no broker, dealer, municipal securities dealer, or municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person,'' after ''any municipal security'';

(2) in paragraph (2), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(3) in paragraph (3)—

(A) by inserting ''or municipal entities or obligated person'' after ''protection of investors'' each place that term appears; and

(B) by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(4) in paragraph (4), by inserting ''or municipal advisor'' after ''municipal securities dealer or obligated person'' each place that term appears;

(5) in paragraph (6)(B), by inserting ''or municipal entities'' after ''protection of investors'';

(6) in paragraph (7)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''; and'' and inserting a semicolon;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) the Commission, or its designee, in the case of municipal advisors.''.

(B) in subparagraph (B), by inserting ''or municipal entities or obligated person'' after ''protection of investors''; and

(7) by adding at the end the following:

''(9)(A) Fines collected by the Commission for violations of the rules of the Board shall be equally divided between the Commission and the Board.

''(B) Fines collected by a registered securities association under section 15A(7) with respect to violations of the rules of the Board shall be accounted for by such registered securities association separately from other fines collected under section 15A(7) and shall be allocated between such registered securities association and the Board at the direction of the Commission.''.

(d) ISSUANCE OF MUNICIPAL SECURITIES.—Section 15B(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(d)) is amended—

(1) by striking ''through a municipal securities broker or municipal securities dealer or otherwise'' and inserting ''through a municipal securities broker, municipal securities dealer, municipal advisor, or otherwise''; and

(2) by inserting ''or municipal advisors'' before ''to furnish''.

(e) DEFINITIONS.—Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4) is amended by adding at the end the following:

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'Board' means the Municipal Securities Rulemaking Board established under subsection (b)(1);

''(2) the term 'guaranteed investment contract' includes any investment that has specified withdrawal or reinvestment provisions and a specifically negotiated or bid interest rate, and also includes any agreement to supply investments on 2 or more future dates, such as a forward supply contract;

''(3) the term 'investment strategies' includes plans or programs for the investment of the proceeds of municipal securities that are not municipal derivatives, guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments;

''(4) the term 'municipal advisor'—

''(A) means a person (who is not a municipal entity or an employee of a municipal entity) that—

''(i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues;

''(ii) participates in the issuance of municipal securities; or

''(iii) undertakes a solicitation of a municipal entity;

''(B) includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors, if such persons are described in any of clauses (i) through (iii) of subparagraph (A); and

''(C) does not include a broker, dealer, or municipal securities dealer serving as an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)), any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice, attorneys offering legal advice or providing services that are of a traditional legal nature, or engineers providing engineering advice;

''(5) the term 'municipal derivative' means any financial instrument or contract designed to hedge a risk (including interest rate swaps, basis swaps, credit default swaps, caps, floors, and collars);

''(6) the term 'municipal financial product' means municipal derivatives, guaranteed investment contracts, and investment strategies;

''(7) the term 'rules of the Board' means the rules proposed and adopted by the Board under subsection (b)(2);

''(8) the term 'person associated with a municipal advisor' or 'associated person of an advisor' means—

''(A) any partner, officer, director, or branch manager of such municipal advisor (or any person occupying a similar status or performing similar functions);

''(B) any other employee of such municipal advisor who is engaged in the management, direction, supervision, or performance of any activities relating to the provision of advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities; and

''(C) any person directly or indirectly controlling, controlled by, or under common control with such municipal advisor;

''(9) the term 'municipal entity' means any State, political subdivision of a State, or municipal corporate instrumentality of a State, including—

''(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;

''(B) any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and

''(C) any other issuer of municipal securities;

''(10) the term 'solicitation of a municipal entity or obligated person' means a direct or indirect communication with a municipal entity or obligated person made by a person, for direct or indirect compensation, on behalf of a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined in section 202 of the Investment Advisers Act of 1940) that does not control, is not controlled by, or is not under common control with the person undertaking such solicitation for the purpose of obtaining or retaining an engagement by a municipal entity or obligated person of a broker, dealer, municipal securities dealer, or municipal advisor for or in connection with municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or of an investment adviser to provide investment advisory services to or on behalf of a municipal entity; and

''(11) the term 'obligated person' means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person, committed by contract or other arrangement to support the payment of all or part of the obligations on the municipal securities to be sold in an offering of municipal securities.''.

(f) REGISTERED SECURITIES ASSOCIATION.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following:

''(15) The rules of the association provide that the association shall—

''(A) request guidance from the Municipal Securities Rulemaking Board in interpretation of the rules of the Municipal Securities Rulemaking Board; and

''(B) provide information to the Municipal Securities Rulemaking Board about the enforcement actions and examinations of the association under section 15B(b)(2)(E), so that the Municipal Securities Rulemaking Board may—

''(i) assist in such enforcement actions and examinations; and

''(ii) evaluate the ongoing effectiveness of the rules of the Board.''.

(g) REGISTRATION AND REGULATION OF BROKERS AND DEALERS.—Section 15 of the Securities Exchange Act of 1934 is amended—

(1) in subsection (b)(4), by inserting ''municipal advisor,'' after ''municipal securities dealer'' each place that term appears; and

(2) in subsection (c), by inserting ''broker, dealer, or'' before ''municipal securities dealer'' each place that term appears.

(h) ACCOUNTS AND RECORDS, REPORTS, EXAMINATIONS OF EXCHANGES, MEMBERS, AND OTHERS.—Section 17(a)(1) of the Securities Exchange Act of 1934 is amended by inserting ''municipal advisor,'' after ''municipal securities dealer''.

(i) SAVINGS CLAUSE.—Notwithstanding any provision of the Over-the-Counter Derivatives

Markets Act of 2010, or any amendment made pursuant to such Act, the provisions of this section, and the amendments made pursuant to this section, shall apply to any municipal derivative.

(j) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on October 1, 2010.

SEC. 976. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF INCREASED DISCLOSURE TO INVESTORS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and review of the disclosure required to be made by issuers of municipal securities.

(b) SUBJECTS FOR EVALUATION.—In conducting the study under subsection (a), the Comptroller General of the United States shall—

(1) broadly describe—

(A) the size of the municipal securities markets and the issuers and investors; and

(B) the disclosures provided by issuers to investors;

(2) compare the amount, frequency, and quality of disclosures that issuers of municipal securities are required by law to provide for the benefit of municipal securities holders, including the amount of and frequency of disclosures actually provided by issuers of municipal securities, with the amount of and frequency of disclosures that issuers of corporate securities provide for the benefit of corporate securities holders, taking into account the differences between issuers of municipal securities and issuers of corporate securities;

(3) evaluate the costs and benefits to various types of issuers of municipal securities of requiring issuers of municipal bonds to provide additional financial disclosures for the benefit of investors;

(4) evaluate the potential benefit to investors from additional financial disclosures by issuers of municipal bonds; and

(5) make recommendations relating to disclosure requirements for municipal issuers, including the advisability of the repeal or retention of section 15B(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(d)) (commonly known as the ''Tower Amendment'').

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study conducted under subsection (a), including recommendations for how to improve disclosure by issuers of municipal securities.

SEC. 977. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE MUNICIPAL SECURITIES MARKETS.

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

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with copies to the Special Committee on Aging of the Senate and the Commission, on the results of the study conducted under subsection (a), including—

(1) an analysis of the mechanisms for trading, quality of trade executions, market transparency, trade reporting, price discovery, settlement clearing, and credit enhancements;

(2) the needs of the markets and investors and the impact of recent innovations;

(3) recommendations for how to improve the transparency, efficiency, fairness, and liquidity of trading in the municipal securities markets, including with reference to items listed in paragraph (1); and

(4) potential uses of derivatives in the municipal securities markets.

(c) RESPONSES.—Not later than 180 days after receipt of the report required under subsection (b), the Commission shall submit a response to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with a copy to the Special Committee on Aging of the Senate, stating the actions the Commission has taken in response to the recommendations contained in such report.

SEC. 978. STUDY OF FUNDING FOR GOVERNMENT ACCOUNTING STANDARDS BOARD.

(a) STUDY.—The Commission shall conduct a study that evaluates—

(1) the role and importance of the Government Accounting Standards Board in the municipal securities markets;

(2) the manner in which the Government Accounting Standards Board is funded, and how such manner of funding affects the financial information available to securities investors;

(3) the advisability of changes to the manner in which the Government Accounting Standards Board is funded; and

(4) whether legislative changes to the manner in which the Government Accounting Standards Board is funded are necessary for the benefit of investors and in the public interest.

(b) CONSULTATION.—In conducting the study required under subsection (a), the Commission shall consult with State and local government financial officers.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under subsection (a).

SEC. 979. COMMISSION OFFICE OF MUNICIPAL SECURITIES.

(a) IN GENERAL.—There shall be in the Commission an Office of Municipal Securities, which shall—

(1) administer the rules of the Commission with respect to the practices of municipal securities brokers and dealers, municipal securities advisors, municipal securities investors, and municipal securities issuers; and

(2) coordinate with the Municipal Securities Rulemaking Board for rulemaking and enforcement actions as required by law.

(b) DIRECTOR OF THE OFFICE.—The head of the Office of Municipal Securities shall be the Director, who shall report to the Chairman.

(c) STAFFING.—

(1) IN GENERAL.—The Office of Municipal Securities shall be staffed sufficiently to carry out the requirements of this section.

(2) REQUIREMENT.—The staff of the Office of Municipal Securities shall include individuals with knowledge of and expertise in municipal finance.

Subtitle I—Public Company Accounting Oversight Board, Portfolio Margining, and Other Matters

SEC. 981. AUTHORITY TO SHARE CERTAIN INFORMATION WITH FOREIGN AUTHORITIES.

(a) DEFINITION.—Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by adding at the end the following:

''(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY.—The term 'foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.''.

(b) AVAILABILITY TO SHARE INFORMATION.—Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following:

''(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm that a foreign government has empowered a foreign auditor oversight authority to inspect or otherwise enforce laws with respect to, may, at the discretion of the Board, be made available to the foreign auditor oversight authority, if—

''(i) the Board finds that it is necessary to accomplish the purposes of this Act or to protect investors;

''(ii) the foreign auditor oversight authority provides—

''(I) such assurances of confidentiality as the Board may request;

''(II) a description of the applicable information systems and controls of the foreign auditor oversight authority; and

''(III) a description of the laws and regulations of the foreign government of the foreign auditor oversight authority that are relevant to information access; and

''(iii) the Board determines that it is appropriate to share such information.''.

(c) CONFORMING AMENDMENT.—Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

SEC. 982. OVERSIGHT OF BROKERS AND DEALERS.

(a) DEFINITIONS.—

(1) DEFINITIONS AMENDED.—Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) is amended by adding at the end the following new section:

''SEC. 110. DEFINITIONS.

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

''(1) AUDIT.—The term 'audit' means an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.

''(2) AUDIT REPORT.—The term 'audit report' means a document, report, notice, or other record—

''(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and

''(B) in which a public accounting firm either—

''(i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or

''(ii) asserts that no such opinion can be expressed.

''(3) BROKER.—The term 'broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

''(4) DEALER.—The term 'dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

''(5) PROFESSIONAL STANDARDS.—The term 'professional standards' means—

''(A) accounting principles that are—

''(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and

''(ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the

quality control system of a particular registered public accounting firm; and

''(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

''(i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and

''(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.

''(6) SELF-REGULATORY ORGANIZATION.—The term 'self-regulatory organization' has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).''.

(2) CONFORMING AMENDMENT.—Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended in the matter preceding paragraph (1), by striking ''In this'' and inserting ''Except as otherwise specifically provided in this Act, in this''.

(b) ESTABLISHMENT AND ADMINISTRATION OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.—Section 101 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211) is amended—

(1) by striking ''issuers'' each place that term appears and inserting ''issuers, brokers, and dealers''; and

(2) in subsection (a)—

(A) by striking ''public companies'' and inserting ''companies''; and

(B) by striking ''for companies the securities of which are sold to, and held by and for, public investors''.

(c) REGISTRATION WITH THE BOARD.—Section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212) is amended—

(1) in subsection (a)—

(A) by striking ''Beginning 180'' and all that follows through ''101(d), it'' and inserting ''It''; and

(B) by striking ''issuer'' and inserting ''issuer, broker, or dealer'';

(2) in subsection (b)—

(A) in paragraph (2)(A), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''; and

(B) by striking ''issuer'' each place that term appears and inserting ''issuer, broker, or dealer''.

(d) AUDITING AND INDEPENDENCE.—Section 103(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213(a)) is amended—

(1) in paragraph (1), by striking ''and such ethics standards'' and inserting ''such ethics standards, and such independence standards'';

(2) in paragraph (2)(A)(iii), by striking ''describe in each audit report'' and inserting ''in each audit report for an issuer, describe''; and

(3) in paragraph (2)(B)(i), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''.

(e) INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.—Section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214) is amended—

(1) in subsection (a), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''; and

(2) in subsection (b)(1)—

(A) by striking ''audit reports for'' each place that term appears and inserting ''audit reports on annual financial statements for'';

(B) in subparagraph (A), by striking ''and'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(C) with respect to each registered public accounting firm that regularly provides audit reports and that is not described in subparagraph (A) or (B), on a basis determined by the Board, by rule, that is consistent with the public interest and protection of investors.''.

(f) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—Section 105(c)(7)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(7)(B)) is amended—

(1) in the subparagraph heading, by inserting '', BROKER, OR DEALER'' after ''ISSUER'';

(2) by striking ''any issuer'' each place that term appears and inserting ''any issuer, broker, or dealer''; and

(3) by striking ''an issuer under this subsection'' and inserting ''a registered public accounting firm under this subsection''.

(g) FOREIGN PUBLIC ACCOUNTING FIRMS.—Section 106(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216(a)) is amended—

(1) in paragraph (1), by striking ''issuer'' and inserting ''issuer, broker, or dealer''; and

(2) in paragraph (2), by striking ''issuers'' and inserting ''issuers, brokers, or dealers''.

(h) FUNDING.—Section 109 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7219) is amended—

(1) in subsection (c)(2), by striking ''subsection (i)'' and inserting ''subsection (j)'';

(2) in subsection (d)—

(A) in paragraph (2), by striking ''allowing for differentiation among classes of issuers, as appropriate'' and inserting ''and among brokers and dealers, in accordance with subsection (h), and allowing for differentiation among classes of issuers, brokers and dealers, as appropriate''; and

(B) by adding at the end the following:

''(3) BROKERS AND DEALERS.—The Board shall begin the allocation, assessment, and collection of fees under paragraph (2) with respect to brokers and dealers with the payment of support fees to fund the first full fiscal year beginning after the effective date of this paragraph.'';

(3) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

(4) by inserting after subsection (g) the following:

''(h) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG BROKERS AND DEALERS.—

''(1) OBLIGATION TO PAY.—Each broker or dealer shall pay to the Board the annual accounting support fee allocated to such broker or dealer under this section.

''(2) ALLOCATION.—Any amount due from a broker or dealer (or from a particular class of brokers and dealers) under this section shall be allocated among brokers and dealers and payable by the broker or dealer (or the brokers and dealers in the particular class, as applicable).

''(3) PROPORTIONALITY.—The amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer, compared to the total net capital of all brokers and dealers, in accordance with rules issued by the Board.''.

(i) REFERRAL OF INVESTIGATIONS TO A SELF-REGULATORY ORGANIZATION.—Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(4)(B)) is amended—

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

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

''(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization;''.

(j) USE OF DOCUMENTS RELATED TO AN INSPECTION OR INVESTIGATION.—Section 105(b)(5)(B)(ii) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)) is amended—

(1) in subclause (III), by striking ''and'' at the end;

(2) in subclause (IV), by striking the comma and inserting ''; and''; and

(3) by inserting after subclause (IV) the following:

''(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization,''.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 983. PORTFOLIO MARGINING.

(a) ADVANCES.—Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff–3(a)(1)) is amended by inserting ''or options on commodity futures contracts'' after ''claim for securities''.

(b) DEFINITIONS.—Section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) CUSTOMER.—

''(A) IN GENERAL.—The term 'customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer.

''(B) INCLUDED PERSONS.—The term 'customer' includes—

''(i) any person who has deposited cash with the debtor for the purpose of purchasing securities;

''(ii) any person who has a claim against the debtor for cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; and

''(iii) any person who has a claim against the debtor arising out of sales or conversions of such securities.

''(C) EXCLUDED PERSONS.—The term 'customer' does not include any person, to the extent that—

''(i) the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or

''(ii) such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.'';

(2) in paragraph (4)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following:

''(D) in the case of a portfolio margining account of a customer that is carried as a securities account pursuant to a portfolio margining program approved by the Commission, a futures contract or an option on a futures contract received, acquired, or held by or for the account of a debtor from or for such portfolio margining account, and the proceeds thereof; and'';

(3) in paragraph (9), in the matter following subparagraph (L), by inserting after ''Such term'' the following: ''includes revenues earned by a broker or dealer in connection with a transaction in the portfolio margining account of a customer carried as securities accounts pursuant to a portfolio margining program approved by the Commission. Such term''; and

(4) in paragraph (11)—

(A) in subparagraph (A)—

(i) by striking ''filing date, all'' and all that follows through the end of the subparagraph and inserting the following: ''filing date—

''(i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and

''(ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission, including all property collateralizing such positions, to the extent that such property is not otherwise included herein; minus''; and

(B) in the matter following subparagraph (C), by striking ''In determining'' and inserting the following: ''A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission or a claim for a security futures contract, shall be deemed to be a claim with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash. In determining''.

SEC. 984. LOAN OR BORROWING OF SECURITIES.

(a) RULEMAKING AUTHORITY.—Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following:

''(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

''(2) Nothing in paragraph (1) may be construed to limit the authority of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency having a responsibility under Federal law to prescribe rules or regulations restricting transactions involving the loan or borrowing of securities in order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.''.

(b) RULEMAKING REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Commission shall promulgate rules that are designed to increase the transparency of information available to brokers, dealers, and investors, with respect to the loan or borrowing of securities.

SEC. 985. TECHNICAL CORRECTIONS TO FEDERAL SECURITIES LAWS.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking ''individual;'' and inserting ''individual,'';

(2) in section 18 (15 U.S.C. 77r)—

(A) in subsection (b)(1)(C), by striking ''is a security'' and inserting ''a security''; and

(B) in subsection (c)(2)(B)(i), by striking ''State, or'' and inserting ''State or'';

(3) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking ''in paragraph (1) of (3)'' and inserting ''in paragraph (1) or (3)''; and

(4) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z–2(c)(1)(B)(ii)), by striking ''business entity;'' and inserting ''business entity,''.

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 2 (15 U.S.C. 78b), by striking ''affected'' and inserting ''effected'';

(2) in section 3 (15 U.S.C. 78c)—

(A) in subsection (a)(55)(A), by striking ''section 3(a)(12) of the Securities Exchange Act of 1934'' and inserting ''section 3(a)(12) of this title''; and

(B) in subsection (g), by striking ''company, account person, or entity'' and inserting ''company, account, person, or entity'';

(3) in section 10A(i)(1)(B) (15 U.S.C. 78j–1(i)(1)(B))—

(A) in the subparagraph heading, by striking ''MINIMUS'' and inserting ''MINIMIS''; and

(B) in clause (i), by striking ''nonaudit'' and inserting ''non-audit'';

(4) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking ''earning statement'' and inserting ''earnings statement'';

(5) in section 15 (15 U.S.C. 78o)—

(A) in subsection (b)(1)—

(i) in subparagraph (B), by striking ''The order granting'' and all that follows through ''from such membership.''; and

(ii) in the undesignated matter immediately following subparagraph (B), by inserting after the first sentence the following: ''The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange, if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.'';

(6) in section 15C(a)(2) (15 U.S.C. 78o–5(a)(2))—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;

(B) in subparagraph (B), as so redesignated, by striking ''The order granting'' and all that follows through ''from such membership.''; and

(C) in the matter following subparagraph (B), as so redesignated, by inserting after the first sentence the following: ''The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.'';

(7) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking ''15A(k) gives'' and inserting ''15A(k), give''; and

(8) in section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)), by striking ''paragraph (1) subsection'' and inserting ''Paragraph (1)''.

(c) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended—

(1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking ''section 2 of such Act'' and inserting ''section 2(a) of such Act''; and

(2) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking '', in the'' and inserting ''in the''.

(d) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended—

(1) in section 2(a)(19) (15 U.S.C. 80a–2(a)(19)), in the matter following subparagraph (B)(vii)—

(A) by striking ''clause (vi)'' each place that term appears and inserting ''clause (vii)''; and

(B) in each of subparagraphs (A)(vi) and (B)(vi), by adding ''and'' at the end of subclause (III);

(2) in section 9(b)(4)(B) (15 U.S.C. 80a–9(b)(4)(B)), by adding ''or'' after the semicolon at the end;

(3) in section 12(d)(1)(J) (15 U.S.C. 80a–12(d)(1)(J)), by striking ''any provision of this subsection'' and inserting ''any provision of this paragraph'';

(4) in section 17(f) (15 U.S.C. 80a–17(f))—

(A) in paragraph (4), by striking ''No such member'' and inserting ''No member of a national securities exchange''; and

(B) in paragraph (6), by striking ''company may serve'' and inserting ''company, may serve''; and

(5) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a–60(a)(3)(B)(iii))—

(A) by striking ''paragraph (1) of section 205'' and inserting ''section 205(a)(1)''; and

(B) by striking ''clause (A) or (B) of that section'' and inserting ''paragraph (1) or (2) of section 205(b)''.

(e) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended—

(1) in section 203 (15 U.S.C. 80b–3)—

(A) in subsection (c)(1)(A), by striking ''principal business office and'' and inserting ''principal office, principal place of business, and''; and

(B) in subsection (k)(4)(B), in the matter following clause (ii), by striking ''principal place of business'' and inserting ''principal office or place of business'';

(2) in section 206(3) (15 U.S.C. 80b–6(3)), by adding ''or'' after the semicolon at the end;

(3) in section 213(a) (15 U.S.C. 80b–13(a)), by striking ''principal place of business'' and inserting ''principal office or place of business''; and

(4) in section 222 (15 U.S.C. 80b–18a), by striking ''principal place of business'' each place that term appears and inserting ''principal office and place of business''.

SEC. 986. CONFORMING AMENDMENTS RELATING TO REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

(a) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking ''the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.),'';

(2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows:

''(7) DEFINITION.—For purposes of this subsection, the term 'emergency' means—

''(A) a major market disturbance characterized by or constituting—

''(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

''(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

''(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

''(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

''(ii) the transmission or processing of securities transactions.''; and

(3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking ''section 18(c) of the Public Utility Holding Company Act of 1935,''.

(b) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended—

(1) in section 303 (15 U.S.C. 77ccc), by striking paragraph (17) and inserting the following:

''(17) The terms 'Securities Act of 1933' and 'Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.'';

(2) in section 308 (15 U.S.C. 77hhh), by striking ''Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935'' each place that term appears and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934'';

(3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c);

(4) in section 311 (15 U.S.C. 77kkk), by striking subsection (c);

(5) in section 323(b) (15 U.S.C. 77www(b)), by striking ''Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935'' and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934''; and

(6) in section 326 (15 U.S.C. 77zzz), by striking ''Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,'' and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934''.

(c) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended—

(1) in section 2(a)(44) (15 U.S.C. 80a–2(a)(44)), by striking ''''Public Utility Holding Company Act of 1935','';

(2) in section 3(c) (15 U.S.C. 80a–3(c)), by striking paragraph (8) and inserting the following:

''(8) [Repealed]'';

(3) in section 38(b) (15 U.S.C. 80a–37(b)), by striking ''the Public Utility Holding Company Act of 1935,''; and

(4) in section 50 (15 U.S.C. 80a–49), by striking ''the Public Utility Holding Company Act of 1935,''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(21)) is amended by striking '''Public Utility Holding Company Act of 1935',''.

SEC. 987. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE DEPOSIT INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS.

(a) IN GENERAL.—Section 38(k) of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended—

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

''(B) MATERIAL LOSS DEFINED.—The term 'material loss' means any estimated loss in excess of—

''(i) $100,000,000, if the loss occurs during the period beginning on September 30, 2009, and ending on December 31, 2010;

''(ii) $75,000,000, if the loss occurs during the period beginning on January 1, 2011, and ending on December 31, 2011; and

''(iii) $50,000,000, if the loss occurs on or after January 1, 2012.'';

(2) in paragraph (4)(A) by striking ''the report'' and inserting ''any report on losses required under this subsection,'';

(3) by striking paragraph (6);

(4) by redesignating paragraph (5) as paragraph (6); and

(5) by inserting after paragraph (4) the following:

''(5) LOSSES THAT ARE NOT MATERIAL.—

''(A) SEMIANNUAL REPORT.—For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of each Federal banking agency shall—

''(i) identify losses that the Inspector General estimates have been incurred by the Deposit Insurance Fund during that 6-month period, with respect to the insured depository institutions supervised by the Federal banking agency;

''(ii) for each loss incurred by the Deposit Insurance Fund that is not a material loss, determine—

''(I) the grounds identified by the Federal banking agency or State bank supervisor for appointing the Corporation as receiver under section 11(c)(5); and

''(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and

''(iii) prepare and submit a written report to the appropriate Federal banking agency and to Congress on the results of any determination by the Inspector General, including—

''(I) an identification of any loss that warrants an in-depth review, together with the reasons why such review is warranted, or, if the Inspector General determines that no review is warranted, an explanation of such determination; and

''(II) for each loss identified under subclause (I) that warrants an in-depth review, the date by which such review, and a report on such review prepared in a manner consistent with reports under paragraph (1)(A), will be completed and submitted to the Federal banking agency and Congress.

''(B) DEADLINE FOR SEMIANNUAL REPORT.—The Inspector General of each Federal banking agency shall—

''(i) submit each report required under paragraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and

''(ii) provide a copy of the report required under paragraph (A) to any Member of Congress, upon request.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The heading for subsection (k) of section 38 of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended to read as follows:

''(k) REVIEWS REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS LOSSES.—''.

SEC. 988. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE NATIONAL CREDIT UNION SHARE INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS.

(a) IN GENERAL.—Section 216(j) of the Federal Credit Union Act (12 U.S.C. 1790d(j)) is amended to read as follows:

''(j) REVIEWS REQUIRED WHEN SHARE INSURANCE FUND EXPERIENCES LOSSES.—

''(1) IN GENERAL.—If the Fund incurs a material loss with respect to an insured credit union, the Inspector General of the Board shall—

''(A) submit to the Board a written report reviewing the supervision of the credit union by the Administration (including the implementation of this section by the Administration), which shall include—

''(i) a description of the reasons why the problems of the credit union resulted in a material loss to the Fund; and

''(ii) recommendations for preventing any such loss in the future; and

''(B) submit a copy of the report under subparagraph (A) to—

''(i) the Comptroller General of the United States;

''(ii) the Corporation;

''(iii) in the case of a report relating to a State credit union, the appropriate State supervisor; and

''(iv) to any Member of Congress, upon request.

''(2) MATERIAL LOSS DEFINED.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union, a loss is material if it exceeds the sum of—

''(A) $25,000,000; and

''(B) an amount equal to 10 percent of the total assets of the credit union on the date on which the Board initiated assistance under section 208 or was appointed liquidating agent.

''(3) PUBLIC DISCLOSURE REQUIRED.—

''(A) IN GENERAL.—The Board shall disclose a report under this subsection, upon request under section 552 of title 5, United States Code, without excising—

''(i) any portion under section 552(b)(5) of title 5, United States Code; or

''(ii) any information about the insured credit union (other than trade secrets) under section 552(b)(8) of title 5, United States Code.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as requiring the agency to disclose the name of any customer of the insured credit union (other than an institution-affiliated party), or information from which the identity of such customer could reasonably be ascertained.

''(4) LOSSES THAT ARE NOT MATERIAL.—

''(A) SEMIANNUAL REPORT.—For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of the Board shall—

''(i) identify any losses that the Inspector General estimates were incurred by the Fund during such 6-month period, with respect to insured credit unions;

''(ii) for each loss to the Fund that is not a material loss, determine—

''(I) the grounds identified by the Board or the State official having jurisdiction over a State credit union for appointing the Board as the liquidating agent for any Federal or State credit union; and

''(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and

''(iii) prepare and submit a written report to the Board and to Congress on the results of the determinations of the Inspector General that includes—

''(I) an identification of any loss that warrants an in-depth review, and the reasons such review is warranted, or if the Inspector General determines that no review is warranted, an explanation of such determination; and

''(II) for each loss identified in subclause (I) that warrants an in-depth review, the date by which such review, and a report on the review prepared in a manner consistent with reports under paragraph (1)(A), will be completed.

''(B) DEADLINE FOR SEMIANNUAL REPORT.—The Inspector General of the Board shall—

''(i) submit each report required under subparagraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and

''(ii) provide a copy of the report required under subparagraph (A) to any Member of Congress, upon request.

''(5) GAO REVIEW.—The Comptroller General of the United States shall, under such conditions as the Comptroller General determines to be appropriate—

''(A) review each report made under paragraph (1), including the extent to which the Inspector General of the Board complied with the requirements under section 8L of the Inspector General Act of 1978 (5 U.S.C. App.) with respect to each such report; and

''(B) recommend improvements to the supervision of insured credit unions (including improvements relating to the implementation of this section).''.

SEC. 989. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON PROPRIETARY TRADING.

(a) DEFINITIONS.—In this section—

(1) the term ''covered entity'' means—

(A) an insured depository institution, an affiliate of an insured depository institution, a bank holding company, a financial holding company, or a subsidiary of a bank holding company or a financial holding company, as those terms are defined in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.); and

(B) any other entity, as the Comptroller General of the United States may determine; and

(2) the term ''proprietary trading'' means the act of a covered entity investing as a principal in securities, commodities, derivatives, hedge funds, private equity firms, or such other financial products or entities as the Comptroller General may determine.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the risks and conflicts associated with proprietary trading by and within covered entities, including an evaluation of—

(A) whether proprietary trading presents a material systemic risk to the stability of the United States financial system, and if so, the costs and benefits of options for mitigating such systemic risk;

(B) whether proprietary trading presents material risks to the safety and soundness of the covered entities that engage in such activities, and if so, the costs and benefits of options for mitigating such risks;

(C) whether proprietary trading presents material conflicts of interest between covered entities that engage in proprietary trading and the clients of the institutions who use the firm to execute trades or who rely on the firm to manage assets, and if so, the costs and benefits of options for mitigating such conflicts of interest;

(D) whether adequate disclosure regarding the risks and conflicts of proprietary trading is provided to the depositors, trading and asset management clients, and investors of covered entities that engage in proprietary trading, and if not, the costs and benefits of options for the improvement of such disclosure; and

(E) whether the banking, securities, and commodities regulators of institutions that engage in proprietary trading have in place adequate systems and controls to monitor and contain any risks and conflicts of interest related to proprietary trading, and if not, the costs and benefits of options for the improvement of such systems and controls.

(2) CONSIDERATIONS.—In carrying out the study required under paragraph (1), the Comptroller General shall consider—

(A) current practice relating to proprietary trading;

(B) the advisability of a complete ban on proprietary trading;

(C) limitations on the scope of activities that covered entities may engage in with respect to proprietary trading;

(D) the advisability of additional capital requirements for covered entities that engage in proprietary trading;

(E) enhanced restrictions on transactions between affiliates related to proprietary trading;

(F) enhanced accounting disclosures relating to proprietary trading;

(G) enhanced public disclosure relating to proprietary trading; and

(H) any other options the Comptroller General deems appropriate.

(c) REPORT TO CONGRESS.—Not later than 15 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study conducted under subsection (b).

(d) ACCESS BY COMPTROLLER GENERAL.—For purposes of conducting the study required under subsection (b), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by a covered entity that engages in proprietary trading, and to the officers, directors, employees, independent public accountants, financial advisors, staff, and agents and representatives of a covered entity (as related to the activities of the agent or representative on behalf of the covered entity), at such reasonable times as the Comptroller General may request. The Comptroller General may make and retain copies of books, records, accounts, and other records, as the Comptroller General deems appropriate.

(e) CONFIDENTIALITY OF REPORTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Comptroller General may not disclose information regarding—

(A) any proprietary trading activity of a covered entity, unless such information is disclosed at a level of generality that does not reveal the investment or trading position or strategy of the covered entity for any specific security, commodity, derivative, or other investment or financial product; or

(B) any individual interviewed by the Comptroller General for purposes of the study under subsection (b), unless such information is disclosed at a level of generality that does not reveal—

(i) the name of or identifying details relating to such individual; or

(ii) in the case of an individual who is an employee of a third party that provides professional services to a covered entity believed to be engaged in proprietary trading, the name of or any identifying details relating to such third party.

(2) EXCEPTIONS.—The Comptroller General may disclose the information described in paragraph (1)—

(A) to a department, agency, or official of the Federal Government, for official use, upon request;

(B) to a committee of Congress, upon request; and

(C) to a court, upon an order of such court.

SEC. 989A. SENIOR INVESTOR PROTECTIONS.

(a) DEFINITIONS.—As used in this section—

(1) the term ''eligible entity'' means—

(A) a securities commission (or any agency or office performing like functions) of a State that the Office determines has adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) the insurance commission (or any agency or office performing like functions) of any State that the Office determines has—

(i) adopted rules on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) adopted rules with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); or

(C) a consumer protection agency of any State, if—

(i) the securities commission (or any agency or office performing like functions) of the State is eligible under subparagraph (A); or

(ii) the insurance commission (or any agency or office performing like functions) of the State is eligible under subparagraph (B);

(2) the term ''financial product'' means a security, an insurance product (including an insurance product that pays a return, whether fixed or variable), a bank product, and a loan product;

(3) the term ''misleading designation''—

(A) means a certification, professional designation, or other purported credential that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and

(B) does not include a certification, professional designation, license, or other credential that—

(i) was issued by or obtained from an academic institution having regional accreditation;

(ii) meets the standards for certifications, licenses, and professional designations outlined by the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, adopted by the National Association of Insurance Commissioners (or any successor thereto); or

(iii) was issued by or obtained from a State;

(4) the term ''misleading or fraudulent marketing'' means the use of a misleading designation by a person that sells to or advises a senior in connection with the sale of a financial product;

(5) the term ''NASAA'' means the North American Securities Administrators Association;

(6) the term ''Office'' means the Office of Financial Literacy of the Bureau; and

(7) the term ''senior'' means any individual who has attained the age of 62 years or older.

(b) GRANTS TO STATES FOR ENHANCED PROTECTION OF SENIORS FROM BEING MISLED BY FALSE DESIGNATIONS.—The Office shall establish a program under which the Office may make grants to States or eligible entities—

(1) to hire staff to identify, investigate, and prosecute (through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing;

(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement officers, in order to identify salespersons and advisers who target seniors through the use of misleading designations;

(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of salespersons and advisers who target seniors with the use of misleading designations;

(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers in connection with the sale and marketing of financial products;

(5) to provide educational materials and training to seniors to increase awareness and understanding of misleading or fraudulent marketing;

(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and

(7) to enhance provisions of State law to provide protection for seniors against misleading or fraudulent marketing.

(c) APPLICATIONS.—A State or eligible entity desiring a grant under this section shall submit an application to the Office, in such form and in such a manner as the Office may determine, that includes—

(1) a proposal for activities to protect seniors from misleading or fraudulent marketing that are proposed to be funded using a grant under this section, including—

(A) an identification of the scope of the problem of misleading or fraudulent marketing in the State;

(B) a description of how the proposed activities would—

(i) protect seniors from misleading or fraudulent marketing in the sale of financial products, including by proactively identifying victims of misleading and fraudulent marketing who are seniors;

(ii) assist in the investigation and prosecution of those using misleading or fraudulent marketing; and

(iii) discourage and reduce cases of misleading or fraudulent marketing; and

(C) a description of how the proposed activities would be coordinated with other State efforts; and

(2) any other information, as the Office determines is appropriate.

(d) PERFORMANCE OBJECTIVES AND REPORTING REQUIREMENTS.—The Office may establish such performance objectives and reporting requirements for States and eligible entities receiving a grant under this section as the Office determines are necessary to carry out and assess the effectiveness of the program under this section.

(e) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed—

(1) $500,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted rules—

(A) on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(C) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); and

(2) $100,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted—

(A) rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto); or

(B) rules—

(i) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the

Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto).

(f) SUBGRANTS.—A State or eligible entity that receives a grant under this section may make a subgrant, as the State or eligible entity determines is necessary to carry out the activities funded using a grant under this section.

(g) REAPPLICATION.—A State or eligible entity that receives a grant under this section may reapply for a grant under this section, notwithstanding the limitations on grant amounts under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2011 through 2015.

SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.

Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (a)(4)—

(A) in the matter preceding subparagraph (A), by inserting ''the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission,'' after ''means'';

(B) in subparagraph (A), by striking ''and'' after the semicolon; and

(C) by adding after subparagraph (B) the following:

''(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);

''(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;

''(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);

''(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;

''(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and

''(H) with respect to the Peace Corps, such term means the Director of the Peace Corps;''; and

(2) in subsection (h), by inserting ''if the designated Federal entity is not a board or commission, include'' after ''designated Federal entities and''.

SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.

Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (12), by striking ''and'' after the semicolon;

(2) in paragraph (13), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or

''(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;

''(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and

''(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.''.

SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.

Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the sentences following ''(e)'' as paragraph (2); and

(2) by striking ''(e)'' and inserting the following:

''(e)(1) In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a ⅔ majority of the board or commission.''.

SEC. 989E. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.

(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the ''Council of Inspectors General'') chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

(A) The Board of Governors of the Federal Reserve System.

(B) The Commodity Futures Trading Commission.

(C) The Department of Housing and Urban Development.

(D) The Department of the Treasury.

(E) The Federal Deposit Insurance Corporation.

(F) The Federal Housing Finance Agency.

(G) The National Credit Union Administration.

(H) The Securities and Exchange Commission.

(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

(2) DUTIES.—

(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—

(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

(3) WORKING GROUPS TO EVALUATE COUNCIL.—

(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

(b) RESPONSE TO REPORT BY COUNCIL.—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.

Subtitle J—Self-funding of the Securities and Exchange Commission

SEC. 991. SECURITIES AND EXCHANGE COMMISSION SELF-FUNDING.

(a) SELF-FUNDING AUTHORITY.—Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended—

(1) in subsection (c), in the second sentence, by striking ''credited to the appropriated funds of the Commission'' and inserting ''deposited in the account described in subsection (i)(4)'';

(2) in subsection (f), in the second sentence, by striking ''considered a reimbursement to the appropriated funds of the Commission'' and inserting ''deposited in the account described in subsection (i)(4)''; and

(3) by adding at the end the following:

''(i) FUNDING OF THE COMMISSION.—

''(1) BUDGET.—For each fiscal year, the Chairman of the Commission shall prepare and submit to Congress a budget to Congress. Such budget shall be submitted at the same time the President submits a budget of the United States to Congress for such fiscal year. The budget submitted by the Chairman of the Commission pursuant to this paragraph shall not be considered a request for appropriations.

''(2) TREASURY PAYMENT.—

''(A) On the first day of each fiscal year, the Treasury shall pay into the account described in paragraph (4) an amount equal to the budget submitted by the Chairman of the Commission pursuant to paragraph (1) for such fiscal year.

''(B) At or prior to the end of each fiscal year, the Commission shall pay to the Treasury from fees and assessments deposited in the account described in paragraph (4) an amount equal to the amount paid by the Treasury pursuant to subparagraph (A) for such fiscal year, unless there are not sufficient fees and assessments deposited in such account at or prior to the end of the fiscal year to make such payment, in which case the Commission shall make such payment in a subsequent fiscal year.

''(3) OBLIGATIONS AND EXPENSES.—

''(A) IN GENERAL.—The Commission shall determine and prescribe the manner in which—

''(i) the obligations of the Commission shall be incurred; and

''(ii) the disbursements and expenses of the Commission allowed and paid.

''(B) INSUFFICIENT FUNDS.—If, in the course of any fiscal year, the Chairman of the Commission determines that, due to unforeseen circumstances, the obligations of the Commission will exceed those provided for in the budget submitted under paragraph (1), the Chairman of the Commission may notify Congress of the amount and expected uses of the additional obligations.

''(C) AUTHORITY TO INCUR EXCESS OBLIGATIONS.—The Commission may incur obligations in excess of the budget submitted under paragraph (1) from amounts available in the account described in paragraph (4).

''(D) RULE OF CONSTRUCTION.—Any notification to Congress under this paragraph shall not be considered a request for appropriations.

''(4) ACCOUNT.—

''(A) ESTABLISHMENT.—Fees and assessments collected under this title, section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), and section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–24(f)) and payments made by the Treasury pursuant to paragraph (2)(A) for any fiscal year shall be deposited into an account established at any regular Government depositary or any State or national bank.

''(B) RULE OF CONSTRUCTION.—Any amounts deposited into the account established under subparagraph (A) shall not be construed to be Government funds or appropriated monies.

''(C) NO APPORTIONMENT.—Any amounts deposited into the account established under subparagraph (A) shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

''(5) USE OF ACCOUNT FUNDS.—

''(A) PERMISSIBLE USES.—Amounts available in the account described in paragraph (4) may be withdrawn by the Commission and used for the purposes described in paragraphs (2) and (3).

''(B) IMPERMISSIBLE USE.—Except as provided in paragraph (6), no amounts available in the account described in paragraph (4) shall be deposited and credited as general revenue of the Treasury.

''(6) EXCESS FUNDS.—If, at the end of any fiscal year and after all payments have been made to the Treasury pursuant to paragraph (2)(B) for such fiscal year and all prior fiscal years, the balance of the account described in paragraph (4) exceeds 25 percent of the budget of the Commission for the following fiscal year, the amount by which the balance exceeds 25 percent of such budget shall be credited as general revenue of the Treasury.''.

(b) CONFORMING AMENDMENTS TO TRANSACTION FEE PROVISIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by amending subsection (a) to read as follows:

''(a) RECOVERY OF COSTS AND EXPENSES.—

''(1) IN GENERAL.—The Commission shall, in accordance with this section, collect transaction fees and assessments that are designed—

''(A) to recover the reasonable costs and expenses of the Commission, as set forth in the annual budget of the Commission; and

''(B) to provide funds necessary to maintain a reserve.

''(2) OVERPAYMENTS.—The authority to collect transaction fees and assessments in accordance with this section shall include the authority to offset from such collection any overpayment of transaction fees or assessments, regardless of the fiscal year in which such overpayment is made.'';

(2) in subsection (e)(2), by striking ''September 30'' and inserting ''September 25'';

(3) in subsection (g), by striking ''April 30'' and inserting ''August 31'';

(4) by amending subsection (i) to read as follows:

''(i) FEE COLLECTIONS.—Fees and assessments collected pursuant to this section shall be deposited and credited in accordance with section 4(g) of this title.'';

(5) by amending subsection (j) to read as follows:

''(j) ADJUSTMENTS TO TRANSACTION FEE RATES.—

''(1) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve.

''(2) MID-YEAR ADJUSTMENT.—For each fiscal year, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 4 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, not later than March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees estimated to be collected under subsections (b) and (c) during such fiscal year prior to the effective date of the new uniform adjusted rate and assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by paragraph (4).

''(3) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5 United States Code. An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (1) shall take effect on the first day of the fiscal year to which such rate applies. An adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies.

''(4) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—For purposes of this subsection, the baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes excluding a narrow-based security index) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 907 of title 2.''; and

(6) by striking subsections (k) and (l).

(c) CONFORMING AMENDMENTS TO REGISTRATION FEE PROVISIONS.—

(1) SECTION 6(b) OF THE SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(A) by striking ''offsetting'' each place that term appears and inserting ''fee'';

(B) in paragraph (3), in the paragraph heading, by striking ''OFFSETTING'' and inserting ''FEE'';

(C) in paragraph (11)(A), in the subparagraph heading, by striking ''OFFSETTING'' and inserting ''FEE'';

(D) by striking paragraphs (1), (3), (4), (6), (8), and (9);

(E) by redesignating paragraph (2) as paragraph (1);

(F) in paragraph (1), as so redesignated, by striking ''(5) or (6)'' and inserting ''(3)'';

(G) by inserting after paragraph (1), as so redesignated, the following:

''(2) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(i) of the Securities Exchange Act of 1934.'';

(H) by redesignating paragraph (5) as paragraph (3);

(I) in paragraph (3), as redesignated—

(i) by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year''; and

(ii) by striking ''paragraph (2)'' and inserting ''paragraph (1)'';

(J) by redesignating paragraph (7) as paragraph (4);

(K) by inserting after paragraph (4), as so redesignated, the following:

''(5) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (3) and published under paragraph (6) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (3) shall take effect on the first day of the fiscal year to which such rate applies.'';

(L) by redesignating paragraphs (10) and (11), as paragraphs (6) and (7);

(M) in paragraph (6), as redesignated, by striking ''April 30'' and inserting ''August 31''; and

(N) in paragraph (7), as redesignated—

(i) by striking ''of the fiscal years 2002 through 2011'' and inserting ''fiscal year''; and

(ii) by inserting at the end of the table in subparagraph (A) the following:

2012 and each succeeding fiscal year.	***An amount that is equal to the target fee collection amount for the prior fiscal year adjusted by the rate of inflation.***

(2) SECTION 13(e) OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended—

(A) by striking ''offsetting'' each place that term appears and inserting ''fee'';

(B) in paragraph (3) by striking ''paragraphs (5) and (6)'' and inserting ''paragraph (5)'';

(C) by amending paragraph (4) to read as follows:

''(4) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.'';

(D) in paragraph (5), by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year'';

(E) by striking paragraphs (6), (7), and (8);

(F) by redesignating paragraph (7) as paragraph (6);

(G) by inserting after paragraph (6), as so redesignated, the following:

''(7) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.'';

(H) by striking paragraph (9);

(I) by redesignating paragraph (10) as paragraph (8); and

(J) in paragraph (8), as so redesignated, by striking ''6(b)(10)'' and inserting ''6(b)(6)''.

(3) SECTION 14 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended—

(A) by striking the word ''offsetting'' each time that it appears and inserting in its place the word ''fee'';

(B) in paragraph (1)(A), by striking ''paragraphs (5) and (6)'' each time it appears and inserting ''paragraph (5)'';

(C) in paragraph (3), by striking ''paragraphs (5) and (6)'' and inserting ''paragraph (5)'';

(D) by amending paragraph (4) to read as follows:

''(4) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.'';

(E) in paragraph (5), by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year'';

(F) by striking paragraphs (6), (8), and (9);

(G) by redesignating paragraph (7) as paragraph (6);

(H) by inserting after paragraph (6), as so redesignated, the following:

''(7) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.'';

(I) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively; and

(J) in paragraph (9), as so redesignated, by striking ''6(b)(10)'' and inserting ''6(b)(7)''.

(d) REPEAL OF AUTHORIZATION OF APPROPRIATIONS.—Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is repealed.

(e) EFFECTIVE DATE AND TRANSITION PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall be effective on the first day of the fiscal year following the fiscal year in which this Act is enacted.

(2) TRANSITION PERIOD.—For the fiscal year following the fiscal year in which this Act is enacted, the budget of the Commission shall be deemed to be the budget submitted by the Chairman of the Commission to the President for such fiscal year in accordance with the provisions of section 1108 of title 31, United States Code.

(3) OTHER PROVISIONS.—The amendments made by this section to subsections (g) and (j)(1) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) shall be effective on the date of enactment of this Act, and shall require the Commission to make and publish an annual adjustment to the fee rates applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) for the fiscal year following the fiscal year in which this Act is enacted. The adjusted rate described in the preceding sentence shall supersede any previously published adjusted rate applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 for the fiscal year following the fiscal year in which this Act is enacted and shall take effect on the first day of the fiscal year following the fiscal year in which this Act is enacted, except that, if this Act is enacted on or after August 31 and on or prior to September 30, the adjusted rate described in the first sentence shall be published not later than 15 days after the date of enactment of this Act and take effect 30 days thereafter, and the Commission shall continue to collect fees under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 at the rate in effect during the preceding fiscal year until the adjusted rate is effective.

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Consumer Financial Protection Act of 2010''.

SEC. 1002. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title, the following definitions shall apply:

(1) AFFILIATE.—The term ''affiliate'' means any person that controls, is controlled by, or is under common control with another person.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Consumer Financial Protection.

(3) BUSINESS OF INSURANCE.—The term ''business of insurance'' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

(4) CONSUMER.—The term ''consumer'' means an individual or an agent, trustee, or representative acting on behalf of an individual.

(5) CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term ''consumer financial product or service'' means any financial product or service that is described in one or more categories under—

(A) paragraph (13) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or

(B) clause (i), (iii), (ix), or (x) of paragraph (13)(A), and is delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (A).

(6) COVERED PERSON.—The term ''covered person'' means—

(A) any person that engages in offering or providing a consumer financial product or service; and

(B) any affiliate of a person described in subparagraph (A) if such affiliate acts as a service provider to such person.

(7) CREDIT.—The term ''credit'' means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.

(8) DEPOSIT-TAKING ACTIVITY.—The term ''deposit-taking activity'' means—

(A) the acceptance of deposits, maintenance of deposit accounts, or the provision of services related to the acceptance of deposits or the maintenance of deposit accounts;

(B) the acceptance of funds, the provision of other services related to the acceptance of funds, or the maintenance of member share accounts by a credit union; or

(C) the receipt of funds or the equivalent thereof, as the Bureau may determine by rule or order, received or held by a covered person (or an agent for a covered person) for the purpose of facilitating a payment or transferring funds or value of funds between a consumer and a third party.

(9) DESIGNATED TRANSFER DATE.—The term ''designated transfer date'' means the date established under section 1062.

(10) DIRECTOR.—The term ''Director'' means the Director of the Bureau.

(11) ENUMERATED CONSUMER LAWS.—The term ''enumerated consumer laws'' means—

(A) the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.);

(B) the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et seq.);

(C) the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.);

(D) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);

(E) the Fair Credit Billing Act (15 U.S.C. 1666 et seq.);

(F) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of that Act (15 U.S.C. 1681m(e), 1681w);

(G) the Home Owners Protection Act of 1998 (12 U.S.C. 4901 et seq.);

(H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

(I) subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)–(f));

(J) sections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802–6809) except for section 505 as it applies to section 501(b);

(K) the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.);

(L) the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note);

(M) the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);

(N) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.);

(O) the Truth in Lending Act (15 U.S.C. 1601 et seq.);

(P) the Truth in Savings Act (12 U.S.C. 4301 et seq.); and

(Q) section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111–8).

(12) FEDERAL CONSUMER FINANCIAL LAW.—The term ''Federal consumer financial law'' means the provisions of this title, the enumerated consumer laws, the laws for which authorities are transferred under subtitles F and H, and any rule or order prescribed by the Bureau under this title, an enumerated consumer law, or pursuant to the authorities transferred under subtitles F and H. The term does not include the Federal Trade Commission Act.

(13) FINANCIAL PRODUCT OR SERVICE.—The term ''financial product or service''—

(A) means—

(i) extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions);

(ii) extending or brokering leases of personal or real property that are the functional equivalent of purchase finance arrangements, if—

(I) the lease is on a non-operating basis;

(II) the initial term of the lease is at least 90 days; and

(III) in the case of a lease involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the Bureau;

(iii) providing real estate settlement services or performing appraisals of real estate or personal property;

(iv) engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer;

(v) selling, providing, or issuing stored value or payment instruments, except that, in the case of a sale of, or transaction to reload, stored value, only if the seller exercises substantial control over the terms or conditions of the stored value provided to the consumer where, for purposes of this clause—

(I) a seller shall not be found to exercise substantial control over the terms or conditions of the stored value if the seller is not a party to the contract with the consumer for the stored value product, and another person is principally responsible for establishing the terms or conditions of the stored value; and

(II) advertising the nonfinancial goods or services of the seller on the stored value card or device is not in itself an exercise of substantial control over the terms or conditions;

(vi) providing check cashing, check collection, or check guaranty services;

(vii) providing payments or other financial data processing products or services to a consumer by any technological means, including

processing or storing financial or banking data for any payment instrument, or through any payments systems or network used for processing payments data, including payments made through an online banking system or mobile telecommunications network, except that a person shall not be deemed to be a covered person with respect to financial data processing solely because the person—

(I) unknowingly or incidentally processes, stores, or transmits over the Internet, telephone line, mobile network, or any other mode of transmission, as part of a stream of other types of data, financial data in a manner that such data is undifferentiated from other types of data of the same form that the person processes, stores, or transmits;

(II) is a merchant, retailer, or seller of any nonfinancial good or service who engages in financial data processing by transmitting or storing payments data about a consumer exclusively for purpose of initiating payments instructions by the consumer to pay such person for the purchase of, or to complete a commercial transaction for, such nonfinancial good or service sold directly by such person to the consumer; or

(III) provides access to a host server to a person for purposes of enabling that person to establish and maintain a website;

(viii) providing financial advisory services to consumers on individual financial matters or relating to proprietary financial products or services (other than by publishing any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer), including—

(I) providing credit counseling to any consumer; and

(II) providing services to assist a consumer with debt management or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure;

(ix) collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service, except to the extent that—

(I) a person—

(aa) collects, analyzes, or maintains information that relates solely to the transactions between a consumer and such person; or

(bb) provides the information described in item (aa) to an affiliate of such person; and

(II) the information described in subclause (I)(aa) is not used by such person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in section 1027(a)(2)(A);

(x) collecting debt related to any consumer financial product or service; and

(xi) such other financial product or service as may be defined by the Bureau, by regulation, for purposes of this title, if the Bureau finds that such financial product or service is—

(I) entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or

(II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers; and

(B) does not include the business of insurance.

(14) FOREIGN EXCHANGE.—The term ''foreign exchange'' means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.

(15) INSURED CREDIT UNION.—The term ''insured credit union'' has the same meaning as in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(16) PAYMENT INSTRUMENT.—The term ''payment instrument'' means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of funds, or monetary value (other than currency).

(17) PERSON.—The term ''person'' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

(18) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—The term ''person regulated by the Commodity Futures Trading Commission'' means any person that is registered, or required by statute or regulation to be registered, with the Commodity Futures Trading Commission, but only to the extent that the activities of such person are subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

(19) PERSON REGULATED BY THE COMMISSION.—The term ''person regulated by the Commission'' means a person who is—

(A) a broker or dealer that is required to be registered under the Securities Exchange Act of 1934;

(B) an investment adviser that is registered under the Investment Advisers Act of 1940;

(C) an investment company that is required to be registered under the Investment Company Act of 1940, and any company that has elected to be regulated as a business development company under that Act;

(D) a national securities exchange that is required to be registered under the Securities Exchange Act of 1934;

(E) a transfer agent that is required to be registered under the Securities Exchange Act of 1934;

(F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934;

(G) any self-regulatory organization that is required to be registered with the Commission;

(H) any nationally recognized statistical rating organization that is required to be registered with the Commission;

(I) any securities information processor that is required to be registered with the Commission;

(J) any municipal securities dealer that is required to be registered with the Commission;

(K) any other person that is required to be registered with the Commission under the Securities Exchange Act of 1934; and

(L) any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any person described in any of subparagraphs (A) through (K), but only to the extent that any person described in any of subparagraphs (A) through (K), or the employee, agent, or contractor of such person, acts in a regulated capacity.

(20) PERSON REGULATED BY A STATE INSURANCE REGULATOR.—The term ''person regulated by a State insurance regulator'' means any person that is engaged in the business of insurance and subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.

(21) PERSON THAT PERFORMS INCOME TAX PREPARATION ACTIVITIES FOR CONSUMERS.—The term ''person that performs income tax preparation activities for consumers'' means—

(A) any tax return preparer (as defined in section 7701(a)(36) of the Internal Revenue Code of 1986), regardless of whether compensated, but only to the extent that the person acts in such capacity;

(B) any person regulated by the Secretary under section 330 of title 31, United States Code, but only to the extent that the person acts in such capacity; and

(C) any authorized IRS e-file Providers (as defined for purposes of section 7216 of the Internal Revenue Code of 1986), but only to the extent that the person acts in such capacity.

(22) PRUDENTIAL REGULATOR.—The term ''prudential regulator'' means—

(A) in the case of an insured depository institution, the appropriate Federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act; and

(B) in the case of an insured credit union, the National Credit Union Administration.

(23) RELATED PERSON.—The term ''related person''—

(A) shall apply only with respect to a covered person that is not a bank holding company (as that term is defined in section 2 of the Bank Holding Company Act of 1956), credit union, or depository institution;

(B) shall be deemed to mean a covered person for all purposes of any provision of Federal consumer financial law; and

(C) means—

(i) any director, officer, or employee charged with managerial responsibility for, or controlling shareholder of, or agent for, such covered person;

(ii) any shareholder, consultant, joint venture partner, or other person, as determined by the Bureau (by rule or on a case-by-case basis) who materially participates in the conduct of the affairs of such covered person; and

(iii) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in any—

(I) violation of any provision of law or regulation; or

(II) breach of a fiduciary duty.

(24) SERVICE PROVIDER.—

(A) IN GENERAL.—The term ''service provider'' means any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that—

(i) participates in designing, operating, or maintaining the consumer financial product or service; or

(ii) processes transactions relating to the consumer financial product or service (other than unknowingly or incidentally transmitting or processing financial data in a manner that such data is undifferentiated from other types of data of the same form as the person transmits or processes).

(B) EXCEPTIONS.—The term ''service provider'' does not include a person solely by virtue of such person offering or providing to a covered person—

(i) a support service of a type provided to businesses generally or a similar ministerial service; or

(ii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.

(C) RULE OF CONSTRUCTION.—A person that is a service provider shall be deemed to be a covered person to the extent that such person engages in the offering or provision of its own consumer financial product or service.

(25) STATE.—The term ''State'' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1(a)).

(26) STORED VALUE.—The term ''stored value'' means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

(27) TRANSMITTING OR EXCHANGING FUNDS.—The term ''transmitting or exchanging funds'' means receiving currency, monetary value, or payment instruments from a consumer for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or through other businesses that facilitate third-party transfers within the United States or to or from the United States.

Subtitle A—Bureau of Consumer Financial Protection

SEC. 1011. ESTABLISHMENT OF THE BUREAU.

(a) BUREAU ESTABLISHED.—There is established in the Federal Reserve System the Bureau of Consumer Financial Protection, which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws.

(b) DIRECTOR AND DEPUTY DIRECTOR.—

(1) IN GENERAL.—There is established the position of the Director, who shall serve as the head of the Bureau.

(2) APPOINTMENT.—Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.

(3) QUALIFICATION.—The President shall nominate the Director from among individuals who are citizens of the United States.

(4) COMPENSATION.—The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(5) DEPUTY DIRECTOR.—There is established the position of Deputy Director, who shall—

(A) be appointed by the Director; and

(B) serve as acting Director in the absence or unavailability of the Director.

(c) TERM.—

(1) IN GENERAL.—The Director shall serve for a term of 5 years.

(2) EXPIRATION OF TERM.—An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.

(3) REMOVAL FOR CAUSE.—The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

(d) SERVICE RESTRICTION.—No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.

(e) OFFICES.—The principal office of the Bureau shall be in the District of Columbia. The Director may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.

SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.

(a) POWERS OF THE BUREAU.—The Bureau is authorized to establish the general policies of the Bureau with respect to all executive and administrative functions, including—

(1) the establishment of rules for conducting the general business of the Bureau, in a manner not inconsistent with this title;

(2) to bind the Bureau and enter into contracts;

(3) directing the establishment and maintenance of divisions or other offices within the Bureau, in order to carry out the responsibilities under the Federal consumer financial laws, and to satisfy the requirements of other applicable law;

(4) to coordinate and oversee the operation of all administrative, enforcement, and research activities of the Bureau;

(5) to adopt and use a seal;

(6) to determine the character of and the necessity for the obligations and expenditures of the Bureau;

(7) the appointment and supervision of personnel employed by the Bureau;

(8) the distribution of business among personnel appointed and supervised by the Director and among administrative units of the Bureau;

(9) the use and expenditure of funds;

(10) implementing the Federal consumer financial laws through rules, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and

(11) performing such other functions as may be authorized or required by law.

(b) DELEGATION OF AUTHORITY.—The Director of the Bureau may delegate to any duly authorized employee, representative, or agent any power vested in the Bureau by law.

(c) AUTONOMY OF THE BUREAU.—

(1) COORDINATION WITH THE BOARD OF GOVERNORS.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) and any other provision of law applicable to the supervision or examination of persons with respect to Federal consumer financial laws, the Board of Governors may delegate to the Bureau the authorities to examine persons subject to the jurisdiction of the Board of Governors for compliance with the Federal consumer financial laws.

(2) AUTONOMY.—Notwithstanding the authorities granted to the Board of Governors under the Federal Reserve Act, the Board of Governors may not—

(A) intervene in any matter or proceeding before the Director, including examinations or enforcement actions, unless otherwise specifically provided by law;

(B) appoint, direct, or remove any officer or employee of the Bureau; or

(C) merge or consolidate the Bureau, or any of the functions or responsibilities of the Bureau, with any division or office of the Board of Governors or the Federal reserve banks.

(3) RULES AND ORDERS.—No rule or order of the Bureau shall be subject to approval or review by the Board of Governors. The Board of Governors may not delay or prevent the issuance of any rule or order of the Bureau.

(4) RECOMMENDATIONS AND TESTIMONY.—No officer or agency of the United States shall have any authority to require the Director or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the Director or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

SEC. 1013. ADMINISTRATION.

(a) PERSONNEL.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Director may fix the number of, and appoint and direct, all employees of the Bureau.

(B) EMPLOYEES OF THE BUREAU.—The Director is authorized to employ attorneys, compliance examiners, compliance supervision analysts, economists, statisticians, and other employees as may be deemed necessary to conduct the business of the Bureau. Notwithstanding any other provision of law, all such employees shall be appointed and compensated on terms and conditions that are consistent with the terms and conditions set forth in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)).

(2) COMPENSATION.—The Director shall at all times provide compensation and benefits to each class of employees that, at a minimum, are equivalent to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

(b) SPECIFIC FUNCTIONAL UNITS.—

(1) RESEARCH.—The Director shall establish a unit whose functions shall include researching, analyzing, and reporting on—

(A) developments in markets for consumer financial products or services, including market areas of alternative consumer financial products or services with high growth rates and areas of risk to consumers;

(B) access to fair and affordable credit for traditionally underserved communities;

(C) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services;

(D) consumer awareness and understanding of costs, risks, and benefits of consumer financial products or services; and

(E) consumer behavior with respect to consumer financial products or services.

(2) COMMUNITY AFFAIRS.—The Director shall establish a unit whose functions shall include providing information, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.

(3) COLLECTING AND TRACKING COMPLAINTS.—

(A) IN GENERAL.—The Director shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The Director shall coordinate with the Federal Trade Commission or other Federal agencies to route complaints to such agencies, where appropriate.

(B) ROUTING CALLS TO STATES.—To the extent practicable, State agencies may receive appropriate complaints from the systems established under subparagraph (A), if—

(i) the State agency system has the functional capacity to receive calls or electronic reports routed by the Bureau systems; and

(ii) the State agency has satisfied any conditions of participation in the system that the Bureau may establish, including treatment of personally identifiable information and sharing of information on complaint resolution or related compliance procedures and resources.

(C) REPORTS TO THE CONGRESS.—The Director shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services. Such report shall include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints.

(D) DATA SHARING REQUIRED.—To facilitate preparation of the reports required under subparagraph (C), supervision and enforcement activities, and monitoring of the market for consumer financial products and services, the Bureau shall share consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies, consistent with Federal law applicable to personally identifiable information. The prudential regulators, the Federal Trade Commission, and other Federal agencies shall share data relating to consumer complaints regarding consumer financial products and services with the Bureau, consistent with Federal law applicable to personally identifiable information.

(c) OFFICE OF FAIR LENDING AND EQUAL OPPORTUNITY.—

(1) ESTABLISHMENT.—The Director shall establish within the Bureau the Office of Fair Lending and Equal Opportunity.

(2) FUNCTIONS.—The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate to the Office, including—

(A) providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act;

(B) coordinating fair lending and fair housing efforts of the Bureau with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws;

(C) working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education; and

(D) providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.

(3) ADMINISTRATION OF OFFICE.—There is established the position of Assistant Director of the Bureau for Fair Lending and Equal Opportunity, who—

(A) shall be appointed by the Director; and

(B) shall carry out such duties as the Director may delegate to such Assistant Director.

(d) OFFICE OF FINANCIAL LITERACY.—

(1) ESTABLISHMENT.—The Director shall establish an Office of Financial Literacy, which shall be responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions.

(2) OTHER DUTIES.—The Office of Financial Literacy shall develop and implement a strategy to improve the financial literacy of consumers that includes measurable goals and objectives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for Financial Education, through activities including providing opportunities for consumers to access—

(A) financial counseling;

(B) information to assist with the evaluation of credit products and the understanding of credit histories and scores;

(C) savings, borrowing, and other services found at mainstream financial institutions;

(D) activities intended to—

(i) prepare the consumer for educational expenses and the submission of financial aid applications, and other major purchases;

(ii) reduce debt; and

(iii) improve the financial situation of the consumer;

(E) assistance in developing long-term savings strategies; and

(F) wealth building and financial services during the preparation process to claim earned income tax credits and Federal benefits.

(3) COORDINATION.—The Office of Financial Literacy shall coordinate with other units within the Bureau in carrying out its functions, including—

(A) working with the Community Affairs Office to implement the strategy to improve financial literacy of consumers; and

(B) working with the research unit established by the Director to conduct research related to consumer financial education and counseling.

(4) REPORT.—Not later than 24 months after the designated transfer date, and annually thereafter, the Director shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(5) MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION COMMISSION.—Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

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

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) the Director of the Bureau of Consumer Financial Protection; and''.

(6) CONFORMING AMENDMENT.—Section 513(d) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(d)) is amended by adding at the end the following: ''The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.''.

(e) OFFICE OF SERVICE MEMBER AFFAIRS.—

(1) IN GENERAL.—The Director shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to—

(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;

(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and

(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.

(2) COORDINATION.—

(A) REGIONAL SERVICES.—The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.

(B) AGREEMENTS.—The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.

(3) DEFINITION.—As used in this subsection, the term ''service member'' means any member of the United States Armed Forces and any member of the National Guard or Reserves.

SEC. 1014. CONSUMER ADVISORY BOARD.

(a) ESTABLISHMENT REQUIRED.—The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.

(b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending, and consumer financial products or services and seek representation of the interests of covered persons and consumers, without regard to party affiliation. Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.

(c) MEETINGS.—The Consumer Advisory Board shall meet from time to time at the call of the Director, but, at a minimum, shall meet at least twice in each year.

(d) COMPENSATION AND TRAVEL EXPENSES.—Members of the Consumer Advisory Board who are not full-time employees of the United States shall—

(1) be entitled to receive compensation at a rate fixed by the Director while attending meetings of the Consumer Advisory Board, including travel time; and

(2) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.

SEC. 1015. COORDINATION.

The Bureau shall coordinate with the Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, and other Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services.

SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.

(a) APPEARANCES BEFORE CONGRESS.—The Director of the Bureau shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

(b) REPORTS REQUIRED.—The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, a report, beginning with the session following the designated transfer date.

(c) CONTENTS.—The reports required by subsection (b) shall include—

(1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;

(2) a justification of the budget request of the previous year;

(3) a list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;

(4) an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year;

(5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;

(6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;

(7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law; and

(8) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau.

SEC. 1017. FUNDING; PENALTIES AND FINES.

(a) TRANSFER OF FUNDS FROM BOARD OF GOVERNORS.—

(1) IN GENERAL.—Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

(2) FUNDING CAP.—

(A) IN GENERAL.—Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to—

(i) 10 percent of such expenses in fiscal year 2011;

(ii) 11 percent of such expenses in fiscal year 2012; and

(iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.

(B) AMOUNT ADJUSTED FOR INFLATION.—The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent by which the average urban consumer price index for the quarter preceding the date of the payment differs from the average of that index for the same quarter in the prior year.

(3) TRANSITION PERIOD.—Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the

authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.

(4) BUDGET AND FINANCIAL MANAGEMENT.—

(A) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the financial operating plans and forecasts of the Director, as prepared by the Director in the ordinary course of the operations of the Bureau, and copies of the quarterly reports of the financial condition and results of operations of the Bureau, as prepared by the Director in the ordinary course of the operations of the Bureau.

(B) FINANCIAL STATEMENTS.—The Bureau shall prepare annually a statement of—

(i) assets and liabilities and surplus or deficit;

(ii) income and expenses; and

(iii) sources and application of funds.

(C) FINANCIAL MANAGEMENT SYSTEMS.—The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.

(D) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established in section 3512(c) of title 31, United States Code.

(E) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.

(5) AUDIT OF THE BUREAU.—

(A) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(B) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress.

(C) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

(b) CONSUMER FINANCIAL PROTECTION FUND.—

(1) SEPARATE FUND IN FEDERAL RESERVE BOARD ESTABLISHED.—There is established in the Federal Reserve Board a separate fund, to be known as the ''Consumer Financial Protection Fund'' (referred to in this section as the ''Bureau Fund'').

(2) FUND RECEIPTS.—All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.

(3) INVESTMENT AUTHORITY.—

(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED.—The Bureau may request the Board of Governors to invest the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.

(B) ELIGIBLE INVESTMENTS.—Investments authorized by this paragraph shall be made by the Board of Governors in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.

(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bureau Fund shall be credited to the Bureau Fund.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the Director, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the Director and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.

(2) FUNDS THAT ARE NOT GOVERNMENT FUNDS.—Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.

(d) PENALTIES AND FINES.—

(1) ESTABLISHMENT OF VICTIMS RELIEF FUND.—There is established in the Federal Reserve Board a fund to be known as the ''Consumer Financial Protection Civil Penalty Fund'' (referred to in this subsection as the ''Civil Penalty Fund''). If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.

(2) PAYMENT TO VICTIMS.—Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

SEC. 1018. EFFECTIVE DATE.

This subtitle shall become effective on the date of enactment of this Act.

Subtitle B—General Powers of the Bureau

SEC. 1021. PURPOSE, OBJECTIVES, AND FUNCTIONS.

(a) PURPOSE.—The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that markets for consumer financial products and services are fair, transparent, and competitive.

(b) OBJECTIVES.—The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services—

(1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and

(5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

(c) FUNCTIONS.—The primary functions of the Bureau are—

(1) conducting financial education programs;

(2) collecting, investigating, and responding to consumer complaints;

(3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;

(4) subject to sections 1024 through 1026, supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;

(5) issuing rules, orders, and guidance implementing Federal consumer financial law; and

(6) performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.

SEC. 1022. RULEMAKING AUTHORITY.

(a) IN GENERAL.—The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) GENERAL AUTHORITY.—The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

(2) STANDARDS FOR RULEMAKING.—In prescribing a rule under the Federal consumer financial laws—

(A) the Bureau shall consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal

agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 1023 that may apply to any rule prescribed by the Bureau.

(3) EXEMPTIONS.—

(A) IN GENERAL.—The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title, taking into consideration the factors in subparagraph (B).

(B) FACTORS.—In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

(i) the total assets of the class of covered persons;

(ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and

(iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.

(4) EXCLUSIVE RULEMAKING AUTHORITY.—Notwithstanding any other provisions of Federal law and except as provided in section 1061(b)(5), to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.

(c) MONITORING.—

(1) IN GENERAL.—In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

(2) CONSIDERATIONS.—In allocating its resources to perform the monitoring required by this section, the Bureau may consider, among other factors—

(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;

(B) understanding by consumers of the risks of a type of consumer financial product or service;

(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;

(D) rates of growth in the offering or provision of a consumer financial product or service;

(E) the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers; or

(F) the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.

(3) REPORTS.—The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date.

(4) COLLECTION OF INFORMATION.—In conducting research on the offering and provision of consumer financial products or services, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of persons operating in consumer financial services markets. In order to gather such information, the Bureau may—

(A) gather and compile information from examination reports concerning covered persons or service providers, assessment of consumer complaints, surveys, and interviews of covered persons and consumers, and review of available databases;

(B) require persons to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe, by rule or order, annual or special reports, or answers in writing to specific questions, furnishing such information as the Bureau may require; and

(C) make public such information obtained by the Bureau under this section, as is in the public interest in reports or otherwise in the manner best suited for public information and use.

(5) CONFIDENTIALITY RULES.—The Bureau shall prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law.

(A) ACCESS BY THE BUREAU TO REPORTS OF OTHER REGULATORS.—

(i) EXAMINATION AND FINANCIAL CONDITION REPORTS.—Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO THE BUREAU.—In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.

(B) ACCESS BY OTHER REGULATORS TO REPORTS OF THE BUREAU.—

(i) EXAMINATION REPORTS.—Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO OTHER REGULATORS.—In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of Federal law.

(6) PRIVACY CONSIDERATIONS.—In collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law, is not made public under this title.

(d) ASSESSMENT OF SIGNIFICANT RULES.—

(1) IN GENERAL.—The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.

(2) REPORTS.—The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.

(3) PUBLIC COMMENT REQUIRED.—Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order.

(e) INFORMATION GATHERING.—In conducting any monitoring or assessment required by this section, the Bureau may gather information through a variety of methods, including by conducting surveys or interviews of consumers.

SEC. 1023. REVIEW OF BUREAU REGULATIONS.

(a) REVIEW OF BUREAU REGULATIONS.—On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(b) PETITION.—

(1) PROCEDURE.—An agency represented by a member of the Council may petition the Council, in writing, and in accordance with rules prescribed pursuant to subsection (f), to stay the effectiveness of, or set aside, a regulation if the member agency filing the petition—

(A) has in good faith attempted to work with the Bureau to resolve concerns regarding the effect of the rule on the safety and soundness of the United States banking system or the stability of the financial system of the United States; and

(B) files the petition with the Council not later than 10 days after the date on which the regulation has been published in the Federal Register.

(2) PUBLICATION.—Any petition filed with the Council under this section shall be published in the Federal Register and transmitted contemporaneously with filing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) STAYS AND SET ASIDES.—

(1) STAY.—

(A) IN GENERAL.—Upon the request of any member agency, the Chairperson of the Council may stay the effectiveness of a regulation for the purpose of allowing appropriate consideration of the petition by the Council.

(B) EXPIRATION.—A stay issued under this paragraph shall expire on the earlier of—

(i) 90 days after the date of filing of the petition under subsection (b); or

(ii) the date on which the Council makes a decision under paragraph (3).

(2) NO ADVERSE INFERENCE.—After the expiration of any stay imposed under this section, no inference shall be drawn regarding the validity or enforceability of a regulation which was the subject of the petition.

(3) VOTE.—

(A) IN GENERAL.—The decision to issue a stay of, or set aside, any regulation under this section shall be made only with the affirmative vote in accordance with subparagraph (B) of ⅔ of the members of the Council then serving.

(B) AUTHORIZATION TO VOTE.—A member of the Council may vote to stay the effectiveness of, or set aside, a final regulation prescribed by the Bureau only if the agency or department represented by that member has—

(i) considered any relevant information provided by the agency submitting the petition and by the Bureau; and

(ii) made an official determination, at a public meeting where applicable, that the regulation which is the subject of the petition would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(4) DECISIONS TO SET ASIDE.—

(A) EFFECT OF DECISION.—A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall render such regulation, or provision thereof, unenforceable.

(B) TIMELY ACTION REQUIRED.—The Council may not issue a decision to set aside a regulation, or provision thereof, which is the subject of a petition under this section after the expiration of the later of—

(i) 45 days following the date of filing of the petition, unless a stay is issued under paragraph (1); or

(ii) the expiration of a stay issued by the Council under this section.

(C) SEPARATE AUTHORITY.—The issuance of a stay under this section does not affect the authority of the Council to set aside a regulation.

(5) DISMISSAL DUE TO INACTION.—A petition under this section shall be deemed dismissed if the Council has not issued a decision to set aside a regulation, or provision thereof, within the period for timely action under paragraph (4)(B).

(6) PUBLICATION OF DECISION.—Any decision under this subsection to issue a stay of, or set aside, a regulation or provision thereof shall be published by the Council in the Federal Register as soon as practicable after the decision is made, with an explanation of the reasons for the decision.

(7) RULEMAKING PROCEDURES INAPPLICABLE.—The notice and comment procedures under section 553 of title 5, United States Code, shall not apply to any decision under this section of the Council to issue a stay of, or set aside, a regulation.

(8) JUDICIAL REVIEW OF DECISIONS BY THE COUNCIL.—A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall be subject to review under chapter 7 of title 5, United States Code.

(d) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed as altering, limiting, or restricting the application of any other provision of law, except as otherwise specifically provided in this section, including chapter 5 and chapter 7 of title 5, United States Code, to a regulation which is the subject of a petition filed under this section.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed as limiting or restricting the Bureau from engaging in a rulemaking in accordance with applicable law.

(f) IMPLEMENTING RULES.—The Council shall prescribe procedural rules to implement this section.

SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) SCOPE OF COVERAGE.—

(1) APPLICABILITY.—Notwithstanding any other provision of this title, and except as provided in paragraph (3), this section shall apply to any covered person who—

(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans; or

(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2).

(2) RULEMAKING TO DEFINE COVERED PERSONS SUBJECT TO THIS SECTION.—The Bureau shall consult with the Federal Trade Commission prior to issuing a rule to define covered persons subject to this section, in accordance with paragraph (1)(B). The Bureau shall issue its initial rule within 1 year of the designated transfer date.

(3) RULES OF CONSTRUCTION.—

(A) CERTAIN PERSONS EXCLUDED.—This section shall not apply to persons described in section 1025(a) or 1026(a).

(B) ACTIVITY LEVELS.—For purposes of computing activity levels under paragraph (1) or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.

(b) SUPERVISION.—

(1) IN GENERAL.—The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial law;

(B) obtaining information about the activities and compliance systems or procedures of such person; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) RISK-BASED SUPERVISION PROGRAM.—The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—

(A) the asset size of the covered person;

(B) the volume of transactions involving consumer financial products or services in which the covered person engages;

(C) the risks to consumers created by the provision of such consumer financial products or services;

(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and

(E) any other factors that the Bureau determines to be relevant to a class of covered persons.

(3) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining persons described in subsection (a)(1) and requirements regarding reports to be submitted by such persons.

(4) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to persons described in subsection (a)(1) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(6) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(7) REGISTRATION, RECORDKEEPING, AND OTHER REQUIREMENTS FOR CERTAIN PERSONS.—

(A) IN GENERAL.—The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.

(B) REGISTRATION.—

(i) IN GENERAL.—The Bureau shall prescribe rules regarding registration requirements for persons described in subsection (a)(1).

(ii) EXCEPTION FOR RELATED PERSONS.—The Bureau may not impose requirements under this section regarding the registration of a related person.

(iii) REGISTRATION INFORMATION.—Subject to rules prescribed by the Bureau, the Bureau shall publicly disclose the registration information about persons described in subsection (a)(1) to facilitate the ability of consumers to identify persons described in subsection (a)(1) registered with the Bureau.

(C) RECORDKEEPING.—The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.

(D) REQUIREMENTS CONCERNING OBLIGATIONS.—The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(E) CONSULTATION WITH STATE AGENCIES.—In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(c) ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE ENFORCEMENT AUTHORITY.—Except as provided in paragraph (3) and section 1061(b)(5), with respect to any person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.

(2) REFERRAL.—Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.

(3) COORDINATION WITH THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

(B) CIVIL ACTIONS.—Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law—

(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and

(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action brought by the other agency, and, upon intervening—

(I) be heard on all matters arising in such enforcement action; and

(II) file petitions for appeal in such actions.

(C) AGREEMENT TERMS.—The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).

(D) DEADLINE.—The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.

(d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.—Notwithstanding any other provision of Federal law and except as provided in section 1061(b)(5), to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a)(1) under such law for purposes of assuring compliance with

Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a)(1), subject to those provisions of law.

(e) SERVICE PROVIDERS.—A service provider to a person described in subsection (a)(1) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.

(f) PRESERVATION OF FARM CREDIT ADMINISTRATION AUTHORITY.—No provision of this title may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—

(1) APPLICABILITY.—This section shall apply to any covered person that is—

(A) an insured depository institution with total assets of more than $10,000,000,000 and any affiliate thereof; or

(B) an insured credit union with total assets of more than $10,000,000,000 and any affiliate thereof.

(2) RULE OF CONSTRUCTION.—For purposes of determining total assets under this section and section 1026, the Bureau shall rely on the same regulations and interim methodologies specified in section 312(e).

(b) SUPERVISION.—

(1) IN GENERAL.—The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial laws;

(B) obtaining information about the activities and compliance systems or procedures of such persons; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(3) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(4) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(5) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) PRIMARY ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY.—To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) REFERRAL.—Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.—If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, as permitted by the subject provision of Federal law.

(d) SERVICE PROVIDERS.—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

(e) SIMULTANEOUS AND COORDINATED SUPERVISORY ACTION.—

(1) EXAMINATIONS.—A prudential regulator and the Bureau shall, with respect to each insured depository institution, insured credit union, or other covered person described in subsection (a) that is supervised by the prudential regulator and the Bureau, respectively—

(A) coordinate the scheduling of examinations of the insured depository institution, insured credit union, or other covered person described in subsection (a);

(B) conduct simultaneous examinations of each insured depository institution, insured credit union, or other covered person described in subsection (a), unless such institution requests examinations to be conducted separately;

(C) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and

(D) prior to issuing a final report of examination or taking supervisory action, take into consideration concerns, if any, raised in the comments made by the other agency.

(2) COORDINATION WITH STATE BANK SUPERVISORS.—The Bureau shall pursue arrangements and agreements with State bank supervisors to coordinate examinations, consistent with paragraph (1).

(3) AVOIDANCE OF CONFLICT IN SUPERVISION.—

(A) REQUEST.—If the proposed supervisory determinations of the Bureau and a prudential regulator (in this section referred to collectively as the ''agencies'') are conflicting, an insured depository institution, insured credit union, or other covered person described in subsection (a) may request the agencies to coordinate and present a joint statement of coordinated supervisory action.

(B) JOINT STATEMENT.—The agencies shall provide a joint statement under subparagraph (A), not later than 30 days after the date of receipt of the request of the insured depository institution, credit union, or covered person described in subsection (a).

(4) APPEALS TO GOVERNING PANEL.—

(A) IN GENERAL.—If the agencies do not resolve the conflict or issue a joint statement required by subparagraph (B), or if either of the agencies takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, an insured depository institution, insured credit union, or other covered person described in subsection (a) may institute an appeal to a governing panel, as provided in this subsection, not later than 30 days after the expiration of the period during which a joint statement is required to be filed under paragraph (3)(B).

(B) COMPOSITION OF GOVERNING PANEL.—The governing panel for an appeal under this paragraph shall be composed of—

(i) a representative from the Bureau and a representative of the prudential regulator, both of whom—

(I) have not participated in the material supervisory determinations under appeal; and

(II) do not directly or indirectly report to the person who participated materially in the supervisory determinations under appeal; and

(ii) one individual representative, to be determined on a rotating basis, from among the Board of Governors, the Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, other than any agency involved in the subject dispute.

(C) CONDUCT OF APPEAL.—In an appeal under this paragraph—

(i) the insured depository institution, insured credit union, or other covered person described in subsection (a)—

(I) shall include in its appeal all the facts and legal arguments pertaining to the matter; and

(II) may, through counsel, employees, or representatives, appear before the governing panel in person or by telephone; and

(ii) the governing panel—

(I) may request the insured depository institution, insured credit union, or other covered person described in subsection (a), the Bureau, or the prudential regulator to produce additional information relevant to the appeal; and

(II) by a majority vote of its members, shall provide a final determination, in writing, not later than 30 days after the date of filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, insured credit union, or other covered person described in subsection (a) may jointly agree.

(D) PUBLIC AVAILABILITY OF DETERMINATIONS.—A governing panel shall publish all information contained in a determination by the governing panel, with appropriate redactions of information that would be subject to an exemption from disclosure under section 552 of title 5, United States Code.

(E) PROHIBITION AGAINST RETALIATION.—The Bureau and the prudential regulators shall prescribe rules to provide safeguards from retaliation against the insured depository institution, insured credit union, or other covered person described in subsection (a) instituting an appeal under this paragraph, as well as their officers and employees.

(F) LIMITATION.—The process provided in this paragraph shall not apply to a determination by a prudential regulator to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) or section 212 of the Federal Credit Union Act (112 U.S.C. 1790a), as applicable.

(G) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall modify or limit the authority of the Bureau to interpret, or take enforcement action under, any Federal consumer financial law.

SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of $10,000,000,000 or less; or

(2) an insured credit union with total assets of $10,000,000,000 or less.

(b) REPORTS.—The Director may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(2) PRESERVATION OF AUTHORITY.—Nothing in this subsection may be construed as limiting the authority of the Director from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(3) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) EXAMINATIONS.—

(1) IN GENERAL.—The Bureau may, at its discretion, include examiners on a sampling basis of the examinations performed by the prudential regulator of persons described in subsection (a).

(2) AGENCY COORDINATION.—The prudential regulator shall—

(A) provide all reports, records, and documentation related to the examination process for any institution included in the sample referred to in paragraph (1) to the Bureau on a timely and continual basis;

(B) involve such Bureau examiner in the entire examination process for such person; and

(C) consider input of the Bureau concerning the scope of an examination, conduct of the examination, the contents of the examination report, the designation of matters requiring attention, and examination ratings.

(d) ENFORCEMENT.—

(1) IN GENERAL.—Except for requiring reports under subsection (b), the prudential regulator shall have exclusive authority to enforce compliance with respect to a person described in subsection (a).

(2) COORDINATION WITH PRUDENTIAL REGULATOR.—

(A) REFERRAL.—When the Bureau has reason to believe that a person described in subsection (a) has engaged in a material violation of a Federal consumer financial law, the Bureau shall notify the prudential regulator in writing and recommend appropriate action to respond.

(B) RESPONSE.—Upon receiving a recommendation under subparagraph (A), the prudential regulator shall provide a written response to the Bureau not later than 60 days thereafter.

(e) SERVICE PROVIDERS.—A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 to the same extent as if the Bureau were an appropriate Federal bank agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). When conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.

(a) EXCLUSION FOR MERCHANTS, RETAILERS, AND OTHER SELLERS OF NONFINANCIAL GOODS OR SERVICES.—

(1) SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.—The Bureau may not exercise any rulemaking, supervisory, enforcement or other authority under this title with respect to a person who is a merchant, retailer, or seller of any nonfinancial good or service and is engaged in the sale or brokerage of such nonfinancial good or service, except to the extent that such person is engaged in offering or providing any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(2) OFFERING OR PROVISION OF CERTAIN CONSUMER FINANCIAL PRODUCTS OR SERVICES IN CONNECTION WITH THE SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), and subject to subparagraph (C), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services, but only to the extent that such person—

(i) extends credit directly to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service (other than credit described in this subparagraph), exclusively for the purpose of enabling that consumer to purchase such nonfinancial good or service directly from the merchant, retailer, or seller;

(ii) directly, or through an agreement with another person, collects debt arising from credit extended as described in clause (i); or

(iii) sells or conveys debt described in clause (i) that is delinquent or otherwise in default.

(B) APPLICABILITY.—Subparagraph (A) does not apply to any credit transaction or collection of debt, other than as described in subparagraph (C)(i), arising from a transaction described in subparagraph (A)—

(i) in which the merchant, retailer, or seller of nonfinancial goods or services assigns, sells or otherwise conveys to another person such debt owed by the consumer (except for a sale of debt that is delinquent or otherwise in default, as described in subparagraph (A)(iii));

(ii) in which the credit extended exceeds the market value of the nonfinancial good or service provided, or the Bureau otherwise finds that the sale of the nonfinancial good or service is done as a subterfuge, so as to evade or circumvent the provisions of this title; or

(iii) in which the merchant, retailer, or seller of nonfinancial goods or services regularly extends credit and the credit is subject to a finance charge.

(C) LIMITATIONS.—

(i) IN GENERAL.—Notwithstanding subparagraph (B), and except as provided in clause (ii), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services that is not engaged significantly in offering or providing consumer financial products or services.

(ii) EXCEPTION.—Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of nonfinancial goods or services, to the extent that such person is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(D) RULES.—

(i) AUTHORITY OF OTHER AGENCIES.—No provision of this title shall be construed as modifying, limiting, or superseding the supervisory or enforcement authority of the Federal Trade Commission or any other agency (other than the Bureau) with respect to credit extended, or the collection of debt arising from such extension, directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase nonfinancial goods or services directly from the merchant or retailer.

(ii) SMALL BUSINESSES.—A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person—

(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);

(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and

(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder.

(iii) INITIAL YEAR.—A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.

(E) EXCEPTION FROM STATE ENFORCEMENT.—To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.

(b) EXCLUSION FOR REAL ESTATE BROKERAGE ACTIVITIES.—

(1) REAL ESTATE BROKERAGE ACTIVITIES EXCLUDED.—Without limiting subsection (a), and except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a person that is licensed or registered as a real estate broker or real estate agent, in accordance with State law, to the extent that such person—

(A) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property;

(B) brings together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiates, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with the provision of financing with respect to any such transaction); or

(D) offers to engage in any activity, or act in any capacity, described in subparagraph (A), (B), or (C).

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(c) EXCLUSION FOR MANUFACTURED HOME RETAILERS AND MODULAR HOME RETAILERS.—

(1) IN GENERAL.—The Director may not exercise any rulemaking, supervisory, enforcement, or other authority over a person to the extent that—

(A) such person is not described in paragraph (2); and

(B) such person—

(i) acts as an agent or broker for a buyer or seller of a manufactured home or a modular home;

(ii) facilitates the purchase by a consumer of a manufactured home or modular home, by negotiating the purchase price or terms of the sales contract (other than providing financing with respect to such transaction); or

(iii) offers to engage in any activity described in clause (i) or (ii).

(2) DESCRIPTION OF ACTIVITIES.—A person is described in this paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated

consumer law or any law for which authorities are transferred under subtitle F or H.

(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) MANUFACTURED HOME.—The term ''manufactured home'' has the same meaning as in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(B) MODULAR HOME.—The term ''modular home'' means a house built in a factory in 2 or more modules that meet the State or local building codes where the house will be located, and where such modules are transported to the building site, installed on foundations, and completed.

(d) EXCLUSION FOR ACCOUNTANTS AND TAX PREPARERS.—

(1) IN GENERAL.—Except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority over—

(A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, or any individual who is employed by or holds an ownership interest with respect to a person described in this subparagraph, when such person is performing or offering to perform—

(i) customary and usual accounting activities, including the provision of accounting, tax, advisory, or other services that are subject to the regulatory authority of a State board of accountancy or a Federal authority; or

(ii) other services that are incidental to such customary and usual accounting activities, to the extent that such incidental services are not offered or provided—

(I) by the person separate and apart from such customary and usual accounting activities; or

(II) to consumers who are not receiving such customary and usual accounting activities; or

(B) any person, other than a person described in subparagraph (A) that performs income tax preparation activities for consumers.

(2) DESCRIPTION OF ACTIVITIES.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any person described in paragraph (1)(A) or (1)(B) to the extent that such person is engaged in any activity which is not a customary and usual accounting activity described in paragraph (1)(A) or incidental thereto but which is the offering or provision of any consumer financial product or service, except to the extent that a person described in paragraph (1)(A) is engaged in an activity which is a customary and usual accounting activity described in paragraph (1)(A), or incidental thereto.

(B) NOT A CUSTOMARY AND USUAL ACCOUNTING ACTIVITY.—For purposes of this subsection, extending or brokering credit is not a customary and usual accounting activity, or incidental thereto.

(C) RULE OF CONSTRUCTION.—For purposes of subparagraphs (A) and (B), a person described in paragraph (1)(A) shall not be deemed to be extending credit, if such person is only extending credit directly to a consumer, exclusively for the purpose of enabling such consumer to purchase services described in clause (i) or (ii) of paragraph (1)(A) directly from such person, and such credit is—

(i) not subject to a finance charge; and

(ii) not payable by written agreement in more than 4 installments.

(D) OTHER LIMITATIONS.—Paragraph (1) does not apply to any person described in paragraph (1)(A) or (1)(B) that is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(e) EXCLUSION FOR ATTORNEYS.—

(1) IN GENERAL.—The Bureau may not exercise any authority to conduct examinations of an attorney licensed by a State, to the extent that the attorney is engaged in the practice of law under the laws of such State.

(2) EXCEPTION FOR ENUMERATED CONSUMER LAWS AND TRANSFERRED AUTHORITIES.—Paragraph (1) shall not apply to an attorney who is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(f) EXCLUSION FOR PERSONS REGULATED BY A STATE INSURANCE REGULATOR.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by a State insurance regulator. Except as provided in paragraph (2), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by a State insurance regulator.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) does not apply to any person described in such paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(g) EXCLUSION FOR EMPLOYEE BENEFIT AND COMPENSATION PLANS AND CERTAIN OTHER ARRANGEMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.—

(1) PRESERVATION OF AUTHORITY OF OTHER AGENCIES.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to any specified plan or arrangement.

(2) ACTIVITIES NOT CONSTITUTING THE OFFERING OR PROVISION OF ANY CONSUMER FINANCIAL PRODUCT OR SERVICE.—For purposes of this title, a person shall not be treated as having engaged in the offering or provision of any consumer financial product or service solely because such person is a specified plan or arrangement, or is engaged in the activity of establishing or maintaining, for the benefit of employees of such person (or for members of an employee organization), any specified plan or arrangement.

(3) LIMITATION ON BUREAU AUTHORITY.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the Bureau may not exercise any rulemaking or enforcement authority with respect to products or services that relate to any specified plan or arrangement.

(B) BUREAU ACTION ONLY PURSUANT TO AGENCY REQUEST.—The Secretary and the Secretary of Labor may jointly issue a written request to the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement. Subject to a request made under this subparagraph, the Bureau may exercise rulemaking authority, and may act to enforce a rule prescribed pursuant to such request, in accordance with the provisions of this title. A request made by the Secretary and the Secretary of Labor under this subparagraph shall describe the basis for, and scope of, appropriate consumer protection standards to be implemented under this title with respect to the provision of services relating to any specified plan or arrangement.

(C) DESCRIPTION OF PRODUCTS OR SERVICES.—To the extent that a person engaged in providing products or services relating to any specified plan or arrangement is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, subparagraph (A) shall not apply with respect to that law.

(4) SPECIFIED PLAN OR ARRANGEMENT.—For purposes of this subsection, the term ''specified plan or arrangement'' means any plan, account, or arrangement described in section 220, 223, 401(a), 403(a), 403(b), 408, 408A, 529, or 530 of the Internal Revenue Code of 1986, or any employee benefit or compensation plan or arrangement, including a plan that is subject to title I of the Employee Retirement Income Security Act of 1974.

(h) PERSONS REGULATED BY A STATE SECURITIES COMMISSION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of any securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State. Except as permitted in paragraph (2) and subsection (f), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State, but only to the extent that the person acts in such regulated capacity.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person to the extent such person is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(i) EXCLUSION FOR PERSONS REGULATED BY THE COMMISSION.—

(1) IN GENERAL.—No provision of this title may be construed as altering, amending, or affecting the authority of the Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commission.

(2) CONSULTATION AND COORDINATION.—Notwithstanding paragraph (1), the Commission shall consult and coordinate, where feasible, with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law. In carrying out this paragraph, the agencies shall negotiate an agreement to establish procedures for such coordination, including procedures for providing advance notice to the Bureau when the Commission is initiating a rulemaking.

(j) EXCLUSION FOR PERSONS REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Commodity Futures Trading Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commodity Futures Trading Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commodity Futures Trading Commission.

(2) CONSULTATION AND COORDINATION.—Notwithstanding paragraph (1), the Commodity Futures Trading Commission shall consult and coordinate with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law.

(k) EXCLUSION FOR PERSONS REGULATED BY THE FARM CREDIT ADMINISTRATION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Farm Credit Administration to adopt rules, initiate enforcement

proceedings, or take any other action with respect to a person regulated by the Farm Credit Administration. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Farm Credit Administration.

(2) DEFINITION.—For purposes of this subsection, the term ''person regulated by the Farm Credit Administration'' means any Farm Credit System institution that is chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(l) EXCLUSION FOR ACTIVITIES RELATING TO CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order penalties, over any activities related to the solicitation or making of voluntary contributions to a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer, or representative of such organizations to the extent the organization, agent, volunteer, or representative thereof is soliciting or providing advice, information, education, or instruction to any donor or potential donor relating to a contribution to the organization.

(2) LIMITATION.—The exclusion in paragraph (1) does not apply to other activities not described in paragraph (1) that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(m) INSURANCE.—The Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.

(n) LIMITED AUTHORITY OF THE BUREAU.—Notwithstanding subsections (a) through (h) and (l), a person subject to or described in one or more of such subsections—

(1) may be a service provider; and

(2) may be subject to requests from, or requirements imposed by, the Bureau regarding information in order to carry out the responsibilities and functions of the Bureau and in accordance with section 1022, 1052, or 1053.

(o) NO AUTHORITY TO IMPOSE USURY LIMIT.—No provision of this title shall be construed as conferring authority on the Bureau to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.

(p) ATTORNEY GENERAL.—No provision of this title, including section 1024(c)(1), shall affect the authorities of the Attorney General under otherwise applicable provisions of law.

(q) SECRETARY OF THE TREASURY.—No provision of this title shall affect the authorities of the Secretary, including with respect to prescribing rules, initiating enforcement proceedings, or taking other actions with respect to a person that performs income tax preparation activities for consumers.

(r) DEPOSIT INSURANCE AND SHARE INSURANCE.—Nothing in this title shall affect the authority of the Corporation under the Federal Deposit Insurance Act or the National Credit Union Administration Board under the Federal Credit Union Act as to matters related to deposit insurance and share insurance, respectively.

SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.

(a) STUDY AND REPORT.—The Bureau shall conduct a study of, and shall provide a report to Congress concerning, the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.

(b) FURTHER AUTHORITY.—The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties, if the Bureau finds that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The findings in such rule shall be consistent with the study conducted under subsection (a).

(c) LIMITATION.—The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, any regulation prescribed by the Bureau under subsection (a) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into after the end of the 180-day period beginning on the effective date of the regulation, as established by the Bureau.

SEC. 1029. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle C—Specific Bureau Authorities

SEC. 1031. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.

(a) IN GENERAL.—The Bureau may take any action authorized under subtitle E to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.

(b) RULEMAKING.—The Bureau may prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing such acts or practices.

(c) UNFAIRNESS.—

(1) IN GENERAL.—The Bureau shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair, unless the Bureau has a reasonable basis to conclude that—

(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) CONSIDERATION OF PUBLIC POLICIES.—In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.

(d) ABUSIVE.—The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of—

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

(e) CONSULTATION.—In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

(f) CONSIDERATION OF SEASONAL INCOME.—The rules of the Bureau under this section shall provide, with respect to an extension of credit secured by residential real estate or a dwelling, if documented income of the borrower, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, the creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.

SEC. 1032. DISCLOSURES.

(a) IN GENERAL.—The Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(b) MODEL DISCLOSURES.—

(1) IN GENERAL.—Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.

(2) FORMAT.—A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum—

(A) uses plain language comprehensible to consumers;

(B) contains a clear format and design, such as an easily readable type font; and

(C) succinctly explains the information that must be communicated to the consumer.

(3) CONSUMER TESTING.—Any model form issued pursuant to this subsection shall be validated through consumer testing.

(c) BASIS FOR RULEMAKING.—In prescribing rules under this section, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

(d) SAFE HARBOR.—Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.

(e) TRIAL DISCLOSURE PROGRAMS.—

(1) IN GENERAL.—The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.

(2) SAFE HARBOR.—The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law.

(3) PUBLIC DISCLOSURE.—The rules of the Bureau shall provide for public disclosure of trial disclosure programs, which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.

(f) COMBINED MORTGAGE LOAN DISCLOSURE.—Not later than 1 year after the designated transfer date, the Bureau shall propose for public

comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.

SEC. 1033. CONSUMER RIGHTS TO ACCESS INFORMATION.

(a) IN GENERAL.—Subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information shall be made available in an electronic form usable by consumers.

(b) EXCEPTIONS.—A covered person may not be required by this section to make available to the consumer—

(1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;

(2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;

(3) any information required to be kept confidential by any other provision of law; or

(4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.

(c) NO DUTY TO MAINTAIN RECORDS.—Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.

(d) STANDARDIZED FORMATS FOR DATA.—The Bureau, by rule, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.

(e) CONSULTATION.—The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure, to the extent appropriate, that the rules—

(1) impose substantively similar requirements on covered persons;

(2) take into account conditions under which covered persons do business both in the United States and in other countries; and

(3) do not require or promote the use of any particular technology in order to develop systems for compliance.

SEC. 1034. RESPONSE TO CONSUMER COMPLAINTS AND INQUIRIES.

(a) TIMELY REGULATOR RESPONSE TO CONSUMERS.—The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including—

(1) steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;

(2) any responses received by the regulator from the covered person; and

(3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.

(b) TIMELY RESPONSE TO REGULATOR BY COVERED PERSON.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including—

(1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;

(2) responses received by the covered person from the consumer; and

(3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.

(c) PROVISION OF INFORMATION TO CONSUMERS.—

(1) IN GENERAL.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall, in a timely manner, comply with a consumer request for information in the control or possession of such covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including supporting written documentation, concerning the account of the consumer.

(2) EXCEPTIONS.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025, a prudential regulator, and any other agency having jurisdiction over a covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 may not be required by this section to make available to the consumer—

(A) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;

(B) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting or making any report regarding other unlawful or potentially unlawful conduct;

(C) any information required to be kept confidential by any other provision of law; or

(D) any nonpublic or confidential information, including confidential supervisory information.

(d) AGREEMENTS WITH OTHER AGENCIES.—The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency regarding procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section.

SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall designate a Private Education Loan Ombudsman (in this section referred to as the ''Ombudsman'') within the Bureau, to provide timely assistance to borrowers of private education loans.

(b) PUBLIC INFORMATION.—The Secretary and the Director shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.

(c) FUNCTIONS OF OMBUDSMAN.—The Ombudsman designated under this subsection shall—

(1) in accordance with regulations of the Director, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

(2) not later than 90 days after the designated transfer date, establish a memorandum of understanding with the student loan ombudsman established under section 141(f) of the Higher Education Act of 1965 (20 U.S.C. 1018(f)), to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans;

(3) compile and analyze data on borrower complaints regarding private education loans; and

(4) make appropriate recommendations to the Director, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(d) ANNUAL REPORTS.—

(1) IN GENERAL.—The Ombudsman shall prepare an annual report that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(2) SUBMISSION.—The report required by paragraph (1) shall be submitted on the same date annually to the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(e) DEFINITIONS.—For purposes of this section, the terms ''private education loan'' and ''institution of higher education'' have the same meanings as in section 140 of the Truth in Lending Act (15 U.S.C. 1650).

SEC. 1036. PROHIBITED ACTS.

It shall be unlawful for any person—

(1) to—

(A) advertise, market, offer, or sell a consumer financial product or service not in conformity with this title or applicable rules or orders issued by the Bureau;

(B) enforce, or attempt to enforce, any agreement with a consumer (including any term or change in terms in respect of such agreement), or impose, or attempt to impose, any fee or charge on a consumer in connection with a consumer financial product or service that is not in conformity with this title or applicable rules or orders issued by the Bureau; or

(C) engage in any unfair, deceptive, or abusive act or practice,

except that no person shall be held to have violated this paragraph solely by virtue of providing or selling time or space to a person placing an advertisement;

(2) to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder—

(A) to permit access to or copying of records;

(B) to establish or maintain records; or

(C) to make reports or provide information to the Bureau; or

(3) knowingly or recklessly to provide substantial assistance to another person in violation of the provisions of section 1031, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

SEC. 1037. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle D—Preservation of State Law

SEC. 1041. RELATION TO STATE LAW.

(a) IN GENERAL.—

(1) RULE OF CONSTRUCTION.—This title, other than sections 1044 through 1048, may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

(2) GREATER PROTECTION UNDER STATE LAW.—For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any

State is not inconsistent with the provisions of this title if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title. A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) RELATION TO OTHER PROVISIONS OF ENUMERATED CONSUMER LAWS THAT RELATE TO STATE LAW.—No provision of this title, except as provided in section 1083, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.

(c) ADDITIONAL CONSUMER PROTECTION REGULATIONS IN RESPONSE TO STATE ACTION.—

(1) NOTICE OF PROPOSED RULE REQUIRED.—The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau.

(2) BUREAU CONSIDERATIONS REQUIRED FOR ISSUANCE OF FINAL REGULATION.—Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether—

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) EXPLANATION OF CONSIDERATIONS.—The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) RESERVATION OF AUTHORITY.—No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.

(5) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.

(6) DEFINITION.—For purposes of this subsection, the term ''consumer protection regulation'' means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) ACTION BY STATE.—Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity.

(2) ACTION BY STATE AGAINST NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION TO ENFORCE RULES.—

(A) IN GENERAL.—Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association with respect to an act or omission that would be a violation of a provision of this title.

(B) ENFORCEMENT OF RULES PERMITTED.—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under other law.

(3) RULE OF CONSTRUCTION.—No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(b) CONSULTATION REQUIRED.—

(1) NOTICE.—

(A) IN GENERAL.—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title, including any regulation prescribed by the Bureau under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) EMERGENCY ACTION.—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) CONTENTS OF NOTICE.—The notification required under this paragraph shall, at a minimum, describe—

(i) the identity of the parties;

(ii) the alleged facts underlying the proceeding; and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.

(2) BUREAU RESPONSE.—In any action described in paragraph (1), the Bureau may—

(A) intervene in the action as a party;

(B) upon intervening—

(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

(ii) be heard on all matters arising in the action; and

(C) appeal any order or judgment, to the same extent as any other party in the proceeding may.

(c) REGULATIONS.—The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) PRESERVATION OF STATE AUTHORITY.—

(1) STATE CLAIMS.—No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) STATE SECURITIES REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) STATE INSURANCE REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.

SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.

This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of enactment of this Act, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.

SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

''SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

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

''(1) NATIONAL BANK.—The term 'national bank' includes—

''(A) any bank organized under the laws of the United States; and

''(B) any Federal branch established in accordance with the International Banking Act of 1978.

''(2) STATE CONSUMER FINANCIAL LAWS.—The term 'State consumer financial law' means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

''(3) OTHER DEFINITIONS.—The terms 'affiliate', 'subsidiary', 'includes', and 'including' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) PREEMPTION STANDARD.—

''(1) IN GENERAL.—State consumer financial laws are preempted, only if—

''(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;

''(B) the State consumer financial law is preempted in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996), and any preemption determination under this subparagraph may be made by a court, or by regulation or order of the

Comptroller of the Currency on a case-by-case basis, in accordance with applicable law; or

''(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

''(2) SAVINGS CLAUSE.—This title and section 24 of the Federal Reserve Act (12 U.S.C. 371) do not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

''(3) CASE-BY-CASE BASIS.—

''(A) DEFINITION.—As used in this section the term 'case-by-case basis' refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

''(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

''(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

''(5) STANDARDS OF REVIEW.—

''(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

''(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

''(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

''(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

''(d) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

''(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

''(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

''(e) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title or section 24 of Federal Reserve Act (12 U.S.C. 371), a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

''(f) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of 'interest' under such provision.

''(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

''Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.''.

SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(h) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

''(1) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(2) RULE OF CONSTRUCTION.—No provision of this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).''.

SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

''SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

''(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

''(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

''Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.''.

SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(i) VISITORIAL POWERS.—

''(1) IN GENERAL.—In accordance with the decision of the Supreme Court of the United States in Cuomo v. Clearing House Assn., L. L. C. (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action against a national bank in a court of appropriate jurisdiction to enforce an applicable law and to seek relief as authorized by such law.

''(j) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.''.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners' Loan Act (as added by this title) is amended by adding at the end the following:

''(c) VISITORIAL POWERS.—The provisions of sections 5136C(i) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.''

''(d) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.''.

SEC. 1048. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle E—Enforcement Powers

SEC. 1051. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) BUREAU INVESTIGATION.—The term ''Bureau investigation'' means any inquiry conducted by a Bureau investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that is a violation, as defined in this section.

(2) BUREAU INVESTIGATOR.—The term ''Bureau investigator'' means any attorney or investigator employed by the Bureau who is charged with the duty of enforcing or carrying into effect any Federal consumer financial law.

(3) CIVIL INVESTIGATIVE DEMAND AND DEMAND.—The terms ''civil investigative demand'' and ''demand'' mean any demand issued by the Bureau.

(4) CUSTODIAN.—The term ''custodian'' means the custodian or any deputy custodian designated by the Bureau.

(5) DOCUMENTARY MATERIAL.—The term ''documentary material'' includes the original or any copy of any book, document, record, report, memorandum, paper, communication, tabulation, chart, logs, electronic files, or other data or data compilations stored in any medium.

(6) VIOLATION.—The term ''violation'' means any act or omission that, if proved, would constitute a violation of any provision of Federal consumer financial law.

SEC. 1052. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.

(a) JOINT INVESTIGATIONS.—

(1) IN GENERAL.—The Bureau or, where appropriate, a Bureau investigator, may engage in joint investigations and requests for information, as authorized under this title.

(2) FAIR LENDING.—The authority under paragraph (1) includes matters relating to fair lending, and where appropriate, joint investigations with, and requests for information from, the Secretary of Housing and Urban Development, the Attorney General of the United States, or both.

(b) SUBPOENAS.—

(1) IN GENERAL.—The Bureau or a Bureau investigator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, or other material in connection with hearings under this title.

(2) FAILURE TO OBEY.—In the case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Bureau or a Bureau investigator and after notice to such person, may issue an order requiring such person to appear and give testimony or to appear and produce documents or other material.

(3) CONTEMPT.—Any failure to obey an order of the court under this subsection may be punished by the court as a contempt thereof.

(c) DEMANDS.—

(1) IN GENERAL.—Whenever the Bureau has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, the Bureau may, before the institution of any proceedings under the Federal consumer financial law, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to—

(A) produce such documentary material for inspection and copying or reproduction in the form or medium requested by the Bureau;

(B) submit such tangible things;

(C) file written reports or answers to questions;

(D) give oral testimony concerning documentary material, tangible things, or other information; or

(E) furnish any combination of such material, answers, or testimony.

(2) REQUIREMENTS.—Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

(3) PRODUCTION OF DOCUMENTS.—Each civil investigative demand for the production of documentary material shall—

(A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;

(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(C) identify the custodian to whom such material shall be made available.

(4) PRODUCTION OF THINGS.—Each civil investigative demand for the submission of tangible things shall—

(A) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified;

(B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and

(C) identify the custodian to whom such things shall be submitted.

(5) DEMAND FOR WRITTEN REPORTS OR ANSWERS.—Each civil investigative demand for written reports or answers to questions shall—

(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;

(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

(C) identify the custodian to whom such reports or answers shall be submitted.

(6) ORAL TESTIMONY.—Each civil investigative demand for the giving of oral testimony shall—

(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

(B) identify a Bureau investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

(7) SERVICE.—Any civil investigative demand and any enforcement petition filed under this section may be served—

(A) by any Bureau investigator at any place within the territorial jurisdiction of any court of the United States; and

(B) upon any person who is not found within the territorial jurisdiction of any court of the United States—

(i) in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation; and

(ii) to the extent that the courts of the United States have authority to assert jurisdiction over such person, consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

(8) METHOD OF SERVICE.—Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a person, including any legal entity, by—

(A) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;

(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the person to be served; or

(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at the principal office or place of business of such person.

(9) PROOF OF SERVICE.—

(A) IN GENERAL.—A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service.

(B) RETURN RECEIPTS.—In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.

(10) PRODUCTION OF DOCUMENTARY MATERIAL.—The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

(11) SUBMISSION OF TANGIBLE THINGS.—The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.

(12) SEPARATE ANSWERS.—Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

(13) TESTIMONY.—

(A) IN GENERAL.—

(i) OATH OR AFFIRMATION.—Any Bureau investigator before whom oral testimony is to be taken shall put the witness under oath or affirmation, and shall personally, or by any individual acting under the direction of and in the presence of the Bureau investigator, record the testimony of the witness.

(ii) TRANSCRIPTION.—The testimony shall be taken stenographically and transcribed.

(iii) TRANSMISSION TO CUSTODIAN.—After the testimony is fully transcribed, the Bureau investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

(B) PARTIES PRESENT.—Any Bureau investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons, except the person giving the testimony, the attorney of that person, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(C) LOCATION.—The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Bureau investigator before whom the oral testimony of such person is to be taken and such person.

(D) ATTORNEY REPRESENTATION.—

(i) IN GENERAL.—Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.

(ii) AUTHORITY.—The attorney may advise a person described in clause (i), in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

(iii) OBJECTIONS.—A person described in clause (i), or the attorney for that person, may object on the record to any question, in whole or

in part, and such person shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and such person or attorney shall not otherwise interrupt the oral examination.

(iv) REFUSAL TO ANSWER.—If a person described in clause (i) refuses to answer any question—

(I) the Bureau may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question; and

(II) on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

(E) TRANSCRIPTS.—For purposes of this subsection—

(i) after the testimony of any witness is fully transcribed, the Bureau investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript;

(ii) the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness;

(iii) any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Bureau investigator, with a statement of the reasons given by the witness for making such changes;

(iv) the transcript shall be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign; and

(v) if the transcript is not signed by the witness during the 30-day period following the date on which the witness is first afforded a reasonable opportunity to examine the transcript, the Bureau investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.

(F) CERTIFICATION BY INVESTIGATOR.—The Bureau investigator shall certify on the transcript that the witness was duly sworn by him or her and that the transcript is a true record of the testimony given by the witness, and the Bureau investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

(G) COPY OF TRANSCRIPT.—The Bureau investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Bureau may for good cause limit such witness to inspection of the official transcript of his testimony.

(H) WITNESS FEES.—Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

(d) CONFIDENTIAL TREATMENT OF DEMAND MATERIAL.—

(1) IN GENERAL.—Documentary materials and tangible things received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in accordance with rules established by the Bureau.

(2) DISCLOSURE TO CONGRESS.—No rule established by the Bureau regarding the confidentiality of materials submitted to, or otherwise obtained by, the Bureau shall be intended to prevent disclosure to either House of Congress or to an appropriate committee of the Congress, except that the Bureau is permitted to adopt rules allowing prior notice to any party that owns or otherwise provided the material to the Bureau and had designated such material as confidential.

(e) PETITION FOR ENFORCEMENT.—

(1) IN GENERAL.—Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Bureau, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.

(2) SERVICE OF PROCESS.—All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

(f) PETITION FOR ORDER MODIFYING OR SETTING ASIDE DEMAND.—

(1) IN GENERAL.—Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Bureau investigator named in the demand, such person may file with the Bureau a petition for an order by the Bureau modifying or setting aside the demand.

(2) COMPLIANCE DURING PENDENCY.—The time permitted for compliance with the demand in whole or in part, as determined proper and ordered by the Bureau, shall not run during the pendency of a petition under paragraph (1) at the Bureau, except that such person shall comply with any portions of the demand not sought to be modified or set aside.

(3) SPECIFIC GROUNDS.—A petition under paragraph (1) shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

(g) CUSTODIAL CONTROL.—At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or rule promulgated by the Bureau.

(h) JURISDICTION OF COURT.—

(1) IN GENERAL.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section.

(2) APPEAL.—Any final order entered as described in paragraph (1) shall be subject to appeal pursuant to section 1291 of title 28, United States Code.

SEC. 1053. HEARINGS AND ADJUDICATION PROCEEDINGS.

(a) IN GENERAL.—The Bureau is authorized to conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with—

(1) the provisions of this title, including any rules prescribed by the Bureau under this title; and

(2) any other Federal law that the Bureau is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the Bureau from conducting a hearing or adjudication proceeding and only to the extent of such limitation.

(b) SPECIAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.—

(1) ORDERS AUTHORIZED.—

(A) IN GENERAL.—If, in the opinion of the Bureau, any covered person or service provider is engaging or has engaged in an activity that violates a law, rule, or any condition imposed in writing on the person by the Bureau, the Bureau may, subject to sections 1024, 1025, and 1026, issue and serve upon the covered person or service provider a notice of charges in respect thereof.

(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain a statement of the facts constituting the alleged violation or violations, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the covered person or service provider, such hearing to be held not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Bureau, at the request of any party so served.

(C) CONSENT.—Unless the party or parties served under subparagraph (B) appear at the hearing personally or by a duly authorized representative, such person shall be deemed to have consented to the issuance of the cease-and-desist order.

(D) PROCEDURE.—In the event of consent under subparagraph (C), or if, upon the record, made at any such hearing, the Bureau finds that any violation specified in the notice of charges has been established, the Bureau may issue and serve upon the covered person or service provider an order to cease and desist from the violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the covered person or service provider to cease and desist from the subject activity, and to take affirmative action to correct the conditions resulting from any such violation.

(2) EFFECTIVENESS OF ORDER.—A cease-and-desist order shall become effective at the expiration of 30 days after the date of service of an order under paragraph (1) upon the covered person or service provider concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as the order is stayed, modified, terminated, or set aside by action of the Bureau or a reviewing court.

(3) DECISION AND APPEAL.—Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or principal office or place of business of the person is located unless the person consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. After such hearing, and within 90 days after the Bureau has notified the parties that the case has been submitted to the Bureau for final decision, the Bureau shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4), and thereafter until the record in the proceeding has been filed as provided in paragraph (4), the Bureau may at any time, upon such notice and in such manner as the Bureau shall determine proper, modify, terminate, or set aside any such order. Upon filing of the record as provided, the Bureau may modify, terminate, or set aside any such order with permission of the court.

(4) APPEAL TO COURT OF APPEALS.—Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Bureau be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Bureau, and thereupon the Bureau shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of paragraph (3) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Bureau. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court of the United States, upon certiorari, as provided in section 1254 of title 28 of the United States Code.

(5) NO STAY.—The commencement of proceedings for judicial review under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Bureau.

(c) SPECIAL RULES FOR TEMPORARY CEASE-AND-DESIST PROCEEDINGS.—

(1) IN GENERAL.—Whenever the Bureau determines that the violation specified in the notice of charges served upon a person, including a service provider, pursuant to subsection (b), or the continuation thereof, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to subsection (b), the Bureau may issue a temporary order requiring the person to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings. Such order may include any requirement authorized under this subtitle. Such order shall become effective upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Bureau shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order.

(2) APPEAL.—Not later than 10 days after the covered person or service provider concerned has been served with a temporary cease-and-desist order, the person may apply to the United States district court for the judicial district in which the residence or principal office or place of business of the person is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the person under subsection (b), and such court shall have jurisdiction to issue such injunction.

(3) INCOMPLETE OR INACCURATE RECORDS.—

(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b) specifies, on the basis of particular facts and circumstances, that the books and records of a covered person or service provider are so incomplete or inaccurate that the Bureau is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the Bureau may issue a temporary order requiring—

(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

(i) shall become effective upon service; and

(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

(I) the completion of the proceeding initiated under subsection (b) in connection with the notice of charges; or

(II) the date the Bureau determines, by examination or otherwise, that the books and records of the covered person or service provider are accurate and reflect the financial condition thereof.

(d) SPECIAL RULES FOR ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—The Bureau may in its discretion apply to the United States district court within the jurisdiction of which the principal office or place of business of the person is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith.

(2) EXCEPTION.—Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.

(e) RULES.—The Bureau shall prescribe rules establishing such procedures as may be necessary to carry out this section.

SEC. 1054. LITIGATION AUTHORITY.

(a) IN GENERAL.—If any person violates a Federal consumer financial law, the Bureau may, subject to sections 1024, 1025, and 1026, commence a civil action against such person to impose a civil penalty or to seek all appropriate legal and equitable relief including a permanent or temporary injunction as permitted by law.

(b) REPRESENTATION.—The Bureau may act in its own name and through its own attorneys in enforcing any provision of this title, rules thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Bureau is a party.

(c) COMPROMISE OF ACTIONS.—The Bureau may compromise or settle any action if such compromise is approved by the court.

(d) NOTICE TO THE ATTORNEY GENERAL.—When commencing a civil action under Federal consumer financial law, or any rule thereunder, the Bureau shall notify the Attorney General and, with respect to a civil action against an insured depository institution or insured credit union, the appropriate prudential regulator.

(e) APPEARANCE BEFORE THE SUPREME COURT.—The Bureau may represent itself in its own name before the Supreme Court of the United States, provided that the Bureau makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari, and the Attorney General concurs with such request or fails to take action within 60 days of the request of the Bureau.

(f) FORUM.—Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a state in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with any Federal consumer financial law.

(g) TIME FOR BRINGING ACTION.—

(1) IN GENERAL.—Except as otherwise permitted by law or equity, no action may be brought under this title more than 3 years after the date of discovery of the violation to which an action relates.

(2) LIMITATIONS UNDER OTHER FEDERAL LAWS.—

(A) IN GENERAL.—For purposes of this subsection, an action arising under this title does not include claims arising solely under enumerated consumer laws.

(B) BUREAU AUTHORITY.—In any action arising solely under an enumerated consumer law, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.

(C) TRANSFERRED AUTHORITY.—In any action arising solely under laws for which authorities were transferred under subtitles F and H, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.

SEC. 1055. RELIEF AVAILABLE.

(a) ADMINISTRATIVE PROCEEDINGS OR COURT ACTIONS.—

(1) JURISDICTION.—The court (or the Bureau, as the case may be) in an action or adjudication proceeding brought under Federal consumer financial law, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law, including a violation of a rule or order prescribed under a Federal consumer financial law.

(2) RELIEF.—Relief under this section may include, without limitation—

(A) rescission or reformation of contracts;

(B) refund of moneys or return of real property;

(C) restitution;

(D) disgorgement or compensation for unjust enrichment;

(E) payment of damages or other monetary relief;

(F) public notification regarding the violation, including the costs of notification;

(G) limits on the activities or functions of the person; and

(H) civil money penalties, as set forth more fully in subsection (c).

(3) NO EXEMPLARY OR PUNITIVE DAMAGES.—Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.

(b) RECOVERY OF COSTS.—In any action brought by the Bureau, a State attorney general, or any State regulator to enforce any Federal consumer financial law, the Bureau, the State attorney general, or the State regulator may recover its costs in connection with prosecuting such action if the Bureau, the State attorney general, or the State regulator is the prevailing party in the action.

(c) CIVIL MONEY PENALTY IN COURT AND ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Any person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty pursuant to this subsection.

(2) PENALTY AMOUNTS.—

(A) FIRST TIER.—For any violation of a law, rule, or final order or condition imposed in writing by the Bureau, a civil penalty may not exceed $5,000 for each day during which such violation or failure to pay continues.

(B) SECOND TIER.—Notwithstanding paragraph (A), for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed $25,000 for each day during which such violation continues.

(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed $1,000,000 for each day during which such violation continues.

(3) MITIGATING FACTORS.—In determining the amount of any penalty assessed under paragraph (2), the Bureau or the court shall take into account the appropriateness of the penalty with respect to—

(A) the size of financial resources and good faith of the person charged;

(B) the gravity of the violation or failure to pay;

(C) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided;

(D) the history of previous violations; and

(E) such other matters as justice may require.

(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Bureau may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (2). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged.

(5) NOTICE AND HEARING.—No civil penalty may be assessed under this subsection with respect to a violation of any Federal consumer financial law, unless—

(A) the Bureau gives notice and an opportunity for a hearing to the person accused of the violation; or

(B) the appropriate court has ordered such assessment and entered judgment in favor of the Bureau.

SEC. 1056. REFERRALS FOR CRIMINAL PROCEEDINGS.

If the Bureau obtains evidence that any person, domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the Bureau shall have the power to transmit such evidence to the Attorney General of the United States, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the Bureau to disclose information.

SEC. 1057. EMPLOYEE PROTECTION.

(a) IN GENERAL.—No covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee (or any person acting pursuant to a request of the employee), has—

(1) provided, caused to be provided, or is about to provide or cause to be provided, information to the employer, the Bureau, or any other State, local, or Federal, government authority or law enforcement agency relating to any violation of, or any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(2) testified or will testify in any proceeding resulting from the administration or enforcement of any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(3) filed, instituted, or caused to be filed or instituted any proceeding under any Federal consumer financial law; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Bureau.

(b) DEFINITION OF COVERED EMPLOYEE.—For the purposes of this section, the term ''covered employee'' means any individual performing tasks related to the offering or provision of a consumer financial product or service.

(c) PROCEDURES AND TIMETABLES.—

(1) COMPLAINT.—

(A) IN GENERAL.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such alleged violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act.

(B) ACTIONS OF SECRETARY OF LABOR.—Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint who is alleged to have committed the violation, of—

(i) the filing of the complaint;

(ii) the allegations contained in the complaint;

(iii) the substance of evidence supporting the complaint; and

(iv) opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION BY SECRETARY OF LABOR.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1), and after affording the complainant and the person named in the complaint who is alleged to have committed the violation that is the basis for the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall—

(i) initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit; and

(ii) notify the complainant and the person alleged to have committed the violation of subsection (a), in writing, of such determination.

(B) NOTICE OF RELIEF AVAILABLE.—If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall, together with the notice under subparagraph (A)(ii), issue a preliminary order providing the relief prescribed by paragraph (4)(B).

(C) REQUEST FOR HEARING.—Not later than 30 days after the date of receipt of notification of a determination of the Secretary of Labor under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously, and if a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(3) GROUNDS FOR DETERMINATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary of Labor shall dismiss a complaint filed under this subsection, and shall not conduct an investigation otherwise required under paragraph (2), unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) REBUTTAL EVIDENCE.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under subparagraph (A), no investigation otherwise required under paragraph (2) shall be conducted, if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(C) EVIDENTIARY STANDARDS.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint. Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(4) ISSUANCE OF FINAL ORDERS; REVIEW PROCEDURES.—

(A) TIMING.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) PENALTIES.—

(i) ORDER OF SECRETARY OF LABOR.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation—

(I) to take affirmative action to abate the violation;

(II) to reinstate the complainant to his or her former position, together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(III) to provide compensatory damages to the complainant.

(ii) PENALTY.—If an order is issued under clause (i), the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued, a sum equal to the aggregate amount of all costs and expenses (including attorney fees and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(C) PENALTY FOR FRIVOLOUS CLAIMS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney fee, not exceeding $1,000, to be paid by the complainant.

(D) DE NOVO REVIEW.—

(i) FAILURE OF THE SECRETARY TO ACT.—If the Secretary of Labor has not issued a final order within 210 days after the date of filing of a complaint under this subsection, or within 90 days after the date of receipt of a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States having jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(ii) PROCEDURES.—A proceeding under clause (i) shall be governed by the same legal burdens of proof specified in paragraph (3). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

(I) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

(II) the amount of back pay, with interest; and

(III) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(E) OTHER APPEALS.—Unless the complainant brings an action under subparagraph (D), any person adversely affected or aggrieved by a final order issued under subparagraph (A) may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation with respect to which the order

was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation, not later than 60 days after the date of the issuance of the final order of the Secretary of Labor under subparagraph (A). Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order. An order of the Secretary of Labor with respect to which review could have been obtained under this subparagraph shall not be subject to judicial review in any criminal or other civil proceeding.

(5) FAILURE TO COMPLY WITH ORDER.—

(A) ACTIONS BY THE SECRETARY.—If any person has failed to comply with a final order issued under paragraph (4), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to have occurred, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including injunctive relief and compensatory damages.

(B) CIVIL ACTIONS TO COMPEL COMPLIANCE.—A person on whose behalf an order was issued under paragraph (4) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(C) AWARD OF COSTS AUTHORIZED.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(D) MANDAMUS PROCEEDINGS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—

(1) NO WAIVER OF RIGHTS AND REMEDIES.—Except as provided under paragraph (3), and notwithstanding any other provision of law, the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) NO PREDISPUTE ARBITRATION AGREEMENTS.—Except as provided under paragraph (3), and notwithstanding any other provision of law, no predispute arbitration agreement shall be valid or enforceable to the extent that it requires arbitration of a dispute arising under this section.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under subsection (a)(4), unless the Bureau determines, by rule, that such provision is inconsistent with the purposes of this title.

SEC. 1058. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

SEC. 1061. TRANSFER OF CONSUMER FINANCIAL PROTECTION FUNCTIONS.

(a) DEFINED TERMS.—For purposes of this subtitle—

(1) the term ''consumer financial protection functions'' means research, rulemaking, issuance of orders or guidance, supervision, examination, and enforcement activities, powers, and duties relating to the offering or provision of consumer financial products or services; and

(2) the terms ''transferor agency'' and ''transferor agencies'' mean, respectively—

(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and

(B) the agencies listed in subparagraph (A), collectively.

(b) IN GENERAL.—Except as provided in subsection (c), consumer financial protection functions are transferred as follows:

(1) BOARD OF GOVERNORS.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Board of Governors are transferred to the Bureau.

(B) BOARD OF GOVERNORS AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date.

(2) COMPTROLLER OF THE CURRENCY.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Comptroller of the Currency are transferred to the Bureau.

(B) COMPTROLLER AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date.

(3) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the Bureau.

(B) DIRECTOR AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.

(4) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the Bureau.

(B) CORPORATION AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Federal Deposit Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date.

(5) FEDERAL TRADE COMMISSION.—

(A) TRANSFER OF FUNCTIONS.—The authority of the Federal Trade Commission under an enumerated consumer law to prescribe rules, issue guidelines, or conduct a study or issue a report mandated under such law shall be transferred to the Bureau on the designated transfer date. Nothing in this title shall be construed to require a mandatory transfer of any employee of the Federal Trade Commission.

(B) BUREAU AUTHORITY.—

(i) IN GENERAL.—The Bureau shall have all powers and duties under the enumerated consumer laws to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date.

(ii) FEDERAL TRADE COMMISSION ACT.—Subject to subtitle B, the Bureau may enforce a rule prescribed under the Federal Trade Commission Act by the Federal Trade Commission with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 1031 of this title.

(C) AUTHORITY OF THE FEDERAL TRADE COMMISSION.—

(i) IN GENERAL.—No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission under the Federal Trade Commission Act or any other law, other than the authority under an enumerated consumer law to prescribe rules, issue official guidelines, or conduct a study or issue a report mandated under such law.

(ii) COMMISSION AUTHORITY RELATING TO RULES PRESCRIBED BY THE BUREAU.—Subject to subtitle B, the Federal Trade Commission shall have authority to enforce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) a rule prescribed by the Bureau under this title with respect to a covered person subject to the jurisdiction of the Federal Trade Commission under that Act, and a violation of such a rule by such a person shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices.

(D) COORDINATION.—To avoid duplication of or conflict between rules prescribed by the Bureau under section 1031 of this title and the Federal Trade Commission under section 18(a)(1)(B) of the Federal Trade Commission Act that apply to a covered person or service provider with respect to the offering or provision of consumer financial products or services, the agencies shall negotiate an agreement with respect to rulemaking by each agency, including consultation with the other agency prior to proposing a rule and during the comment period.

(E) DEFERENCE.—No provision of this title shall be construed as altering, limiting, expanding, or otherwise affecting the deference that a court affords to the—

(i) Federal Trade Commission in making determinations regarding the meaning or interpretation of any provision of the Federal Trade Commission Act, or of any other Federal law for which the Commission has authority to prescribe rules; or

(ii) Bureau in making determinations regarding the meaning or interpretation of any provision of a Federal consumer financial law (other than any law described in clause (i)).

(6) NATIONAL CREDIT UNION ADMINISTRATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the National Credit Union Administration are transferred to the Bureau.

(B) NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY.—The Bureau shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.

(7) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(A) TRANSFER OF FUNCTIONS.—All consumer protection functions of the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) are transferred to the Bureau.

(B) AUTHORITY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Bureau shall have all powers and duties that were vested in the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), on the day before the designated transfer date.

(c) TRANSFERS OF FUNCTIONS SUBJECT TO EXAMINATION AND ENFORCEMENT AUTHORITY REMAINING WITH TRANSFEROR AGENCIES.—The transfers of functions in subsection (b) do not affect the authority of the agencies identified in subsection (b) from conducting examinations or initiating and maintaining enforcement proceedings, including performing appropriate supervisory and support functions relating thereto, in accordance with sections 1024, 1025, and 1026.

(d) EFFECTIVE DATE.—Subsections (b) and (c) shall become effective on the designated transfer date.

SEC. 1062. DESIGNATED TRANSFER DATE.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the Chairman of the Board of Governors, the Chairperson of the Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of Management and Budget, designate a single calendar date for the transfer of functions to the Bureau under section 1061; and

(2) publish notice of that designated date in the Federal Register.

(b) CHANGING DESIGNATION.—The Secretary—

(1) may, in consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of Management and Budget, change the date designated under subsection (a); and

(2) shall publish notice of any changed designated date in the Federal Register.

(c) PERMISSIBLE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any date designated under this section shall be not earlier than 180 days, nor later than 18 months, after the date of enactment of this Act.

(2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 18 months after the date of enactment of this Act if the Secretary transmits to appropriate committees of Congress—

(A) a written determination that orderly implementation of this title is not feasible before the date that is 18 months after the date of enactment of this Act;

(B) an explanation of why an extension is necessary for the orderly implementation of this title; and

(C) a description of the steps that will be taken to effect an orderly and timely implementation of this title within the extended time period.

(3) EXTENSION LIMITED.—In no case may any date designated under this section be later than 24 months after the date of enactment of this Act.

SEC. 1063. SAVINGS PROVISIONS.

(a) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(1) does not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that—

(A) arises under any provision of law relating to any consumer financial protection function of the Board of Governors transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any consumer financial protection function of the Board of Governors (or any Federal reserve bank) transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.

(b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(4) does not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Federal Deposit Insurance Corporation (or the Board of Directors of that Corporation) before the designated transfer date with respect to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such proceeding as of the designated transfer date.

(c) FEDERAL TRADE COMMISSION.—Section 1061(b)(5) does not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that—

(1) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the Bureau by this title; and

(2) existed on the day before the designated transfer date.

(d) NATIONAL CREDIT UNION ADMINISTRATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(6) does not affect the validity of any right, duty, or obligation of the United States, the National Credit Union Administration, the National Credit Union Administration Board, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the National Credit Union Administration (or the National Credit Union Administration Board) before the designated transfer date with respect to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the National Credit Union Administration (or National Credit Union Administration Board) as a party to any such proceeding as of the designated transfer date.

(e) OFFICE OF THE COMPTROLLER OF THE CURRENCY.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(2) does not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Comptroller of the Currency (or the Office of the Comptroller of the Currency) with respect to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Comptroller of the Currency (or the Office of the Comptroller of the Currency) as a party to any such proceeding as of the designated transfer date.

(f) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(3) does not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Bureau by this title; and

(B) that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Director of the Office of Thrift Supervision (or the Office of Thrift Supervision) with respect to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Director (or the Office of Thrift Supervision) as a party to any such proceeding as of the designated transfer date.

(g) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(7) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development), or any other person, that—

(A) arises under any provision of law relating to any function of the Secretary of the Department of Housing and Urban Development with respect to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) or the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any proceeding commenced by or against the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) with respect to any consumer financial protection function of the Secretary of the Department of Housing and Urban Development transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) as a party to any such proceeding as of the designated transfer date.

(h) CONTINUATION OF EXISTING ORDERS, RULES, DETERMINATIONS, AGREEMENTS, AND RESOLUTIONS.—All orders, resolutions, determinations, agreements, and rules that have been issued, made, prescribed, or allowed to become effective by any transferor agency or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred by this title and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and rules, and shall not be enforceable by or against the Bureau.

(i) IDENTIFICATION OF RULES CONTINUED.—Not later than the designated transfer date, the Bureau—

(1) shall, after consultation with the head of each transferor agency, identify the rules continued under subsection (h) that will be enforced by the Bureau; and

(2) shall publish a list of such rules in the Federal Register.

(j) STATUS OF RULES PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED RULES.—Any proposed rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has proposed before the designated transfer date, but has not been published as a final rule before that date, shall be deemed to be a proposed rule of the Bureau.

(2) RULES NOT YET EFFECTIVE.—Any interim or final rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has published before the designated transfer date, but which has not become effective before that date, shall become effective as a rule of the Bureau according to its terms.

SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.

(a) IN GENERAL.—

(1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Board of Governors shall—

(i) jointly determine the number of employees of the Board of Governors necessary to perform or support the consumer financial protection functions of the Board of Governors that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Bureau, in a manner that the Bureau and the Board of Governors, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(C) FEDERAL RESERVE BANK EMPLOYEES.—Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing consumer financial protection functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B).

(2) CERTAIN FDIC EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Board of Directors of the Federal Deposit Insurance Corporation shall—

(i) jointly determine the number of employees of that Corporation necessary to perform or support the consumer financial protection functions of the Corporation that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Bureau, in a manner that the Bureau and the Board of Directors of the Corporation, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(3) CERTAIN NCUA EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the National Credit Union Administration Board shall—

(i) jointly determine the number of employees of the National Credit Union Administration necessary to perform or support the consumer financial protection functions of the National Credit Union Administration that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the National Credit Union Administration for transfer to the Bureau, in a manner that the Bureau and the National Credit Union Administration Board, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the National Credit Union Administration identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(4) CERTAIN OFFICE OF THE COMPTROLLER OF THE CURRENCY EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Comptroller of the Currency shall—

(i) jointly determine the number of employees of the Office of the Comptroller of the Currency necessary to perform or support the consumer financial protection functions of the Office of the Comptroller of the Currency that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of the Comptroller of the Currency for transfer to the Bureau, in a manner that the Bureau and the Office of the Comptroller of the Currency, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Office of the Comptroller of the Currency identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(5) CERTAIN OFFICE OF THRIFT SUPERVISION EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Director of the Office of Thrift Supervision shall—

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the consumer financial protection functions of the Office of Thrift Supervision that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Bureau, in a manner that the Bureau and the Office of Thrift Supervision, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Office of Thrift Supervision identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(6) CERTAIN EMPLOYEES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Secretary of the Department of Housing and Urban Development shall—

(i) jointly determine the number of employees of the Department of Housing and Urban Development necessary to perform or support the consumer protection functions of the Department that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Department of Housing and Urban Development for transfer to the Bureau in a manner that the Bureau and the Secretary of the Department of Housing and Urban Development, in their sole discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Department of Housing and Urban Development identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(7) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE SERVICE TRANSFERRED.—

(A) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) DECLINING TRANSFERS ALLOWED.—An agency or entity may decline to make a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and non-career positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under this section shall—

(1) be transferred not later than 90 days after the designated transfer date; and

(2) receive notice of a position assignment not later than 120 days after the effective date of his or her transfer.

(c) TRANSFER OF FUNCTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) PRIORITY OF THIS TITLE.—If any provisions of this title conflict with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this title shall control.

(d) EQUAL STATUS AND TENURE POSITIONS.—

(1) EMPLOYEES TRANSFERRED FROM FDIC, HUD, NCUA, OCC, AND OTS.—Each employee transferred from the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Department of Housing and Urban Development shall be placed in a position at the Bureau with the same status and tenure as that employee held on the day before the designated transfer date.

(2) EMPLOYEES TRANSFERRED FROM THE FEDERAL RESERVE SYSTEM.—

(A) COMPARABILITY.—Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of an employee transferring to the Bureau from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service.

(B) SERVICE PERIODS CREDITED.—For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(e) ADDITIONAL CERTIFICATION REQUIREMENTS LIMITED.—Examiners transferred to the Bureau are not subject to any additional certification requirements before being placed in a comparable examiner position at the Bureau examining the same types of institutions as they examined before they were transferred.

(f) PERSONNEL ACTIONS LIMITED.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee holding a permanent position on the day before the designated transfer date may not, during the 2-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside his or her locality pay area, as defined by the Office of Personnel Management.

(2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Bureau—

(A) to separate an employee for cause or for unacceptable performance;

(B) to terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or

(C) to reassign a supervisory employee outside his or her locality pay area, as defined by the Office of Personnel Management, when the Bureau determines that the reassignment is necessary for the efficient operation of the Bureau.

(g) PAY.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee shall, during the 2-year period beginning on the designated transfer date, receive pay at a rate equal to not less than the basic rate of pay (including any geographic differential) that the employee received during the pay period immediately preceding the date of transfer.

(2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Bureau to reduce the rate of basic pay of a transferred employee—

(A) for cause;

(B) for unacceptable performance; or

(C) with the consent of the employee.

(3) PROTECTION ONLY WHILE EMPLOYED.—Paragraph (1) applies to a transferred employee only while that employee remains employed by the Bureau.

(4) PAY INCREASES PERMITTED.—Paragraph (1) does not limit the authority of the Bureau to increase the pay of a transferred employee.

(h) REORGANIZATION.—

(1) BETWEEN 1ST AND 3RD YEAR.—

(A) IN GENERAL.—If the Bureau determines, during the 2-year period beginning 1 year after the designated transfer date, that a reorganization of the staff of the Bureau is required—

(i) that reorganization shall be deemed a ''major reorganization'' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code;

(ii) before the reorganization occurs, all employees in the same locality pay area as defined by the Office of Personnel Management shall be placed in a uniform position classification system; and

(iii) any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall—

(I) establish competitive areas (as that term is defined in regulations issued by the Office of Personnel Management) to include at a minimum all employees in the same locality pay area as defined by the Office of Personnel Management;

(II) establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and

(III) afford employees appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Bureau as employees appointed to positions in the competitive service.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(2) AFTER 3RD YEAR.—

(A) IN GENERAL.—If the Bureau determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the staff of the Bureau is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of appointment held by particular employees transferred under this section.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(i) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as provided in subparagraph (B), each transferred employee shall remain enrolled in his or her existing retirement plan, through any period of continuous employment with the Bureau.

(ii) EMPLOYER CONTRIBUTION.—The Bureau shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under that plan.

(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

(i) ELECTION.—Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before his or her transfer to the Bureau may, during the 1-year period beginning 6 months after the designated transfer date, elect to be subject to the Federal employee retirement program.

(ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date.

(C) BUREAU PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN.—

(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED.—Notwithstanding any other provision of law, and subject to the terms and conditions of this section, a separate account in the Federal Reserve System retirement plan shall be established for Bureau employees who do not make the election under subparagraph (B).

(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED.—The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).

(iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The Bureau shall deposit into the account established under clause (i) the employer contributions that the Bureau makes on behalf of employees who do not make the election under subparagraph (B).

(iv) ACCOUNT ADMINISTRATION.—The Bureau shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) the term ''existing retirement plan'' means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, in which the employee was enrolled on the day before the designated transfer date; and

(ii) the term ''Federal employee retirement program'' means the retirement program for Federal employees established by chapter 84 of title 5, United States Code.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) DURING 1ST YEAR.—

(i) EXISTING PLANS CONTINUE.—Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a dental, vision, long term care, or life insurance program, to which the employee belonged on the day before the designated transfer date.

(ii) EMPLOYER CONTRIBUTION.—The Bureau shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee, as required under that program or negotiated agreements.

(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any dental, vision, or life insurance program of an agency or bank from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to enroll, without regard to any regularly scheduled open season, in—

(i) the enhanced dental benefits established by chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; or

(iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any long term care insurance program of an agency or bank from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in part 875, title 5, Code of Federal Regulations).

(D) EMPLOYEE CONTRIBUTION.—An individual enrolled in the Federal Employees Health Benefits program shall pay any employee contribution required by the plan.

(E) ADDITIONAL FUNDING.—The Bureau shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this paragraph.

(F) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this title, enrollment in a health benefits plan administered by a transferor agency or a Federal reserve bank, as the case may be, immediately before enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code.

(G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by a transferor agency on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Bureau, without regard to any regularly scheduled open season and requirement of insurability.

(ii) EMPLOYEE CONTRIBUTION.—An individual enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.

(iii) ADDITIONAL FUNDING.—The Bureau shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (ii).

(iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this

title, enrollment in a life insurance plan administered by a transferor agency immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(3) OPM RULES.—The Office of Personnel Management shall issue such rules as are necessary to carry out this subsection.

(j) IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.—Not later than 2 years after the designated transfer date, the Bureau shall implement a uniform pay and classification system for all employees transferred under this title.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Bureau—

(1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks; and

(2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time of those employees, for prior periods of service with any Federal agency, including the Board of Governors, the Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks.

(l) IMPLEMENTATION.—In implementing the provisions of this section, the Bureau shall coordinate with the Office of Personnel Management and other entities having expertise in matters related to employment to ensure a fair and orderly transition for affected employees.

SEC. 1065. INCIDENTAL TRANSFERS.

(a) INCIDENTAL TRANSFERS AUTHORIZED.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental transfers and dispositions of assets and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this title.

(b) SUNSET.—The authority provided in this section shall terminate 5 years after the date of enactment of this Act.

SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Bureau under this subtitle until the Director of the Bureau is confirmed by the Senate in accordance with section 1011.

(b) INTERIM ADMINISTRATIVE SERVICES BY THE DEPARTMENT OF THE TREASURY.—The Department of the Treasury may provide administrative services necessary to support the Bureau before the designated transfer date.

SEC. 1067. TRANSITION OVERSIGHT.

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

(1) has an orderly and organized startup;

(2) attracts and retains a qualified workforce; and

(3) establishes comprehensive employee training and benefits programs.

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Bureau shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).

(2) PLANS.—The plans described in this paragraph are as follows:

(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN.—The Bureau shall submit a training and workforce development plan that includes, to the extent practicable—

(i) identification of skill and technical expertise needs and actions taken to meet those requirements;

(ii) steps taken to foster innovation and creativity;

(iii) leadership development and succession planning; and

(iv) effective use of technology by employees.

(B) WORKPLACE FLEXIBILITIES PLAN.—The Bureau shall submit a workforce flexibility plan that includes, to the extent practicable—

(i) telework;

(ii) flexible work schedules;

(iii) phased retirement;

(iv) reemployed annuitants;

(v) part-time work;

(vi) job sharing;

(vii) parental leave benefits and childcare assistance;

(viii) domestic partner benefits;

(ix) other workplace flexibilities; or

(x) any combination of the items described in clauses (i) through (ix).

(C) RECRUITMENT AND RETENTION PLAN.—The Bureau shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—

(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;

(ii) streamlined employment application processes;

(iii) the provision of timely notification of the status of employment applications to applicants; and

(iv) the collection of information to measure indicators of hiring effectiveness.

(c) EXPIRATION.—The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or

(2) the rights of employees under chapter 71 of title 5, United States Code.

Subtitle G—Regulatory Improvements

SEC. 1071. SMALL BUSINESS DATA COLLECTION.

(a) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704A the following:

"SEC. 740B. SMALL BUSINESS LOAN DATA COLLECTION.

''(a) PURPOSE.—The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned and minority-owned small businesses.

''(b) INFORMATION GATHERING.—Subject to the requirements of this section, in the case of any application to a financial institution for credit for a small business, the financial institution shall—

''(1) inquire whether the small business is a women- or minority-owned small business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means, and whether or not such application is in response to a solicitation by the financial institution; and

''(2) maintain a record of the responses to such inquiry, separate from the application and accompanying information.

''(c) RIGHT TO REFUSE.—Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.

''(d) NO ACCESS BY UNDERWRITERS.—

''(1) LIMITATION.—Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.

''(2) LIMITED ACCESS.—If a financial institution determines that a loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution shall provide notice to the applicant of the access of the underwriter to such information, along with notice that the financial institution may not discriminate on the basis of such information.

''(e) FORM AND MANNER OF INFORMATION.—

''(1) IN GENERAL.—Each financial institution shall compile and maintain, in accordance with regulations of the Bureau, a record of the information provided by any loan applicant pursuant to a request under subsection (b).

''(2) ITEMIZATION.—Information compiled and maintained under paragraph (1) shall be itemized in order to clearly and conspicuously disclose—

''(A) the number of the application and the date on which the application was received;

''(B) the type and purpose of the loan or other credit being applied for;

''(C) the amount of the credit or credit limit applied for, and the amount of the credit transaction or the credit limit approved for such applicant;

''(D) the type of action taken with respect to such application, and the date of such action;

''(E) the census tract in which is located the principal place of business of the small business loan applicant;

''(F) the gross annual revenue of the business in the last fiscal year of the small business loan applicant preceding the date of the application;

''(G) the race and ethnicity of the principal owners of the business; and

''(H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.

''(3) NO PERSONALLY IDENTIFIABLE INFORMATION.—In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)), telephone number, electronic mail address, or any other personally identifiable information concerning any individual who is, or is connected with, the small business loan applicant.

''(4) DISCRETION TO DELETE OR MODIFY PUBLICLY AVAILABLE DATA.—The Bureau may, at its discretion, delete or modify data collected under this section which is or will be available to the public, if the Bureau determines that the deletion or modification of the data would advance a compelling privacy interest.

''(f) AVAILABILITY OF INFORMATION.—

''(1) SUBMISSION TO BUREAU.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Bureau.

''(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained under this section shall be—

''(A) retained for not less than 3 years after the date of preparation;

''(B) made available to any member of the public, upon request, in the form required under regulations prescribed by the Bureau;

''(C) annually made available to the public generally by the Bureau, in such form and in

such manner as is determined appropriate by the Bureau.

''(3) COMPILATION OF AGGREGATE DATA.—The Bureau may, at its discretion—

''(A) compile and aggregate data collected under this section for its own use; and

''(B) make public such compilations of aggregate data.

''(g) BUREAU ACTION.—

''(1) IN GENERAL.—The Bureau shall prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

''(2) EXCEPTIONS.—The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.

''(3) GUIDANCE.—The Bureau shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women- or minority-owned for purposes of this section.

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

''(1) FINANCIAL INSTITUTION.—The term 'financial institution' means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

''(2) MINORITY.—The term 'minority' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

''(3) MINORITY-OWNED SMALL BUSINESS.—The term 'minority-owned small business' means a small business—

''(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

''(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

''(4) SMALL BUSINESS LOAN.—The term 'small business loan' shall be defined by the Bureau, which may take into account—

''(A) the gross revenues of the borrower;

''(B) the total number of employees of the borrower;

''(C) the industry in which the borrower has its primary operations; and

''(D) the size of the loan.

''(5) WOMEN-OWNED SMALL BUSINESS.—The term 'women-owned small business' means a business—

''(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and

''(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 701(b) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (4), the following:

''(5) to make an inquiry under section 704B, in accordance with the requirements of that section.''.

(c) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704A the following new item:

''704B. Small business loan data collection.''.

(d) EFFECTIVE DATE.—This section shall become effective on the designated transfer date.

SEC. 1072. GAO STUDY ON THE EFFECTIVENESS AND IMPACT OF VARIOUS APPRAISAL METHODS.

(a) IN GENERAL.—The Government Accountability Office shall conduct a study on the effectiveness and impact of various appraisal methods, including the cost approach, the comparative sales approach, the income approach, and others that may be available.

(b) STUDY.—Not later than—

(1) 1 year after the date of enactment of this Act, the Government Accountability Office shall submit a study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives;

(2) 90 days after the date of enactment of this Act, the Government Accountability Office shall provide a report on the status of the study and any preliminary findings to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) CONTENT OF STUDY.—The study required by this section shall include an examination of—

(1) the prevalence, alone or in combination, of these approaches in purchase-money and refinance mortgage transactions;

(2) the accuracy of the various approaches in assessing the property as collateral;

(3) whether and how the approaches contributed to price speculation in the previous cycle;

(4) the costs to consumers of these approaches;

(5) the disclosure of fees to consumers in the appraisal process;

(6) to what extent such approaches may be influenced by a conflict of interest between the mortgage lender and the appraiser and the mechanism by which the lender selects and compensates the appraiser; and

(7) the suitability of appraisal approaches in rural versus urban areas.

SEC. 1073. PROHIBITED PAYMENTS TO MORTGAGE ORIGINATORS.

Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (j) the following:

''(k) PROHIBITION ON STEERING INCENTIVES.—

''(1) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, no loan originator shall receive from any person and no person shall pay to a loan originator, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).

''(2) RESTRUCTURING OF FINANCING ORIGINATION FEE.—

''(A) IN GENERAL.—For any consumer credit transaction secured by real property or a dwelling, a loan originator may not arrange for a consumer to finance through the rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or loan originator.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), a loan originator may arrange for a consumer to finance through the rate an origination fee or cost if—

''(i) the loan originator does not receive any other compensation, directly or indirectly, from the consumer except the compensation that is financed through the rate;

''(ii) no person who knows or has reason to know of the consumer-paid compensation to the loan originator, other than the consumer, pays any compensation to the loan originator, directly or indirectly, in connection with the transaction; and

''(iii) the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party settlement charges).

''(3) RULES OF CONSTRUCTION.—No provision of this subsection shall be construed as—

''(A) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;

''(B) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the loan originator's right to receive such fees or costs (including compensation) from any person, subject to paragraph (2)(B), so long as such fees or costs do not vary based on the terms of the loan (other than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or

''(C) prohibiting incentive payments to a loan originator based on the number of loans originated within a specified period of time.

''(4) LOAN ORIGINATOR.—For the purposes of this section, the term 'loan originator'—

''(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, with respect to credit to be secured by real property or a dwelling—

''(i) arranges for an extension, renewal, or continuation of such credit;

''(ii) takes an application for credit or assists a consumer in applying for such credit; or

''(iii) offers or negotiates terms of such credit;

''(B) does not include any person who is not otherwise described in subparagraph (A) and who performs purely administrative or clerical tasks on behalf of a person who is described in subparagraph (A); and

''(C) does not include a person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person is compensated by a lender or other loan originator or by any agent of such lender or other loan originator.''.

SEC. 1074. MINIMUM STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.

(a) IN GENERAL.—No rule, order, or guidance issued by the Bureau under this title shall be construed as requiring a depository institution to apply mortgage underwriting standards that do not meet the minimum underwriting standards required by the appropriate prudential regulator of the depository institution.

(b) ABILITY TO REPAY.—

(1) TILA AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by section 1074 of this Act, is further amended by inserting after subsection (k) the following:

''(l) ABILITY TO REPAY.—

''(1) IN GENERAL.—No creditor may make a loan secured by real property or a dwelling unless the creditor, based on verified and documented information, determines that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.

''(2) MULTIPLE LOANS.—If the creditor knows, or has reason to know, that 1 or more loans secured by the same real property or dwelling will be made to the same consumer, the creditor shall, based on verified and documented information, determine that the consumer has a reasonable ability to repay the combined payments of all loans on the same real property or dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.

''(3) BASIS FOR DETERMINATION.—A determination under this subsection of a consumer's ability to repay a loan described in paragraph (1) shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

''(4) INCOME VERIFICATION.—A creditor shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W–2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In

order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of—

''(A) Internal Revenue Service transcripts of tax returns; or

''(B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Board.

''(5) PRESUMPTION OF ABILITY TO REPAY.—Any creditor with respect to any consumer loan secured by real property or a dwelling is presumed to have complied with this subsection with respect to such loan if the creditor—

''(A) verifies the consumer's ability to repay as provided in paragraphs (1), (2), (3), and (4); and

''(B) determines the consumer's ability to repay using the maximum rate permitted under the loan during the first 5 years following consummation and a payment schedule that fully amortizes the loan and taking into account current obligations and all applicable taxes, insurance, and assessments.

''(6) EXCEPTIONS TO PRESUMPTION.—Notwithstanding paragraph (5), no presumption of compliance shall be applied to a loan—

''(A) for which the regular periodic payments for the loan may—

''(i) result in an increase of the principal balance; or

''(ii) allow the consumer to defer repayment of principal.

''(B) the terms of which result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments; or

''(C) for which the total points and fees payable in connection with the loan exceed 3 percent of the total loan amount, where 'points and fees' means points and fees as defined by section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)), except that, for the purposes of computing the total points and fees under this subparagraph, the total points and fees attributable to any premium for mortgage guarantee insurance provided by an agency of the Federal Government or an agency of a State shall exclude any amount of the points and fees for such insurance greater than 1 percent of the total loan amount.

''(7) EXEMPTION.—

''(A) The Board may revise, add to, or subtract from the criteria under paragraphs (5) and (6) and subparagraphs (B) and (C) of this paragraph upon a finding that such regulations are necessary or appropriate to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with this subsection.

''(B) BRIDGE LOANS.—This subsection does not apply to a temporary or 'bridge' loan with a term of 12 months or less, including to any loan to purchase a new dwelling where the consumer plans to sell a current dwelling within 12 months.

''(C) REVERSE MORTGAGES.—This subsection does not apply with respect to any reverse mortgage.

''(8) SEASONAL INCOME.—If documented income, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, a creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.''.

(2) CONFORMING AMENDMENT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by this Act, is amended—

(A) by redesignating subsections (k), (l), and (m) as subsections (m), (n), and (o), respectively; and

(B) in subsection (o), as so redesignated, by striking ''(l)(2)'' and inserting ''(n)(2)''.

SEC. 1075. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (15 U.S.C. 1639a) the following new section:

''SEC. 129B. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.

''(a) PROHIBITED ON CERTAIN LOANS.—A residential mortgage loan that is not a qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated.

''(b) PHASED-OUT PENALTIES ON QUALIFIED MORTGAGES.—

''(1) IN GENERAL.—A qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of—

''(A) during the 1-year period beginning on the date on which the loan is consummated, an amount equal to 3 percent of the outstanding balance on the loan;

''(B) during the 1-year period beginning immediately after the end of the period described in subparagraph (A), an amount equal to 2 percent of the outstanding balance on the loan; and

''(C) during the 1-year period beginning immediately after the end of the 1-year period described in subparagraph (B), an amount equal to 1 percent of the outstanding balance on the loan.

''(2) PROHIBITION.—After the end of the 3-year period beginning on the date on which the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.

''(c) OPTION FOR NO PREPAYMENT PENALTY REQUIRED.—A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan, without offering to the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.

''(d) PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A creditor may not take any action in connection with a residential mortgage loan—

''(1) to structure a loan transaction as an open end consumer credit plan or another form of loan for the purpose and with the intent of evading the provisions of this section; or

''(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this section.

''(e) PUBLICATION OF AVERAGE PRIME OFFER RATE AND APR THRESHOLDS.—The Board—

''(1) shall publish, and update at least weekly, average prime offer rates;

''(2) may publish multiple rates based on varying types of mortgage transactions; and

''(3) shall adjust the thresholds of 1.50 percentage points in subsection (g)(3)(A)(v)(I), 2.50 percentage points in subsection (g)(3)(A)(v)(II), and 3.50 percentage points in subsection (g)(3)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of this section.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Bureau shall prescribe regulations to carry out this section.

''(2) REVISION OF SAFE HARBOR CRITERIA.—The Bureau may prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage, upon a finding that such regulations are necessary or appropriate—

''(A) to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section;

''(B) to effectuate the purposes of this section;

''(C) to prevent circumvention or evasion thereof; or

''(D) to facilitate compliance with this section.

''(3) INTERAGENCY HARMONIZATION.—

''(A) DETERMINATION OF QUALIFYING MORTGAGE TREATMENT.—The agencies and officials described in subparagraph (B) shall, in consultation with the Bureau, prescribe rules defining the types of loans they insure, guarantee, or administer, as the case may be, that are qualified mortgages for purposes of this section, upon a finding that such rules are consistent with the purposes of this section or are appropriate to prevent circumvention or evasion thereof or to facilitate compliance with this section.

''(B) AGENCIES AND OFFICIALS.—The agencies and officials described in this subparagraph are—

''(i) the Secretary of the Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);

''(ii) the Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs;

''(iii) the Secretary of Agriculture, with regard to loans guaranteed by the Secretary of Agriculture pursuant to section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h));

''(iv) the Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

''(v) the Rural Housing Service, with regard to loans insured by the Rural Housing Service.

''(4) IMPLEMENTATION.—Regulations required or authorized to be prescribed under this subsection—

''(A) shall be prescribed in final form before the end of the 12-month period beginning on the date of enactment of this section; and

''(B) shall take effect not later than 18 months after the date of enactment of this section.

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

''(1) AVERAGE PRIME OFFER RATE.—The term 'average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.

''(2) PREPAYMENT PENALTY.—The term 'prepayment penalty' means any penalty for paying all or part of the principal on an extension of credit before the date on which the principal is due, including a computation of a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992 (15 U.S.C. 1615(d)).

''(3) QUALIFIED MORTGAGE.—The term 'qualified mortgage' means—

''(A) any residential mortgage loan—

''(i) that does not have an adjustable rate;

''(ii) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a 'non-traditional mortgage' under guidance, advisories, or regulations prescribed by the Bureau;

''(iii) that does not provide for a repayment schedule that results in negative amortization at any time;

''(iv) for which the terms are fully amortizing and which does not result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;

''(v) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date on which the interest rate is set—

''(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));

''(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); or

''(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;

''(vi) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;

''(vii) for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;

''(viii) that does not cause the total monthly debts of the consumer, including amounts under the loan, to exceed a percentage established by regulation of the monthly gross income of the consumer, or such other maximum percentage of such income, as may be prescribed by regulation under subsection (g), which rules shall take into consideration the income of the consumer available to pay regular expenses after payment of all installment and revolving debt;

''(ix) for which the total points and fees payable in connection with the loan do not exceed 2 percent of the total loan amount, where the term 'points and fees' means points and fees as defined by Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and

''(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under subsection (g); and

''(B) any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(v).

''(4) RESIDENTIAL MORTGAGE LOAN.—The term 'residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.''.

(b) CONFORMING AMENDMENTS.—Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended—

(1) by striking paragraph (2);

(2) by striking ''(1) IN GENERAL.—''; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

SEC. 1076. ASSISTANCE FOR ECONOMICALLY VULNERABLE INDIVIDUALS AND FAMILIES.

(a) HERA AMENDMENTS.—Section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701x note) is amended—

(1) in subsection (a), by inserting in each of paragraphs (1), (2), (3), and (4) ''or economically vulnerable individuals and families'' after ''homebuyers'' each place that term appears;

(2) in subsection (b)(1), by inserting ''or economically vulnerable individuals and families'' after ''homebuyers'';

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) a nonprofit corporation that—

''(i) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and

''(ii) specializes or has expertise in working with economically vulnerable individuals and families, but whose primary purpose is not provision of credit counseling services.''; and

(4) in subsection (d)(1), by striking ''not more than 5''.

(b) APPLICABILITY.—Amendments made by subsection (a) shall not apply to programs authorized by section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701x note) that are funded with appropriations prior to fiscal year 2011.

SEC. 1077. REMITTANCE TRANSFERS.

(a) TREATMENT OF REMITTANCE TRANSFERS.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) in section 902(b) (15 U.S.C. 1693(b)), by inserting ''and remittance'' after ''electronic fund'';

(2) by redesignating sections 919, 920, 921, and 922 as sections 920, 921, 922, and 923, respectively; and

(3) by inserting after section 918 the following:

''SEC. 919. REMITTANCE TRANSFERS.

''(a) DISCLOSURES REQUIRED FOR REMITTANCE TRANSFERS.—

''(1) IN GENERAL.—Each remittance transfer provider shall make disclosures as required under this section and in accordance with rules prescribed by the Board.

''(2) STOREFRONT DISCLOSURES.—

''(A) IN GENERAL.—At every physical storefront location owned or controlled by a remittance transfer provider (with respect to remittance transfer activities), the remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer for the amounts of $100 and $200 (in United States dollars) showing the amount of currency that will be received by the designated recipient, using the values of the currency into which the funds will be exchanged for the 3 currencies to which that particular storefront sends the greatest number of remittance transfer payments, measured irrespective of the value of such payments. The values shall include all fees charged by the remittance transfer provider, taken out of the $100 and $200 amounts.

''(B) ELECTRONIC DISCLOSURE.—Subject to the rules prescribed by the Board, a remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer, as described in subparagraph (A), on the Internet site owned or controlled by the remittance transfer provider which senders use to electronically conduct remittance transfer transactions.

''(3) SPECIFIC DISCLOSURES.—In addition to any other disclosures applicable under this title, and subject to paragraph (4), a remittance transfer provider shall provide, in writing and in a form that the sender may keep, to each sender requesting a remittance transfer, as applicable to the transaction—

''(A) at the time at which the sender requests a remittance transfer to be initiated, and prior to the sender making any payment in connection with the remittance transfer, a disclosure describing the amount of currency that will be sent to the designated recipient, using the values of the currency into which the funds will be exchanged; and

''(B) at the time at which the sender makes payment in connection with the remittance transfer—

''(i) a receipt showing—

''(I) the information described in subparagraph (A);

''(II) the promised date of delivery to the designated recipient; and

''(III) the name and either the telephone number or the address of the designated recipient; and

''(ii) a statement containing—

''(I) information about the rights of the sender under this section regarding the resolution of errors; and

''(II) appropriate contact information for—

''(aa) the remittance transfer provider; and

''(bb) each State or Federal agency supervising the remittance transfer provider, including its State licensing authority or Federal regulator, as applicable.

''(4) REQUIREMENTS RELATING TO DISCLOSURES.—With respect to each disclosure required to be provided under paragraph (3), and subject to paragraph (5), a remittance transfer provider shall—

''(A) provide an initial notice and receipt, as required by subparagraphs (A) and (B) of paragraph (3), and an error resolution statement, as required by subsection (c), that clearly and conspicuously describe the information required to be disclosed therein; and

''(B) with respect to any transaction that a sender conducts electronically, comply with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).

''(5) EXEMPTION AUTHORITY.—The Board may, by rule, permit a remittance transfer provider to satisfy the requirements of—

''(A) paragraph (3)(A) orally, if the transaction is conducted entirely by telephone;

''(B) paragraph (3)(B), by mailing the documents required under such subparagraph to the sender, not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone;

''(C) subparagraphs (A) and (B) of paragraph (3) together in one written disclosure, but only to the extent that the information provided in accordance with paragraph (3)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer;

''(D) paragraph (3)(A), if a sender initiates a transaction to one of those countries displayed, in the exact amount of the transfers displayed pursuant to paragraph (2), if the Board finds it to be appropriate; and

''(E) paragraph (3)(A), without compliance with section 101(c) of the Electronic Signatures in Global Commerce Act, if a sender initiates the transaction electronically and the information is displayed electronically in a manner that the sender can keep.

''(b) FOREIGN LANGUAGE DISCLOSURES.—

''(1) IN GENERAL.—The disclosures required under this section shall be made in English and in each of the same foreign languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office.

''(2) ACCOUNTS.—In the case of a sender who holds a demand deposit, savings deposit, or other asset account with the remittance transfer provider (other than an occasional or incidental credit balance under an open end credit plan, as defined in section 103(i) of the Truth in Lending Act), the disclosures required under this section shall be made in the language or languages principally used by the remittance transfer provider to communicate to the sender with respect to the account.

''(c) REMITTANCE TRANSFER ERRORS.—

''(1) ERROR RESOLUTION.—

''(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the sender within 180 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including the amount of currency designated in subsection (a)(3)(A) that was to be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds should have been exchanged, but was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection and investigate the reason for the error.

''(B) REMEDIES.—Not later than 90 days after the date of receipt of a notice from the sender pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the sender—

''(i) refund to the sender the total amount of funds tendered by the sender in connection with the remittance transfer which was not properly transmitted;

''(ii) make available to the designated recipient, without additional cost to the designated recipient or to the sender, the amount appropriate to resolve the error;

''(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of senders; or

''(iv) provide written notice to the sender that there was no error with an explanation responding to the specific complaint of the sender.

''(2) RULES.—The Board shall establish, by rule issued not later than 1 calendar year after the date of enactment of the Restoring American Financial Stability Act of 2010, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect senders from such errors. Standards prescribed under this paragraph shall include appropriate standards regarding record keeping, as required, including documentation—

''(A) of the complaint of the sender;

''(B) that the sender provides the remittance transfer provider with respect to the alleged error; and

''(C) of the findings of the remittance transfer provider regarding the investigation of the alleged error that the sender brought to their attention.

''(d) APPLICABILITY OF THIS TITLE.—

''(1) IN GENERAL.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of the provisions of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title, except for section 908, that are otherwise applicable to electronic fund transfers under this title.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

''(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (1) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

''(e) ACTS OF AGENTS.—A remittance transfer provider shall be liable for any violation of this section by any agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.

''(f) DEFINITIONS.—As used in this section—

''(1) the term 'designated recipient' means any person located in a foreign country and identified by the sender as the authorized recipient of a remittance transfer to be made by a remittance transfer provider, except that a designated recipient shall not be deemed to be a consumer for purposes of this Act;

''(2) the term 'remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds requested by a sender located in any State to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;

''(3) the term 'remittance transfer provider' means any person or financial institution that provides remittance transfers for a consumer in the normal course of its business, whether or not the consumer holds an account with such person or financial institution; and

''(4) the term 'sender' means a consumer who requests a remittance provider to send a remittance transfer for the consumer to a designated recipient.''.

(b) AUTOMATED CLEARINGHOUSE SYSTEM.—

(1) EXPANSION OF SYSTEM.—The Board of Governors shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

(A) the number, volume, and size of such transfers;

(B) the significance of the volume of such transfers relative to the external financial flows of the receiving country, including—

(i) the total amount transferred; and

(ii) the total volume of payments made by United States Government agencies to beneficiaries and retirees living abroad;

(C) the feasibility of such an expansion; and

(D) the ability of the Federal Reserve System to establish payment gateways in different geographic regions and currency zones to receive remittance transfers and route them through the payments systems in the destination countries.

(2) REPORT TO CONGRESS.—Not later than one calendar year after the date of enactment of this Act, and on April 30 biennially thereafter during the 10-year period beginning on that date of enactment, the Board of Governors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this subsection. The report shall include an analysis of adoption rates of International ACH Transactions rules and formats, the efficacy of increasing adoption rates, and potential recommendations to increase adoption.

(c) EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.—

(1) PROVISION OF GUIDELINES TO INSTITUTIONS.—Each of the Federal banking agencies and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.

(2) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.—As part of its duties as members of the Financial Literacy and Education Commission, the Bureau, the Federal banking agencies, and the National Credit Union Administration shall assist the Financial Literacy and Education Commission in executing the Strategy for Assuring Financial Empowerment (or the ''SAFE Strategy''), as it relates to remittances.

(d) FEDERAL CREDIT UNION ACT CONFORMING AMENDMENT.—Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

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

''(B) to provide remittance transfers, as defined in section 919 of the Electronic Fund Transfer Act, to persons in the field of membership; and

''(C) to cash checks and money orders for persons in the field of membership for a fee;''.

SEC. 1078. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as ''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (in this section referred to as ''Freddie Mac''), while minimizing the cost to taxpayers, including such options as—

(A) the gradual wind-down and liquidation of such entities;

(B) the privatization of such entities;

(C) the incorporation of the functions of such entities into a Federal agency;

(D) the dissolution of Fannie Mae and Freddie Mac into smaller companies; or

(E) any other measures the Secretary determines appropriate.

(2) ANALYSES.—The study required under paragraph (1) shall include an analysis of—

(A) the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;

(B) how the current structure of the housing finance system can be improved;

(C) how the housing finance system should support the continued availability of mortgage credit to all segments of the market;

(D) how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;

(E) the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;

(F) the impact of reforms of the housing finance system on the financing of rental housing;

(G) the impact of reforms of the housing finance system on secondary market liquidity;

(H) the role of standardization in the housing finance system;

(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and

(J) the options for transition to a reformed housing finance system.

(b) REPORT AND RECOMMENDATIONS.—Not later than January 31, 2011, the Secretary of the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 1079. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and

(2) by inserting after section 919 the following:

''SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.

''(a) REASONABLE INTERCHANGE TRANSACTION FEES FOR ELECTRONIC DEBIT TRANSACTIONS.—

''(1) REGULATORY AUTHORITY.—The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.

''(2) REASONABLE FEES.—The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

''(3) RULEMAKING REQUIRED.—The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.

''(4) CONSIDERATIONS.—In issuing rules required by this section, the Board shall—

''(A) consider the functional similarity between—

''(i) electronic debit transactions; and

''(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

''(B) distinguish between—

''(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

''(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

''(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

''(5) EXEMPTION FOR SMALL ISSUERS.—This subsection shall not apply to issuers that, together with affiliates, have assets of less than $10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).

''(6) EFFECTIVE DATE.—Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.

''(b) LIMITATION ON ANTI-COMPETITIVE PAYMENT CARD NETWORK RESTRICTIONS.—

''(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network, provided that the discount or in-kind incentive only differentiates between payment card networks and not between other issuers.

''(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.

''(3) NO RESTRICTIONS ON SETTING TRANSACTION MINIMUMS OR MAXIMUMS.—A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of credit cards, provided that such minimum or maximum dollar value does not differentiate between issuers or between payment card networks.

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

''(1) DEBIT CARD.—The term 'debit card'—

''(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;

''(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l–1(a)(2)(A)); and

''(C) does not include paper checks.

''(2) CREDIT CARD.—The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(3) DISCOUNT.—The term 'discount'—

''(A) means a reduction made from the price that customers are informed is the regular price; and

''(B) does not include any means of increasing the price that customers are informed is the regular price.

''(4) ELECTRONIC DEBIT TRANSACTION.—The term 'electronic debit transaction' means a transaction in which a person uses a debit card to debit an asset account.

''(5) INTERCHANGE TRANSACTION FEE.—The term 'interchange transaction fee' means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.

''(6) ISSUER.—The term 'issuer' means any person who issues a debit card, or credit card, or the agent of such person with respect to such card.

''(7) PAYMENT CARD NETWORK.—The term 'payment card network' means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.''.

SEC. 1079A. USE OF CONSUMER REPORTS.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following:

''(2) provide to the consumer written or electronic disclosure—

''(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

''(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1);''; and

(C) in paragraph (4) (as so redesignated), by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(2) in subsection (h)(5)—

(A) in subparagraph (C), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (D), by striking the period and inserting ''; and''; and

(C) by inserting at the end the following:

''(E) include a statement informing the consumer of—

''(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

''(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1).''.

Subtitle H—Conforming Amendments

SEC. 1081. AMENDMENTS TO THE INSPECTOR GENERAL ACT.

Effective on the date of enactment of this Act, the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—

(1) in section 8G(a)(2), by inserting ''and the Bureau of Consumer Financial Protection'' after ''Board of Governors of the Federal Reserve System'';

(2) in section 8G(c), by adding at the end the following: ''For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.''; and

(3) in section 8G(g)(3), by inserting ''and the Bureau of Consumer Financial Protection'' after ''Board of Governors of the Federal Reserve System'' the first place that term appears.

SEC. 1082. AMENDMENTS TO THE PRIVACY ACT OF 1974.

Effective on the date of enactment of this Act, section 552a of title 5, United States Code, is amended by adding at the end the following:

''(w) APPLICABILITY TO BUREAU OF CONSUMER FINANCIAL PROTECTION.—Except as provided in the Consumer Financial Protection Act of 2010, this section shall apply with respect to the Bureau of Consumer Financial Protection.''.

SEC. 1083. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.

(a) IN GENERAL.—The Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) is amended—

(1) in section 803 (12 U.S.C. 3802(1)), by striking ''1974'' and all that follows through ''described and defined'' and inserting the following: ''1974), in which the interest rate or finance charge may be adjusted or renegotiated, described and defined''; and

(2) in section 804 (12 U.S.C. 3803)—

(A) in subsection (a)—

(i) in each of paragraphs (1), (2), and (3), by inserting after ''transactions made'' each place that term appears ''on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010.'';

(ii) in paragraph (2), by striking ''and'' at the end;

(iii) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new paragraph:

''(4) with respect to transactions made after the designated transfer date, only in accordance with regulations governing alternative mortgage transactions, as issued by the Bureau of Consumer Financial Protection for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Bureau of Consumer Financial Protection with regard to federally chartered housing creditors under provisions of law other than this section.'';

(B) by striking subsection (c) and inserting the following:

''(c) PREEMPTION OF STATE LAW.—An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation that prohibits an alternative mortgage transaction. For purposes of this subsection, a State constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.''; and

(C) by adding at the end the following:

''(d) BUREAU ACTIONS.—The Bureau of Consumer Financial Protection shall—

''(1) review the regulations identified by the Comptroller of the Currency and the National Credit Union Administration, (as those rules exist on the designated transfer date), as applicable under paragraphs (1) through (3) of subsection (a);

''(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of the Consumer Financial Protection Act of 2010; and

''(3) promulgate regulations under subsection (a)(4) after the designated transfer date.

''(e) DESIGNATED TRANSFER DATE.—As used in this section, the term 'designated transfer date' means the date determined under section 1062 of the Consumer Financial Protection Act of 2010.''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on the designated transfer date.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of l982 (12 U.S.C. 3801 et seq.) and entered into on or before the designated transfer date.

SEC. 1084. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'', except in section 918 (as so designated by the Credit Card Act of 2009) (15 U.S.C. 1693o);

(2) in section 903 (15 U.S.C. 1693a), by striking paragraph (3) and inserting the following:

''(3) the term 'Bureau' means the Bureau of Consumer Financial Protection;'';

(3) in section 916(d) (as so designated by section 401 of the Credit CARD Act of 2009) (15 U.S.C. 1693m)—

(A) by striking ''FEDERAL RESERVE SYSTEM'' and inserting ''BUREAU OF CONSUMER FINANCIAL PROTECTION''; and

(B) by striking ''Federal Reserve System'' and inserting ''Bureau of Consumer Financial Protection''; and

(4) in section 918 (as so designated by the Credit CARD Act of 2009) (15 U.S.C. 1693o)—

(A) in subsection (a)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;''; and

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person subject to the jurisdiction of the Federal Trade Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.''.

SEC. 1085. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT.

The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 702 (15 U.S.C. 1691a), by striking subsection (c) and inserting the following:

''(c) The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(3) in section 703 (15 U.S.C. 1691b)—

(A) by striking the section heading and inserting the following:

''SEC. 703. PROMULGATION OF REGULATIONS BY THE BUREAU.'';

(B) by striking ''(a) REGULATIONS.—'';

(C) by striking subsection (b);

(D) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively; and

(E) in subsection (c), as so redesignated, by striking ''paragraph (2)'' and inserting ''subsection (b)'';

(4) in section 704 (15 U.S.C. 1691c)—

(A) in subsection (a)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Protection Financial Protection Act of 2010''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) Subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.'';

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce any rule prescribed by the Bureau under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.''; and

(C) in subsection (d), by striking ''Board'' and inserting ''Bureau''; and

(5) in section 706(e) (15 U.S.C. 1691e(e))—

(A) in the subsection heading—

(i) by striking ''BOARD'' each place that term appears and inserting ''BUREAU''; and

(ii) by striking ''FEDERAL RESERVE SYSTEM'' and inserting ''BUREAU OF CONSUMER FINANCIAL PROTECTION''; and

(B) by striking ''Federal Reserve System'' and inserting ''Bureau of Consumer Financial Protection''.

SEC. 1086. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.

(a) AMENDMENT TO SECTION 603.—Section 603(d)(1) of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended by inserting after ''Board'' the following '', jointly with the Director of the Bureau of Consumer Financial Protection,''.

(b) AMENDMENTS TO SECTION 604.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) by inserting after ''Board'' each place that term appears, other than in subsection (f), the following: '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

(2) in subsection (f), by striking ''Board.'' each place that term appears and inserting the following: ''Board, jointly with the Director of the Bureau of Consumer Financial Protection.''.

(c) AMENDMENTS TO SECTION 605.—Section 605 of the Expedited Funds Availability Act (12 U.S.C. 4004) is amended—

(1) by inserting after ''Board'' each place that term appears, other than in the heading for section 605(f)(1), the following: '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

(2) in subsection (f)(1), in the paragraph heading, by inserting ''AND BUREAU'' after ''BOARD''.

(d) AMENDMENTS TO SECTION 609.—Section 609 of the Expedited Funds Availability Act (12 U.S.C. 4008) is amended:

(1) in subsection (a), by inserting after ''Board'' the following '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

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

''(e) CONSULTATIONS.—In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.''.

(e) EXPEDITED FUNDS AVAILABILITY IMPROVEMENTS.—Section 603 of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended—

(1) in subsection (a)(2)(D), by striking ''$100'' and inserting ''$200''; and

(2) in subsection (b)(3)(C), in the subparagraph heading, by striking ''$100'' and inserting ''$200''; and

(3) in subsection (c)(1)(B)(iii), in the clause heading, by striking ''$100'' and inserting ''$200''.

(f) REGULAR ADJUSTMENTS FOR INFLATION.—Section 607 of the Expedited Funds Availability Act (12 U.S.C. 4006) is amended by adding at the end the following:

''(f) ADJUSTMENTS TO DOLLAR AMOUNTS FOR INFLATION.—The dollar amounts under this title shall be adjusted every 5 years after December 31, 2011, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $25.''.

SEC. 1087. AMENDMENTS TO THE FAIR CREDIT BILLING ACT.

The Fair Credit Billing Act (15 U.S.C. 1666–1666j) is amended by striking ''Board'' each place that term appears and inserting ''Bureau''.

SEC. 1088. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT AND THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT.

(a) FAIR CREDIT REPORTING ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 603 (15 U.S.C. 1681a)—

(A) by redesignating subsections (w) and (x) as subsections (x) and (y), respectively; and

(B) by inserting after subsection (v) the following:

''(w) The term 'Bureau' means the Bureau of Consumer Financial Protection.''; and

(2) except as otherwise specifically provided in this subsection—

(A) by striking ''Federal Trade Commission'' each place that term appears and inserting ''Bureau'';

(B) by striking ''FTC'' each place that term appears and inserting ''Bureau'';

(C) by striking ''the Commission'' each place that term appears and inserting ''the Bureau''; and

(D) by striking ''The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly'' each place that term appears and inserting ''The Bureau shall'';

(3) in section 603(k)(2) (15 U.S.C. 1681a(k)(2)), by striking ''Board of Governors of the Federal Reserve System'' and inserting ''Bureau'';

(4) in section 604(g) (15 U.S.C. 1681b(g))—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

''(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau (consistent with the enforcement authorities prescribed under section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).'';

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

''(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

''(A) REGULATIONS REQUIRED.—The Bureau may, after notice and opportunity for comment,

prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.''; and

(C) by striking paragraph (6);

(5) in section 611(e)(2) (15 U.S.C. 1681i(e)), by striking paragraph (2) and inserting the following:

''(2) EXCLUSION.—Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).'';

(6) in section 615(h)(6) (15 U.S.C. 1681m(h)(6)), by striking subparagraph (A) and inserting the following:

''(A) RULES REQUIRED.—The Bureau shall prescribe rules to carry out this subsection.'';

(7) in section 621 (15 U.S.C. 1681s)—

(A) by striking subsection (a) and inserting the following:

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission, with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (b). For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce, in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of that Act with respect to any consumer reporting agency or person that is subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers (except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010), including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions of such Act are part of this title.

''(2) PENALTIES.—

''(A) KNOWING VIOLATIONS.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Federal Trade Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation.

''(B) DETERMINING PENALTY AMOUNT.—In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of such prior conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(C) LIMITATION.—Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1), unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.'';

(8) by striking subsection (b) and inserting the following:

''(b) ENFORCEMENT BY OTHER AGENCIES.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to section 615(d) shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

''(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(ii) any member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

''(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and any insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;

''(B) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(C) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

''(D) subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

''(E) the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.), by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;

''(F) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act;

''(G) the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission; and

''(H) the Federal securities laws, and any other laws that are subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person that is subject to the jurisdiction of the Securities and Exchange Commission.

''(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).'';

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

''(e) REGULATORY AUTHORITY.—The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this Act. The regulations prescribed by the Bureau under this subsection shall apply to any person that is subject to this Act, notwithstanding the enforcement authorities granted to other agencies under this section.''; and

(10) in section 623 (15 U.S.C. 1681s–2)—

(A) in subsection (a)(7), by striking subparagraph (D) and inserting the following:

''(D) MODEL DISCLOSURE.—

''(i) DUTY OF BUREAU.—The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

''(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.

''(iii) COMPLIANCE USING MODEL.—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any model form prescribed by the Bureau under this subparagraph, or the financial institution uses any such model form and rearranges its format.''; and

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

''(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 621—

''(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

''(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

''(2) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the Bureau shall—

''(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

''(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

''(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and

''(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.''.

(b) FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003.—Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681s–3 note) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Regulations to carry out section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s–3), shall be prescribed, as described in paragraph (2), by—

''(A) the Commodity Futures Trading Commission, with respect to entities subject to its enforcement authorities;

''(B) the Securities and Exchange Commission, with respect to entities subject to its enforcement authorities; and

''(C) the Bureau, with respect to other entities subject to this Act.''.

SEC. 1089. AMENDMENTS TO THE FAIR DEBT COLLECTION PRACTICES ACT.

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

(1) by striking ''Commission'' each place that term appears and inserting ''Bureau'';

(2) in section 803 (15 U.S.C. 1692a)—

(A) by striking paragraph (1) and inserting the following:

''(1) The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(3) in section 814 (15 U.S.C. 1692l)—

(A) by striking subsection (a) and inserting the following:

''(a) FEDERAL TRADE COMMISSION.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with this title shall be enforced by the Federal Trade Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another Government agency under subsection (b). For purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this title, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.''; and

(B) in subsection (b)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;''; and

(4) in subsection (d), by striking ''Neither the Commission'' and all that follows through the end of the subsection and inserting the following: ''The Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this Act.''.

SEC. 1090. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 8(t) (12 U.S.C. 1818(t)), by adding at the end the following:

''(6) REFERRAL TO BUREAU OF CONSUMER FINANCIAL PROTECTION.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, each appropriate Federal banking agency shall make a referral to the Bureau of Consumer Financial Protection when the Federal banking agency has a reasonable belief that a violation of an enumerated consumer law, as defined in the Consumer Financial Protection Act of 2010, has been committed by any insured depository institution or institution-affiliated party within the jurisdiction of that appropriate Federal banking agency.''; and

(2) in section 43 (12 U.S.C. 1831t)—

(A) in subsection (c), by striking ''Federal Trade Commission'' and inserting ''Bureau'';

(B) in subsection (d), by striking ''Federal Trade Commission'' and inserting ''Bureau'';

(C) in subsection (e)—

(i) in paragraph (2), by striking ''Federal Trade Commission'' and inserting ''Bureau''; and

(ii) by adding at the end the following new paragraph:

''(5) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.''; and

(D) in subsection (f)—

(i) by striking paragraph (1) and inserting the following:

''(1) LIMITED ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b), (c), and (e), and any regulation prescribed or order issued under such subsection, shall be enforced under the Consumer Financial Protection Act of 2010, by the Bureau, subject to subtitle B of the Consumer Financial Protection Act of 2010, and under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission.''; and

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

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

SEC. 1091. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.

Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) in section 504(a)(1) (15 U.S.C. 6804(a)(1))—

(A) by striking ''The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury,'' and inserting ''The Bureau of Consumer Financial Protection and''; and

(B) by striking '', and the Federal Trade Commission'';

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

(A) by striking ''This subtitle'' and all that follows through ''as follows:'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, this subtitle and the regulations prescribed thereunder shall be enforced by the Bureau of Consumer Financial Protection, the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:'';

(B) in paragraph (1)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon;

(ii) in subparagraph (C), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (D); and

(C) by adding at the end the following:

''(8) Under the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection, in the case of any financial institution and other covered person or service provider that is subject to the jurisdiction of the Bureau under that Act, but not with respect to the standards under section 501.''; and

(3) in section 505(b)(1) (15 U.S.C. 6805(b)(1)), by inserting '', other than the Bureau of Consumer Financial Protection,'' after ''subsection (a)''.

SEC. 1092. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.

The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended—

(1) except as otherwise specifically provided in this section, by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 303 (12 U.S.C. 2802)—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) the following:

''(1) the term 'Bureau' means the Bureau of Consumer Financial Protection;'';

(3) in section 304 (12 U.S.C. 2803)—

(A) in subsection (b)—

(i) in paragraph (4), by inserting ''age,'' before ''and gender'';

(ii) in paragraph (3), by striking ''and'' at the end;

(iii) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(5) the number and dollar amount of mortgage loans grouped according to measurements of—

''(A) the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4);

''(B) the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans;

''(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

''(D) such other information as the Bureau may require; and

''(6) the number and dollar amount of mortgage loans and completed applications grouped according to measurements of—

''(A) the value of the real property pledged or proposed to be pledged as collateral;

''(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;

''(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;

''(D) the actual or proposed term in months of the mortgage loan;

''(E) the channel through which application was made, including retail, broker, and other relevant categories;

''(F) as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008;

''(G) as the Bureau may determine to be appropriate, a universal loan identifier;

''(H) as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

''(I) the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe, except that the Bureau shall modify or require modification of credit score data that is or will be available to the public to protect the compelling privacy interest of the mortgage applicant or mortgagors; and

''(J) such other information as the Bureau may require.'';

(B) in subsection (i), by striking ''subsection (b)(4)'' and inserting ''subsections (b)(4), (b)(5), and (b)(6)'';

(C) in subsection (j)—

(i) in paragraph (1), by striking ''(as'' and inserting ''(containing loan-level and application-level information relating to disclosures required under subsections (a) and (b) and as otherwise'';

(ii) by striking paragraph (3) and inserting the following:

''(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Bureau may require'';

(iii) in paragraph (2)(A), by striking ''in the format in which such information is maintained by the institution'' and inserting ''in such formats as the Bureau may require'';

(D) in subsection (m), by striking paragraph (2) and inserting the following:

''(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require'';

(E) by striking subsection (h) and inserting the following:

''(h) SUBMISSION TO AGENCIES.—

''(1) IN GENERAL.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for the institution reporting under this title, in accordance with rules prescribed by the Bureau. Notwithstanding the requirement of subsection

(a)(2)(A) for disclosure by census tract, the Bureau, in cooperation with other appropriate regulators described in paragraph (2), shall develop regulations that—

''(A) prescribe the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public;

''(B) require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title;

''(C) require disclosure of the class of the purchaser of such loans; and

''(D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.

''(2) OTHER APPROPRIATE AGENCIES.—The appropriate regulators described in this paragraph are—

''(A) the Office of the Comptroller of the Currency (hereafter referred to in this Act as 'Comptroller') for national banks and Federal branches, Federal agencies of foreign banks, and savings associations;

''(B) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

''(C) the National Credit Union Administration Board for credit unions; and

''(D) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in subparagraphs (A) through (C).''; and

(F) by adding at the end the following:

''(n) TIMING OF CERTAIN DISCLOSURES.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Bureau. Institutions shall not be required to report new data under paragraph (5) or (6) of subsection (b) before the first January 1 that occurs after the end of the 9-month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.'';

(4) in section 305 (12 U.S.C. 2804)—

(A) by striking subsection (b) and inserting the following:

''(b) POWERS OF CERTAIN OTHER AGENCIES.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements of this title shall be enforced—

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

''(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(ii) any member bank of the Federal Reserve System (other than a national bank), branch or agency of a foreign bank (other than a Federal branch, Federal agency, and insured State branch of a foreign bank), commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

''(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), any mutual savings bank as, defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), any insured State branch of a foreign bank, and any other depository institution not referred to in this paragraph or subparagraph (B) or (C), by the Federal Deposit Insurance Corporation;

''(B) under subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(C) under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any insured credit union; and

''(D) with respect to other lending institutions, by the Secretary of Housing and Urban Development.

''(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).''; and

(B) by adding at the end the following:

''(d) OVERALL ENFORCEMENT AUTHORITY OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). The Bureau may exercise its authorities under the Consumer Financial Protection Act of 2010 to exercise principal authority to examine and enforce compliance by any person with the requirements of this title.'';

(5) in section 306 (12 U.S.C. 2805(b)), by striking subsection (b) and inserting the following:

''(b) EXEMPTION AUTHORITY.—The Bureau may, by regulation, exempt from the requirements of this title any State-chartered depository institution within any State or subdivision thereof, if the agency determines that, under the law of such State or subdivision, that institution is subject to requirements that are substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the Office of the Comptroller of the Currency under section 8 of the Federal Deposit Insurance Act, in the case of national banks and savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation.''; and

(6) by striking section 307 (12 U.S.C. 2806) and inserting the following:

''SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

''(a) IN GENERAL.—

''(1) CONSULTATION REQUIRED.—The Director of the Bureau of Consumer Financial Protection, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this subsection.

''(3) CONTRACTING AUTHORITY.—The Director of the Bureau of Consumer Financial Protection is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

''(b) RECOMMENDATIONS TO CONGRESS.—The Director of the Bureau of Consumer Financial Protection shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional legislation as the Director of the Bureau of Consumer Financial Protection deems appropriate to carry out the purpose of this title.''.

SEC. 1093. AMENDMENTS TO THE HOMEOWNERS PROTECTION ACT OF 1998.

Section 10 of the Homeowners Protection Act of 1998 (12 U.S.C. 4909) is amended—

(1) in subsection (a)—

(A) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance'';

(B) in paragraph (2), by striking ''and'' at the end;

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection.''; and

(2) in subsection (b)(2), by inserting before the period at the end the following: '', subject to subtitle B of the Consumer Financial Protection Act of 2010''.

SEC. 1094. AMENDMENTS TO THE HOME OWNERSHIP AND EQUITY PROTECTION ACT OF 1994.

The Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note) is amended—

(1) in section 158(a), by striking ''Consumer Advisory Council of the Board'' and inserting ''Advisory Board to the Bureau''; and

(2) by striking ''Board'' each place that term appears and inserting ''Bureau''.

SEC. 1095. AMENDMENTS TO THE OMNIBUS APPROPRIATIONS ACT, 2009.

Section 626 of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 note) is amended—

(1) by striking subsection (a) and inserting the following:

''(a)(1) The Bureau of Consumer Financial Protection shall have authority to prescribe rules with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this paragraph shall be treated as a violation of a rule prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act of 2010 and a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

''(2) The Bureau of Consumer Financial Protection shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Consumer Financial Protection Act of 2010 were incorporated into and made part of this subsection.''; and

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in practices that violate such rule, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States or other court of competent jurisdiction—

''(A) to enjoin that practice;

''(B) to enforce compliance with the rule;

''(C) to obtain damages, restitution, or other compensation on behalf of the residents of the State; or

''(D) to obtain penalties and relief provided under the Consumer Financial Protection Act of 2010, the Federal Trade Commission Act, and such other relief as the court deems appropriate.'';

(B) in paragraphs (2) and (3), by striking ''the primary Federal regulator'' each time the term appears and inserting ''the Bureau of Consumer Financial Protection or the Commission, as appropriate'';

(C) in paragraph (3), by inserting ''and subject to subtitle B of the Consumer Financial Protection Act of 2010,'' after ''paragraph (2),''; and

(D) in paragraph (6), by striking ''the primary Federal regulator'' each place that term appears

and inserting ''the Bureau of Consumer Financial Protection or the Commission''.

SEC. 1096. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended—

(1) in section 3 (12 U.S.C. 2602)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(9) the term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(2) in section 4 (12 U.S.C. 2603)—

(A) in subsection (a), by striking the first sentence and inserting the following: ''The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.'';

(B) by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(C) by striking ''form'' each place that term appears and inserting ''forms'';

(3) in section 5 (12 U.S.C. 2604)—

(A) by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(B) in subsection (a), by striking the first sentence and inserting the following: ''The Bureau shall prepare and distribute booklets jointly addressing compliance with the requirements of the Truth in Lending Act and the provisions of this title, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.'';

(4) in section 6(j)(3) (12 U.S.C. 2605(j)(3))—

(A) by striking ''Secretary'' and inserting ''Bureau''; and

(B) by striking '', by regulations that shall take effect not later than April 20, 1991,'';

(5) in section 7(b) (12 U.S.C. 2606(b)) by striking ''Secretary'' and inserting ''Bureau'';

(6) in section 8(d) (12 U.S.C. 2607(d))—

(A) in the subsection heading, by inserting ''BUREAU AND'' before ''SECRETARY''; and

(B) by striking paragraph (4), and inserting the following:

''(4) The Bureau, the Secretary, or the attorney general or the insurance commissioner of any State may bring an action to enjoin violations of this section. Except, to the extent that a person is subject to the jurisdiction of the Bureau, the Secretary, or the attorney general or the insurance commissioner of any State, the Bureau shall have primary authority to enforce or administer this section, subject to subtitle B of the Consumer Financial Protection Act of 2010.''.

(7) in section 10(c) (12 U.S.C. 2609(c) and (d)), by striking ''Secretary'' and inserting ''Bureau'';

(8) in section 16 (12 U.S.C. 2614), by inserting ''the Bureau,'' before ''the Secretary'';

(9) in section 18 (12 U.S.C. 2616), by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(10) in section 19 (12 U.S.C. 2617)—

*(A) in the section heading by striking ''**SECRETARY**'' and inserting ''**BUREAU**'';*

(B) by striking ''Secretary'' each place that term appears and inserting ''Bureau'';

(C) in subsection (b), by inserting ''the Bureau'' before ''the Secretary''; and

(D) in subsection (c), by inserting ''or the Bureau'' after ''the Secretary'' each time that term appears.

SEC. 1097. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101—

(A) in paragraph (6)—

(i) in subparagraph (A), by inserting ''and'' after the semicolon;

(ii) in subparagraph (B), by striking ''and'' at the end; and

(iii) by striking subparagraph (C); and

(B) in paragraph (7), by striking subparagraph (E), and inserting the following:

''(E) the Bureau of Consumer Financial Protection;'';

(2) in section 1112(e) (12 U.S.C. 3412(e)), by striking ''and the Commodity Futures Trading Commission is permitted'' and inserting ''the Commodity Futures Trading Commission, and the Bureau of Consumer Financial Protection is permitted''; and

(3) in section 1113 (12 U.S.C. 3413), by adding at the end the following new subsection:

''(r) DISCLOSURE TO THE BUREAU OF CONSUMER FINANCIAL PROTECTION.—Nothing in this title shall apply to the examination by or disclosure to the Bureau of Consumer Financial Protection of financial records or information in the exercise of its authority with respect to a financial institution.''.

SEC. 1098. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008.

The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended—

(1) by striking ''a Federal banking agency'' each place that term appears, other than in paragraphs (7) and (11) of section 1503 and section 1507(a)(1), and inserting ''the Bureau'';

(2) by striking ''Federal banking agencies'' each place that term appears and inserting ''Bureau''; and

(3) by striking ''Secretary'' each place that term appears and inserting ''Director'';

(4) in section 1503 (12 U.S.C. 5102)—

(A) by redesignating paragraphs (2) through (12) as (3) through (13), respectively;

(B) by striking paragraph (1) and inserting the following:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.

''(2) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.''; and

(C) by striking paragraph (10), as so designated by this section, and inserting the following:

''(10) DIRECTOR.—The term 'Director' means the Director of the Bureau of Consumer Financial Protection.''; and

(5) in section 1507 (12 U.S.C. 5106)—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Bureau shall develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of enactment of the Consumer Financial Protection Act of 2010.''; and

(ii) in paragraph (2)—

(I) by striking ''appropriate Federal banking agency and the Farm Credit Administration'' and inserting ''Bureau''; and

(II) by striking ''employees's identity'' and inserting ''identity of the employee''; and

(B) in subsection (b), by striking ''through the Financial Institutions Examination Council, and the Farm Credit Administration'', and inserting ''and the Bureau of Consumer Financial Protection'';

(6) in section 1508 (12 U.S.C. 5107)—

*(A) by striking the section heading and inserting the following: ''**SEC. 1508. BUREAU OF CONSUMER FINANCIAL PROTECTION BACKUP AUTHORITY TO ESTABLISH LOAN ORIGINATOR LICENSING SYSTEM.**''; and*

(B) by adding at the end the following:

''(f) REGULATION AUTHORITY.—

''(1) IN GENERAL.—The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.

''(2) CONSIDERATIONS.—In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.'';

(7) by striking section 1510 (12 U.S.C. 5109) and inserting the following:

''SEC. 1510. FEES.

''The Bureau, the Farm Credit Administration, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.'';

(8) by striking section 1513 (12 U.S.C. 5112) and inserting the following:

''SEC. 1513. LIABILITY PROVISIONS.

''The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.''; and

*(9) in section 1514 (12 U.S.C. 5113) in the section heading, by striking ''**UNDER HUD BACKUP LICENSING SYSTEM**'' and inserting ''**BY THE BUREAU**''.*

SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 103 (5 U.S.C. 1602)—

(A) by redesignating subsections (b) through (bb) as subsections (c) through (cc), respectively; and

(B) by inserting after subsection (a) the following:

''(b) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(2) by striking ''Board'' each place that term appears, other than in section 140(d) and section 108(a), as amended by this section, and inserting ''Bureau'';

(3) by striking ''Federal Trade Commission'' each place that term appears, other than in section 108(c) and section 129(m), as amended by this Act, and other than in the context of a reference to the Federal Trade Commission Act, and inserting ''Bureau'';

(4) in section 105(a) (15 U.S.C. 1604(a)), in the second sentence—

(A) by striking ''Except in the case of a mortgage referred to in section 103(aa), these regulations may contain such'' and inserting ''Except with respect to the provisions of section 129 that apply to a mortgage referred to in section

103(aa), such regulations may contain such additional requirements,''; and

(B) by inserting ''all or'' after ''exceptions for'';

(5) in section 105(b) (15 U.S.C. 1604(b)), by striking the first sentence and inserting the following: ''The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act of 1974 that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Real Estate Settlement Procedures Act of 1974, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.'';

(6) in section 105(f)(1) (15 U.S.C. 1604(f)(1)), by inserting ''all or'' after ''from all or part of this title'';

(7) in section 108 (15 U.S.C. 1607)—

(A) by striking subsection (a) and inserting the following:

''(a) ENFORCING AGENCIES.—Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) any national bank, and Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(B) any member bank of the Federal Reserve System (other than a national bank), any branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), any commercial lending company owned or controlled by a foreign bank, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

''(C) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and an insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(3) the Federal Credit Union Act, by the Director of the National Credit Union Administration, with respect to any Federal credit union;

''(4) the Federal Aviation Act of 1958, by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;

''(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act; and

''(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.''; and

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.'';

(8) in section 129 (15 U.S.C. 1639), by striking subsection (m) and inserting the following:

''(m) CIVIL PENALTIES IN FEDERAL TRADE COMMISSION ENFORCEMENT ACTIONS.—For purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued by the Bureau pursuant to subsection (l)(2) shall be treated as a violation of a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.''; and

(9) in chapter 5 (15 U.S.C. 1667 et seq.)—

(A) by striking ''the Board'' each place that term appears and inserting ''the Bureau''; and

(B) by striking ''The Board'' each place that term appears and inserting ''The Bureau''.

SEC. 1100. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

The Truth in Savings Act (12 U.S.C. 4301 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 270(a) (12 U.S.C. 4309)—

(A) by striking ''Compliance'' and inserting ''Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance'';

(B) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' at the end; and

(ii) by striking subparagraph (C);

(C) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(3) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.'';

(3) in section 272(b) (12 U.S.C. 4311(b)), by striking ''regulation prescribed by the Board'' each place that term appears and inserting ''regulation prescribed by the Bureau''; and

(4) in section 274 (12 U.S.C. 4313), by striking paragraph (4) and inserting the following:

''(4) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.''.

SEC. 1101. AMENDMENTS TO THE TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT.

(a) AMENDMENTS TO SECTION 3.—Section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102) is amended by striking subsections (b) and (c) and inserting the following:

''(b) RULEMAKING AUTHORITY.—The Commission shall have authority to prescribe rules under subsection (a), in accordance with section 553 of title 5, United States Code. In prescribing a rule under this section that relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Act of 2010, including any enumerated consumer law thereunder, the Commission shall consult with the Bureau of Consumer Financial Protection regarding the consistency of a proposed rule with standards, purposes, or objectives administered by the Bureau of Consumer Financial Protection.

''(c) VIOLATIONS.—Any violation of any rule prescribed under subsection (a)—

''(1) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act regarding unfair or deceptive acts or practices; and

''(2) that is committed by a person subject to the Consumer Financial Protection Act of 2010 shall be treated as a violation of a rule under section 1031 of that Act regarding unfair, deceptive, or abusive acts or practices.''.

(b) AMENDMENTS TO SECTION 4.—Section 4(d) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6103(d)) is amended by inserting after ''Commission'' each place that term appears the following: ''or the Bureau of Consumer Financial Protection''.

(c) AMENDMENTS TO SECTION 5.—Section 5(c) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6104(c)) is amended by inserting after ''Commission'' each place that term appears the following: ''or the Bureau of Consumer Financial Protection''.

(d) AMENDMENT TO SECTION 6.—Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6105) is amended by adding at the end the following:

''(d) ENFORCEMENT BY BUREAU OF CONSUMER FINANCIAL PROTECTION.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, and subject to subtitle B of the Consumer Financial Protection Act of 2010, this Act shall be enforced by the Bureau of Consumer Financial Protection under subtitle E of the Consumer Financial Protection Act of 2010.''.

SEC. 1102. AMENDMENTS TO THE PAPERWORK REDUCTION ACT.

(a) DESIGNATION AS AN INDEPENDENT AGENCY.—Section 2(5) of the Paperwork Reduction Act (44 U.S.C. 3502(5)) is amended by inserting ''the Bureau of Consumer Financial Protection, the Office of Financial Research,'' after ''the Securities and Exchange Commission,''.

(b) COMPARABLE TREATMENT.—Section 3513 of title 44, United States Code, is amended by adding at the end the following:

''(c) COMPARABLE TREATMENT.—Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the Director of the Bureau of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.''.

SEC. 1103. ADJUSTMENTS FOR INFLATION IN THE TRUTH IN LENDING ACT.

(a) CAPS.—

(1) CREDIT TRANSACTIONS.—Section 104(3) of the Truth in Lending Act (15 U.S.C. 1603(3)) is amended by striking ''$25,000'' and inserting ''$50,000''.

(2) CONSUMER LEASES.—Section 181(1) of the Truth in Lending Act (15 U.S.C. 1667(1)) is amended by striking ''$25,000'' and inserting ''$50,000''.

(b) ADJUSTMENTS FOR INFLATION.—On and after December 31, 2011, the Bureau may adjust annually the dollar amounts described in sections 104(3) and 181(1) of the Truth in Lending Act (as amended by this section), by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $100, or $1,000, as applicable.

SEC. 1104. SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY.

(a) PANEL REQUIREMENT.—Section 609(d) of title 5, United States Code, is amended by striking ''means the'' and all that follows and inserting the following: ''means—

''(1) the Environmental Protection Agency;

''(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and

''(3) the Occupational Safety and Health Administration of the Department of Labor.''.

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of—

''(A) any projected increase in the cost of credit for small entities;

''(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and

''(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).

''(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)—

''(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and

''(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).''.

(c) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

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

(3) by adding at the end the following:

''(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.''.

SEC. 1105. EFFECTIVE DATE.

Except as otherwise provided in this subtitle and the amendments made by this subtitle, this subtitle and the amendments made by this subtitle, other than sections 1081 and 1082, shall become effective on the designated transfer date.

TITLE XI—FEDERAL RESERVE SYSTEM PROVISIONS

SEC. 1151. FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY.

(a) FEDERAL RESERVE ACT.—The third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority) is amended—

(1) by inserting ''(3)(A)'' before ''In unusual'';

(2) by striking ''individual, partnership, or corporation'' the first place that term appears and inserting the following: ''participant in any program or facility with broad-based eligibility'';

(3) by striking ''exchange for an individual or a partnership or corporation'' and inserting ''exchange,'';

(4) by striking ''such individual, partnership, or corporation'' and inserting the following: ''such participant in any program or facility with broad-based eligibility'';

(5) by striking ''for individuals, partnerships, corporations'' and inserting ''for any participant in any program or facility with broad-based eligibility'';

(6) by striking ''may prescribe.'' and inserting the following: ''may prescribe.

''(B)(i) As soon as is practicable after the date of enactment of this subparagraph, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the collateral for emergency loans is sufficient to protect taxpayers from and that any such program is terminated in a timely and orderly fashion losses. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph.

''(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent. Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent. A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Restoring American Financial Stability Act of 2010, or any other Federal or State insolvency proceeding.

''(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Restoring American Financial Stability Act of 2010, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.

''(iv) The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.

''(C) The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

''(i) not later than 7 days after providing any loan or other financial assistance under this paragraph, a report that includes—

''(I) the justification for the exercise of authority to provide such assistance;

''(II) the identity of the recipients of such assistance;

''(III) the date and amount of the assistance, and form in which the assistance was provided; and

''(IV) the material terms of the assistance, including—

''(aa) duration;

''(bb) collateral pledged and the value thereof;

''(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

''(dd) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

''(ee) the expected costs to the taxpayers of such assistance; and

''(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on—

''(I) the value of collateral;

''(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

''(III) the expected or final cost to the taxpayers of such assistance.

''(D) The information submitted to Congress under subparagraph (C) related to—

''(i) the identity of the participants in an emergency lending program or facility commenced under this paragraph;

''(ii) the amounts borrowed by each participant in any such program or facility;

''(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,

shall be kept confidential, upon the written request of the Chairman of the Board, in which case such information shall be made available only to the Chairpersons and Ranking Members of the Committees described in subparagraph (C).

''(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 203 of the Restoring American Financial Stability Act of 2010, at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under sections 210(n) and 210(o) of the Restoring American Financial Stability Act of 2010.''.

(b) CONFORMING AMENDMENT.—Section 507(a)(2) of title 11, United States Code, is amended by inserting ''claims of any Federal reserve bank related to loans made through programs or facilities authorized under the third undesignated paragraph of the Federal Reserve Act (12 U.S.C. 343),'' after ''this title,''.

SEC. 1152. REVIEWS OF SPECIAL FEDERAL RESERVE CREDIT FACILITIES.

(a) REVIEWS.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

''(f) REVIEWS OF CREDIT FACILITIES OF THE FEDERAL RESERVE SYSTEM.—

''(1) DEFINITION.—In this subsection, the term 'credit facility' means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), that is not subject to audit under subsection (e), including—

''(A) the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility;

''(B) the Term Asset-Backed Securities Loan Facility;

''(C) the Primary Dealer Credit Facility;

''(D) the Commercial Paper Funding Facility; and

''(E) the Term Securities Lending Facility.

''(2) AUTHORITY FOR REVIEWS AND EXAMINATIONS.—Subject to paragraph (3), and notwithstanding any limitation in subsection (b) on the auditing and oversight of certain functions of the Board of Governors of the Federal Reserve System or any Federal reserve bank, the Comptroller General of the United States may conduct reviews, including onsite examinations, of the Board of Governors, a Federal reserve bank, or a credit facility, if the Comptroller General determines that such reviews are appropriate, solely for the purposes of assessing, with respect to a credit facility—

''(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;

''(B) the effectiveness of the collateral policies established for the facility in mitigating risk to the relevant Federal reserve bank and taxpayers;

''(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility; and

''(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility.

''(3) REPORTS AND DELAYED DISCLOSURE.—

''(A) REPORTS REQUIRED.—A report on each review conducted under paragraph (2) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such review is completed.

''(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusions of the Comptroller General with respect to the matters described in paragraph (2) that were reviewed and are the subject of the report, together with such recommendations for legislative or administrative action relating to such matters as the Comptroller General may determine to be appropriate.

''(C) DELAYED RELEASE OF CERTAIN INFORMATION.—

''(i) IN GENERAL.—The Comptroller General shall not disclose to any person or entity, including to Congress, the names or identifying details of specific participants in any credit facility, the amounts borrowed by specific participants in any credit facility, or identifying details regarding assets or collateral held by, under, or in connection with any credit facility, and any report provided under subparagraph (A) shall be redacted to ensure that such names and details are not disclosed.

''(ii) DELAYED RELEASE.—The nondisclosure obligation under clause (i) shall expire with respect to any participant on the date on which the Board of Governors, directly or through a Federal reserve bank, publicly discloses the identity of the subject participant or the identifying details of the subject assets or collateral.

''(iii) GENERAL RELEASE.—The Comptroller General shall release a nonredacted version of any report on a credit facility 1 year after the effective date of the termination by the Board of Governors of the authorization for the credit facility. For purposes of this clause, a credit facility shall be deemed to have terminated 24 months after the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board of Governors.

''(iv) EXCEPTIONS.—The nondisclosure obligation under clause (i) shall not apply to the credit facilities Maiden Lane, Maiden Lane II, and Maiden Lane III.''.

(b) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (2), by inserting ''or any person or entity described in paragraph (3)(A)'' after ''used by an agency'';

(2) in paragraph (3), by inserting ''or (f)'' after ''subsection (e)'' each place that term appears; and

(3) in paragraph (3)(B), by adding at the end the following: ''The Comptroller General may make and retain copies of books, accounts, and other records provided under subparagraph (A) as the Comptroller General deems appropriate. The Comptroller General shall provide to any person or entity described in subparagraph (A) a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out a review or examination under this subsection.''.

SEC. 1153. PUBLIC ACCESS TO INFORMATION.

Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended by adding at the end the following:

''(c) PUBLIC ACCESS TO INFORMATION.—The Board shall place on its home Internet website, a link entitled 'Audit', which shall link to a webpage that shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including—

''(1) the reports prepared by the Comptroller General under section 714 of title 31, United States Code;

''(2) the annual financial statements prepared by an independent auditor for the Board in accordance with section 11B;

''(3) the reports to the Committee on Banking, Housing, and Urban Affairs of the Senate required under the third undesignated paragraph of section 13 (relating to emergency lending authority); and

''(4) such other information as the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.''.

SEC. 1154. LIQUIDITY EVENT DETERMINATION.

(a) DETERMINATION AND WRITTEN RECOMMENDATION.—

(1) DETERMINATION REQUEST.—The Secretary may request the Corporation and the Board of Governors to determine whether a liquidity event exists that warrants use of the guarantee program authorized under section 1155.

(2) REQUIREMENTS OF DETERMINATION.—Any determination pursuant to paragraph (1) shall—

(A) be written; and

(B) contain an evaluation of the evidence that—

(i) a liquidity event exists;

(ii) failure to take action would have serious adverse effects on financial stability or economic conditions in the United States; and

(iii) actions authorized under section 1155 are needed to avoid or mitigate potential adverse effects on the United States financial system or economic conditions.

(b) PROCEDURES.—Notwithstanding any other provision of Federal or State law, upon the determination of both the Corporation (upon a vote of not fewer than ⅔ of the members of the Corporation then serving) and the Board of Governors (upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving) under subsection (a) that a liquidity event exists that warrants use of the guarantee program authorized under section 1155, and with the written consent of the Secretary—

(1) the Corporation shall take action in accordance with section 1155(a); and

(2) the Secretary (in consultation with the President) shall take action in accordance with section 1155(c).

(c) DOCUMENTATION AND REVIEW.—

(1) DOCUMENTATION.—The Secretary shall—

(A) maintain the written documentation of each determination of the Corporation and the Board of Governors under this section; and

(B) provide the documentation for review under paragraph (2).

(2) GAO REVIEW.—The Comptroller General of the United States shall review and report to Congress on any determination of the Corporation and the Board of Governors under subsection (a), including—

(A) the basis for the determination; and

(B) the likely effect of the actions taken.

(d) REPORT TO CONGRESS.—On the earlier of the date of a submission made to Congress under section 1155(c), or within 30 days of the date of a determination under subsection (a), the Secretary shall provide written notice of the determination of the Corporation and the Board of Governors to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, including a description of the basis for the determination.

SEC. 1155. EMERGENCY FINANCIAL STABILIZATION.

(a) IN GENERAL.—Upon the written determination of the Corporation and the Board of Governors under section 1154, the Corporation shall create a widely available program to guarantee obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof) during times of severe economic distress, except that a guarantee of obligations under this section may not include the provision of equity in any form.

(b) RULEMAKING AND TERMS AND CONDITIONS.—

(1) POLICIES AND PROCEDURES.—As soon as is practicable after the date of enactment of this Act, the Corporation shall establish, by regulation, and in consultation with the Secretary, policies and procedures governing the issuance of guarantees authorized by this section. Such policies and procedures may include a requirement of collateral as a condition of any such guarantee.

(2) TERMS AND CONDITIONS.—The terms and conditions of any guarantee program shall be established by the Corporation, with the concurrence of the Secretary.

(c) DETERMINATION OF GUARANTEED AMOUNT.—

(1) IN GENERAL.—In connection with any program established pursuant to subsection (a) and subject to paragraph (2) of this subsection, the Secretary (in consultation with the President) shall determine the maximum amount of debt outstanding that the Corporation may guarantee under this section, and the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to that maximum amount and a request for approval of such plan. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(2) ADDITIONAL DEBT GUARANTEE AUTHORITY.—If the Secretary (in consultation with the President) determines, after a submission to Congress under paragraph (1), that the maximum guarantee amount should be raised, and the Council concurs with that determination, the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to the increased maximum debt guarantee amount. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(d) RESOLUTION OF APPROVAL.—

(1) ADDITIONAL DEBT GUARANTEE AUTHORITY.—A request by the President under this section shall be considered granted by Congress upon adoption of a joint resolution approving such request. Such joint resolution shall be considered in the Senate under expedited procedures.

(2) FAST TRACK CONSIDERATION IN SENATE.—

(A) RECONVENING.—Upon receipt of a request under subsection (c), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(B) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(C) FLOOR CONSIDERATION.—

(i) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a request under subsection (c), and ending on the 7th day after that date (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(ii) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(iii) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(iv) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(3) RULES.—

(A) COORDINATION WITH ACTION BY HOUSE OF REPRESENTATIVES.—If, before the passage by the Senate of a joint resolution of the Senate, the

Senate receives a joint resolution, from the House of Representatives, then the following procedures shall apply:

(i) The joint resolution of the House of Representatives shall not be referred to a committee.

(ii) With respect to a joint resolution of the Senate—

(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the other House; but

(II) the vote on passage shall be on the joint resolution of the House of Representatives.

(B) TREATMENT OF JOINT RESOLUTION OF HOUSE OF REPRESENTATIVES.—If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House of Representatives shall be entitled to expedited floor procedures under this subsection.

(C) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) RULES OF THE SENATE.—This subsection is enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules, only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(4) DEFINITION.—As used in this subsection, the term ''joint resolution'' means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the request referred to in subsection (c) is received by Congress;

(B) that does not have a preamble;

(C) the title of which is as follows: ''Joint resolution relating to the approval of a plan to guarantee obligations under section 1155 of the Restoring American Financial Stability Act of 2010''; and

(D) the matter after the resolving clause of which is as follows: ''That Congress approves the obligation of any amount described in section 1155(c) of the Restoring American Financial Stability Act of 2010.''.

(e) FUNDING.—

(1) FEES AND OTHER CHARGES.—The Corporation shall charge fees and other assessments to all participants in the program established pursuant to this section, in such amounts as are necessary to offset projected losses and administrative expenses, including amounts borrowed pursuant to paragraph (3), and such amounts shall be available to the Corporation.

(2) EXCESS FUNDS.—If, at the conclusion of the program established under this section, there are any excess funds collected from the fees associated with such program, the funds shall be deposited in the General Fund of the Treasury.

(3) AUTHORITY OF CORPORATION.—The Corporation—

(A) may borrow funds from the Secretary of the Treasury and issue obligations of the Corporation to the Secretary for amounts borrowed, and the amounts borrowed shall be available to the Corporation for purposes of carrying out a program established pursuant to this section, including the payment of reasonable costs of administering the program, and the obligations issued shall be repaid in full with interest through fees and charges paid by participants in accordance with paragraphs (1) and (4), as applicable; and

(B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act.

(4) BACKUP SPECIAL ASSESSMENTS.—To the extent that the funds collected pursuant to paragraph (1) are insufficient to cover any losses or expenses, including amounts borrowed pursuant to paragraph (3), arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program, in amounts necessary to address such insufficiency, and which shall be available to the Corporation to cover such losses or expenses.

(5) AUTHORITY OF THE SECRETARY.—The Secretary may purchase any obligations issued under paragraph (3)(A). For such purpose, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter 31 are extended to include such purchases, and the amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(3)(B).

(f) RULE OF CONSTRUCTION.—For purposes of this section, a guarantee of deposits held by insured depository institutions shall not be treated as a debt guarantee program.

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

(1) COMPANY.—The term ''company'' means any entity other than a natural person that is incorporated or organized under Federal law or the laws of any State.

(2) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term ''depository institution holding company'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(3) LIQUIDITY EVENT.—The term ''liquidity event'' means—

(A) an exceptional and broad reduction in the general ability of financial market participants—

(i) to sell financial assets without an unusual and significant discount; or

(ii) to borrow using financial assets as collateral without an unusual and significant increase in margin; or

(B) an unusual and significant reduction in the ability of financial market participants to obtain unsecured credit.

(4) SOLVENT.—The term ''solvent'' means that the value of the assets of an entity exceed its obligations to creditors.

SEC. 1156. ADDITIONAL RELATED AMENDMENTS.

(a) SUSPENSION OF PARALLEL FEDERAL DEPOSIT INSURANCE ACT AUTHORITY.—Effective upon the date of enactment of this section, the Corporation may not exercise its authority under section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) to establish any widely available debt guarantee program for which section 1155 would provide authority.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 13(c)(4)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)) is amended—

(1) in clause (i)—

(A) in subclause (I), by inserting ''for which the Corporation has been appointed receiver'' before ''would have serious''; and

(B) in the undesignated matter following subclause (II), by inserting ''for the purpose of winding up the insured depository institution for which the Corporation has been appointed receiver'' after ''provide assistance under this section''; and

(2) in clause (v)(I), by striking ''The'' and inserting ''Not later than 3 days after making a determination under clause (i), the''.

(c) EFFECT OF DEFAULT ON AN FDIC GUARANTEE.—If an insured depository institution or depository institution holding company (as those terms are defined in section 3 of the Federal Deposit Insurance Act) participating in a program under section 1155, or any participant in a debt guarantee program established pursuant to section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act defaults on any obligation guaranteed by the Corporation after the date of enactment of this Act, the Corporation shall—

(1) appoint itself as receiver for the insured depository institution that defaults; and

(2) with respect to any other participating company that is not an insured depository institution that defaults—

(A) require—

(i) consideration of whether a determination shall be made, as provided in section 202 to resolve the company under section 203; and

(ii) the company to file a petition for bankruptcy under section 301 of title 11, United States Code, if the Corporation is not appointed receiver pursuant to section 203 within 30 days of the date of default; or

(B) file a petition for involuntary bankruptcy on behalf of the company under section 303 of title 11, United States Code.

SEC. 1157. FEDERAL RESERVE ACT AMENDMENTS ON FEDERAL RESERVE BANK GOVERNANCE.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended in section 4 by adding at the end the following:

''(25) SELECTION OF THE PRESIDENT OF THE FEDERAL RESERVE BANK OF NEW YORK.—Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, the president of the Federal Reserve Bank of New York shall be appointed by the President, by and with the advice and consent of the Senate, for terms of 5 years.

''(26) LIMITATION ON ELIGIBILITY TO VOTE FOR OR SERVE AS A FEDERAL RESERVE BANK DIRECTOR.—Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, no company, or subsidiary or affiliate of a company that is supervised by the Board, may vote for members of the board of directors of a Federal reserve bank, and no past or current officer, director, or employee of such company, or subsidiary or affiliate of such company, may serve as a member of the board of directors of a Federal reserve bank.''.

SEC. 1158. AMENDMENTS TO THE FEDERAL RESERVE ACT RELATING TO SUPERVISION AND REGULATION POLICY.

(a) ESTABLISHMENT OF THE POSITION OF VICE CHAIRMAN FOR SUPERVISION.—

(1) POSITION ESTABLISHED.—The second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) (relating to the Chairman and Vice Chairman of the Board) is amended by striking the third sentence and inserting the following: ''Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms.''.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of enactment of this title and applies to individuals who are designated by the President on or after that date to serve as Vice Chairman of Supervision.

(b) FINANCIAL STABILITY AS BOARD FUNCTION.—Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:

''(11) FINANCIAL STABILITY FUNCTION.—The Board of Governors shall identify, measure,

monitor, and mitigate risks to the financial stability of the United States.''.

(c) APPEARANCES BEFORE CONGRESS.—Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:

''(12) APPEARANCES BEFORE CONGRESS.—The Vice Chairman for Supervision shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board.''.

(d) BOARD RESPONSIBILITY TO SET SUPERVISION AND REGULATORY POLICY.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) (relating to enumerated powers of the Board) is amended by adding at the end of subsection (k) (relating to delegation) the following: ''The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors.''.

SEC. 1159. GAO AUDIT OF THE FEDERAL RESERVE FACILITIES; PUBLICATION OF BOARD ACTIONS.

(a) GAO AUDIT.—

(1) IN GENERAL.—Notwithstanding section 714(b) of title 31, United States Code, or any other provision of law, the Comptroller General of the United States (in this subsection referred to as the ''Comptroller General'') shall conduct a one-time audit of all loans and other financial assistance provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act by the Board of Governors under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act.

(2) ASSESSMENTS.—In conducting the audit under paragraph (1), the Comptroller General shall assess—

(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;

(B) the effectiveness of the collateral policies established for the facility in mitigating risk to the relevant Federal reserve bank and taxpayers;

(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility;

(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility; and

(E) whether there were conflicts of interest with respect to the manner in which such facility was established or operated.

(3) TIMING.—The audit required by this subsection shall be commenced not later than 30 days after the date of enactment of this Act, and shall be completed not later than 12 months after that date of enactment.

(4) REPORT REQUIRED.—The Comptroller General shall submit a report on the audit conducted under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(b) AUDIT OF FEDERAL RESERVE BANK GOVERNANCE.—

(1) AUDIT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall complete an audit of the governance of the Federal reserve bank system.

(B) REQUIRED EXAMINATIONS.—The audit required under subparagraph (A) shall—

(i) examine the extent to which the current system of appointing Federal reserve bank directors effectively represents ''the public, without discrimination on the basis of race, creed, color, sex or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers'' in the selection of bank directors, as such requirement is set forth under section 4 of the Federal Reserve Act;

(ii) examine whether there are actual or potential conflicts of interest created when the directors of Federal reserve banks, which execute the supervisory functions of the Board of Governors of the Federal Reserve System, are elected by member banks;

(iii) examine the establishment and operations of each facility described in subsection (a)(1) and each Federal reserve bank involved in the establishment and operations thereof; and

(iv) identify changes to selection procedures for Federal reserve bank directors, or to other aspects of Federal reserve bank governance, that would—

(I) improve how the public is represented;

(II) eliminate actual or potential conflicts of interest in bank supervision;

(III) increase the availability of information useful for the formation and execution of monetary policy; or

(IV) in other ways increase the effectiveness or efficiency of reserve banks.

(2) REPORT REQUIRED.—A report on the audit conducted under paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed, and such report shall be made available to—

(A) the Speaker of the House of Representatives;

(B) the majority and minority leaders of the House of Representatives;

(C) the majority and minority leaders of the Senate;

(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and

(E) any member of Congress who requests it.

(c) PUBLICATION OF BOARD ACTIONS.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, not later than December 1, 2010, with respect to all loans and other financial assistance it has provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for each such facility or program.

TITLE XII—IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Improving Access to Mainstream Financial Institutions Act of 2010''.

SEC. 1202. PURPOSE.

The purpose of this title is to encourage initiatives for financial products and services that are appropriate and accessible for millions of Americans who are not fully incorporated into the financial mainstream.

SEC. 1203. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ACCOUNT.—The term ''account'' means an agreement between an individual and an eligible entity under which the individual obtains from or through the entity 1 or more banking products and services, and includes a deposit account, a savings account (including a money market savings account), an account for a closed-end loan, and other products or services, as the Secretary deems appropriate.

(2) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).

(3) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code;

(B) a federally insured depository institution;

(C) a community development financial institution;

(D) a State, local, or tribal government entity; or

(E) a partnership or other joint venture comprised of 1 or more of the entities described in subparagraphs (A) through (D), in accordance with regulations prescribed by the Secretary under this title.

(4) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(5) PAYDAY LOAN.—The term ''payday loan'' means any transaction in which a small cash advance is made to a consumer in exchange for—

(A) the personal check or share draft of the consumer, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

(B) the authorization of the consumer to debit the transaction account or share draft account of the consumer, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.

SEC. 1204. EXPANDED ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary is authorized to establish a multiyear program of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings to promote initiatives designed—

(1) to enable low- and moderate-income individuals to establish one or more accounts in a federally insured depository institution that are appropriate to meet the financial needs of such individuals; and

(2) to improve access to the provision of accounts, on reasonable terms, for low- and moderate-income individuals.

(b) PROGRAM ELIGIBILITY AND ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall restrict participation in any program established under subsection (a) to an eligible entity. Subject to regulations prescribed by the Secretary under this title, 1 or more eligible entities may participate in 1 or several programs established under subsection (a).

(2) ACCOUNT ACTIVITIES.—Subject to regulations prescribed by the Secretary, an eligible entity may, in participating in a program established under subsection (a), offer or provide to low- and moderate-income individuals products and services relating to accounts, including—

(A) small-dollar value loans; and

(B) financial education and counseling relating to conducting transactions in and managing accounts.

SEC. 1205. LOW-COST ALTERNATIVES TO PAYDAY LOANS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to establish multiyear demonstration programs by means of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings, with eligible entities to provide low-cost, small loans to consumers that will provide alternatives to more costly payday loans.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Loans under this section shall be made on terms and conditions, and pursuant to lending practices, that are reasonable for consumers.

(2) FINANCIAL LITERACY AND EDUCATION OPPORTUNITIES.—

(A) IN GENERAL.—Each eligible entity awarded a grant under this section shall promote and take appropriate steps to ensure the provision of financial literacy and education opportunities, such as relevant counseling services, educational courses, or wealth building programs, to each consumer provided with a loan pursuant to this section.

(B) AUTHORITY TO EXPAND ACCESS.—As part of the grants, agreements, and undertakings established under this section, the Secretary may implement reasonable measures or programs designed to expand access to financial literacy and education opportunities, including relevant counseling services, educational courses, or wealth building programs to be provided to individuals who obtain loans from eligible entities under this section.

SEC. 1206. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.

The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:

"SEC. 122. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.

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

''(1) to make financial assistance available from the Fund in order to help community development financial institutions defray the costs of operating small dollar loan programs, by providing the amounts necessary for such institutions to establish their own loan loss reserve funds to mitigate some of the losses on such small dollar loan programs; and

''(2) to encourage community development financial institutions to establish and maintain small dollar loan programs that would help give consumers access to mainstream financial institutions and combat payday lending.

''(b) GRANTS.—

''(1) LOAN-LOSS RESERVE FUND GRANTS.—The Fund shall make grants to community development financial institutions or to any partnership between such community development financial institutions and any other federally insured depository institution with a primary mission to serve targeted investment areas, as such areas are defined under section 103(16), to enable such institutions or any partnership of such institutions to establish a loan-loss reserve fund in order to defray the costs of a small dollar loan program established or maintained by such institution.

''(2) MATCHING REQUIREMENT.—A community development financial institution or any partnership of institutions established pursuant to paragraph (1) shall provide non-Federal matching funds in an amount equal to 50 percent of the amount of any grant received under this section.

''(3) USE OF FUNDS.—Any grant amounts received by a community development financial institution or any partnership between or among such institutions under paragraph (1)—

''(A) may not be used by such institution to provide direct loans to consumers;

''(B) may be used by such institution to help recapture a portion or all of a defaulted loan made under the small dollar loan program of such institution; and

''(C) may be used to designate and utilize a fiscal agent for services normally provided by such an agent.

''(4) TECHNICAL ASSISTANCE GRANTS.—The Fund shall make technical assistance grants to community development financial institutions or any partnership between or among such institutions to support and maintain a small dollar loan program. Any grant amounts received under this paragraph may be used for technology, staff support, and other costs associated with establishing a small dollar loan program.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' has the same meaning given such term in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

''(2) the term 'small dollar loan program' means a loan program wherein a community development financial institution or any partnership between or among such institutions offers loans to consumers that—

''(A) are made in amounts not exceeding $2,500;

''(B) must be repaid in installments;

''(C) have no pre-payment penalty;

''(D) the institution has to report payments regarding the loan to at least 1 of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis; and

''(E) meet any other affordability requirements as may be established by the Administrator.''.

SEC. 1207. PROCEDURAL PROVISIONS.

An eligible entity desiring to participate in a program or obtain a grant under this title shall submit an application to the Secretary, in such form and containing such information as the Secretary may require.

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION TO THE SECRETARY.—There are authorized to be appropriated to the Secretary, such sums as are necessary to both administer and fund the programs and projects authorized by this title, to remain available until expended.

(b) AUTHORIZATION TO THE FUND.—There is authorized to be appropriated to the Fund for each fiscal year beginning in fiscal year 2010, an amount equal to the amount of the administrative costs of the Fund for the operation of the grant program established under this title.

SEC. 1209. REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to promulgate regulations to implement and administer the grant programs and undertakings authorized by this title.

(b) REGULATORY AUTHORITY.—Regulations prescribed under this section may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of grant programs, undertakings, or eligible entities, as, in the judgment of the Secretary, are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion of this title, or to facilitate compliance with this title.

SEC. 1210. EVALUATION AND REPORTS TO CONGRESS.

For each fiscal year in which a program or project is carried out under this title, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

TITLE XIII—PAY IT BACK ACT

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Pay It Back Act''.

SEC. 1302. AMENDMENT TO REDUCE TARP AUTHORIZATION.

Section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) is amended—

(1) in paragraph (3)—

(A) by striking ''If'' and inserting ''Except as provided in paragraph (4), if'';

(B) by striking '', $700,000,000,000, as such amount is reduced by $1,259,000,000, as such amount is reduced by $1,244,000,000'' and inserting ''$550,000,000,000''; and

(C) by striking ''outstanding at any one time''; and

(2) by adding at the end the following:

''(4) If the Secretary, with the concurrence of the Chairman of the Board of Governors of the Federal Reserve System, determines that there is an immediate and substantial threat to the economy arising from financial instability, the Secretary is authorized to purchase troubled assets under this Act in an amount equal to amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any other program enacted by the Secretary under the authorities granted to the Secretary under this Act, but only—

''(A) to the extent necessary to address the threat; and

''(B) upon transmittal of such determination, in writing, to the appropriate committees of Congress.''.

SEC. 1303. REPORT.

Section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended by inserting at the end the following:

''(f) REPORT.—The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).''.

SEC. 1304. AMENDMENTS TO HOUSING AND ECONOMIC RECOVERY ACT OF 2008.

(a) SALE OF FANNIE MAE OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 304(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

''(i) dedicated for the sole purpose of deficit reduction; and

''(ii) prohibited from use as an offset for other spending increases or revenue reductions.''.

(b) SALE OF FREDDIE MAC OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 306(l)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(l)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

''(i) dedicated for the sole purpose of deficit reduction; and

''(ii) prohibited from use as an offset for other spending increases or revenue reductions.''.

(c) SALE OF FEDERAL HOME LOAN BANKS OBLIGATIONS BY THE TREASURY; DEFICIT REDUCTION.—Section 11(l)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1431(l)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

''(i) dedicated for the sole purpose of deficit reduction; and

''(ii) prohibited from use as an offset for other spending increases or revenue reductions.''.

(d) REPAYMENT OF FEES.—Any periodic commitment fee or any other fee or assessment paid by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to the Secretary of the Treasury as a result of any preferred stock purchase agreement, mortgage-backed security purchase program, or any other program or activity authorized or carried out pursuant to the authorities granted to the Secretary of the Treasury under section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2683), including any fee agreed to by contract between the Secretary and the Association or Corporation, shall be deposited in the General Fund of the Treasury where such amounts shall be—

(1) dedicated for the sole purpose of deficit reduction; and

(2) prohibited from use as an offset for other spending increases or revenue reductions.

SEC. 1305. FEDERAL HOUSING FINANCE AGENCY REPORT.

The Director of the Federal Housing Finance Agency shall submit to Congress a report on the plans of the Agency to continue to support and maintain the Nation's vital housing industry, while at the same time guaranteeing that the American taxpayer will not suffer unnecessary losses.

SEC. 1306. REPAYMENT OF UNOBLIGATED ARRA FUNDS.

(a) REJECTION OF ARRA FUNDS BY STATE.—Section 1607 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 305) is amended by adding at the end the following:

''(d) STATEWIDE REJECTION OF FUNDS.—If funds provided to any State in any division of this Act are not accepted for use by the Governor of the State pursuant to subsection (a) or by the State legislature pursuant to subsection (b), then all such funds shall be—

''(1) rescinded; and

''(2) deposited in the General Fund of the Treasury where such amounts shall be—

''(A) dedicated for the sole purpose of deficit reduction; and

''(B) prohibited from use as an offset for other spending increases or revenue reductions.''.

(b) WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.—Title XVI of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 302) is amended by adding at the end the following:

''SEC. 1613. WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.

''Notwithstanding any other provision of this Act, if the head of any executive agency withdraws or recaptures for any reason funds appropriated or otherwise made available under this division, and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds shall be—

''(1) rescinded; and

''(2) deposited in the General Fund of the Treasury where such amounts shall be—

''(A) dedicated for the sole purpose of deficit reduction; and

''(B) prohibited from use as an offset for other spending increases or revenue reductions.''.

(c) RETURN OF UNOBLIGATED FUNDS BY END OF 2012.—Section 1603 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 302) is amended by—

(1) striking ''All funds'' and inserting ''(a) IN GENERAL.—All funds''; and

(2) adding at the end the following:

''(b) REPAYMENT OF UNOBLIGATED FUNDS.—Any discretionary appropriations made available in this division that have not been obligated as of December 31, 2012, are hereby rescinded, and such amounts shall be deposited in the General Fund of the Treasury where such amounts shall be—

''(1) dedicated for the sole purpose of deficit reduction; and

''(2) prohibited from use as an offset for other spending increases or revenue reductions.

''(c) PRESIDENTIAL WAIVER AUTHORITY.—

''(1) IN GENERAL.—The President may waive the requirements under subsection (b), if the President determines that it is not in the best interest of the Nation to rescind a specific unobligated amount after December 31, 2012.

''(2) REQUESTS.—The head of an executive agency may also apply to the President for a waiver from the requirements under subsection (b).''.

TITLE XIV—MISCELLANEOUS

SEC. 1401. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.

''(a) IN GENERAL.—The President shall direct the United States Executive Director of the International Monetary Fund—

''(1) to evaluate any proposed loan to a country by the Fund if the amount of the public debt of the country exceeds the gross domestic product of the country;

''(2) to determine whether or not the loan will be repaid and certify that determination to Congress.

''(b) OPPOSITION TO LOANS UNLIKELY TO BE REPAID.—If the Executive Director determines under subsection (a)(2) that a loan by the International Monetary Fund to a country will not be repaid, the President shall direct the Executive Director to use the voice and vote of the United States to vote in opposition to the proposed loan.''.

TITLE XV—CONGO CONFLICT MINERALS

SEC. 1501. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.

It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.

SEC. 1502. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section 763 of this Act, is further amended by adding at the end the following new subsection:

''(o) DISCLOSURES TO COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.—

''(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)—

''(A) to disclose annually to the Commission in a report—

''(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was necessary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and

''(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and

''(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.

''(2) PERSON DESCRIBED.—

''(A) IN GENERAL.—A person is described in this paragraph if—

''(i) the person is required to file reports to the Commission under subsection (a)(2); and

''(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.

''(B) DERIVATIVES.—For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.

''(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.

''(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.

''(B) EXTENSION BY SECRETARY OF STATE.—The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.

''(5) ADJOINING COUNTRY DEFINED.—In this subsection, the term 'adjoining country', with

respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.''.

SEC. 1503. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:

(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.

(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).

(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.

(4) Recommendations for legislative or regulatory actions that can be taken—

(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;

(B) to resolve the problems described pursuant to paragraph (2), if any; and

(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.

Amend the title so as to read: ''An Act to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end 'too big to fail', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.''.

STEWART LEE UDALL DEPARTMENT OF THE INTERIOR BUILDING

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5128, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5128) to designate the United States Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building.''

There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 5128) was ordered to a third reading, was read the third time, and passed.

75TH ANNIVERSARY OF EAST BAY REGIONAL PARK DISTRICT IN CALIFORNIA

Mr. CASEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 211 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 211) recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 211) was agreed to.

The preamble was agreed to.

MEASURES READ THE FIRST TIME—S. 3410 AND S. 3421

Mr. CASEY. Mr. President, I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. Without objection, the clerk will report the bills for the first time.

The assistant legislative clerk read as follows:

A bill (S. 3410) to create a fair and efficient system to resolve claims of victims for economic injury caused by the Deepwater Horizon incident, and to direct the Secretary of the Interior to renegotiate the terms of the lease known as ''Mississippi Canyon 252'' with respect to claims relating to the Deepwater Horizon explosion and oil spill that exceed existing applicable economic liability limitations.

A bill (S. 3421) to provide a temporary extension of certain programs, and for other purposes.

Mr. CASEY. I now ask for a second reading, and I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard.

Mr. CASEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc Executive Calendar Nos. 894, 895, 896, 897, and 898; that the nominations be confirmed en bloc; the motions to reconsider be laid on the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Kerry Joseph Forestal, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

John Dale Foster, of West Virginia, to be United States Marshal for the Southern District of West Virginia for the term of four years.

Gary Michael Gaskins, of West Virginia, to be United States Marshal for the Northern District of West Virginia for the term of four years.

Dallas Stephen Neville, of Wisconsin, to be United States Marshal for the Western District of Wisconsin for the term of four years.

R. Booth Goodwin II, of West Virginia, to be United States Attorney for the Southern District of West Virginia for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate resumes legislative session.

UNANIMOUS CONSENT AGREEMENT—S.J. RES. 26

Mr. CASEY. Mr. President, I ask unanimous consent that on Thursday, June 10, after any leader time, the Republican leader or his designee be recognized to move to proceed to the consideration of S.J. Res. 26, a joint resolution disapproving the EPA Administrator's endangerment finding; that there be 6 hours of debate on the motion to proceed to the joint resolution, with the time divided and controlled between Senators BOXER and MURKOWSKI or their designees; that upon the use or yielding back of time, the Senate proceed to a vote on adoption of the motion to proceed; that if the motion is successful, then there be 1 hour of debate on the joint resolution, divided as described above; that upon the use or yielding back of that time, the joint resolution be read a third time and the Senate then proceed to a vote on passage of the joint resolution; provided further that if the motion to proceed is defeated, then no further motion to proceed to the joint resolution be in order; further, that no amendment or motion on the subject of the EPA greenhouse gas regulations or relating to the endangerment finding be in order prior to consideration of the motion to proceed to S.J. Res. 26, with no amendments in order to the joint resolution and with all other provisions of the statute governing consideration of the joint resolution remaining in effect during the pendency of this agreement.

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

ORDERS FOR WEDNESDAY, MAY 26, 2010

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, May 26; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 4899, the emergency supplemental appropriations bill. Finally, I ask that the mandatory quorums with respect to the substitute and H.R. 4899 be waived.

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

PROGRAM

Mr. CASEY. Mr. President, as a reminder, the filing deadline for first-degree amendments is 1 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Wednesday, May 26, 2010, at 9:30 a.m.

DISCHARGED NOMINATION

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination under the authority of the order of the Senate of January 7, 2009 and the nomination was placed on the Executive Calendar:

*JONATHAN ANDREW HATFIELD, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, May 25, 2010:

DEPARTMENT OF JUSTICE

KERRY JOSEPH FORESTAL, OF INDIANA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF INDIANA FOR THE TERM OF FOUR YEARS.

JOHN DALE FOSTER, OF WEST VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF FOUR YEARS.

GARY MICHAEL GASKINS, OF WEST VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF FOUR YEARS.

DALLAS STEPHEN NEVILLE, OF WISCONSIN, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS.

R. BOOTH GOODWIN II, OF WEST VIRGINIA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

URGING ESTABLISHMENT OF U.S. CONSULATE IN KURDISTAN REGION OF IRAQ

SPEECH OF

HON. BILL DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Mr. DELAHUNT Madam Speaker, I rise in strong support of this amended resolution calling for the establishment of a United States Consulate in the Kurdistan Region of Iraq, as well as in other regions of Iraq.

For years, I have been closely following issues related to United States policy towards Iraq, as well as that nation's own internal politics as its people develop their democracy. During the previous American Administration, I chaired a series of hearings in the House Foreign Affairs Oversight Subcommittee that examined the bilateral accord—the so-called "status of forces agreement" (SOFA)—between the United States and Iraq, which provides for the withdrawal of our military forces by December 31, 2011. I also closely followed the concurrent negotiation of the civilian-focused Strategic Framework Agreement (SFA), in which the U.S. and Iraq committed to a number of mutually supporting efforts in the areas of economy, culture, science, technology, health and trade.

While I had reservations about the so-called SOFA, I strongly support the SFA, because I believe that America has a moral obligation to the Iraqi people to help their country get back on its feet. Yes, we liberated them from Saddam Hussein, but in doing so we unleashed a wave of horrific violence upon that nation. We now have a duty to alleviate some of the damage, and the SFA will enable that to happen.

Some of those efforts at implementation of the SFA will require Americans to work in Iraq. Currently, most American citizens in that country must receive consular services in Baghdad. Given Iraq's size and challenges to travel, this can be very difficult. Establishing U.S. Consulates in several regions in Iraq would make it easier for Americans to work throughout Iraq and thus fulfill our obligations under the SFA. Therefore I believe that such efforts should get underway immediately.

As a follower of Iraq politics, particularly the controversies regarding the latest parliamentary elections, I am well aware of the sensitivities regarding the establishment of a U.S. Consulate in the Kurdistan Region of Iraq. That is why I am pleased that this resolution has been amended to reflect the need for U.S. Consulates elsewhere in Iraq. Yes, at the moment, the Kurdistan Region of Iraq has been identified by the State Department as one of the more stable and secure regions of Iraq, which is why the resolution mentions that specific region as a site for a U.S. Consulate. But such a designation also comes with responsibility—specifically, the Kurds must demonstrate their commitment to ensuring the stability and security of all of Iraq, not just their region. They can do so by encouraging the creation of an inclusive government that represents all four major coalition in the parliament, including their own.

As peace and security spreads throughout Iraq as a result, America should establish U.S. Consulates in other areas as well. That way, the American and Iraqi people can literally work together in creating a better future for Iraq.

HONORING THE 50TH ANNIVERSARY OF JAMES SPRING & WIRE COMPANY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. GERLACH. Madam Speaker, I rise today to congratulate the owners and employees of James Spring & Wire Company of Frazer, Chester County as they celebrate the Company's 50th anniversary.

Company founder Richard James may be best known for turning a simple, high-tension spring into "a wonderful toy" that, as the jingle said, was "fun for a girl or a boy." The toy James created is the Slinky.

In 1960, the current owners of James Spring & Wire bought the Company and built it into a leading manufacturer of custom springs, wire and strip forms and stampings. The Company's success over the last half-century is no doubt the result of exemplary leadership and entrepreneurial vision combined with highly-skilled and hard-working employees.

Madam Speaker, I ask that my colleagues join me today in congratulating the owners and employees of James Spring & Wire Company on reaching this memorable milestone and recognizing the important role small businesses such as this one play in making Chester County and all of Southeastern Pennsylvania a great place to live, work and raise a family.

RECOGNIZING MAY AS NATIONAL CANCER RESEARCH MONTH

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mrs. CAPPS. Madam Speaker, May is National Cancer Research Month and I rise to pay tribute to the invaluable contributions made by scientists and clinicians across the United States who are working not only to overcome this devastating disease, but also to prevent it.

This year, nearly 1.5 million Americans will be diagnosed with cancer and over 500,000 Americans will die from cancer. But the good news is that our nation's investment in cancer research is having a remarkable impact. The five-year survival rate for all cancers has improved over the past 30 years to more than 65 percent. Discoveries and developments in prevention, early detection, and treatment have led to cures for many types of cancer and have led others to be transformed into manageable chronic conditions. Furthermore, many of these advancements have had significant impacts on developing treatments for other common and costly diseases such as diabetes, heart disease, Alzheimer's, HIV/AIDS and macular degeneration.

Madam Speaker, National Cancer Research Month is the time to reaffirm our further commitment to finding treatments, cures and better tools for prevention, building on the momentum of recent years. As the more than 31,000 members of the American Association for Cancer Research and their partners continue their quest for cancer prevention and cures, Congress must stand behind them and invest in our research infrastructure.

I salute America's cancer researchers and their ongoing efforts and vow to be a partner in the ongoing war on cancer.

RECOGNIZING MONACAN HIGH SCHOOL FOR ORGANIZING PROJECT 186

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. CANTOR. Madam Speaker, I rise today to thank the students and teachers of Monacan High School in Chesterfield County, Virginia, for collecting and shipping much needed school supplies for students in Afghanistan.

Jessica M. Heising, an English teacher at Monacan High, organized Project 186 with the purpose of collecting 186 backpacks and school supplies for each student in an all-girls school in the Paktika province of Afghanistan. The project was successful, and the supplies will improve the learning outcomes of the 186 students.

I commend the teachers, students, faculty, and families who gave of their time and talents to influence the lives of students in Afghanistan for good.

EXPRESSING SYMPATHY TO FAMILIES OF SOUTH KOREAN SEAMEN KILLED BY NORTH KOREA

SPEECH OF

HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 2010

Mr. LARSEN of Washington. Madam Speaker, I rise today to express my support for H. Res. 1382, a resolution expressing sympathy to the families of those killed by North Korea

in the sinking of the South Korean ship Cheonan, and solidarity with South Korea in the aftermath of this tragic incident.

On March 26, the South Korean ship Cheonan sank in the Yellow Sea following an explosion, killing 46 sailors. I offer my condolences to the families, friends, and loved ones of those killed in this tragic incident.

In the two months following the sinking of the Cheonan, the South Korean government has undertaken extensive forensic work with a team of impartial international investigators to determine the cause of the explosion. Their work leaves no doubt that the sinking of the Cheonan and the death of 46 sailors was the direct result of a torpedo fired by North Korea.

The United States stands with President Lee Myung-bak and fully supports the measures he has taken to respond to the sinking of the Cheonan. President Lee's decision to close sea lanes and cut off trade with North Korea sends a strong message that South Korea will not tolerate unprovoked aggression.

South Korea is a strong ally of the United States, and as the President has made clear, our commitment to supporting their defense is unequivocal.

I urge the international community to join with South Korea and the United States to condemn North Korea's unacceptable, belligerent behavior.

And I urge my colleagues to support H. Res. 1382 and send a strong message that the United States Congress stands with South Korea during this difficult time.

HONORING THE INTERNATIONAL MYELOMA FOUNDATION

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. HIGGINS. Madam Speaker, I come to the floor today to help raise awareness of myeloma. Myeloma is a cancer in the bone marrow affecting production of red cells, white cells, and stem cells. It is also commonly known as ''multiple myeloma'' since it affects multiple areas of bone marrow.

Myeloma is the second most common blood cancer after lymphomas. Each year approximately 20,000 Americans are diagnosed with myeloma and 10,000 lose their battle with this disease. At any one time there are over 100,000 myeloma patients undergoing treatment for their disease in the U.S.

Although the incidences of many types of cancers are decreasing, the frequency of myeloma cases continues to climb. Once thought of as a disease of the elderly, it is now being found in increasing numbers in people under 65 and it is not uncommon to find patients in their 30s.

As the oldest and largest myeloma foundation, the International Myeloma Foundation (IMF) is dedicated to improving the quality of life of myeloma patients while working toward prevention and a cure. This dedication has led to dramatic and important advances in treatment for multiple myeloma in the last few years. Unfortunately, the needless disparity in coverage between oral and intravenous (IV) chemotherapy has left many patients unable to utilize many of these breakthroughs.

I believe myeloma patients and their doctors should be able to take advantage of the treatment that is best suited for each patient, and not have to select their treatment based on insurance coverage. This is why I introduced my bill, HR 2366, The Cancer Drug Coverage Parity Act of 2009. The Cancer Drug Coverage Parity Act works to eliminate these inequities for cancer patients whose insurance has differences in the way oral and intravenous chemotherapy treatments are covered. This is an important issue for myeloma patients, their families, and every American battling cancer.

Madam Speaker, I ask my distinguished colleagues to join me in recognizing the exemplary work being done by the IMF to improve the quality of life of myeloma patients and their families and their efforts to find a cure in the fight against cancer.

RECOGNIZING THE IMPORTANCE OF MANUFACTURED AND MODULAR HOUSING

SPEECH OF

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 2010

Mr. ADERHOLT. Madam Speaker, I would like to thank the Gentleman from Indiana for introducing H. Res. 584, ''Recognizing the importance of manufactured and modular housing in the United States.''

Manufactured and modular housing play an important role in meeting the housing needs of the people of my home state of Alabama and the United States of America.

Over the past two decades, the quality of manufactured housing has become essentially equivalent to that of conventional housing and manufactured housing has grown in popularity as an affordable alternative to conventional site-built housing.

A Harvard University Joint Center for Housing Studies reported that manufactured housing has no impact on the appreciation rates of surrounding properties, putting an end to the myth of negative property value impacts.

It is also good to know that the manufactured and modular housing industry continues to be an important part of our nation's economy. Manufactured and modular housing has produced approximately $6 billion annually in sales and employs approximately 70,000 people in factories and retail centers alone.

These factories are an important contributor to the economy in the district I represent, as there are more than ten manufacturers in the 4th Congressional District of Alabama.

During a recession, I would encourage any Americans to consider a manufactured or modular house as an option. According to the Manufactured Housing Institute, construction costs per square foot for a new manufactured home average anywhere from 10 to 35 percent less than a comparable site-built home, excluding the cost of land, depending on the region of the country.

Home ownership is part of the American Dream and I am pleased to encourage affordable home ownership opportunities through manufactured and modular housing for so many Americans who can benefit from this type of home ownership.

PERSONAL EXPLANATION

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. ROSS. Madam Speaker, on Monday, May 24, 2010, I was not present for votes 291, 292, and 293.

Had I been present for rollcall No. 291, expressing the sense of Congress that a grateful Nation supports and salutes Sons and Daughters in Touch on its 20th Anniversary that is being held on Father's Day, 2010, at the Vietnam Veterans Memorial in Washington, the District of Columbia, I would have voted ''aye.''

Had I been present for rollcall No. 292, Chiropractic Care Available to All Veterans Act, I would have voted ''aye.''

Had I been present for rollcall No. 293, Antitrust Criminal Penalty Enhancement and Reform Extension Act, I would have voted ''aye.''

RECOGNIZING STEPHANIE McCONNELL FOR HER COMMITMENT TO STUDENTS AND EDUCATION IN THE STATE OF ARKANSAS

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. BOOZMAN. Madam Speaker, I rise today to recognize Stephanie McConnell, for her achievement of being named the Arkansas Middle School Assistant Principal of the Year for her work at Helen Tyson Middle School in Springdale.

A graduate of the University of Arkansas with a master's degree from Harding University, McConnell is never far from the classroom even after work hours are over because she's working towards a specialist's degree from Harding.

McConnell's hard work and leadership has been an inspiration at the school and for the entire Springdale School District. She attributes her success at Tyson Middle School to her colleagues and her students. Her passion, dedication and enthusiasm for seeing our students succeed is something we can all learn from.

I am proud of Stephanie McConnell for her commitment to education and her efforts to improve the lives of students in Arkansas. This recognition is a well deserved honor.

HONORING MR. RICHARD SLAWSON

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. HIGGINS. Madam Speaker, I rise today to pay tribute to the years of service given to the people of Chautauqua County by Mr. Richard Slawson. Mr. Slawson served his constituency faithfully and justly during his tenure as a member of the Hannover Town Council.

Public service is a difficult and fulfilling career. Any person with a dream may enter but only a few are able to reach the end. Mr. Slawson served his term with his head held

high and a smile on his face the entire way. I have no doubt that his kind demeanor left a lasting impression on the people of Chautauqua County.

We are truly blessed to have such strong individuals with a desire to make this county the wonderful place that we all know it can be. Mr. Slawson is one of those people and that is why, Madam Speaker, I rise in tribute to him today.

THE OLD BRICK PLAYHOUSE

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mrs. CAPITO. Madam Speaker, I rise today to honor The Old Brick Playhouse of Elkins, West Virginia for the tremendous service they provide to the youth of Randolph, Upshur, and surrounding counties through its Apprentice program.

Founded in 1992 by Executive Director Missy Armentrout McCollam, the Old Brick's Apprentice program utilizes arts education to foster confidence, leadership and team building skills through a student-acted and produced play or musical.

One needs only to look at the numbers to see the strength of this program. From an initial cast of a mere 20 high school students, the Apprentices today overflow the theater doors with an enrollment of more than 100 students, spanning grades 6–12.

Instilling a commitment to continuing education and expanding one's horizons, the Apprentice program's legacy is unmistakable. Some of the more than 2,000 Apprentice alumni have gone on to attend some of our nation's most prestigious colleges and universities. Others have gone on to act professionally. Many have achieved distinguished careers in business, law, medicine, or teaching; and, nearly all have become model citizens worthy of emulation.

Truly one of those small, local treasures to all in the community it enriches, I commend the Old Brick Playhouse of Elkins, West Virginia for its outstanding leadership and commitment over the past 18 years. Having been recently recognized at the highest state and national levels, I urge my colleagues to join me in honoring this wonderful organization.

CONGRATULATING WESTLAKE ACADEMY'S INAUGURAL GRADUATING CLASS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. BURGESS. Madam Speaker, I proudly rise today to congratulate the Town of Westlake with the high school matriculation of the first graduating class of the Westlake Academy.

Founded as a public charter school in 2003, Westlake Academy is the first and only municipality in Texas to receive a charter designation. It has a mission to achieve academic excellence and develop life-long learners who will become well-balanced responsible citizens.

Westlake Academy promotes intercultural understanding, respect, independent thought and prepares their students to become active participants and agents of positive change through its International Baccalaureate curriculum. Westlake Academy is the fifth school of only ten schools in the United States, and the only public school, to offer the full International Baccalaureate curriculum for grades K–12.

I'm honored to celebrate this first graduation with Mayor Laura Wheat, the Town Council/Trustees, former Board of Alderman/Trustees, former Mayor Scott Bradley, the parents, graduates and Community of Westlake. I appreciate the opportunity to speak at their first commencement and to represent the Town of Westlake and Westlake Academy in the United States House of Representatives.

I'd like to submit the names of the First Graduating Class for the RECORD. These 24 graduating seniors have been offered over $3.7 million in scholarships/grants, and 100 percent have been accepted to colleges and universities.

Brooke Awtry, Kent Bordelon, Elena Ceballos, Alexandra Champagne, Anisha Chandra, Bailey Cockrum, Chelsea Cooper, Ryen Degan.

Tim Drews, Olivia Flowers, Josh Frey, James Grover, Erik Herbst, Viky Kalyta, Sean Kennedy, Christina Kolokotroni.

Connor Lenio, Corey Lenkiewicz, Samantha Moon, Shivam Purohit, Stephanie Schultz, Kali Spates, Tyler Springer, Yasya Vasyutynska.

IN HONOR AND REMEMBRANCE OF CHARLES NUNZIO DELPIZZO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of Charles Nunzio DelPizzo, a Veteran, a baker, a business owner and a locomotive engineer. Most importantly, he was a beloved husband, father, grandfather and friend.

Mr. DelPizzo was the sixth of nine children born to Guiseppe and Angelina DelPizzo. As a young man, Mr. DelPizzo and his siblings were raised with the values of faith, family and hard work. He and his four brothers served in the military during World War II. Mr. DelPizzo earned the rank of Corporal in the United States Army, where he served as a baker in the 107th Quartermaster Bakery Company.

Following his honorable discharge, Mr. DelPizzo combined his talent for baking with his entrepreneurial spirit. He and his young bride, Palma Antonia Santoro DelPizzo, started their own bakery in Garfield Heights. In addition to running his bakery, he also worked as a locomotive conductor and engineer with the Nickel Plate and Norfolk & Western Railroads.

Mr. and Mrs. DelPizzo were married for 63 years before her passing in 2006. Together, they raised their daughter, Paula, and welcomed their son-in-law, Andrew, into the family. Mr. DelPizzo was a loving grandfather to Angela, Melissa and Andrew, and was the great "grumpy" to Anthony, Talia and Larissa.

Madam Speaker and colleagues, please join me in recognizing Charles Nunzio DelPizzo, a man whose joyous life was framed by a love for family and a love of life. I offer my deepest condolences to his family and friends. He will be greatly missed by all who knew and loved him.

EXPRESSING SYMPATHY TO FAMILIES OF SOUTH KOREAN SEAMEN KILLED BY NORTH KOREA

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 2010

Mr. PAUL. Mr. Speaker I rise in opposition to this legislation not because I do not wish to express sympathy to those killed in the recent sinking of a South Korean naval vessel near the border with North Korea, but rather because I object strongly to the threatening and militaristic language in this resolution. I do not believe Congressional expressions of sympathy for those who have lost their lives should include language that further escalates an already volatile situation on the Korean peninsula. At a time when the United States maintains nearly 30,000 troops in South Korea, serving as a tripwire for an American response should hostilities break out between North and South, this resolution should, if anything, counsel caution and diplomacy rather than urge the U.S. government "to take other appropriate actions in response to the sinking of the ROKS Cheonan and other hostile acts of North Korea." Further, in reaffirming the United States' "enduring commitment to the . . . security of the Republic of Korea," this resolution signals a U.S. willingness to commit military force should the current escalation in tensions continue between North and South.

It is difficult to imagine a more dangerous or inappropriate time for such statements. I believe this unfortunate incident should instead serve as a wake-up call for the United States to re-assess its military presence in South Korea in particular and Asia in general. Maintaining the U.S. global empire is costing us one trillion dollars per year and is undermining rather than contributing to peace and stability. The North and South Koreans have all the incentive to reach a peaceful solution to their long-standing conflict and have made strides recently in that direction. The U.S. military presence in South Korea some 50 years after the Korean War is an impediment to that progress and should be ended immediately.

PERSONAL EXPLANATION

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately last night, Monday May 24th, I was unable to cast my votes on H. Con. Res. 278, H.R. 1017, and H.R. 5330 as I was conducting a townhall meeting at the Tolono Public Library and wish the RECORD to reflect my intentions had I been able to vote.

Had I been present on rollcall No. 291 on suspending the rules and passing H. Con. Res. 278, Expressing the sense of Congress that a grateful Nation supports and salutes

Sons and Daughters in Touch on its 20th Anniversary that is being held on Father's Day, 2010, at the Vietnam. Veterans Memorial in Washington, the District of Columbia, I would have voted ''aye.''

Had I been present on rollcall No. 292 on suspending the rules and passing H.R. 1017, the Chiropractic Care Available to All Veterans Act, I would have voted ''aye.''

Had I been present on rollcall No. 293 on suspending the rules and passing H.R. 5330, to amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act for a 5-year period ending June 22, 2015, I would have voted ''aye.''

25TH ANNIVERSARY OF VFW POST NO. 8352

HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. ADLER of New Jersey. Madam Speaker, I rise today to pay tribute to the members of the Silver Ridge Park Westerly Memorial Post No. 8352 of the Veterans of Foreign Wars in Toms River, New Jersey as they celebrate the 25th Anniversary of the Post's founding.

The VFW's support for our Nation's Armed Forces has been exemplary throughout its history, but it is their with our Nation's veterans that has been most impressive. VFW Post No. 8352 is an active community organization and has served as a local institution in the Toms River community for more than 25 years.

Upon this Memorial Day, we as Americans, should never forget the men and women who served our Nation with such dedication and patriotism. Our Nation owes a debt of gratitude and support for all the achievements performed by the Veterans of Foreign Wars and for the 25 years of service that the Silver Ridge Post No. 8352 has provided to the Toms River community.

That is why, Madam Speaker, I ask my colleagues in the House of Representatives to join me on this 25th anniversary in saluting Silver Ridge Park Westerly Memorial Post No. 8352 of the Veterans of Foreign Wars and all of its members for all they do for our veterans and for all they've done for America.

IN RECOGNITION OF THE COUNCIL ON AMERICAN-ISLAMIC RELATIONS EIGHTH ANNUAL CIVIL RIGHTS BANQUET

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. KUCINICH. Madam Speaker, I rise today to recognize the Council on American-Islamic Relations (CAIR) Ohio Chapter on the occasion of their Eighth Annual Civil Rights Banquet entitled ''A New Era of Hope.''

CAIR is a nationwide, nonprofit organization whose mission is to ''enhance the understanding of Islam, encourage dialogue, protect civil liberties, empower American Muslims and build coalitions that promote justice and mutual understanding.'' For the past eight years, CAIR Ohio has played an instrumental role in helping to bridge the divides between Greater Cleveland's diverse communities. CAIR Ohio's Eighth Annual Banquet will provide a platform for vibrant discourse led by this year's distinguished speakers: Shahid Buttar, Esq. of the Bill of Rights Committee; Imam Mahdi Bray of the Muslim American Society Freedom Foundation; and Nihad Awad, National Executive Director of CAIR. I commend these speakers for their efforts to promote civil liberties and social justice.

Madam Speaker and colleagues, please join me in recognizing the Council on American-Islamic Relations Ohio Chapter for their eight years of outstanding achievement. May their efforts to promote dialogue and create a more inclusive world continue to endure.

150TH ANNIVERSARY OF THE CALIFORNIA SCHOOL FOR THE BLIND

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. STARK. Madam Speaker, I rise today to pay tribute to the 150th anniversary of the California School for the Blind, CSB, located in Fremont, California. CSB has educated and provided services to thousands of blind and visually impaired students throughout the state.

CSB began in 1860 in San Francisco with an original enrollment of one blind and three deaf students. For a time, the school was the sole provider of educational services for the blind in California. Today, CSB is entirely state-funded, and has an enrollment of approximately 82 Californians from ages 5–22.

CSB students participate in vast array of extra-curricular activities, including swimming, karate, tandem bicycling, music and dance, international pen pals on tape, art, cooking and roller-skating. CSB student athletes take part in the Alameda County Special Olympics and are members of the United States Association of Blind Athletes. The school also offers its students lessons in social and living skills, career development, concept development, and orientation and mobility skills. The school recently opened its Rocket Café, which is a student run business on campus.

Among CSB's most notable alumni is Dr. Newel Perry. Dr. Perry was the first blind person to attend regular classes at Berkeley High School and was the first blind person accepted for enrollment at the University of California. He received his doctorate at the University of Munich, and was the first Director of Advanced Studies for the Blind in California. Dr. Perry is the author of California's Aid to the Blind Laws, and founder of the California Council for the Blind.

It is my honor to join in congratulating the California School for the Blind for reaching this milestone anniversary of 150 years of service to the visually impaired. I send best wishes for continued success to the current CSB Superintendent, Dr. Stuart Wittenstein, and all who contribute to provide quality educational services for the blind students of California at CSB.

''WHERE IS THE BUDGET?''

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. MARCHANT. Madam Speaker, for quite some time now, many Members have come to the floor to ask ''Where are the Jobs?''

In addition to asking ''Where are the Jobs'', I am also asking where is the budget? With our national debt standing at almost thirteen trillion dollars, we cannot simply ignore our fiscal woes and hope that they will solve themselves. More than a month has passed since the April 15 deadline set by the Budget Act, and no committee or floor actions have been scheduled to address this missing budget.

I call on the Majority to produce a budget so that we can have a debate on improving our fiscal condition. We must not continue to saddle our children and grandchildren with massive debts. Where is the Budget?

HAKALAU FOREST NATIONAL WILDLIFE REFUGE EXPANSION ACT OF 2010

HON. MAZIE K. HIRONO

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Ms. HIRONO. Madam Speaker, I rise today to introduce the Hakalau Forest National Wildlife Refuge Expansion Act of 2010, which authorizes the expansion of this Refuge on the island of Hawaii to encompass adjacent parcels containing native forest habitat that supports some of the most endangered forest birds in the Nation and the world. Both the 2009 and 2010 U.S. State of the Birds reports call for particular attention to Hawaii, where more bird species are vulnerable to extinction than anywhere else in the United States.

The Hakalau Forest National Wildlife Refuge consists of two major units: the 32,733-acre Hakalau Forest Unit on the windward, eastern, slopes of Mauna Kea volcano and the 2,604–acre Kona Forest Unit on the leeward, western, slopes of Mauna Loa volcano. The Refuge's purpose is to protect and manage endangered Hawaiian forest birds and their rain forest habitat.

Eight of the 14 native bird species occurring at Hakalau are endangered. Thirteen migratory bird species and twenty introduced species, including eight game birds, as well as the endangered 'ope'ape'a, Hawaiian hoary bat, our only endemic terrestrial mammal, also frequent the Refuge. Twenty-nine rare plant species are found on the Refuge and adjacent lands. Twelve of these plants are currently listed as endangered. Two endangered lobelias have fewer than five plants known to exist in the wild.

The forested parcels authorized for inclusion in this bill include 13,129 acres for addition to the Hakalau Forest Unit and 2,604 acres for addition to the Kona Forest Unit. The proposed areas for addition contain some of Hawaii's and the world's rarest forest bird species, including the rare endangered Hawaiian honeycreepers such as the 'akiapola'au, the 'akepa, and the Hawai'i Creeper, as well as significant numbers of more numerous native

honeycreepers such as the 'i'wi, 'amakihi, and 'apapane and a native flycatcher, the 'elepaio. In addition, these lands are habitat for the endangered pueo, Hawaiian owl, and the 'io, Hawaiian hawk. The proposed expansion areas also include large numbers of native trees, primarily koa and 'ohia, some 31 endemic species of flowering plants, and 37 endemic ferns. Due to its geographic isolation—more than 2,000 miles from a major land mass—these bird species and plants only exist in the Hawaiian islands, and, in many cases, are restricted to this one island.

The current owners of the two parcels authorized for acquisition under this Act are willing sellers. Due to the ecological importance of these parcels, there is strong interest in the conservation community in Hawaii in assisting with bridge financing to secure the parcels for ultimate acquisition by the U.S. Fish and Wildlife Service.

As Members of Congress, it is our duty to help to preserve our precious natural heritage for future generations. Hawaii, much like the Galapagos, is a hotspot of species diversity and unique adaptations. And the Big Island of Hawaii, where this Refuge is located, is one of the world's great biological laboratories. This one island, comprised of 4,028 square miles, contains eleven of the world's 13 climatic zones. One of the most isolated relatively large land masses in the world, species arrived in our islands by chance and then evolved to take advantage of every ecological niche. And being an island, most of the animal species that arrived were birds and insects.

So much has been lost in our world and Nation due to extinction, but we also know that through our intervention much has been saved. The bald eagle has been taken off the Endangered Species List; I am hopeful that we can also see the recovery of Hawaii's magnificent forest birds through preservation and restoration of habitat. Opportunities like this—to secure such valuable habitat from willing sellers—doesn't come along often. I am committed to protecting our natural world's biological diversity. As the Member of Congress representing one of the most beautiful and ecologically important places in our world, I am determined to do what I can to help preserve Hawaii's unique animals and plants. I would be grateful for your support.

HONORING SPECIALIST WADE SLACK

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. MICHAUD. Madam Speaker, I rise today to honor the memory of Specialist Wade Slack of Waterville, Maine who was killed while serving his country in Afghanistan.

Wade was a beloved member of the Waterville community. He is remembered for a kindness, compassion and wisdom that exceeded his years. On May 6th, Specialist Slack succumbed to wounds sustained by enemy mortar fire in the Wardak Province of Afghanistan. At just 21 years old, Specialist Slack's youth punctuates an already painful loss.

Wade Slack, a fan of video games and hunting, enlisted while still an honors student at Waterville High School. After graduating in 2007, he completed his basic training at Ft. Leonard Wood, Mo., and his advanced individual training at Redstone Arsenal, Alabama and Englin Air Force Base, Florida. He was an E4 specialist with a focus in explosive ordnance disposal, serving with the Army's 707th Ordnance Battalion.

Mainers come together during a crisis, and I know that everyone in Waterville and the state stand together to support the Slack family. Wade is survived by his parents Alan and Mary, his stepmother Rose, six bothers and sisters, two step siblings and countless close friends. He is mourned by all as a true American hero and a defender of the freedom we all hold dear.

Madam Speaker, please join me in honoring the memory of Specialist Wade Slack for his patriotism and devotion to his community and his country.

OBAMA IGNORES SUDAN'S GENOCIDE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. WOLF. Madam Speaker, I submit a piece by actress and activist Mia Farrow which ran in today's Wall Street Journal. It is appropriately titled, "Obama Ignores Sudan's Genocide." The President has failed to exhibit the necessary leadership on this issue. He has barely uttered a word on Sudan or Darfur since coming to office.

Having spent extensive time in the region, Farrow points out, "When Barack Obama was elected President of the United States, hope abounded, even in Darfur's bleak refugee camps." Later she continues, "Such hopes did not last long."

Were the President to move swiftly to empower Secretary of State Clinton and U.N. Ambassador Rice to take the reins of the administration's languishing Sudan policy, perhaps hope could be restored.

[From the Wall Street Journal, May 25, 2010]

OBAMA IGNORES SUDAN'S GENOCIDE

(By Mia Farrow)

Last week U.S. Special Envoy to Sudan Scott Gration told the Senate Foreign Relations Committee that although he remains supportive of "international efforts" to bring Sudanese President Omar al-Bashir to justice, the Obama administration is also pursuing "locally owned accountability and reconciliation mechanisms in light of the recommendations made by the African Union's high-level panel on Darfur."

Mr. Bashir is indicted by the International Criminal Court (ICC) for war crimes and crimes against humanity, but the African Union Panel on Darfur has clearly aligned itself with Khartoum. One panel member, former Egyptian Foreign Minister Ahmed Al Sayed, said in an interview with an Egyptian newspaper, "The prosecution of an African head of state before an international tribunal is totally unacceptable. Our goal was to find a way out."

The African Union panel is led by former South African President Thabo Mbeki, who in 2008 dismissed the ICC indictment, saying that it is "the responsibility of the Sudanese state to act on those matters." Then, late last year his panel proposed a counter initiative to the ICC in the form of a hybrid, Sudan-based court with both Arab and African judges to be selected by the African Union.

But all this is moot since Mr. Bashir swiftly rejected Mr. Mbeki's proposal. Perversely, Mr. Gration has now thrown U.S. government support to a tribunal that does not and probably will never exist. Even if it did, the "locally owned accountability" he refers to is not feasible under prevailing political conditions, as any Sudan-based court will be controlled by the perpetrators themselves.

For seven years, the people of Darfur have been pleading for protection and for justice. They do not believe either peace or justice can come while Mr. Bashir—orchestrator of their suffering—remains president of Sudan. Nor do they believe "locally owned accountability" is remotely possible under the current regime.

When Barack Obama was elected president of the United States, hope abounded, even in Darfur's bleak refugee camps. Darfuris believed this son of Africa could understand their suffering, end the violence that has taken so much from them, and bring Mr. Bashir to justice. The refugees hoped that "Yes we can" was meant for them too. They believed President Obama would bring peace and protection to Darfur and would settle for nothing less than true justice.

I have held new babies named Obama and watched as Darfuris began to dream again. Fatima Haroun, a 24-year-old widow and mother, told me the day was surely near when the refugees could leave the filth and hunger of the camps and safely return to the ashes of their villages. First, she said, they would honor their lost loved ones; they would search the ashes for bones, wrap them in best cloths, and bury them with respect. They would gather wood and tall grasses to rebuild their homes, they would sing new songs and prepare their fields for planting. Hunger and terror would go away. Omar al-Bashir would rot in jail.

Such hopes did not last long.

Nearly three million souls are still waiting in wretched camps across Darfur and eastern Chad. Sudanese government bombs are still falling, murderers and rapists still roam free, and the refugees have not felt safe for a very long time. United Nations Secretary General Ban Ki-Moon has expressed concern over increasing levels of violence in Darfur.

In their darkest hours and through losses too grievous to fathom, the world has repeatedly abandoned the people of Darfur. Over more than seven years, two American presidents have used the word "genocide" to describe what has unfolded there, but they have done little to end it.

It is past time for us to step up and accept our moral obligation to protect a defenseless people. The American people should urge Mr. Gration and the Obama administration to lead a diplomatic offensive to convince the world to isolate Mr. Bashir as a fugitive from justice, and to wholeheartedly support the only body offering Darfur's people a measure of authentic justice: the International Criminal Court.

Ms. Farrow has visited Darfur and eastern Chad 13 times since 2004.

IN HONOR AND REMEMBRANCE OF ARTHA "LADY ARTHA" WOODS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor and remembrance of my friend

Artha ''Lady Artha'' Woods, of Cleveland, Ohio, whose joyous life was dedicated to advancing the rights and opportunities for women and minorities.

Ms. Woods was a valedictorian at Cleveland Central High School. She won several academic awards, including a district-wide award as a Latin scholar. Streetwise yet elegant, articulate and refined, Ms. Woods was an unyielding activist. She served as a Cleveland Councilwoman, representing the people of Cleveland's east side with a strong and effective voice. She is credited with the expansion of two of Cleveland's premier institutions: Playhouse Square and the Cleveland Clinic. Moreover, she served as a leader in organizing residents to demand improvements to the deplorable living conditions in the Woodhill Homes public housing units.

In 1941, after protesting for equal opportunity, Ms. Woods became one of 18 African-Americans who broke the color barrier at Ohio Bell. After becoming an employee, Ms. Woods boycotted the cafeteria which helped end segregation between black and white women. She rose to the level of public relations manager at Ohio Bell and stayed with the company for many years. While serving on the City Council, Ms. Woods ran her own businesses and founded one of the first-ever modeling and charm schools for African-American women. She managed the careers of two local boxers and she owned and operated the Cedar Avenue Millinery Shop, where she sold hats to celebrities. She founded the Fairfax Area Community Congress and created the Starlight Cotillion for female graduates of neighborhood public high schools. Additionally, Ms. Woods was designated an honorary Italian by Holy Rosary Church of Cleveland and was blessed by Pope Paul VI in Rome for her work with local Catholic leaders.

Madam Speaker and colleagues, please join me in honor, gratitude and remembrance of my friend, Artha ''Lady Artha'' Woods. Ms. Woods was the loving mother of the late Eloise and Arthur. I offer my condolences to her grandchildren: Gaile, (Dominic) and Deborah (Richard); to her great-grandchildren, Dominic, Monique, Olivia, Joshua, Lauren and Richard; to her devoted companion, Stanley Tolliver, Jr.; and to her extended family and friends.

NATIONAL NURSES WEEK

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. GOODLATTE. Madam Speaker, since we just commemorated National Nurses Week 2010, I rise today to call attention to the important and essential role that nurses play in providing quality health care across our Nation. Nurses are the largest group of health professionals involved on the front lines of caring for Americans. Our Nation's health care system is complex and every day people with many different health needs are served by legions of caring, qualified, and professional nurses, who are integral to our Nation's health care delivery system.

I believe every person can remember an experience when someone they loved needed health care and a nurse was the first person by their side providing care and comfort. We all know someone who works in the field of nursing and the commitment they make to their profession, despite extraordinary challenges every day.

The Nurse in Washington Internship program recently brought representatives of this noble field to our Nation's capital to give a voice to their needs and experience. I was pleased to meet with my constituent Jennifer Vaugh (RN, BSN) from Forest, Virginia.

An adequate supply of nurses is essential to ensuring that all people receive quality care and that our Nation's public health infrastructure is strong. According to the Bureau of Labor Statistics, there is currently a nursing shortage of 2.5 million registered nurses in the United States. This figure is expected to grow to 41 percent by 2020.

Additional Congressional leadership is necessary to ensure that the Nation has an adequate supply of nurses to care for the patients of today and tomorrow.

CONGRATULATING THE COMMUNITY OF DES PLAINES, IL ON ITS 175TH ANNIVERSARY

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Ms. SCHAKOWSKY. Madam Speaker, I rise today to congratulate the community of Des Plaines on their 175th anniversary.

I am extremely proud to represent the ''City of Destiny''—a hub of ethnic diversity, a home to hardworking residents, and a thriving business center that has drawn domestic and international companies alike. Des Plaines' 175 dynamic years have made it one of the premier communities in the Chicagoland area to live, to work and to do business—a testament to the individuals who make up the rich fabric of the community.

Since 1833, when pioneers first came to Des Plaines in search of a place to build their homes, their families and their futures, the city has provided opportunities for innovation, creativity and growth. Over the past 175 years, immigrants and native-born Americans have come to Des Plaines, attracted by its outstanding schools, its entrepreneurial ethic, and its diversity.

The sense of community in Des Plaines is one that residents cherish. Whether it is organizing to ensure an accurate census count or working to deal with the impacts of the Des Plaines River flooding, people routinely come together to help each other and promote the city's interests.

Des Plaines is truly a great place to live. From the beginning, the elected leaders of Des Plaines recognized the need to build a strong transportation network, so the city is connected outward in terms of business and travel. And from the beginning, the city has recognized the importance of creating a livable community, with its own art and theater guilds, recreational system, and cultural activities.

I have long enjoyed a great working relationship with the representatives of the City of Des Plaines, including former Mayor Anthony Arredia and now with Mayor Martin Moylan. I want to congratulate them and all the people of Des Plaines for maintaining the spirit which helped create Des Plaines and ensuring that the city reaches new heights in the 21st century.

I wish the community of Des Plaines the best in the coming 175 years and look forward to working with you to assure your continued success.

RECOGNIZING SIGNIFICANT CONTRIBUTIONS OF U.S. AUTOMOBILE DEALERSHIPS

SPEECH OF

HON. LAURA RICHARDSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 19, 2010

Ms. RICHARDSON. Madam Speaker, I rise today as a cosponsor of H. Res. 713, which recognizes the significant contributions of United States automobile dealerships, and expresses the sense of the House of Representatives that automobile dealers that have been forced to close be given a fair opportunity to reenter the automobile market once it rebounds and stabilizes. The automobile dealer industry has an important place in our country's history and is a critical part of our economy. It is critical that we recognize the important role of automobile dealers, help them survive the ongoing economic downturn, and pave the way for their future success.

I thank Chairman WAXMAN for his leadership in bringing this resolution to the floor. I also thank the sponsor of this H. Res. 713, Congressman GREEN, for taking the time to recognize the important contributions of automobile dealers in our nation's history and their vital role in our rebounding economy.

Madam Speaker, the automobile and the automotive industry has long been a symbol of American ingenuity and a source of American prosperity. Franchised automobile dealers have played and continue to play a critical role in the automotive industry: the franchised dealership system in the United States is the independent link between the manufacturer's assembly line and the American consumer.

The automobile dealership industry is a vital part of the national economy. Virtually all new cars and light trucks are sold through franchised dealers. Dealers represent the largest retail business in the United States, with approximately $693 billion in revenues in 2007. Franchised dealers employ over 1,100,000 people, comprise nearly 20 percent of all retail sales in the United States, and, in total, provide billions of dollars annually in tax revenue.

Madam Speaker, automobile dealers also play an important role in local communities across the country. Auto dealers have deep roots in local communities and have helped manufacturers with long-term customer relationships that create brand loyalty and maintain customer convenience. Dealerships across the country provide jobs, give direct investments to local economies, and supply tax revenue to State and local governments.

The economic downturn of the last two years has put thousands of jobs at risk, including those at automobile dealerships and automobile manufacturers. I have witnessed the effect of the recession on car dealerships in my district. That is why I recently introduced H.R. 4897, the Drivers AID Act of 2010. By making interest payments on new car purchases deductible, this bill will help consumers

in buying cars, dealers in selling cars, and auto manufacturers in making cars.

Madam Speaker, we must take action to help auto dealers play a key role in the revival of the United States' economy. I urge my colleagues to join me in supporting H. Res 713.

IN HONOR AND RECOGNITION OF THE 75TH ANNIVERSARY OF THE POLISH ARMY VETERANS, KOSCIUSZKO POST 152

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor and recognition of the 75th anniversary of the Polish Army Veterans, Kosciuszko Post 152, of Cleveland, Ohio.

Post 152 of the Polish Army Veterans was initiated on May 9th, 1935. On January 18, 1968, Post 152 selected Polish General T. Kosciuszko as the patron of their organization. They elected their first Post Commander, Joseph Lecznar Sr., in 1982. Shortly thereafter, the Post petitioned former Cleveland Bishop Anthony Pilla to appoint Reverend Lucjan Stokowski as their Chaplain.

In 1988, the Post purchased a building on Warner Road in Garfield Heights, Ohio. A monument was built on that site, and every Memorial Day, members return to the site to pay tribute to the memory of fellow veterans. They also acknowledge and honor other veterans' organizations such as the American Legion Post 304 and the VFW Post 4545.

Madam Speaker and Colleagues, please join me in recognition of the 75th anniversary of the Polish Army Veterans, Kosciuszko Post 152, of Cleveland, Ohio. We honor the memory of departed members and celebrate the accomplishments and service of Polish Veterans.

NATE BOECK

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Nate Boeck who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Nate Boeck is a 9th grader at Arvada West High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Nate Boeck is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Nate Boeck for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character in all his future accomplishments.

IN HONOR OF LINDA FRANK

HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 2010

Mr. ADLER of New Jersey. Madam Speaker, I rise today to honor Ms. Linda Frank, a volunteer for the Retired & Senior Volunteer Program (RSVP), a program that has matched volunteers with Burlington County non-profit organizations since 1971.

Throughout her 20 years with RSVP, Ms. Frank has given more than twenty hours a month performing specific duties and functions at Lourdes Medical Center in Willingboro, New Jersey, by working together with the hospital personnel to increase the effectiveness of the hospital's human and physical resources and providing quality care and services that benefit patients and visitors. She performs her volunteer duties at the Information Desk, in the Thrift Shop and in the maternity department.

Madam Speaker, today I invite you to join me to honor Ms. Frank on her twenty years of dedicated, community service.

RECOGNITION OF THE CENTENNIAL OF THE MASON COUNTY LOGGING NO. 7 LOCOMOTIVE

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. THOMPSON of California. Madam Speaker, I rise today to join the Roots of Motive Power and the Mendocino County Museum as they celebrate a rare achievement, the 100th birthday of an operating steam locomotive, the 1910 Baldwin Locomotive Works Mason County Logging #7. I would also like to recognize the 25th anniversary of Roots of Motive Power.

The story of Mason County Logging #7 mirrors the history of logging in the Pacific Northwest. Logging locomotives were designed especially for their girth and flexibility to operate on spurs penetrating steep hillsides and deep canyons with their valuable loads. Locomotive #7 started out with the Black Hills and Northwestern Railroad, a subsidiary of Mason County Logging Company, operating in the dense Douglas fir forests near the Washington State capital of Olympia.

It remained in Washington for 80 years. A workhorse for more than 40 years, it stood idle for 45 years and may have been lost forever to scrap metal. In 1984, however, with foresight Willits resident Chris Baldo began years of negotiations that culminated with his purchase of No. 7 in 1990. The old locomotive was placed on a lowbed and trucked to Mr. Baldo's Willits Redwood Company yard, arriving on September 24, 1990.

Preservationists like Mr. Baldo are not daunted by such a task as restoring what was at the time a rusty, nearly forgotten antique and bringing it back to life. His perseverance, tenacity and dogged determination turned the steam powered locomotive into a piece of living history. It took 11 years from Mr. Baldo's original purchase for No. 7 to complete restoration back in Washington until its return to California. In 2001, after a brief stint pulling Sierra Railroad coaches outside of Oakdale, California, No. 7 was moved back to Willits to its new home at Roots of Motive Power adjacent to the Mendocino County Museum in time for the Roots' Steam Festival on September 8 and 9. The completion of a two-thirds mile track allows the engine to let off steam on special occasions.

As we commemorate the significance of this locomotive, one of only a few hundred left in the United States, I also salute the Roots of Motive Power, an organization associated with the Mendocino County Museum and "dedicated to the preservation, restoration and operation of logging and railroad equipment representative of California's North Coast Region from the 1850s until the present." With more than 300 members Roots of Motive Power produces The Highline, a beautiful magazine-like newsletter and educational events. They also hold "steam-ups" four times a year, one of which will celebrate the 100th birthday of No. 7.

Madam Speaker, it's not often we pause to recognize a restored steam engine but the 1910 Mason County Logging No. 7 and the dedication of those who wanted to preserve its historical significance for the enjoyment of future generations deserve our praise. In addition, I am proud to ask my colleagues to join me in honoring the Roots of Motive Power in Willits, California, the "heart of the redwoods" for their dedication and long lasting contributions to preserving the best of times gone by.

HONORING MARGIE J. CLAYTOR SMITH

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. VAN HOLLEN. Madam Speaker, I rise today to celebrate the long and productive life of my constituent, Mrs. Margie J. Claytor Smith, who celebrated her 100th birthday on March 19, 2010.

Margie J. Claytor was born in Basham, Virginia on March 19, 1910, the sixth child of Harvey and Lena Claytor. She married George W. Smith on December 26, 1929 and enjoyed 37 years of marriage until her husband's death in 1966. Mr. and Mrs. Smith had two children, Gerald W. Smith and Marie Smith Wise. Following her husband's death, Mrs. Smith lived with her son and helped to raise her five grandchildren: Gerald W. Smith, Jr., Susan R. Smith, David T. Smith, Scott W. Wise, and Cecelia Wise Howard. Mrs. Smith now also has four great-grandchildren: Jon B. Howard, Bryan F. Smith, Aaron T. Smith, and Clo'e M. Smith. She became fond of camping and, in fact, she and her family have camped in 38 states and three Canadian regions. Her efforts throughout her life were honored by being named the National Council of Negro Women's first "All Star Senior."

Madam Speaker, I am honored to recognize Mrs. Margie J. Claytor Smith and the contributions she has made to her family and to her community.

NHICAM HANNAH NGUYEN

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Nhicam Hannah Nguyen who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Nhicam Hannah Nguyen is a 12th grader at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Nhicam Hannah Nguyen is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Nhicam Hannah Nguyen for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

DEPUTY BRIAN LAMAR MAHAFFEY

HON. HENRY C. "HANK" JOHNSON, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. JOHNSON of Georgia. Madam Speaker, Whereas, our lives have been touched the life of this one man . . . who has given of himself in order for others to stand; and

Whereas, Deputy Brian Lamar Mahaffey has served five years in the Rockdale County Sheriff Department and gave his life in the line of duty; and

Whereas, this giant of a man thought there was never a job too small or too big; he would provide professional service with the intention to always serve and protect our community; and

Whereas, this remarkable man gave of himself, his time, his talent and his life; he never asked for fame or fortune to uplift those in need, he just wanted to do what was right and he was committed to protecting and serving the citizens of Rockdale County; and

Whereas, Deputy Mahaffey was a husband, a father, a son, a brother and a friend; he was our warrior, a man of great integrity who remained true to the uplifting and service of our community until his end; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to bestow an honorable mention and recognition on Deputy Brian Lamar Mahaffey of the Rockdale County Sheriff Department for his leadership, friendship and service to all of the citizens in Georgia; a citizen of great worth and so noted distinction;

Now therefore, I, Henry C. "Hank" Johnson, Jr. do hereby attest to the 111th Congress that Deputy Brian Lamar Mahaffey of Rockdale County, Georgia is deemed worthy and deserving of this "Congressional Honorable Mention";

Deputy Brian Lamar Mahaffey, U.S. Citizen of Distinction, in the 4th Congressional District; Proclaimed, This 12th day of May, 2010.

PERSONAL EXPLANATION

HON. LEONARD L. BOSWELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. BOSWELL. Madam Speaker, I regret missing two evening votes from the House on May 24th, 2010. Had I been present, I would have voted "aye" on rollcall votes 292 and 293.

IN TRIBUTE TO CHRIST THE KING HIGH SCHOOL BASKETBALL

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. WEINER. Madam Speaker, I rise to recognize Christ the King Regional High School's boys and girls basketball teams on the occasion of the New York State Federation Class AA championships. Christ the King has made history in New York State by becoming the first high school to win both boys and girls Federation Basketball Tournament of Champions titles in the same year. This is an extremely difficult feat that deserves our recognition.

Christ the King's Royals and Lady Royals are renowned basketball teams not only in New York City, but throughout the country. Some of the National Basketball Association's and Women's National Basketball Association's best players, such as Lamar Odom, Tina Charles, and Speedy Claxton attended this fine high school located in Middle Village, Queens and played on its great basketball teams. The Class AA championship was the third for the Royals. First they won the Brooklyn-Queens diocesan crown and then swept the city championships. The Lady Royals have won a record 14 championships.

I would like to recognize this season's champions. Maurice Barrow, Roland Brown, Omar Calhoun, T.J. Curry, Corey Edwards, Terrel Hunt, Optimystic Kinard, Justin Kirkland, Dominykas Milka, Khadim Ndiaye, Edson Silva, Kareem Thomas, Mike Thompson, and Aaron Williams led the Royals to a record of 26–5. Ariel Page, Tara Rock, Jacqueline Michel, Nia Oden, Jacqueline Mullen, Lauren Nuss, Ariel Edwards, Sasha Santamaria, Bria Smith, Sarah Shanderson, Jessica Wasserfall, Rayne Connell, and Quincey Martin-Chapmen led the Lady Royals to a record of 26–5. I would also like to extend my congratulations to Joe Arbitello and Bob Mackey, the coaches of the Royals and Lady Royals.

Christ the King opened its doors in 1962 and has set a record of excellence not only in athletics, but also in academics. In its 48-year history, it has provided thousands of Queens' youth with an exemplary education. Additionally, its commitment to serving the neighboring communities of Middle Village and Glendale has made Christ the King one of the most esteemed institutions in New York City.

I am pleased to congratulate the Royals and the Lady Royals on the occasion of their championships and wish them many successful seasons to come.

NADIA SOLANO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Nadia Solano who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Nadia Solano is a 12th grader at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Nadia Solano is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Nadia Solano for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is $12,987,796,841,336.51.

On January 6, 2009, the start of the 111th Congress, the national debt was $10,638,425,746,293.80.

This means the national debt has increased by $ 2,350,669,663,237.20 so far this Congress. The debt has increased $1,298,568,194.50 just since yesterday

This debt and its interest payments we are passing to our children and all future Americans.

LIFE OF GEORGE B. VASHON

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Ms. WATERS. Madam Speaker, I rise today to celebrate an exciting event that occurred this month bringing long overdue recognition to an accomplished African American: George B. Vashon. Growing up in St. Louis, I learned of Mr. Vashon's legacy as my high school was dedicated to him as he was a person who committed his life to help educate countless African Americans. While George Vashon himself never lived in St. Louis, his widow relocated to the city after his death and raised their family in Missouri. Vashon High School was named in 1927 and is one of the few monuments to a man who was a distinguished educator, lawyer, abolitionist, and poet who lived from 1824 to 1878.

Mr. Vashon's life was one full of numerous "firsts." Raised in Pittsburgh by parents who

were leaders in the anti-slavery efforts there, he was the first African American to graduate from Oberlin College. He studied law under the Honorable Judge Walter Forward in Pennsylvania and applied for admission to the Pennsylvania bar in 1847 and again in 1868. Both times, he was denied admission because of his ''negro descent.'' Not to be held back, Mr. Vashon went to New York to take the bar and became the first black lawyer in that state. He later went on to be the first African American in New York to run for public office when he was a candidate under the Progressive Party for Attorney General. A close friend and associate of Frederick Douglass, Mr. Vashon penned many columns for Douglass' paper, The North Star.

George Vashon was one of the first black college professors in this country, a founder and the first black professor at Howard University and was president of Avery College in Pennsylvania. As an abolitionist, he also led many anti-slavery conventions and was central in the lobbying efforts to pass the 13th, 14th, and 15th amendments to the Constitution. For years he was active in helping escaped slaves find freedom on the Underground Railroad when they made their way through Pennsylvania and New York.

Despite his many contributions and achievements, Mr. Vashon encountered discrimination and barriers to achievement. Being denied entrance into legal practice in his native Pennsylvania was a deep disappointment for him and a terrible injustice. I was thrilled, however, to hear recently that after two of his descendants petitioned the Pennsylvania Supreme Court, Mr. Vashon was posthumously admitted to the bar 163 years after his first attempt. While it was long overdue, I join with the Vashon family and my fellow Vashon High School graduates in marking this important event and celebrating the life of this outstanding figure in American history.

IN RECOGNITION OF RANDY COLLINS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. THOMPSON of California. Madam Speaker I rise today to recognize Randy Collins who is retiring after 30 years in fire services in California, the last seven of which have been as Chief of the Healdsburg Fire Department.

Chief Collins began his career in 1980 as a volunteer with the Arcata Fire Protection District while attending Humboldt State University. Upon graduation, he moved to San Jose and began work in the electronics industry and joined the Campbell Fire Department as a reserve fire fighter. He became a full-time fire fighter in 1987 when he joined the Healdsburg Fire Department. He moved up through the ranks from Fire Captain and Fire Engineer to Fire Marshall until he was named Chief in 2003.

While at Healdsburg, Chief Collins established the Community Emergency Response Team (CERT) program, began a local fire academy to improve the skills and training for reserve staff, increased full-time staff and worked with neighborhood groups to develop fire safety counsels.

Chief Collins actively participated in the community as a member of the Healdsburg Kiwanis Club, St. Paul's Church and North County Community Services.

In addition to his BA degree in Industrial Arts from Humboldt State University, Chief Collins holds an AA degree in Fire Science from Mission College in Santa Clara, California. He is a graduate of the National Fire Academy and holds several advanced fire science degrees.

After retirement, Chief Collins plans to spend more time with his wife and two children and pursue his hobbies of kayaking, woodworking and hiking the great mountain peaks of the west.

Madam Speaker, Chief Collins has a distinguished 30-year public safety career and it is therefore appropriate that we acknowledge and honor him today and thank him for his service.

MONIQUE ULM

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Monique Ulm who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Monique Ulm is an 8th grader at Wheat Ridge Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Monique Ulm is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Monique Ulm for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

SHAW LEAVES THE GEORGIA HOUSE TO JOIN THE GEORGIA DEPARTMENT OF TRANSPORTATION

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. KINGSTON. Madam Speaker, I rise today to recognize Mr. Jay Shaw's appointment to the board of Georgia Department of Transportation after a successful 30 year career in state and municipal government.

Since the late 1970's, Jay Shaw has dedicated himself to a life of public service. At the age of 32, Mr. Shaw was elected mayor of Lakeland, Georgia. Although being a small town mayor is not an easy job with everyone in town expecting something of you, he took the job in stride, always vowing that he was there for his constituents.

In 1994, he was elected to the Georgia House of Representatives. He has fought for the interests of small business owners and successfully ended long-distance phone calls within counties. His many bipartisan friendships demonstrate his congenial attitude. However, let this not be confused with his strong force and tireless effort to stand up for beliefs.

Jay Shaw grew up in a family of public servants. His mother, Dorothy Pafford Shaw, served as a state representative for 12 years before serving on the Georgia Public Service Commission for two decades; his father, Slaton Shaw, served on the Lanier County school board; and his son, Jason Shaw, is now running for his District 176 seat.

Mr. Shaw's hard work and unwavering loyalty are just two of the many attributes that have helped him to serve his constituency well. He is personable, outgoing and always has a good attitude. Aside from his outstanding work, the people of Lakeland and I find a good friend in Jay Shaw. That is why I warmly congratulate him on his appointment to the board of Georgia Department of Transportation and wish him the best of luck.

RECOGNIZING FRANK LAY UPON HIS RETIREMENT

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. MILLER of Florida. Madam Speaker, I rise today to recognize the retirement of a great man and a good friend. Mr. Frank Lay is the true measure of a man—through his humility, through his leadership, through his commitment to others; he is a shining example to us all. For that reason, Madam Speaker, I am privileged and grateful to honor Mr. Lay on this day.

Mr. Lay has spent the last 21 years as the principal of Pace High School. During his years as principal, Mr. Lay has been a driving force for growth and improvement throughout the halls of Pace High School. To the students, he is a compassionate friend. To the faculty, he is an innovative visionary. To the community, he is a principled leader.

Mr. Lay is a committed and caring educator. He earned a Bachelor of Science in Education from Troy University in 1970. He later then earned a Masters in Physical Education from Georgia State University and a Masters in Administration from the University of West Florida. During his career, he was selected as the Georgia Teacher of the Year, Track and Field Coach of the Year, and Principal of the Year. Most recently, he was honored with the God in Government Lifetime Achievement Award. These accolades are a true testament as to the character and commitment of Mr. Lay.

Madam Speaker, on behalf of the United States Congress, I am honored to recognize Frank Lay for his service to Northwest Florida. He is a dedicated educator and leader who will be sorely missed after his retirement. My wife Vicki and I wish all the best for continued success to Frank and his wife Nancy, his children, grandchildren, and entire extended family.

PERSONAL EXPLANATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. SCHIFF. Madam Speaker, I was unable to be present for votes on May 24, 2010. Had I been present, I would have voted ''aye'' on each of rollcall Nos. 291, 292, and 293.

MONIQUE GALLEGOS

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Monique Gallegos who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Monique Gallegos is a 12th grader at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Monique Gallegos is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Monique Gallegos for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

VISA SECURITY IS NATIONAL SECURITY

HON. LAMAR SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. SMITH of Texas. Madam Speaker, this week, the Senate Intelligence Committee released a bipartisan report that identified the State Department's failure to revoke Abdulmutallab's visa as one of 14 security failures leading to the attempted Christmas Day terror attack.

This attack is not the first time terrorists have obtained U.S. visas. Several of the 9/11 hijackers did so as well.

After 9/11, Congress created the Visa Security Program to increase the security of the visa process at U.S. embassies and consulates.

My bill, the Secure Visas Act, mandates that the administration expand the Visa Security Program to the highest risk consular posts. And it requires that in the event a visa is revoked after it has been issued, consular, law enforcement, and terrorist screening databases are updated immediately.

REDUCTION IN USE OF COAL AT CAPITOL POWER PLANT

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. WHITFIELD. Madam Speaker, on February 26, 2009, the Office of Architect of the Capitol (AOC) received a letter signed by the Speaker of the House and the Senate Majority Leader directing a reduction in the use of coal at the Capitol Power Plant, in favor of natural gas. In response, I wrote a letter to the AOC inquiring about the impacts of this proposal and the costs associated with it. The text of that letter and the Architect's response follow.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 4, 2009.

Mr. STEPHEN AYERS,
Acting Architect of the Capitol,
Washington, DC.

DEAR MR. AYERS: There have been several articles written about the Capitol Power Plant in recent weeks and I have had several groups in my office lobbying to stop using coal at the plant. I would appreciate your providing me some basic facts about the plant.

1. When was it constructed, what was its initial cost, and when did it begin operations?
2. What was/is the rated electrical capacity of the plant?
3. How much coal was burned at the plant during its peak years of operation?
4. When was natural gas first used as a fuel in the plant, and what was the cost to convert the plant so that natural gas could be used?
5. What is the mix of fuel used today at the plant, in percentages?
6. What has been the additional cost or cost-saving associated with the use of a mix of natural gas and coal, instead of coal only?
7. What is the timeline for converting the plant to natural gas only, and what will be the cost of the conversion?
8. What is the projected additional cost or cost-saving over the next five years, by converting the plant to operate only on natural gas?
9. What type of coal is presently burned at the plant, and where is it produced?
10. Does the plant produce electricity, or only steam and cooled water for the Capitol complex?
11. If electricity is produced, what amount of income does the sale of the electricity produce annually?
12. If electricity is not produced, why not?
13. If electricity is not produced, what would it cost to convert the plant so that electricity could be produced and sold, and what would be the projected annual income from those sales?
14. What emissions controls are in place at the plant, when were they added, and at what cost?
15. Is the plant presently in compliance with federal Clean Air Act regulations?
16. If the plant is not in compliance with emissions limitations, what additional controls might be needed to continue to use coal or a mix of coal and natural gas, and what are the estimated capital costs of those additional controls?

Thank you very much for your attention to this request. I will look forward to your response.

Sincerely,

ED WHITFIELD,
Member of Congress.

THE ARCHITECT OF THE CAPITOL,
Washington, DC, March 20, 2009.

Hon. ED WHITFIELD
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WHITFIELD: Thank you for your interest in the U.S. Capitol Power Plant. As a matter of background, Congress authorized $1,545,975.65 for the design and construction of the Capitol Power Plant on April 28, 1904, and it was completed and began operations in 1910. Originally, the plant was constructed to produce electricity. However, since 1951 it has not produced electricity and only generates steam and chilled water for the Capitol Complex.

The Capitol Power Plant is currently capable of using three fuels; coal, natural gas, and fuel oil. In a series of projects starting in 1989, individual boilers within the plant have been modified to be capable of burning natural gas. In Fiscal Year 2008, the fuel consumed by the plant was 65% natural gas and 35% coal. The largest amount of coal burned during the last 20 years was in 1993, when the plant used 47,393 short tons. The plant currently burns low sulfur bituminous coal which is purchased through the General Services Administration and the Defense Energy Support Center. The following table provides details on the fuel usage and costs for Fiscal Year 2008:

Utility type	Energy (MMBTU)	Cost ($)
Natural Gas	975,046	$12,653,649
Oil	120	$2,291
Coal	528,489	$2,444,511
Heating Energy Total	1,503,655	$15,100,451

The Capitol Power Plant operates in full compliance with current Federal Clean Air Act regulations. The plant utilizes two reverse air bag houses, installed in the early 1980's, to control particulate emissions. Emissions are further controlled via fuel specifications and combustion controls.

On February 26, 2009, the Office of Architect of the Capitol (AOC) received a letter signed by the Speaker of the House and the Senate Majority Leader directing a reduction in the use of coal at the plant, in favor of natural gas. Our preliminary estimates indicate that operating the plant using 100% natural gas will cost an additional $5–$7 million annually in fuel costs and will require a one-time capital investment needed to equip the plant. We are currently preparing preliminary designs with cost estimates for the capital investment requirement.

The AOC has undertaken a comprehensive strategic planning process for the Capitol Power Plant. Leveraging the skills of expert consultants and in-house staff, the AOC is analyzing a number of options for the plant, including several scenarios which utilize cogeneration systems to generate electricity. Those options are also being reviewed by the National Academy of Sciences and later will be reviewed by the Department of Energy. We expect to publish a final report in Sumner 2009.

Should you have further questions about the Capitol Power Plant or any of AOC's activities, please do not hesitate to contact me at 228–1793.

Sincerely,

STEPHEN T. AYERS, AIA,
Acting Architect of the Capitol.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 25, 2009.

Mr. STEPHEN AYERS,
Acting Architect of the Capitol,
Washington, DC.

DEAR MR. AYERS: Thank you for your prompt and very helpful response to my letter to you of March 4, 2009, regarding the

Capitol Power Plant. I would appreciate your further response to these two additional questions:

1. You indicated that ''in a series of projects starting in 1989, individual boilers within the plant have been modified to be capable of burning natural gas.'' What was the total capital cost (or your best estimate) of those modifications?

2. In my previous letter I asked where the coal is produced that is burned in the plant, and you responded that the coal is purchased through GSA and the Defense Energy Support Center. Can you tell me which state(s) the coal comes from?

I appreciate your attention to this request, and look forward to your response.

Sincerely,

ED WHITFIELD,
Member of Congress.

THE ARCHITECT OF THE CAPITOL,
Washington, DC, April 2, 2009.

Hon. ED WHITFIELD,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WHITFIELD: Thank you for your letter of March 25, 2009 regarding the Capitol Power Plant. I appreciate your continued leadership on energy issues and your support of the Office of the Architect of the Capitol (AOC). Your letter contained two questions addressed below.

You asked for an estimate of the total capital investment made in recent years for modifying boilers at the Capitol Power Plant to burn natural gas. We have completed several projects stretching over the past twelve years to convert individual boilers to burn natural gas. The capital investment for these projects was approximately $1.5 million.

You also asked which state supplies coal used at the Capitol Power Plant. The AOC purchases coal through the Government Services Agency (GSA) and the Defense Energy Support Center. These entities are responsible for determining the source of coal supplied under their contract. It is our understanding, based on information from the GSA, that the most recent supplier of coal for the plant is located in West Virginia.

Should you have further questions about the Capitol Power Plant, please do not hesitate to contact me.

Sincerely,

STEPHEN T. AYERS, AIA,
Acting Architect of the Capitol.

MILANA ATENCIO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Milana Atencio who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Milana Atencio is a 12th grader at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Milana Atencio is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Milana Atencio for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

CAREGIVERS AND VETERANS OMNIBUS HEALTH SERVICES ACT

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. RUPPERSBERGER. Madam Speaker, I rise in support of S. 1963, the ''Caregivers and Veterans Omnibus Health Services Act.'' I voted for components of this bill and would have voted in favor of this bill if not home recovering from surgery. This important legislation will help us to meet the needs of the men and women who have courageously sacrificed for our country and those that now care for them.

This bill ensures that veterans and their families get the care and support they need after they have put their lives on the line defending our great country. We in Congress made a promise not to leave our veterans behind and this bill renews that promise. This bill addresses the unique needs of the families and caregivers of our wounded warriors, of returning women soldiers and those veterans who are catastrophically disabled.

This bill provides support services to family and other caregivers of veterans, including education on how to give better care, counseling and mental health services, and respite care for family and other caregivers of all veterans. It also provides health care and a stipend for caregivers living with severely wounded veterans of Iraq and Afghanistan, many of whom have had to leave a job to care for their veteran full-time.

This bill improves health services for nearly 2 million female veterans. The VA will be able to provide care for female veterans' newborns for up to seven days for the first time in history and improve treatment for sexual trauma victims. It requires the VA to conduct a study of barriers to female veterans seeking health care and implement a reintegration pilot program.

This law ensures the VA can better treat veterans suffering from mental health issues and provides the VA with resources to learn more about the tragically high suicide rate among veterans. This bill also prohibits copayments for veterans who are catastrophically disabled and creates a pilot program to provide certain dental services to veterans, survivors and their dependents. It also expands grants that fund critical organizations offering transitional housing and other support for homeless veterans.

I believe this legislation offers comprehensive solutions to major, high-priority challenges facing veterans and their families. It brings hope to the men and women in uniform who have dedicated their lives to our country, and their families who have in turn dedicated their lives to caring for their wounded warriors at home.

TRIBUTE AND CONGRATULATIONS TO MRS. EMMA ALLEN ON THE OCCASION OF HER 100TH BIRTHDAY

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. DAVIS of Illinois. Madam Speaker, I take this opportunity to congratulate Mrs. Emma Allen who was born on June 2, in Bessemer, Alabama and now resides at Lexington Healthcare of Elmhurst, IL.

Mrs. Allen has lived a long and fruitful life; she is the last of twelve siblings, was married to her late husband Mr. John Allen for 68 years and has one (1) daughter, three (3) grandchildren, six (6) great grandchildren, and three (3) great-great grandchildren.

I also commend Lexington Healthcare of Elmhurst, IL for providing excellent care for individuals like Mrs. Allen so that they may be able to live and enjoy life even though they may have reached the age of 100.

I also commend and thank granddaughter Ms. Janice Meeks for bringing Mrs. Allen to our attention and I wish and hope that all grandparents would have grandchildren like her.

PERMANENTLY EXTENDING THE FIRST-TIME HOMEBUYER TAX CREDIT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PAUL. Madam Speaker, today I introduce legislation to permanently extend the first-time homebuyer tax credit and to make the credit available to people whose homes have been destroyed by a natural disaster, such as a hurricane. The legislation also makes a number of changes to existing tax credits in order to enhance their usefulness to victims of natural disasters. Specifically, this bill makes the casualty loss deductions available to taxpayers who do not itemize and it makes the casualty loss provision available for five years after the disaster. This legislation also helps people who have lost their jobs because of a natural disaster by making unemployment payments provided under the Disaster Relief and Emergency Assistance Act tax free.

Renewing the first-time home buyer's credit will help Americans purchase a first home with their own money, instead of having to rely on government-funded or backed programs. The other sections of this legislation were inspired by conversations my staff and I had with constituents who had to purchase new homes because Hurricane Ike destroyed their prior homes. The first-time homebuyer's tax credit could be of tremendous value to these people, yet the law denies them the credit because they are replacing destroyed homes. My bill not only reinstates that first-time homebuyer's credit, it also corrects that oversight.

It is hard to think of a more beneficial or compassionate expansion of the first-time homebuyer tax credit than to make the credit available to those whose homes have been destroyed or damaged by natural disasters. In

addition, the changes to the casualty loss provision will help more taxpayers affected by natural disasters. Repealing the taxes on unemployment benefits provided to people affected by natural disasters will ensure those forced onto the unemployment rolls because of a natural disaster are not further burdened by having to pay taxes on their unemployment benefits. Providing tax relief to first-time homebuyers and to those affected by natural disasters should be one of Congress' top priorities. I therefore urge my colleagues to join me in supporting this legislation.

MICHAEL MORENO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Michael Moreno who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Michael Moreno is an 8th grader at Drake Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Michael Moreno is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Michael Moreno for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

HONORING EDWARD VAN ES

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. CUELLAR. Madam Speaker, I rise today to honor the life and legacy of Edward Van Es, a business leader and entrepreneur who recently passed away. Mr. Van Es served the community of Laredo, Texas greatly through his contributions and grand business sense.

Mr. Van Es was born in Amsterdam, Holland in 1931. During the war, at the young age of ten, he was put on a freighter across the water of Yesselmer to farmlands where he worked. As a young boy, he witnessed the German occupation of Holland and lost two years of school in that time, yet returned home after working for eight months. Eventually, his country recovered and Mr. Van Es was able to return to school and graduate. He also served his country by joining the Dutch Army for two years, as a mechanic on tanks.

By 1953, Mr. Van Es immigrated to the United States where he lived in Los Angeles, California. He was a sports car auto mechanic and worked at a Jaguar dealership, servicing cars for Hollywood stars. He received his Bachelor's from California State College and his Master's from California State University in Long Beach. He became an educator—teaching high school and after receiving his Master's became a college professor teaching manual arts. While teaching, Mr. Van Es had aspirations to fulfill as an independent franchisee for McDonald's. He became certified for his future business career by attending and graduating from Hamburger University in Oak Brook, Illinois. He developed a franchise in Laredo, Texas where the store's popularity grew and attracted tourists from Mexico and further. The franchise in Laredo broke all time sales in the industry. Thirty seven years later, a total of 16 McDonald's stores opened.

Mr. Van Es became recognized as one of the top McDonald's Owner/Operators in the corporation and received numerous awards. He served as Board of Director and Advisor to McDonald's Owner Association and was a member of the Ronald McDonald House Children's Charities amongst other organizations. Laredo Chamber of Commerce named him the Business Person of the Year in 2000.

As a prominent rancher and savvy businessman, Mr. Van Es gave back to the community through his dedication and contributions to charitable organizations. His 37-year career not only employed thousands, but also came to be his extended family and a lifetime service for Laredo, Texas. Madam Speaker, I am honored to have had this time to recognize the late Mr. Van Es.

TRIBUTE TO MR. WILLIAM M. KRAUSE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. SKELTON. Madam Speaker, let me take this means to pay tribute to William M. Krause who is retiring after 30 years of active duty and federal civilian service. He currently serves as the Director of Business Operations on Whiteman Air Force Base in Missouri.

In August of 1980, Mr. Krause began his service as an airman in the United States Air Force. After 10 years of active duty service, he started his career as a contract specialist for the Air Force. He distinguished himself early on as a leader and innovator in this field. For his superior performance and unique approach to the job, Mr. Krause was named the Director of Business Operations in 1993.

As Director, Mr. Krause mentored small businesses in Missouri through the Department of Defense Small Business program and during my annual Procurement Conference. His mentorship and expertise strengthened Whiteman's security, improved relationships with local businesses and communities, and bettered the lives of the servicemen and women who call Whiteman home.

Madam Speaker, Mr. Krause's tireless dedication and outstanding contributions to the Whiteman community will continue to be felt for generations to come. I wish him, his wife Peggy, and his son Josh the very best in the years ahead.

THE 50TH ANNIVERSARY OF THE STAMFORD AREA YOUTH PHILHARMONIC

HON. JAMES A. HIMES

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. HIMES. Madam Speaker, I rise today to honor the 50th anniversary of the Stamford Area Youth Philharmonic and its esteemed founder and musical director Salvatore Princiotti.

Fifty years ago, Mr. Princiotti imagined an environment where young musicians could grow as artists and individuals while learning to work together toward a common goal and enriching the local community. As conductor of the string ensemble of the Junior Schubert Club of Stamford, Salvatore Princiotti organized the Schubert Club Youth Orchestra, which quickly grew into the Stamford Area Youth Philharmonic, an ensemble now recognized for both its musical excellence and community involvement.

The Stamford Area Youth Philharmonic provides students the opportunity to work with their peers and talented professionals to learn and perform challenging, exciting repertoire. These experiences motivate young artists to pursue with tenacity their own musical aspirations as well as to share that enthusiasm as leaders in their school music programs. The result is an ensemble acclaimed for its musicianship, style, and expression and a membership with a passion for excellence that carries over into all endeavors they pursue.

The Stamford Area Youth Philharmonic has not only continued to distinguish itself musically, but Maestro Princiotti and his students have also shown their commitment to the community. With performances throughout Southwest Connecticut, giving of their time and talent, these students and their teachers have distinguished themselves as both musicians and citizens.

While the Stamford Area Youth Philharmonic is lucky to count such talented students as members, these achievements would not have been possible without the direction and commitment of their director and founder Salvatore Princiotti. In celebrating his 50 years as conductor, I am thankful for the Maestro's service and dedication to the community, music, and above all, the students. He has left an indelible mark on the minds of all those who have been given the opportunity to learn under his baton and reminded us all of the importance and value of musical education.

Congratulations to the Stamford Area Youth Philharmonic, Maestro Salvatore Princiotti, and the students, parents, teachers, and volunteers who have committed themselves to creating and maintaining the impressive ensemble. Good luck and we look forward to another 50 years.

MALEAH VELARDE

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Maleah

Velarde who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Maleah Velarde is an 8th grader at Everitt Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Maleah Velarde is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Maleah Velarde for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

A TRIBUTE TO SENATOR PAULA HAWKINS—MAITLAND POST OFFICE RENAMING

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. MICA. Madam Speaker, as our country pauses to recognize National Missing Children's Day, I rise to remember one of our former colleagues, Paula Hawkins, who tirelessly championed children and children's issues and to pay tribute to this extraordinary woman by renaming the Maitland Postal Facility in her honor.

Former U.S. Senator Paula Hawkins authored and helped secure enactment of the Missing Children Act in 1982 which authorized the Attorney General to collect and exchange information to identify and locate missing persons, especially children. Having served as her Chief of Staff when the legislation passed, I can say with certainty there would not be Federal missing children's statutes or the National Center for Missing & Exploited Children if it was not for Senator Hawkins' determination and tireless work.

On October 13, 1982, President Ronald Reagan signed the Missing Children's Act into law, and this year marks the 28th year in national recognition of the law's passage. It is appropriate that on this day, the entire Florida Congressional Delegation join with me in introducing legislation to rename the Maitland Postal Facility at 151 North Maitland Avenue in Maitland, Florida to bear the name of Paula Hawkins.

Senator Hawkins, known as the ''Maitland Housewife'', began as a community activist in that city and went on to become the first female elected to the U.S. Senate without family connections. Paula Hawkins also has the distinction of being the first Florida statewide elected female when she won a seat in 1972 on the Public Service Commission. With her passing on December 4, 2009, we lost a remarkable public servant and trailblazer for women and all Americans in the state and national political landscape.

On behalf of the Hawkins family, a grateful home state of Florida and a thankful nation, this Post Office renaming is a humble tribute to our former U.S. Senator, Paula Hawkins.

WIND POWER

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. WHITFIELD. Madam Speaker, on Monday, May 24, 2010, an editorial was printed in the Paducah Sun by Ben Lieberman with the Heritage Foundation regarding wind power. This article highlights the negative impact a renewable electricity standard, RES, would have on our economy and energy sector as well as the inability of wind power to meet our energy demands.

[From the Paducah Sun, May 24, 2010]

WIND POWER TOO INEFFICIENT, COSTLY TO SOLVE ENERGY WOES

(By Ben Lieberman)

Think Washington can't get any more out of touch? Well, Congress is considering measures that would raise our electric bills and kill more than 1 million jobs.

Sounds like hyperbole. But that's exactly what a renewable electricity standard (RES) would do. An RES (imbedded in legislation already approved by a Senate committee and part of the House global warming bill that passed last June) requires that a set amount of the nation's electricity be generated by wind or other approved alternatives.

It stands to reason that an RES would raise electricity costs. After all, if wind energy could compete with conventional sources like coal, natural gas or nuclear, there wouldn't be any need for a federal law forcing us to use it.

We don't have to guess, however. A study by The Heritage Foundation looked at a hypothetical RES starting at 3 percent in 2012 and rising by 1.5 percentage points each year after that—reaching 15 percent by 2020 and 22.5 percent by 2025. This roughly coincides with the pending proposals in Congress.

Heritage projects that such a provision would raise residential electric bills by 36 percent, or about $300 annually for an average household of four. Industrial electricity costs would be even harder hit, rising by 60 percent.

Wind turbines tend to be pricey relative to the amount of juice they generate, but that's only part of the cost of an RES. Since the best sites for wind are remote mountain ridges or plains far from the customer base, multi-billion-dollar transmission-line projects would be required—with customers (that's you and me) picking up the tab.

The biggest and costliest problems of all stem from wind's unreliability. The wind doesn't always blow, and it's least reliable during hot summer days when electricity demand peaks but the air is often still. In other words, unlike coal or natural gas or nuclear, wind power can't be relied upon, especially when it is needed most.

Since the wind can stop at any time, it must always be backed up by reliable non-wind sources, ready to step in and carry the load. Thus, utilities can't really cut back on conventional electricity sources when they add wind to the mix. For this reason, an electric system that's forced to include wind becomes a marvel of expensive redundancy. And make no mistake—every penny will show up in our monthly bills.

One big selling point of an RES is the ''green'' jobs created by it. President Obama has made numerous trips to wind turbine factories and boasted about the jobs at each. Granted, there will be employment among those who build, install and maintain wind turbines, but the expensive electricity that results will send many more to the unemployment line.

The Heritage Foundation projects net job losses reaching 330,000 in 2012 and exceeding 1 million in 2017 and thereafter. Overall, the hit to the American economy of an RES reaching 37.5 percent by 2035 would be $5.2 trillion. That's right, America would be more than $5 trillion poorer with a wind-power mandate.

That works out to $2,400 per year per family of four. Know anybody who's got an extra $2,400 just sitting around? At a time when Americans consider the economy to be Washington's top priority, Congress shouldn't be considering an RES. The last thing we need is a multi-trillion dollar anti-stimulus package that would harm struggling homeowners and businesses. Renewable energy may have a future, but Washington can't force it through costly mandates.

MEGAN VANCE

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Megan Vance who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Megan Vance is a 12th grader at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Megan Vance is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Megan Vance for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character in all her future accomplishments.

THE DREAM CHURCH DAY

HON. HENRY C. ''HANK'' JOHNSON, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. JOHNSON of Georgia. Madam Speaker, Whereas, The dRream Center Church of Atlanta has been and continues to be a beacon of light to our county for ther past four years; and

Whereas, Pastor William H. Murphy, III and the members of the dRream Church family today continues to uplift and inspire those in our community; and

Whereas, The dRream Church family has been and continues to be a place where citizens are touched spiritually, mentally and physically through outreach ministries and community partnership to aid in building up our District; and

Whereas, this remarkable and tenacious Church of God has given hope to the hopeless, fed the needy and empowered our community for the past four (4) years by preaching the gospel, teaching the gospel and living the gospel; and

Whereas, The dRream Center Church has produced many spiritual warriors, people of

compassion, people of great courage, fearless leaders and servants to all, but most of all visionaries who have shared not only with their Church, but with DeKalb County and the world their passion to spread the gospel of Jesus Christ; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize the dReam Center Church family for their leadership and service to our District on this the 4th Anniversary of their founding;

Now therefore, I, HENRY C. "HANK" JOHNSON, Jr. do hereby proclaim May 16, 2010 as, The dReam Center Church Day, in the 4th Congressional District.

Proclaimed, this 16th day of May, 2010.

MENTAL HEALTH MONTH

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 24, 2010

Mr. PAUL. Madam Speaker, I voted against H. Res. 1258 designating the month of May as National Mental Health Month to draw attention to the threat to liberty posed by proposals to perform mandatory mental evaluations of all schoolchildren without parental consent.

The New Freedom Commission on Mental Health has recommended that the federal and state governments work toward the implementation of a comprehensive system of mental-health screening for all Americans. The commission recommends that universal or mandatory mental-health screening first be implemented in public schools as a prelude to expanding it to the general public. However, neither the commission's report nor any related mental-health screening proposal requires parental consent before a child is subjected to mental-health screening. Federally-funded universal or mandatory mental-health screening in schools without parental consent could lead to labeling more children as "ADD" or "hyperactive" and thus force more children to take psychotropic drugs, such as Ritalin, against their parents' wishes.

Too many children are suffering from being prescribed psychotropic drugs for nothing more than children's typical rambunctious behavior. According to Medco Health Solutions, more than 2.2 million children are receiving more than one psychotropic drug at one time. In fact, according to Medico Trends, in 2003, total spending on psychiatric drugs for children exceeded spending on antibiotics or asthma medication

Many children have suffered harmful side effects from using psychotropic drugs. Some of the possible side effects include mania, violence, dependence, and weight gain. Yet, parents are already being threatened with child abuse charges if they resist efforts to drug their children. Imagine how much easier it will be to drug children against their parents' wishes if a federally-funded mental-health screener makes the recommendation.

Universal or mandatory mental-health screening could also provide a justification for stigmatizing children from families that support traditional values. Even the authors of mental-health diagnosis manuals admit that mental-health diagnoses are subjective and based on social constructions. Therefore, it is all too easy for a psychiatrist to label a person's disagreement with the psychiatrist's political beliefs a mental disorder. For example, a federally-funded school violence prevention program lists "intolerance" as a mental problem that may lead to school violence. Because "intolerance" is often a code word for believing in traditional values, children who share their parents' values could be labeled as having mental problems and a risk of causing violence. If the mandatory mental-health screening program applies to adults, everyone who believes in traditional values could have his or her beliefs stigmatized as a sign of a mental disorder. Taxpayer dollars should not support programs that may label those who adhere to traditional values as having a "mental disorder."

In order to protect our nation's children from mandatory mental health screening, I have introduced the Parental Consent Act, H.R. 2218. This bill forbids federal funds from being used for any universal or mandatory mental-health screening of students without the express, written, voluntary, informed consent of their parents or legal guardians. This bill protects the fundamental right of parents to direct and control the upbringing and education of their children. I hope all my colleagues will co-sponsor H.R. 2218.

IN HONOR OF JOHN KERRIGAN

HON. JOHN H. ADLER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. ADLER of New Jersey. Madam Speaker, I rise today to honor Mr. John Kerrigan, a volunteer for the Retired & Senior Volunteer Program (RSVP), a program that has matched volunteers with Burlington County non-profit organizations since 1971.

Mr. Kerrigan has volunteered for twenty-five years at Catholic Charities, Emergency and Community Services in Delanco, New Jersey. As a dedicated volunteer in their food pantry, he spends his time shelving and packing donated food items for families in need in Burlington County.

Thanks to John's steady, behind-the-scenes efforts, six to seven hundred families receive emergency food assistance from Emergency and Community Services each month. John's work is seen by only a few but appreciated by so many.

Madam Speaker, I ask that you please join me in congratulating John for his outstanding and dedicated service to the less fortunate in our South Jersey communities.

MATTHEW McGEE

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Matthew McGee who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Matthew McGee is a 12th grader at Jefferson High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Matthew McGee is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Matthew McGee for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

RECOGNIZING ST. CLARE WALKER MIDDLE SCHOOL IN LOCUST HILL, VA

HON. ROBERT J. WITTMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. WITTMAN. Madam Speaker, I am privileged to rise today to recognize St. Clare Walker Middle School in Locust Hill, VA for their recent national accreditation as a "School to Watch".

In 1999 the National Forum introduced the "Schools to Watch" Program. This program is a national partnership that seeks to identify and recognize high-performing middle schools. A strict criteria and guidelines, set by the "Schools to Watch" Forum, help identify the high-performing middle schools. Schools that are distinguished as "high-performing" demonstrate academic excellence by challenging students, are sensitive to the unique developmental needs of early adolescents, and provide students with high-quality resources and educators. St. Clare Walker Middle School in Locust Hill, VA was recognized for meeting and exceeding the criteria.

St. Clare Walker Middle School Principal Dr. James Lane spearheaded and succeeded in creating a school that helps students excel academically, socially, and developmentally. Dr. Lane's commitment to excellence has resulted in national recognition as one of the best middle schools in Virginia. I want to commend the entire faculty, staff and students of St. Clare Walker Middle School for their hard work. As the husband of a school teacher I understand the vital work and learning that takes place every day in classrooms across the Commonwealth. The educators at St. Clare Walker Middle School have helped to create a learning environment that positions their students for lifelong academic success. I also want to recognize Superintendent Donald Fairheart, school board members, and members of the board of supervisors for their support and dedication to the success of St. Clare Walker Middle School.

Recently I had the pleasure of visiting St. Clare Walker Middle School. I was able to spend the day with the faculty, teachers, and students. I was impressed by the many dedicated teachers and faculty with a passion for educating our Nation's youth. I also enjoyed meeting and talking with many St. Clare Walker Middle School students who exhibited great enthusiasm for learning.

I want to take some time today, to congratulate St. Clare Walker Middle School in Locust

Hill, VA and wish them continued future success. Through their hard work and perseverance they have earned the national honor of being designated a "School to Watch".

GIBBS HIGH SCHOOL SENIOR BLAINE KRAUSS NAMED PRESIDENTIAL SCHOLAR

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. YOUNG of Florida. Madam Speaker, as we enter high school graduation season, I am proud to let my colleagues know that Blaine Krauss, a senior in the arts program at Gibbs High School in St. Petersburg, Florida, which I have the privilege to represent, has been named a Presidential Scholar.

Blaine is the only student in the Tampa Bay area and one of only four in the entire State of Florida to be so recognized for his outstanding academic achievement and artistic excellence. He will honored at the White House next month along with a guest he has chosen to accompany him, Mr. Keven Renken, the Chairman of the Pinellas County Center for the Arts at Gibbs High School and Blaine's acting teacher.

Following my remarks, I will include a story from The St. Petersburg Times by Luis Perez about this great national honor for Blaine.

Madam Speaker, Blaine will be attending the University of Cincinnati next fall where he will major in musical theater. As his teacher says, he is a talented individual, but I know that he did not achieve his success without a lot of hard work and preparation. Please join me in congratulating Blaine for a job well done.

[From the St. Petersburg Times, May 4, 2010]

GIBBS HIGH SENIOR RECEIVES RARE NATIONAL HONOR: PRESIDENTIAL SCHOLAR

(By Luis Perez)

ST. PETERSBURG.—Blaine Krauss, a senior in the arts program at Gibbs High School, was sitting in acting class Monday when he learned he had been named one of the scholastic elite: a presidential scholar. In dramatic fashion, he spent a good while running around the school. "I screamed with my friend and ran out of the classroom," said Krauss, 18, of St. Petersburg. "It took me about an hour and a half to calm down."

Krauss is among 141 students nationwide—four in Florida and the only one in the Tampa Bay area—to receive the honor this year for exceptional academic achievement and artistic excellence.

Each scholar gets to invite his most inspiring or challenging teacher to a White House reception this June. Krauss selected Keven Renken, chairman of the Pinellas County Center for the Arts at Gibbs and his acting teacher for three years.

"Blaine is an amazingly talented student," said Renken, who has taught for 21 years. "He is just one of them. He has it. You can just tell. He's a great singer, a great talent. He's just one of the special ones."

Krauss, who aspires to sing on Broadway and a career in the political stage, said he was glad to be part of good publicity for the high school. This fall, he is entering the University of Cincinnati to major in musical theatre.

"I am happy to be a product of Gibbs and to say that our school is generating great kids," he said.

IN MEMORY OF COLONEL JACK COLLEY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. SESSIONS. Madam Speaker, I rise today to honor Jack Colley who passed away on May 16, 2010. He was the head of the Texas Department of Public Safety (TXDPS), Division of Emergency Management.

Prior to joining TXDPS, he served in the United States Army from 1970–97 and retired as a Colonel. He was a valuable member of TXDPS and changed the field of Emergency Management. During his tenure, Colonel Colley was involved in the response and recovery of some of the largest incidents and disasters in Texas, such as the Space Shuttle Columbia crash in 2003, Hurricane Rita in 2005, and Hurricane Ike in 2008. Learning from the fallout of Hurricane Katrina, he began efforts to evacuate and shelter companion animals, emphasizing that no one would be left behind because they could not bring their pet.

He sought to make disaster response quicker, faster, and smarter and utilized innovative methods to make the Division of Emergency Management more effective. Among his many initiatives, Colonel Colley pushed for an Interstate Emergency Response Support Plan (IERSP)—partnering with Arkansas, Louisiana, New Mexico, and Oklahoma, the first of its kind in the nation. Under his leadership, the Division of Emergency Management also focused on Re-Entry Task Forces that provided critical care and security and restored infrastructure within the first 72 hours after a storm. He was a visionary, a great leader, and a dedicated public servant. The great State of Texas has suffered a great loss; Jack Colley will be missed by all.

Madam Speaker, I ask my esteemed colleagues to join me in recognizing the legacy of Colonel Jack Colley. My thoughts and prayers are with his family and friends.

A TRIBUTE TO PAUL MAXWELL

HON. JOHN GARAMENDI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. GARAMENDI. Madam Speaker, I rise with my colleagues Congressman GEORGE MILLER and Congressman JERRY MCNERNEY, to recognize Paul Maxwell, Contra Costa Transportation Authority's Chief Deputy Executive Director and most recently its Interim Executive Director, and congratulate him as he approaches his retirement.

Paul joined the Contra Costa Transportation Authority (CCTA) in April 1990 as its first Deputy Director for Projects bringing a wealth of knowledge of transportation planning, programming, and funding, having previously served 13 years in the region at the Bay Area Metropolitan Transportation Commission. As Deputy Director for Projects at CCTA, Paul has been responsible for the Authority's participation, project management and delivery of over two billion dollars of capital improvements. His service to Contra Costa County residents has included oversight and management of the development of state highway expansions, local street improvements, Bay Area Rapid Transit (BART) District rail extensions, transit centers, bicycle bridges, trails and other facilities. Further, as part of his responsibilities with CCTA's Congestion Management Agency, Paul advocated for state and federal transportation funds for crucial Authority projects and worked closely with staff in the development of those project priorities, including State Route 4, BART, and the Richmond Parkway, to name just a few.

Most recently he has worked tirelessly on the combined efforts of the CCTA, Caltrans, and the Alameda Congestion Management Agency to deliver the Caldecott Tunnel fourth bore project; the largest American Recovery and Reinvestment Act (ARRA) funded transportation project in the United States to date. He has also worked with BART, Caltrans, Contra Costa County, and East County cities to deliver the expansion of State Route 4 East and the eBART extension. State Route 4 and the Caldecott Tunnel, located on State Route 24, are two of the major commute and freight corridors connecting the East Bay Area to the coast and the Central Valley. Their improvement is essential to the economic vitality of our region and I know my friends, Mr. MILLER and Mr. MCNERNEY, and I are very grateful for Paul's efforts on these major projects.

Throughout his tenure, Paul has maintained strong relationships with those involved in various CCTA projects and is well-respected by his colleagues, agency staff, Board members and stakeholders. In 1996, Paul was named Chief Deputy Executive Director where he oversaw the coordination of all Authority sections. And in December 2009, he was named and has acted as the Interim Executive Director until his retirement this month.

Prior to this distinguished record at CCTA, Paul served as the Manager of Planning and Programming at the Bay Area's Metropolitan Transportation Commission where his responsibilities included transportation finance, air quality planning, multi-modal transportation corridor studies, and the Regional Transportation Plan. He served as the primary liaison between the Metropolitan Transportation Commission and the California Transportation Commission. He has also worked with the Metropolitan Washington, DC, Council of Governments and DeLeuw, Cather and Company, an engineering and construction firm here in Washington, DC.

Paul holds a Bachelor of Science in Civil Engineering from Newcastle University in the United Kingdom. He also achieved his Masters of Science in Transportation Engineering from the University of California—Berkeley.

Madam Speaker, we invite our colleagues to join us in honoring Paul for his tireless and dedicated service to the people of California, the Bay Area, and especially Contra Costa County. We also join his family, colleagues and friends in congratulating Paul on a successful and fulfilling career, and a very well-deserved retirement.

PASS H.R. 4213

HON. JOHN GARAMENDI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 25, 2010

Mr. GARAMENDI. Madam Speaker, before this week is over, we will vote to create jobs

in America. We will do this by discouraging the outsourcing of American jobs and supporting our nation's workforce and small businesses.

For too long, large corporations have exploited tax loopholes by slipping between foreign and U.S. tax codes. This system permits big businesses to evade their responsibilities and shifts the tax burden onto everyone else. It also encourages big businesses to move jobs from the U.S. to other countries. This begs the question: Why would we perpetuate a system that encourages the outsourcing of American jobs?

This Democratic-led Congress is saying no more. Big businesses have to pay their fair share just like the rest of us. This Congress is lifting the tax burden off the middle class still struggling from the Bush recession. We are leading a recovery of shared prosperity. We are bringing jobs to America through targeted tax cuts and smart investments: this includes tax credits for research and development, support for 250,000 summer jobs, and tax incentives for small businesses in low-income communities and in the hard-hit construction sector.

We should, hopefully with the support of the Republicans, pass H.R. 4213, close harmful corporate tax loopholes, and create jobs right here, in America, right now.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S4165–S4395

Measures Introduced: Eighteen bills were introduced, as follows: S. 3407–3424. **Pages S4211–12**

Measures Reported:

S. Res. 469, recognizing the 60th Anniversary of the Fulbright Program in Thailand.

S. Res. 532, recognizing Expo 2010 Shanghai China and the USA Pavilion at the Expo.

S. 3248, to designate the Department of the Interior Building in Washington, District of Columbia, as the "Stewart Lee Udall Department of the Interior Building", with an amendment in the nature of a substitute. **Page S4211**

Measures Passed:

Roy Rondeno, Sr. Post Office Building: Senate passed S. 2874, to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the "Roy Rondeno, Sr. Post Office Building". **Page S4171**

Zachary Smith Post Office Building: Senate passed S. 3200, to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the "Zachary Smith Post Office Building". **Page S4171**

Private First Class Garfield M. Langhorn Post Office Building: Senate passed H.R. 3250, to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the "Private First Class Garfield M. Langhorn Post Office Building", clearing the measure for the President. **Page S4171**

George Kell Post Office: Senate passed H.R. 3634, to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the "George Kell Post Office", clearing the measure for the President. **Pages S4171–72**

E.V. Wilkins Post Office: Senate passed H.R. 3892, to designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the "E.V. Wilkins Post Office", clearing the measure for the President. **Page S4171**

Ann Marie Blute Post Office: Senate passed H.R. 4017, to designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the "Ann Marie Blute Post Office", clearing the measure for the President. **Page S4172**

Congresswoman Jan Meyers Post Office Building: Senate passed H.R. 4095, to designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the "Congresswoman Jan Meyers Post Office Building", clearing the measure for the President. **Page S4172**

Sergeant Matthew L. Ingram Post Office: Senate passed H.R. 4139, to designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the "Sergeant Matthew L. Ingram Post Office", clearing the measure for the President. **Page S4172**

Roy Wilson Post Office: Senate passed H.R. 4214, to designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the "Roy Wilson Post Office", clearing the measure for the President. **Page S4172**

W.D. Farr Post Office Building: Senate passed H.R. 4238, to designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the "W.D. Farr Post Office Building", clearing the measure for the President. **Page S4172**

Martin G. 'Marty' Mahar Post Office: Senate passed H.R. 4425, to designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the "Martin G. 'Marty' Mahar Post Office", clearing the measure for the President. **Page S4172**

Captain Luther H. Smith, U.S. Army Air Forces Post Office: Senate passed H.R. 4547, to designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the "Captain Luther H. Smith, U.S. Army Air

Forces Post Office'', clearing the measure for the President. **Page S4172**

Sergeant Christopher R. Hrbek Post Office Building: Senate passed H.R. 4628, to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the ''Sergeant Christopher R. Hrbek Post Office Building'', clearing the measure for the President. **Page S4172**

Clarence D. Lumpkin Post Office: Senate passed H.R. 4840, to designate the facility of the United States Postal Service located at 1981 Cleveland Avenue in Columbus, Ohio, as the ''Clarence D. Lumpkin Post Office'', after agreeing to the committee amendment, and the title amendment. **Page S4172**

Stewart Lee Udall Department of the Interior Building: Senate passed H.R. 5128, to designate the United States Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of the Interior Building'', clearing the measure for the President. **Page S4394**

75th Anniversary of the East Bay Regional Park District in California: Committee on the Judiciary was discharged from further consideration of H. Con. Res. 211, recognizing the 75th anniversary of the establishment of the East Bay Regional Park District in California, and the resolution was then agreed to. **Page S4394**

Measures Considered:

Emergency Supplemental Appropriations Act—Agreement: Senate continued consideration of H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, taking action on the following amendments proposed thereto: **Pages S4167–71, S4172–S4206**

Pending:

Reid Amendment No. 4174, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions. **Page S4167**

Sessions/McCaskill Amendment No. 4173, to establish 3 year discretionary spending caps. **Pages S4167, S4169, S4186–87**

Wyden/Grassley Amendment No. 4183, to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter. **Pages S4172–76**

Feingold Amendment No. 4204, to require a plan for safe, orderly, and expeditious redeployment of the United States Armed Forces from Afghanistan. **Pages S4181–82**

McCain Amendment No. 4214, to provide for the National Guard support to secure the southern land border of the United States. **Pages S4182–85**

Cornyn Modified Amendment No. 4202, to make appropriations to improve border security, with an offset from unobligated appropriations under division A of Public Law 111–5. **Pages S4185, S4194**

Lautenberg Modified Amendment No. 4175, to provide that parties responsible for the Deepwater Horizon oil spill in the Gulf of Mexico shall reimburse the general fund of the Treasury for costs incurred in responding to that oil spill. **Pages S4185–86, S4190–91**

Cardin Amendment No. 4191, to prohibit the use of funds for leasing activities in certain areas of the outer Continental Shelf. **Pages S4193–94**

Kyl/McCain Amendment No. 4228 (to Amendment No. 4202), to appropriate $200,000,000 for a law enforcement initiative to address illegal crossings of the Southwest border, with an offset. **Page S4194**

Coburn/McCain Amendment No. 4232, to pay for the costs of supplemental spending by reducing Congress' own budget and disposing of unneeded Federal property and uncommitted Federal funds. **Pages S4195–96**

Coburn/McCain Amendment No. 4231, to pay for the costs of supplemental spending by reducing waste, inefficiency, and unnecessary spending within the Federal Government. **Pages S4196–97**

Landrieu/Cochran Amendment No. 4179, to allow the Administrator of the Small Business Administration to create or save jobs by providing interest relief on certain outstanding disaster loans relating to damage caused by the 2005 Gulf Coast hurricanes or the 2008 Gulf Coast hurricanes. **Pages S4200–01**

Landrieu Amendment No. 4180, to defer payments of principal and interest on disaster loans relating to the Deepwater Horizon oil spill. **Page S4201**

Landrieu Modified Amendment No. 4184, to require the Secretary of the Army to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon Oil spill in the Gulf of Mexico at full Federal expense. **Page S4201**

Landrieu Amendment No. 4213, to provide authority to the Secretary of the Interior to immediately fund projects under the Coastal Impact Assistance Program on an emergency basis. **Pages S4201–02**

Landrieu Amendment No. 4182, to require the Secretary of the Army to use certain funds for the construction of authorized restoration projects in the Louisiana coastal area ecosystem restoration program. **Page S4202**

Landrieu Amendment No. 4234, to establish a program, and to make available funds, to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oil spill in the Gulf of Mexico.

Pages S4202–03

A motion was entered to close further debate on the committee-reported substitute amendment to the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Thursday, May 27, 2010.

Page S4197

A motion was entered to close further debate on the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur upon disposition of the committee-reported substitute amendment.

Page S4197

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 9:30 a.m., on Wednesday, May 26, 2010. **Page S4395**

Wall Street Reform and Consumer Protection Act: Pursuant to the order of May 20, 2010, the Chair was authorized to appoint the following conferees on the part of the Senate to H.R. 4173: Senators Dodd, Johnson, Reed, Schumer, Lincoln, Leahy, Harkin, Shelby, Crapo, Corker, Gregg, and Chambliss.

Subsequently, S. 3217 was returned to the Senate calendar. **Page S4170**

EPA Greenhouse Gas Regulations Resolution—Agreement: A unanimous-consent-time agreement was reached providing that on Thursday, June 10, 2010, after any Leader time, the Republican Leader, or his designee, be recognized to move to proceed to the consideration of S.J. Res. 26, disapproving a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act; that there be 6 hours of debate on the motion to proceed to the joint resolution, with the time equally divided and controlled between Senators Boxer and Murkowski, or their designees; that upon the use or yielding back of time, Senate vote on adoption of the motion to proceed; that if the motion is successful, then there be 1 hour of debate on the joint resolution, divided as described above; that upon the use or yielding back of that time, the joint resolution be read a third time, and Senate vote on passage of the joint resolution; provided that if the motion to proceed is defeated, then no further motion to proceed to the joint resolution be in order; provided further, that no amendment or motion on the subject of EPA greenhouse gas regulations or relating to the endangerment finding be in order prior to consideration of the motion to proceed to S.J. Res. 26, with no amendments in order to the joint resolution, and will all other provisions of the statute governing consideration of the joint resolution remaining in effect during the pendency of this agreement.

Pages S4394–95

Nominations Confirmed: Senate confirmed the following nominations:

R. Booth Goodwin II, of West Virginia, to be United States Attorney for the Southern District of West Virginia for the term of four years.

Kerry Joseph Forestal, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

John Dale Foster, of West Virginia, to be United States Marshal for the Southern District of West Virginia for the term of four years.

Gary Michael Gaskins, of West Virginia, to be United States Marshal for the Northern District of West Virginia for the term of four years.

Dallas Stephen Neville, of Wisconsin, to be United States Marshal for the Western District of Wisconsin for the term of four years.

Pages S4394, S4395

Nomination Discharged: The following nomination were discharged from further committee consideration and placed on the Executive Calendar:

Jonathan Andrew Hatfield, of Virginia, to be Inspector General, Corporation for National and Community Service, which was sent to the Senate on February 22, 2010, from the Senate Committee on Homeland Security and Governmental Affairs.

Page S4395

Messages from the House: **Pages S4209–10**

Measures Referred: **Page S4210**

Measures Read the First Time: **Pages S4210, S4394**

Executive Communications: **Pages S4210–11**

Executive Reports of Committees: **Page S4211**

Additional Cosponsors: **Pages S4212–13**

Statements on Introduced Bills/Resolutions: **Pages S4213–24**

Additional Statements: **Page S4209**

Amendments Submitted: **Pages S4224–39**

Authorities for Committees to Meet: **Pages S4238–39**

Privileges of the Floor: **Page S4239**

Text of H.R. 4173 as Previously Passed: **Pages S4239–S4394**

Adjournment: Senate convened at 10 a.m. and adjourned at 7:41 p.m., until 9:30 a.m. on Wednesday, May 26, 2010. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4395.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION: DEFENSE

Committee on Armed Services: Subcommittee on Airland met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2011.

AUTHORIZATION: DEFENSE

Committee on Armed Services: Subcommittee on Readiness and Management Support met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2011.

AUTHORIZATION: DEFENSE

Committee on Armed Services: Subcommittee on Emerging Threats and Capabilities met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2011.

AUTHORIZATION: DEFENSE

Committee on Armed Services: Subcommittee on Strategic Forces met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2011.

AUTHORIZATION: DEFENSE

Committee on Armed Services: Subcommittee on Personnel met in closed session and approved for full committee consideration, those provisions which fall within the jurisdiction of the subcommittee, of the proposed National Defense Authorization Act for fiscal year 2011.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS ACT

Committee on Energy and Natural Resources: Committee concluded a hearing to examine the liability and financial responsibility issues related to offshore oil production, including the Deepwater Horizon accident in the Gulf of Mexico, including S. 3346, to increase the limits on liability under the Outer Continental Shelf Lands Act, after receiving testimony from Senator Whitehouse; Thomas J. Perrelli, Associate Attorney General, Department of Justice; Craig Bennett, Director, National Pollution Fund Center, U.S. Coast Guard, Department of Homeland Security; David J. Hayes, Deputy Secretary of the Interior; and Jonathan Ramseur, Specialist, Environmental Policy, Rawle King, Analyst, Financial Economics and Risk Assessment, and Robert Meltz, Legislative Attorney, all of the Congressional Research Service, Library of Congress.

UNEMPLOYMENT SYSTEM

Committee on Finance: Committee concluded a hearing to examine reducing overpayments and increasing quality in the unemployment system, after receiving testimony from Jane Oates, Assistant Secretary of Labor for Employment and Training; Roberta Gassman, Wisconsin Department of Workforce Development Secretary, Madison; and Michael Cullen, On Point Technology, Inc., Colorado Springs, Colorado.

NEW START TREATY

Committee on Foreign Relations: Committee concluded a hearing to examine Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed in Prague on April 8, 2010, with Protocol (Treaty Doc. 111–05), focusing on the role of strategic arms control in a post-Cold War world, after receiving testimony from Henry A. Kissinger, former Secretary of State, New York, New York.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following business items:

S. 3104, to permanently authorize Radio Free Asia, with an amendment in the nature of a substitute;

S. Res. 469, recognizing the 60th Anniversary of the Fulbright Program in Thailand,

S. Res. 532, recognizing Expo 2010 Shanghai China and the USA Pavilion at the Expo,

S. 3317, to authorize appropriations for fiscal years 2010 through 2014 to promote long-term, sustainable rebuilding and development in Haiti, with amendments; and

The nominations of Michael P. Meehan, of Virginia, and Dana M. Perino, of the District of Columbia, both to be a Member of the Broadcasting Board of Governors, and Michael James Warren, of the District of Columbia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation, and a routine list in the Foreign Service.

ELEMENTARY AND SECONDARY EDUCATION ACT

Committee on Health, Education, Labor, and Pensions: Committee resumed hearings to examine Elementary and Secondary Education Act (ESEA) reauthorization, focusing on early childhood education, after receiving testimony from J. Barry Griswell, Principal Financial Group, Des Moines, Iowa; Lawrence J. Schweinhart, HighScope Educational Research Foundation, Ypsilanti, Michigan; Robert C. Pianta, University of Virginia Curry School of Education, Charlottesville; and Henrietta Zalkind, Down East Partnership for Children, Rocky Mount, North Carolina.

NOMINATION

Committee on Rules and Administration: Committee concluded a hearing to examine the nomination of William J. Boarman, of Maryland, to be Public Printer, after the nominee, who was introduced by Senator Cardin and Representative Hoyer, testified and answered questions in his own behalf.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

BUSINESS MEETING

Select Committee on Intelligence: Committee ordered favorably reported the nomination of S. Leslie Ireland, of Massachusetts, to be Assistant Secretary of the Treasury for Intelligence and Analysis.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 27 public bills, H.R. 5374–5400; 1 private bill, H.R. 5401; and 8 resolutions, H.J. Res. 86; and H. Res. 1389–1391, 1393–1396, were introduced.

Pages H3822–24

Additional Cosponsors: **Page H3824**

Reports Filed: Reports were filed today as follows:

H.R. 5175, to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, with an amendment (H. Rept. 111–492, Pt. 1);

H.R. 5026, to amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States from cybersecurity and other threats and vulnerabilities, with amendments (H. Rept. 111–493); and

H. Res. 1392, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules (H. Rept. 111–494). **Page H3822**

Speaker: Read a letter from the Speaker wherein she appointed Representative Yarmuth to act as Speaker pro tempore for today. **Page H3747**

Recess: The House recessed at 10:40 a.m. and reconvened at 12 noon. **Page H3748**

Suspensions—Proceedings Resumed: The House agreed to suspend the rules and pass the following measures which were debated on Monday, May 24th:

Assuring Quality Care for Veterans Act: H.R. 5145, amended, to amend title 38, United States Code, to improve the continuing professional education reimbursement provided to health professionals employed by the Department of Veterans Affairs, by a ⅔ yea-and-nay vote of 413 yeas to 2 nays, Roll No. 294; **Pages H3766–67**

Expressing support for designation of May 2010 as Mental Health Month: H. Res. 1258, amended, to express support for designation of May 2010 as Mental Health Month, by a ⅔ yea-and-nay vote of 414 yeas to 1 nay, Roll No. 295; **Pages H3767–68**

Expressing sympathy to the families of those killed by North Korea in the sinking of the Republic of Korea Ship Cheonan: H. Res. 1382, to express sympathy to the families of those killed by North Korea in the sinking of the Republic of Korea Ship Cheonan, and solidarity with the Republic of Korea in the aftermath of this tragic incident, by a ⅔ recorded vote of 411 ayes to 3 noes, Roll No. 296; **Pages H3769–70**

Recognizing the importance of manufactured and modular housing in the United States: H. Res. 584, to recognize the importance of manufactured and modular housing in the United States, by a ⅔

yea-and-nay vote of 408 yeas to 4 nays with 1 voting "present", Roll No. 297; and **Page H3770**

Veterans Dog Training Therapy Act: H.R. 3885, to direct the Secretary of Veterans Affairs to carry out a pilot program on dog training therapy, by a ⅔ yea-and-nay vote of 403 yeas to 4 nays, Roll No. 298. **Pages H3788–89**

Oath of Office—First Congressional District of Hawaii: Representative-elect Charles Djou presented himself in the well of the House and was administered the Oath of Office by the Speaker. Earlier, the Clerk of the House transmitted a facsimile copy of a letter from Mr. Scott T. Nago, Chief Election Officer, Office of Elections, State of Hawaii, indicating that, according to the unofficial returns of the Special Election held May 22, 2010, the Honorable Charles Djou was elected Representative to Congress for the First Congressional District, State of Hawaii. **Pages H3768–69, H3821**

Whole Number of the House: The Speaker announced to the House that, in light of the administration of the oath to the gentleman from Hawaii, Mr. Djou, the whole number of the House is adjusted to 432. **Page H3769**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Special Agent Samuel Hicks Families of Fallen Heroes Act: Agreed to the Senate amendments to H.R. 2711, to amend title 5, United States Code, to provide for the transportation of the dependents, remains, and effects of certain Federal employees who die while performing official duties or as a result of the performance of official duties, by a ⅔ yea-and-nay vote of 416 yeas with none voting "nay", Roll No. 299; **Pages H3770–72, H3789–90**

Recognizing the life and achievements of Will Keith Kellogg: H. Res. 1172, to recognize the life and achievements of Will Keith Kellogg, by a ⅔ recorded vote of 410 ayes with none voting "no", Roll No. 301; **Pages H3773–75, H3790–91**

Commending Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race: H. Res. 1189, to commend Lance Mackey on winning a record 4th straight Iditarod Trail Sled Dog Race, by a ⅔ yea-and-nay vote of 411 yeas with none voting "nay" and 3 voting "present", Roll No. 300; and **Pages H3775–76, H3790**

Supporting the goals and ideals of Student Financial Aid Awareness Month: H. Res. 1353, amended, to support the goals and ideals of Student Financial Aid Awareness Month to raise awareness of student financial aid. **Pages H3781–82**

National Advisory Committee on Institutional Quality and Integrity—Appointment: The Chair announced the Speaker's appointment of the following members on the part of the House to the National Advisory Committee on Institutional Quality and Integrity for a term of six years: Upon the recommendation of the Majority Leader: Dr. Carolyn Williams, Bronx, NY; Dr. William "Brit" Kirwan, Adelphi, MD; and Dr. Benjamin J. Allen, Cedar Falls, IA. Upon the recommendation of the Minority Leader: Dr. Art Keiser, Parkland, FL; Mr. Arthur Rothkopf, Washington, DC; and Dr. William Pepicello, Phoenix, AZ. **Page H3788**

Suspensions—Proceedings Postponed: The House debated the following measures under suspension of the rules. Further proceedings were postponed:

Celebrating Asian/Pacific American Heritage Month: H. Res. 1316, amended, to celebrate Asian/Pacific American Heritage Month; **Pages H3776–78**

Recognizing and honoring the courage and sacrifice of the members of the Armed Forces and veterans: H. Res. 1385, to recognize and honor the courage and sacrifice of the members of the Armed Forces and veterans; **Pages H3778–81**

Honoring the 125th anniversary of Rollins College: H. Res. 1169, amended, to honor the 125th anniversary of Rollins College; **Pages H3782–84**

Honoring the Centennial Celebration of Women at Marquette University: H. Res. 1161, to honor the Centennial Celebration of Women at Marquette University, the first Catholic university in the world to offer co-education as part of its regular undergraduate program; **Pages H3784–85**

Honoring the University of Georgia Graduate School on the occasion of its centennial: H. Res. 1372, to honor the University of Georgia Graduate School on the occasion of its centennial; and **Pages H3785–86**

Expressing support for designation of May as "National Asthma and Allergy Awareness Month": H. Res. 407, amended, to express support for designation of May as "National Asthma and Allergy Awareness Month". **Pages H3786–88**

Senate Messages: Messages received from the Senate today appear on pages H3748–49 and H3772–73.

Senate Referrals: S. 2868 was referred to the Committee on Oversight and Government Reform; S. 707, S. 3200, and S. 2874 were held at the desk. **Pages H3748, H3773, H3821**

Quorum Calls Votes: Six yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H3766–67, H3767–68, H3769–70, H3770, H3788–89,

H3789–90, H3790 and H3791. There were no quorum calls.

Adjournment: The House met at 10:30 a.m. and adjourned at 10:53 p.m.

Committee Meetings

JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT OF 2010

Committee on Energy and Commerce: Ordered reported, as amended, H.R. 847, James Zadroga 9/11 Health and Compensation Act of 2010.

RENTAL ASSISTANCE INITIATIVE

Committee on Financial Services: Held a hearing entitled ''The Administration's Proposal to Preserve and Transform Public and Assisted Housing: The Transforming Rental Assistance Initiative.'' Testimony was heard from Shaun Donovan, Secretary, Department of Housing and Urban Development; Thomas Gleason, Executive Director, Housing, State of Massachusetts; Paul T. Graziano, Executive Director and Housing Commissioner, Housing Authority, Baltimore City, Maryland; John Rhea, Chairman, New York City Housing Authority; Mark Taylor, Executive Director, Charleston-Kanawha Housing Authority, Charleston, West Virginia; and public witnesses.

GREAT LAKES REGION

Committee on Foreign Affairs: Subcommittee on Africa and Global Health held a hearing on The Great Lakes Region: Current Conditions and U.S. Policy. Testimony was heard from following officials of the Department of State: Johnnie Carson, Assistant Secretary, Bureau of African Affairs; and Franklin Moore, Deputy Assistant Administrator, Bureau for Africa, Office of the Assistant Administrator, U.S. Agency for International Development.

BUSINESS BANKUPTCY EMPLOYEE/ RETIREE PROTECTION

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 4677, Protecting Employees and Retirees in Business Bankruptcies Act of 2010. Testimony was heard from public witnesses.

REMOVAL CLARIFICATION ACT OF 2010

Committee on the Judiciary: Subcommittee on Courts and Competition Policy approved for full Committee action H.R. 5241, Removal Clarification Act of 2010.

Prior to this action, the Subcommittee held a hearing on H.R. 5281. Testimony was heard from Irvin B. Nathan, General Counsel, Office of the General Counsel, House of Representatives; Beth S. Brinkmann, Deputy Assistant Attorney General, Civil Division, Department of Justice; and public witnesses.

SENIOR FINANCIAL EMPOWERMENT ACT OF 2009

Committee on the Judiciary: Subcommittee on Crime, Terrorism and Homeland Security held a hearing on H.R. 3040, Senior Financial Empowerment Act of 2009. Testimony was heard from Representatives Baldwin and Coble; and public witnesses.

SIKES ACT AMENDMENTS ACT OF 2010

Committee on Natural Resources: Subcommittee on Insular Affairs, Oceans and Wildlife, hearing on H.R. 5284, Sikes Act Amendments Act of 2010. Testimony was heard from Dan Ashe, Deputy Director, Policy, U.S. Fish and Wildlife Service, Department of the Interior; Maureen Sullivan, Director, Environmental Management, Office of the Deputy Under Secretary, Installations and Environment, Department of Defense; and public witnesses.

OVERSIGHT—NATIONAL PARK SYSTEM OUTLOOK

Committee on Natural Resources: Subcommittee on National Parks, Forests and Public Lands held an oversight hearing on Building on America's Best Idea: The Next Century of the National Park System. Testimony was heard from Jonathan B. Jarvis, Director, National Park Service, Department of the Interior; former Representative Victor H. Fazio of California; the following former officials of the National Park Service, Department of the Interior: Denis Galvin, Deputy Director; and Jerry Rogers, Associate Director for Cultural Resources; and public witnesses.

SAME-DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by a non-record vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain rules reported from the Rules Committee. The rule applies the waiver to any rule reported on the legislative day of May 26th, 2010 relating to consideration or disposition of the Senate amendment to the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes. The rule authorizes the Speaker to entertain motions that the House suspend the rules at any time through the calendar day of May 30, 2010. The Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to section 2 of the rule.

FEDERAL COURT HOUSE MANAGEMENT

Committee on Tranportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management held a hearing on Eliminating Waste and Managing Space in Federal Courthouses: GAO Recommendations on Courthouse Construction, Courtroom Sharing, and Enforcing Congressionally Authorized Limits on Size and Cost. Testimony was heard from Mark Goldstein, Director, Physical Infrastructure, GAO; Robert Peck, Commissioner, Public Building Service, GSA; and the following Justices of the Judicial Conference of the United States: Michael A. Ponsor, Chairman, Committee on Space and Facilities; and Julie A. Robinson, Chair, Committee on Court Administration and Case Management.

BRIEFING—GLOBAL CLIMATE CHANGE

Permanent Select Committee on Intelligence: Subcommittee on Intelligence Community Management met in executive session to receive a briefing on Global Climate Change. The Subcommittee was briefed by departmental witnesses.

Joint Meetings

HOLOCAUST ERA ASSETS

Commission on Security and Cooperation in Europe: Commission concluded a hearing to examine Holocaust era assets after the Prague conference, after receiving testimony from Stuart Eizenstat, former Ambassador, European Union, Washington, D.C.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D567)*

H.R. 1121, to authorize a land exchange to acquire lands for the Blue Ridge Parkway from the Town of Blowing Rock, North Carolina. Signed on May 24, 2010. (Public Law 111–167)

H.R. 1442, to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909. Signed on May 24, 2010. (Public Law 111–168)

H.R. 2802, to provide for an extension of the legislative authority of the Adams Memorial Foundation to establish a commemorative work in honor of former President John Adams and his legacy. Signed on May 24, 2010. (Public Law 111–169)

H.R. 5148, to amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter. Signed on May 24, 2010. (Public Law 111–170)

H.R. 5160, to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti. Signed on May 24, 2010. (Public Law 111–171)

S. 1067, to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice. Signed on May 24, 2010. (Public Law 111–172)

COMMITTEE MEETINGS FOR WEDNESDAY, MAY 26, 2010

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Interior, Environment, and Related Agencies, to hold hearings to examine firefighting policy with the U.S. Forest Service and the Department of the Interior, 10 a.m., SD–124.

Committee on Armed Services: Subcommittee on SeaPower, closed business meeting to mark up those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2011, 9:30 a.m., SR–222.

Full Committee, closed business meeting to mark up the proposed National Defense Authorization Act for fiscal year 2011, 2:30 p.m., SR–222.

Committee on Commerce, Science, and Transportation: Subcommittee on Communications and Technology, to hold hearings to examine innovation and inclusion, focusing on the Americans with Disabilities Act at 20, 2:30 p.m., SR–253.

Committee on Finance: to hold hearings to examine certain nominations; to be immediately followed by a business meeting to consider the nomination of Sherry Glied, of New York, to be Assistant Secretary of Health and Human Services, 10 a.m., SD–215.

Committee on Foreign Relations: Subcommittee on African Affairs, to hold hearings to examine assessing challenges and opportunities for peace in Sudan, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: business meeting to consider S. 2781, to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability, and the nominations of David K. Mineta, of California, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy, and Adam Gamoran, of Wisconsin, Deborah Loewenberg Ball, of Michigan, Margaret R. McLeod, of the District of Columbia, and Bridget Terry Long, of Massachusetts, all to be a Member of the Board of Directors of the National Board for Education Sciences, 10 a.m., SD–430.

Committee on Indian Affairs: to hold hearings to examine the nomination of Tracie Stevens, of Washington, to be Chairman of the National Indian Gaming Commission, 10 a.m., SD–628.

Committee on the Judiciary: Subcommittee on the Constitution, to hold hearings to examine the legality and efficacy of line-item veto proposals, 10 a.m., SD–226.

Committee on Small Business and Entrepreneurship: business meeting to consider the nomination of Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration, Time to be announced, Room to be announced.

Special Committee on Aging: to hold hearings to examine dietary supplements, focusing on what seniors need to know, 2 p.m., SD–562.

House

Committee on Energy and Commerce, to consider the following measures: H.R. 4805, Formaldehyde Standards for Composite Wood Products Act; the Motor Vehicle Safety Act; and H.R. 5320, Assistance, Quality, and Affordability Act of 2010, 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, hearing entitled ''FHFA Oversight: Current State of the Housing Government Sponsored Enterprises,'' 2 p.m., 2128 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled ''Anti-Money Laundering: Blocking Terrorist Financing and Its Impact on Lawful Charities,'' 10 a.m., 2128 Rayburn.

Committee on Homeland Security, Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, hearing entitled ''Internet Terror Recruitment and Tradecraft: How Can We Address an Evolving Tool While Protecting Free Speech?'' 10 a.m., 311 Cannon.

Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, hearing on United States v. Stevens: The Supreme Court's Decision Invalidating the Crush Video Statute, 10 a.m., 2141 Rayburn.

Committee on Natural Resources, oversight hearing entitled ''Outer Continental Shelf Oil and Gas Strategy and Implications of the Deepwater Horizon Rig Explosion,'' 10 a.m., 1324 Longworth.

Committee on Oversight and Government Reform, Subcommittee on Domestic Policy, hearing entitled ''Assessing EPA's Efforts to Measure and Reduce Mercury Pollution from Dentist Offices,'' 2 p.m., 2154 Rayburn.

Committee on Rules, to consider H.R. 5136, National Defense Authorization Act for Fiscal Year 2011, 1 p.m., H–313 Capitol, 2 p.m., H–313 Capitol.

Committee on Science and Technology, hearing to review the Proposed National Aeronautics and Space Administrations Human Spaceflight Plan, 10 a.m., 2318 Rayburn.

Committee on Small Business, hearing entitled ''Heroes of Small Business,'' 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, hearing on Recovery Act: Progress Reports for Infrastructure Investments, 10 a.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence, executive, briefing on Hot Spots, 1 p.m., 304–HVC.

Joint Meetings

Joint Economic Committee: to hold hearings to examine how to minimize the impact of the great recession on young workers, 10 a.m., 210, Cannon Building.

Next Meeting of the SENATE

9:30 a.m., Wednesday, May 26

Senate Chamber

Program for Wednesday: Senate will continue consideration of H.R. 4899, Emergency Supplemental Appropriations Act, with the filing deadline for all first-degree amendments at 1 p.m.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, May 26

House Chamber

Program for Wednesday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Aderholt, Robert B., Ala., E926
Adler, John H., N.J., E928, E931, E938
Boozman, John, Ark., E926
Boswell, Leonard L., Iowa, E932
Burgess, Michael C., Tex., E927
Cantor, Eric, Va., E925
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