

1 **TITLE VI—IMPROVEMENTS TO**
2 **REGULATION OF BANK AND**
3 **SAVINGS ASSOCIATION HOLD-**
4 **ING COMPANIES AND DEPOSI-**
5 **TORY INSTITUTIONS**

6 **SEC. 601. SHORT TITLE.**

7 This title may be cited as the “Bank and Savings
8 Association Holding Company and Depository Institution
9 Regulatory Improvements Act of 2010”.

10 **SEC. 602. DEFINITION.**

11 For purposes of this title, a company is a “commer-
12 cial firm” if the annual gross revenues derived by the com-
13 pany and all of its affiliates from activities that are finan-
14 cial in nature (as defined in section 4(k) of the Bank
15 Holding Company Act of 1956 (12 U.S.C. 1843(k))) and,
16 if applicable, from the ownership or control of one or more
17 insured depository institutions, represent less than 15 per-
18 cent of the consolidated annual gross revenues of the com-
19 pany.

1 **SEC. 603. MORATORIUM AND STUDY ON TREATMENT OF**
2 **CREDIT CARD BANKS, INDUSTRIAL LOAN**
3 **COMPANIES, AND CERTAIN OTHER COMPA-**
4 **NIES UNDER THE BANK HOLDING COMPANY**
5 **ACT OF 1956.**

6 (a) MORATORIUM.—

7 (1) DEFINITIONS.—In this subsection—

8 (A) the term “credit card bank” means an
9 institution described in section 2(c)(2)(F) of the
10 Bank Holding Company Act of 1956 (12
11 U.S.C. 1841(c)(2)(F));

12 (B) the term “industrial bank” means an
13 institution described in section 2(c)(2)(H) of
14 the Bank Holding Company Act of 1956 (12
15 U.S.C. 1841(c)(2)(H)); and

16 (C) the term “trust bank” means an insti-
17 tution described in section 2(c)(2)(D) of the
18 Bank Holding Company Act of 1956 (12
19 U.S.C. 1841(c)(2)(D)).

20 (2) MORATORIUM ON PROVISION OF DEPOSIT
21 INSURANCE.—The Corporation may not approve an
22 application for deposit insurance under section 5 of
23 the Federal Deposit Insurance Act (12 U.S.C. 1815)
24 that is received after November 23, 2009, for an in-
25 dustrial bank, a credit card bank, or a trust bank

1 that is directly or indirectly owned or controlled by
2 a commercial firm.

3 (3) CHANGE IN CONTROL.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the appropriate Federal
6 banking agency shall disapprove a change in
7 control, as provided in section 7(j) of the Fed-
8 eral Deposit Insurance Act (12 U.S.C. 1817(j)),
9 of an industrial bank, a credit card bank, or a
10 trust bank if the change in control would result
11 in direct or indirect control of the industrial
12 bank, credit card bank, or trust bank by a com-
13 mercial firm.

14 (B) EXCEPTIONS.—Subparagraph (A)
15 shall not apply to a change in control of an in-
16 dustrial bank, credit card bank, or trust bank—

17 (i) that—

18 (I) is in danger of default, as de-
19 termined by the appropriate Federal
20 banking agency;

21 (II) results from the merger or
22 whole acquisition of a commercial firm
23 that directly or indirectly controls the
24 industrial bank, credit card bank, or
25 trust bank in a bona fide merger with

1 or acquisition by another commercial
2 firm, as determined by the appro-
3 priate Federal banking agency; or

4 (III) results from an acquisition
5 of voting shares of a publicly traded
6 company that controls an industrial
7 bank, credit card bank, or trust bank,
8 if, after the acquisition, the acquiring
9 shareholder (or group of shareholders
10 acting in concert) holds less than 25
11 percent of any class of the voting
12 shares of the company; and

13 (ii) that has obtained all regulatory
14 approvals otherwise required for such
15 change of control under any applicable
16 Federal or State law, including section 7(j)
17 of the Federal Deposit Insurance Act (12
18 U.S.C. 1817(j)).

19 (4) SUNSET.—This subsection shall cease to
20 have effect 3 years after the date of enactment of
21 this Act.

22 (b) GOVERNMENT ACCOUNTABILITY OFFICE STUDY
23 OF EXCEPTIONS UNDER THE BANK HOLDING COMPANY
24 ACT OF 1956.—

1 (1) STUDY REQUIRED.—The Comptroller Gen-
2 eral of the United States shall carry out a study to
3 determine whether it is necessary, in order to
4 strengthen the safety and soundness of institutions
5 or the stability of the financial system, to eliminate
6 the exceptions under section 2 of the Bank Holding
7 Company Act of 1956 (12 U.S.C. 1841) for institu-
8 tions described in—

9 (A) section 2(a)(5)(E) of the Bank Hold-
10 ing Company Act of 1956 (12 U.S.C.
11 1841(a)(5)(E));

12 (B) section 2(a)(5)(F) of the Bank Hold-
13 ing Company Act of 1956 (12 U.S.C.
14 1841(a)(5)(F));

15 (C) section 2(c)(2)(D) of the Bank Hold-
16 ing Company Act of 1956 (12 U.S.C.
17 1841(c)(2)(D));

18 (D) section 2(c)(2)(F) of the Bank Hold-
19 ing Company Act of 1956 (12 U.S.C.
20 1841(c)(2)(F));

21 (E) section 2(c)(2)(H) of the Bank Hold-
22 ing Company Act of 1956 (12 U.S.C.
23 1841(c)(2)(H)); and

1 (F) section 2(c)(2)(B) of the Bank Hold-
2 ing Company Act of 1956 (12 U.S.C.
3 1841(c)(2)(B)).

4 (2) CONTENT OF STUDY.—

5 (A) IN GENERAL.—The study required
6 under paragraph (1), with respect to the insti-
7 tutions referenced in each of subparagraphs (A)
8 through (E) of paragraph (1), shall, to the ex-
9 tent feasible be based on information provided
10 to the Comptroller General by the appropriate
11 Federal or State regulator, and shall—

12 (i) identify the types and number of
13 institutions excepted from section 2 of the
14 Bank Holding Company Act of 1956 (12
15 U.S.C. 1841) under each of the subpara-
16 graphs described in subparagraphs (A)
17 through (E) of paragraph (1);

18 (ii) generally describe the size and ge-
19 ographic locations of the institutions de-
20 scribed in clause (i);

21 (iii) determine the extent to which the
22 institutions described in clause (i) are held
23 by holding companies that are commercial
24 firms;

1 (iv) determine whether the institutions
2 described in clause (i) have any affiliates
3 that are commercial firms;

4 (v) identify the Federal banking agen-
5 cy responsible for the supervision of the in-
6 stitutions described in clause (i) on and
7 after the transfer date;

8 (vi) determine the adequacy of the
9 Federal bank regulatory framework appli-
10 cable to each category of institution de-
11 scribed in clause (i), including any restric-
12 tions (including limitations on affiliate
13 transactions or cross-marketing) that apply
14 to transactions between an institution, the
15 holding company of the institution, and
16 any other affiliate of the institution; and

17 (vii) evaluate the potential con-
18 sequences of subjecting the institutions de-
19 scribed in clause (i) to the requirements of
20 the Bank Holding Company Act of 1956,
21 including with respect to the availability
22 and allocation of credit, the stability of the
23 financial system and the economy, the safe
24 and sound operation of each category of
25 institution, and the impact on the types of

1 activities in which such institutions, and
2 the holding companies of such institutions,
3 may engage.

4 (B) SAVINGS ASSOCIATIONS.—With respect
5 to institutions described in paragraph (1)(F),
6 the study required under paragraph (1) shall—

7 (i) determine the adequacy of the
8 Federal bank regulatory framework appli-
9 cable to such institutions, including any re-
10 strictions (including limitations on affiliate
11 transactions or cross-marketing) that apply
12 to transactions between an institution, the
13 holding company of the institution, and
14 any other affiliate of the institution; and

15 (ii) evaluate the potential con-
16 sequences of subjecting the institutions de-
17 scribed in paragraph (1)(F) to the require-
18 ments of the Bank Holding Company Act
19 of 1956, including with respect to the
20 availability and allocation of credit, the
21 stability of the financial system and the
22 economy, the safe and sound operation of
23 such institutions, and the impact on the
24 types of activities in which such institu-

1 “(III) other than in the case of
2 an insured depository institution or
3 functionally regulated subsidiary, any
4 other applicable provision of Federal
5 law.”;

6 (2) by striking subparagraph (B) and inserting
7 the following:

8 “(B) USE OF EXISTING REPORTS AND
9 OTHER SUPERVISORY INFORMATION.—The
10 Board shall, to the fullest extent possible, use—

11 “(i) reports and other supervisory in-
12 formation that the bank holding company
13 or any subsidiary thereof has been required
14 to provide to other Federal or State regu-
15 latory agencies;

16 “(ii) externally audited financial state-
17 ments of the bank holding company or
18 subsidiary;

19 “(iii) information otherwise available
20 from Federal or State regulatory agencies;
21 and

22 “(iv) information that is otherwise re-
23 quired to be reported publicly.”; and

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

1 “(C) AVAILABILITY.—Upon the request of
2 the Board, the bank holding company or a sub-
3 sidiary of the bank holding company shall
4 promptly provide to the Board any information
5 described in clauses (i) through (iii) of subpara-
6 graph (B).”.

7 (b) EXAMINATIONS OF BANK HOLDING COMPA-
8 NIES.—Section 5(c)(2) of the Bank Holding Company Act
9 of 1956 (12 U.S.C. 1844(c)(2)) is amended to read as
10 follows:

11 “(2) EXAMINATIONS.—

12 “(A) IN GENERAL.—Subject to subtitle B
13 of the Consumer Financial Protection Act of
14 2010, the Board may make examinations of a
15 bank holding company and each subsidiary of a
16 bank holding company in order to—

17 “(i) inform the Board of—

18 “(I) the nature of the operations
19 and financial condition of the bank
20 holding company and the subsidiary;

21 “(II) the financial, operational,
22 and other risks within the bank hold-
23 ing company system that may pose a
24 threat to—

1 “(aa) the safety and sound-
2 ness of the bank holding com-
3 pany or of any depository institu-
4 tion subsidiary of the bank hold-
5 ing company; or

6 “(bb) the stability of the fi-
7 nancial system of the United
8 States; and

9 “(III) the systems of the bank
10 holding company for monitoring and
11 controlling the risks described in sub-
12 clause (II); and

13 “(ii) monitor the compliance of the
14 bank holding company and the subsidiary
15 with—

16 “(I) this Act;

17 “(II) Federal laws that the
18 Board has specific jurisdiction to en-
19 force against the company or sub-
20 sidiary; and

21 “(III) other than in the case of
22 an insured depository institution or
23 functionally regulated subsidiary, any
24 other applicable provisions of Federal
25 law.

1 “(B) USE OF REPORTS TO REDUCE EXAMI-
2 NATIONS.—For purposes of this paragraph, the
3 Board shall, to the fullest extent possible, rely
4 on—

5 “(i) examination reports made by
6 other Federal or State regulatory agencies
7 relating to a bank holding company and
8 any subsidiary of a bank holding company;
9 and

10 “(ii) the reports and other informa-
11 tion required under paragraph (1).

12 “(C) COORDINATION WITH OTHER REGU-
13 LATORS.—The Board shall—

14 “(i) provide reasonable notice to, and
15 consult with, the appropriate Federal
16 banking agency, the Securities and Ex-
17 change Commission, the Commodity Fu-
18 tures Trading Commission, or State regu-
19 latory agency, as appropriate, for a sub-
20 sidiary that is a depository institution or a
21 functionally regulated subsidiary of a bank
22 holding company before commencing an ex-
23 amination of the subsidiary under this sec-
24 tion; and

1 “(ii) to the fullest extent possible,
2 avoid duplication of examination activities,
3 reporting requirements, and requests for
4 information.”.

5 (c) AUTHORITY TO REGULATE FUNCTIONALLY REG-
6 ULATED SUBSIDIARIES OF BANK HOLDING COMPA-
7 NIES.—The Bank Holding Company Act of 1956 (12
8 U.S.C. 1841 et seq.) is amended—

9 (1) in section 5(c)(5)(B) (12 U.S.C.
10 1844(c)(5)(B)), by striking clause (v) and inserting
11 the following:

12 “(v) an entity that is subject to regu-
13 lation by, or registration with, the Com-
14 modity Futures Trading Commission, with
15 respect to activities conducted as a futures
16 commission merchant, commodity trading
17 adviser, commodity pool, commodity pool
18 operator, swap execution facility, swap
19 data repository, swap dealer, major swap
20 participant, and activities that are inci-
21 dental to such commodities and swaps ac-
22 tivities.”; and

23 (2) by striking section 10A (12 U.S.C. 1848a).

1 (d) ACQUISITIONS OF BANKS.—Section 3(c) of the
2 Bank Holding Company Act of 1956 (12 U.S.C. 1842(e))
3 is amended by adding at the end the following:

4 “(7) FINANCIAL STABILITY.—In every case, the
5 Board shall take into consideration the extent to
6 which a proposed acquisition, merger, or consolida-
7 tion would result in greater or more concentrated
8 risks to the stability of the United States banking or
9 financial system.”.

10 (e) ACQUISITIONS OF NONBANKS.—

11 (1) NOTICE PROCEDURES.—Section 4(j)(2)(A)
12 of the Bank Holding Company Act of 1956 (12
13 U.S.C. 1843(j)(2)(A)) is amended by striking “or
14 unsound banking practices” and inserting “unsound
15 banking practices, or risk to the stability of the
16 United States banking or financial system”.

17 (2) ACTIVITIES THAT ARE FINANCIAL IN NA-
18 TURE.—Section 4(k)(6)(B) of the Bank Holding
19 Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)) is
20 amended to read as follows:

21 “(B) APPROVAL NOT REQUIRED FOR CER-
22 TAIN FINANCIAL ACTIVITIES.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in subsection (j) with regard to the
25 acquisition of a savings association and

1 clause (ii), a financial holding company
2 may commence any activity, or acquire any
3 company, pursuant to paragraph (4) or
4 any regulation prescribed or order issued
5 under paragraph (5), without prior ap-
6 proval of the Board.

7 “(ii) EXCEPTION.—A financial hold-
8 ing company may not acquire a company,
9 without the prior approval of the Board, in
10 a transaction in which the total consoli-
11 dated assets to be acquired by the financial
12 holding company exceed \$10,000,000,000.

13 “(iii) HART-SCOTT-RODINO FILING
14 REQUIREMENT.—Solely for purposes of
15 section 7A(c)(8) of the Clayton Act (15
16 U.S.C. 18a(c)(8)), the transactions subject
17 to the requirements of this paragraph shall
18 be treated as if the approval of the Board
19 is not required.”.

20 (f) BANK MERGER ACT TRANSACTIONS.—Section
21 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C.
22 1828(c)(5)) is amended, in the matter immediately fol-
23 lowing subparagraph (B), by striking “and the conven-
24 ience and needs of the community to be served” and in-
25 serting “the convenience and needs of the community to

1 be served, and the risk to the stability of the United States
2 banking or financial system”.

3 (g) REPORTS BY SAVINGS AND LOAN HOLDING COM-
4 PANIES.—Section 10(b)(2) of the Home Owners’ Loan Act
5 (12 U.S.C. 1467a(b)(2) is amended—

6 (1) by striking “Each savings” and inserting
7 the following:

8 “(A) IN GENERAL.—Each savings”; and

9 (2) by adding at the end the following:

10 “(B) USE OF EXISTING REPORTS AND
11 OTHER SUPERVISORY INFORMATION.—The
12 Board shall, to the fullest extent possible, use—

13 “(i) reports and other supervisory in-
14 formation that the savings and loan hold-
15 ing company or any subsidiary thereof has
16 been required to provide to other Federal
17 or State regulatory agencies;

18 “(ii) externally audited financial state-
19 ments of the savings and loan holding com-
20 pany or subsidiary;

21 “(iii) information that is otherwise
22 available from Federal or State regulatory
23 agencies; and

24 “(iv) information that is otherwise re-
25 quired to be reported publicly.

1 “(C) AVAILABILITY.—Upon the request of
2 the Board, a savings and loan holding company
3 or a subsidiary of a savings and loan holding
4 company shall promptly provide to the Board
5 any information described in clauses (i) through
6 (iii) of subparagraph (B).”.

7 (h) EXAMINATION OF SAVINGS AND LOAN HOLDING
8 COMPANIES.—

9 (1) DEFINITIONS.—Section 2 of the Home
10 Owners’ Loan Act (12 U.S.C. 1462) is amended by
11 adding at the end the following:

12 “(10) APPROPRIATE FEDERAL BANKING AGEN-
13 CY.—The term ‘appropriate Federal banking agency’
14 has the same meaning as in section 3(q) of the Fed-
15 eral Deposit Insurance Act (12 U.S.C. 1813(q)).

16 “(11) FUNCTIONALLY REGULATED SUB-
17 SIDIARY.—The term ‘functionally regulated sub-
18 sidiary’ has the same meaning as in section 5(c)(5)
19 of the Bank Holding Company Act of 1956 (12
20 U.S.C. 1844(c)(5)).”.

21 (2) EXAMINATION.—Section 10(b) of the Home
22 Owners’ Loan Act (12 U.S.C. 1467a(b)) is amended
23 by striking paragraph (4) and inserting the fol-
24 lowing:

25 “(4) EXAMINATIONS.—

1 “(A) IN GENERAL.—Subject to subtitle B
2 of the Consumer Financial Protection Act of
3 2010, the Board may make examinations of a
4 savings and loan holding company and each
5 subsidiary of a savings and loan holding com-
6 pany system, in order to—

7 “(i) inform the Board of—

8 “(I) the nature of the operations
9 and financial condition of the savings
10 and loan holding company and the
11 subsidiary;

12 “(II) the financial, operational,
13 and other risks within the savings and
14 loan holding company system that
15 may pose a threat to—

16 “(aa) the safety and sound-
17 ness of the savings and loan
18 holding company or of any depos-
19 itory institution subsidiary of the
20 savings and loan holding com-
21 pany; or

22 “(bb) the stability of the fi-
23 nancial system of the United
24 States; and

1 “(III) the systems of the savings
2 and loan holding company for moni-
3 toring and controlling the risks de-
4 scribed in subclause (II); and

5 “(ii) monitor the compliance of the
6 savings and loan holding company and the
7 subsidiary with—

8 “(I) this Act;

9 “(II) Federal laws that the
10 Board has specific jurisdiction to en-
11 force against the company or sub-
12 sidiary; and

13 “(III) other than in the case of
14 an insured depository institution or
15 functionally regulated subsidiary, any
16 other applicable provisions of Federal
17 law.

18 “(B) USE OF REPORTS TO REDUCE EXAMI-
19 NATIONS.—For purposes of this subsection, the
20 Board shall, to the fullest extent possible, rely
21 on—

22 “(i) the examination reports made by
23 other Federal or State regulatory agencies
24 relating to a savings and loan holding com-
25 pany and any subsidiary; and

1 “(ii) the reports and other informa-
2 tion required under paragraph (2).

3 “(C) COORDINATION WITH OTHER REGU-
4 LATORS.—The Board shall—

5 “(i) provide reasonable notice to, and
6 consult with, the appropriate Federal
7 banking agency, the Securities and Ex-
8 change Commission, the Commodity Fu-
9 tures Trading Commission, or State regu-
10 latory agency, as appropriate, for a sub-
11 sidiary that is a depository institution or a
12 functionally regulated subsidiary of a sav-
13 ings and loan holding company before com-
14 mencing an examination of the subsidiary
15 under this section; and

16 “(ii) to the fullest extent possible,
17 avoid duplication of examination activities,
18 reporting requirements, and requests for
19 information.”.

20 (i) DEFINITION OF THE TERM “SAVINGS AND LOAN
21 HOLDING COMPANY”.—Section 10(a)(1)(D)(ii) of the
22 Home Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(D)(ii))
23 is amended to read as follows:

1 “(ii) EXCLUSION.—The term ‘savings
2 and loan holding company’ does not in-
3 clude—

4 “(I) a bank holding company
5 that is registered under, and subject
6 to, the Bank Holding Company Act of
7 1956 (12 U.S.C. 1841 et seq.), or to
8 any company directly or indirectly
9 controlled by such company (other
10 than a savings association);

11 “(II) a company that controls a
12 savings association that functions
13 solely in a trust or fiduciary capacity
14 as described in section 2(c)(2)(D) of
15 the Bank Holding Company Act of
16 1956 (12 U.S.C. 1841(c)(2)(D)); or

17 “(III) a company described in
18 subsection (c)(9)(C) solely by virtue of
19 such company’s control of an inter-
20 mediate holding company established
21 pursuant to section 10A.”.

22 (j) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the transfer date.

1 **SEC. 605. ASSURING CONSISTENT OVERSIGHT OF PERMIS-**
2 **SIBLE ACTIVITIES OF DEPOSITORY INSTITU-**
3 **TION SUBSIDIARIES OF HOLDING COMPA-**
4 **NIES.**

5 (a) IN GENERAL.—The Federal Deposit Insurance
6 Act (12 U.S.C. 1811 et seq.) is amended by inserting after
7 section 25 the following new section:

8 **“SEC. 26. ASSURING CONSISTENT OVERSIGHT OF SUBSIDI-**
9 **ARIES OF HOLDING COMPANIES.**

10 “(a) DEFINITIONS.—For purposes of this section:

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

13 “(2) FUNCTIONALLY REGULATED SUB-
14 SIDIARY.—The term ‘functionally regulated sub-
15 sidiary’ has the same meaning as in section 5(e)(5)
16 of the Bank Holding Company Act.

17 “(3) LEAD INSURED DEPOSITORY INSTITU-
18 TION.—The term ‘lead insured depository institu-
19 tion’ has the same meaning as in section 2(o)(8) of
20 the Bank Holding Company Act.

21 “(b) EXAMINATION REQUIREMENTS.—Subject to
22 subtitle B of the Consumer Financial Protection Act of
23 2010, the Board shall examine the activities of a non-
24 depository institution subsidiary (other than a functionally
25 regulated subsidiary or a subsidiary of a depository insti-
26 tution) of a depository institution holding company that

1 are permissible for the insured depository institution sub-
2 sidiaries of the depository institution holding company in
3 the same manner, subject to the same standards, and with
4 the same frequency as would be required if such activities
5 were conducted in the lead insured depository institution
6 of the depository institution holding company.

7 “(c) STATE COORDINATION.—

8 “(1) CONSULTATION AND COORDINATION.—If a
9 nondepository institution subsidiary is supervised by
10 a State bank supervisor or other State regulatory
11 authority, the Board, in conducting the examinations
12 required in subsection (b), shall consult and coordi-
13 nate with such State regulator.

14 “(2) ALTERNATING EXAMINATIONS PER-
15 MITTED.—The examinations required under sub-
16 section (b) may be conducted in joint or alternating
17 manner with a State regulator, if the Board deter-
18 mines that an examination of a nondepository insti-
19 tution subsidiary conducted by the State carries out
20 the purposes of this section.

21 “(d) APPROPRIATE FEDERAL BANKING AGENCY
22 BACKUP EXAMINATION AUTHORITY.—

23 “(1) IN GENERAL.—In the event that the
24 Board does not conduct examinations required under
25 subsection (b) in the same manner, subject to the

1 same standards, and with the same frequency as
2 would be required if such activities were conducted
3 by the lead insured depository institution subsidiary
4 of the depository institution holding company, the
5 appropriate Federal banking agency for the lead in-
6 sured depository institution may recommend in writ-
7 ing (which shall include a written explanation of the
8 concerns giving rise to the recommendation) that the
9 Board perform the examination required under sub-
10 section (b).

11 “(2) EXAMINATION BY AN APPROPRIATE FED-
12 ERAL BANKING AGENCY.—If the Board does not, be-
13 fore the end of the 60-day period beginning on the
14 date on which the Board receives a recommendation
15 under paragraph (1), begin an examination as re-
16 quired under subsection (b) or provide a written ex-
17 planation or plan to the appropriate Federal banking
18 agency making such recommendation responding to
19 the concerns raised by the appropriate Federal
20 banking agency for the lead insured depository insti-
21 tution, the appropriate Federal banking agency for
22 the lead insured depository institution may, subject
23 to the Consumer Financial Protection Act of 2010,
24 examine the activities that are permissible for a de-
25 pository institution subsidiary conducted by such

1 nondepository institution subsidiary (other than a
2 functionally regulated subsidiary or a subsidiary of
3 a depository institution) of the depository institution
4 holding company as if the nondepository institution
5 subsidiary were an insured depository institution for
6 which the appropriate Federal banking agency of the
7 lead insured depository institution was the appro-
8 priate Federal banking agency, to determine whether
9 the activities—

10 “(A) pose a material threat to the safety
11 and soundness of any insured depository insti-
12 tution subsidiary of the depository institution
13 holding company;

14 “(B) are conducted in accordance with ap-
15 plicable Federal law; and

16 “(C) are subject to appropriate systems for
17 monitoring and controlling the financial, oper-
18 ating, and other material risks of the activities
19 that may pose a material threat to the safety
20 and soundness of the insured depository institu-
21 tion subsidiaries of the holding company.

22 “(3) AGENCY COORDINATION WITH THE
23 BOARD.—An appropriate Federal banking agency
24 that conducts an examination pursuant to paragraph
25 (2) shall coordinate examination of the activities of

1 nondepository institution subsidiaries described in
2 subsection (b) with the Board in a manner that—

3 “(A) avoids duplication;

4 “(B) shares information relevant to the su-
5 pervision of the depository institution holding
6 company;

7 “(C) achieves the objectives of subsection
8 (b); and

9 “(D) ensures that the depository institu-
10 tion holding company and the subsidiaries of
11 the depository institution holding company are
12 not subject to conflicting supervisory demands
13 by such agency and the Board.

14 “(4) FEE PERMITTED FOR EXAMINATION
15 COSTS.—An appropriate Federal banking agency
16 that conducts an examination or enforcement action
17 pursuant to this section may collect an assessment,
18 fee, or such other charge from the subsidiary as the
19 appropriate Federal banking agency determines nec-
20 essary or appropriate to carry out the responsibil-
21 ities of the appropriate Federal banking agency in
22 connection with such examination.

23 “(e) REFERRALS FOR ENFORCEMENT BY APPRO-
24 PRIATE FEDERAL BANKING AGENCY.—

1 “(1) RECOMMENDATION OF ENFORCEMENT AC-
2 TION.—The appropriate Federal banking agency for
3 the lead insured depository institution, based upon
4 its examination of a nondepository institution sub-
5 sidiary conducted pursuant to subsection (d), or
6 other relevant information, may submit to the
7 Board, in writing, a recommendation that the Board
8 take enforcement action against such nondepository
9 institution subsidiary, together with an explanation
10 of the concerns giving rise to the recommendation,
11 if the appropriate Federal banking agency deter-
12 mines (by a vote of its members, if applicable) that
13 the activities of the nondepository institution sub-
14 sidiary pose a material threat to the safety and
15 soundness of any insured depository institution sub-
16 sidiary of the depository institution holding com-
17 pany.

18 “(2) BACK-UP AUTHORITY OF THE APPRO-
19 PRIATE FEDERAL BANKING AGENCY.—If, within the
20 60-day period beginning on the date on which the
21 Board receives a recommendation under paragraph
22 (1), the Board does not take enforcement action
23 against the nondepository institution subsidiary or
24 provide a plan for supervisory or enforcement action
25 that is acceptable to the appropriate Federal bank-

1 ing agency that made the recommendation pursuant
2 to paragraph (1), such agency may take the rec-
3 ommended enforcement action against the non-
4 depository institution subsidiary, in the same man-
5 ner as if the nondepository institution subsidiary
6 were an insured depository institution for which the
7 agency was the appropriate Federal banking agency.

8 “(f) COORDINATION AMONG APPROPRIATE FEDERAL
9 BANKING AGENCIES.—Each Federal banking agency,
10 prior to or when exercising authority under subsection (d)
11 or (e) shall—

12 “(1) provide reasonable notice to, and consult
13 with, the appropriate Federal banking agency or
14 State bank supervisor (or other State regulatory
15 agency) of the nondepository institution subsidiary
16 of a depository institution holding company that is
17 described in subsection (d) before commencing any
18 examination of the subsidiary;

19 “(2) to the fullest extent possible—

20 “(A) rely on the examinations, inspections,
21 and reports of the appropriate Federal banking
22 agency or the State bank supervisor (or other
23 State regulatory agency) of the subsidiary;

1 U.S.C. 2903(c)) as if the savings and loan
2 holding company was a bank holding com-
3 pany; and

4 “(ii) the savings and loan holding
5 company conducts the activity in accord-
6 ance with the same terms, conditions, and
7 requirements that apply to the conduct of
8 such activity by a bank holding company
9 under the Bank Holding Company Act of
10 1956 and the Board’s regulations and in-
11 terpretations under such Act.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the transfer date.

14 **SEC. 607. STANDARDS FOR INTERSTATE ACQUISITIONS.**

15 (a) ACQUISITION OF BANKS.—Section 3(d)(1)(A) of
16 the Bank Holding Company Act of 1956 (12 U.S.C.
17 1842(d)(1)(A)) is amended by striking “adequately cap-
18 italized and adequately managed” and inserting “well cap-
19 italized and well managed”.

20 (b) INTERSTATE BANK MERGERS.—Section
21 44(b)(4)(B) of the Federal Deposit Insurance Act (12
22 U.S.C. 1831u(b)(4)(B)) is amended by striking “will con-
23 tinue to be adequately capitalized and adequately man-
24 aged” and inserting “will be well capitalized and well man-
25 aged”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the transfer date.

3 **SEC. 608. ENHANCING EXISTING RESTRICTIONS ON BANK**
4 **TRANSACTIONS WITH AFFILIATES.**

5 (a) AFFILIATE TRANSACTIONS.—Section 23A of the
6 Federal Reserve Act (12 U.S.C. 371c) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (1), by striking subpara-
9 graph (D) and inserting the following:

10 “(D) any investment fund with respect to
11 which a member bank or affiliate thereof is an
12 investment adviser; and”;

13 (B) in paragraph (7)—

14 (i) in subparagraph (A), by inserting
15 before the semicolon at the end the fol-
16 lowing: “, including a purchase of assets
17 subject to an agreement to repurchase”;

18 (ii) in subparagraph (C), by striking
19 “, including assets subject to an agreement
20 to repurchase,”;

21 (iii) in subparagraph (D)—

22 (I) by inserting “or other debt
23 obligations” after “acceptance of secu-
24 rities”; and

1 (II) by striking “or” at the end;

2 and

3 (iv) by adding at the end the fol-
4 lowing:

5 “(F) a transaction with an affiliate that
6 involves the borrowing or lending of securities,
7 to the extent that the transaction causes a
8 member bank or a subsidiary to have credit ex-
9 posure to the affiliate; or

10 “(G) a derivative transaction, as defined in
11 paragraph (3) of section 5200(b) of the Revised
12 Statutes of the United States (12 U.S.C.
13 84(b)), with an affiliate, to the extent that the
14 transaction causes a member bank or a sub-
15 sidiary to have credit exposure to the affiliate;”;
16 (2) in subsection (c)—

17 (A) in paragraph (1)—

18 (i) in the matter preceding subpara-
19 graph (A), by striking “subsidiary” and all
20 that follows through “time of the trans-
21 action” and inserting “subsidiary, and any
22 credit exposure of a member bank or a
23 subsidiary to an affiliate resulting from a
24 securities borrowing or lending transaction,

1 or a derivative transaction, shall be se-
2 cured at all times”; and

3 (ii) in each of subparagraphs (A)
4 through (D), by striking “or letter of cred-
5 it” and inserting “letter of credit, or credit
6 exposure”;

7 (B) by striking paragraph (2);

8 (C) by redesignating paragraphs (3)
9 through (5) as paragraphs (2) through (4), re-
10 spectively;

11 (D) in paragraph (2), as so redesignated,
12 by inserting before the period at the end “, or
13 credit exposure to an affiliate resulting from a
14 securities borrowing or lending transaction, or
15 derivative transaction”; and

16 (E) in paragraph (3), as so redesignated—

17 (i) by inserting “or other debt obliga-
18 tions” after “securities”; and

19 (ii) by striking “or guarantee” and all
20 that follows through “behalf of,” and in-
21 sserting “guarantee, acceptance, or letter of
22 credit issued on behalf of, or credit expo-
23 sure from a securities borrowing or lending
24 transaction, or derivative transaction to,”;

1 (3) in subsection (d)(4), in the matter pre-
2 ceding subparagraph (A), by striking “or issuing”
3 and all that follows through “behalf of,” and insert-
4 ing “issuing a guarantee, acceptance, or letter of
5 credit on behalf of, or having credit exposure result-
6 ing from a securities borrowing or lending trans-
7 action, or derivative transaction to,”; and

8 (4) in subsection (f)—

9 (A) in paragraph (2)—

10 (i) by striking “or order”;

11 (ii) by striking “if it finds” and all
12 that follows through the end of the para-
13 graph and inserting the following: “if—

14 “(i) the Board finds the exemption to
15 be in the public interest and consistent
16 with the purposes of this section, and noti-
17 fies the Federal Deposit Insurance Cor-
18 poration of such finding; and

19 “(ii) before the end of the 60-day pe-
20 riod beginning on the date on which the
21 Federal Deposit Insurance Corporation re-
22 ceives notice of the finding under clause
23 (i), the Federal Deposit Insurance Cor-
24 poration does not object, in writing, to the
25 finding, based on a determination that the

1 exemption presents an unacceptable risk to
2 the Deposit Insurance Fund.”;

3 (iii) by striking the Board and insert-
4 ing the following:

5 “(A) IN GENERAL.—The Board”; and

6 (iv) by adding at the end the fol-
7 lowing:

8 “(B) ADDITIONAL EXEMPTIONS.—

9 “(i) NATIONAL BANKS.—The Comp-
10 troller of the Currency may, by order, ex-
11 empt a transaction of a national bank from
12 the requirements of this section if—

13 “(I) the Board and the Office of
14 the Comptroller of the Currency joint-
15 ly find the exemption to be in the
16 public interest and consistent with the
17 purposes of this section and notify the
18 Federal Deposit Insurance Corpora-
19 tion of such finding; and

20 “(II) before the end of the 60-
21 day period beginning on the date on
22 which the Federal Deposit Insurance
23 Corporation receives notice of the
24 finding under subclause (I), the Fed-
25 eral Deposit Insurance Corporation

1 does not object, in writing, to the
2 finding, based on a determination that
3 the exemption presents an unaccept-
4 able risk to the Deposit Insurance
5 Fund.

6 “(ii) STATE BANKS.—The Federal
7 Deposit Insurance Corporation may, by
8 order, exempt a transaction of a State non-
9 member bank, and the Board may, by
10 order, exempt a transaction of a State
11 member bank, from the requirements of
12 this section if—

13 “(I) the Board and the Federal
14 Deposit Insurance Corporation jointly
15 find that the exemption is in the pub-
16 lic interest and consistent with the
17 purposes of this section; and

18 “(II) the Federal Deposit Insur-
19 ance Corporation finds that the ex-
20 emption does not present an unaccept-
21 able risk to the Deposit Insurance
22 Fund.”; and

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

24 “(4) AMOUNTS OF COVERED TRANSACTIONS.—

25 The Board may issue such regulations or interpreta-

1 tions as the Board determines are necessary or ap-
2 propriate with respect to the manner in which a net-
3 ting agreement may be taken into account in deter-
4 mining the amount of a covered transaction between
5 a member bank or a subsidiary and an affiliate, in-
6 cluding the extent to which netting agreements be-
7 tween a member bank or a subsidiary and an affil-
8 iate may be taken into account in determining
9 whether a covered transaction is fully secured for
10 purposes of subsection (d)(4). An interpretation
11 under this paragraph with respect to a specific mem-
12 ber bank, subsidiary, or affiliate shall be issued
13 jointly with the appropriate Federal banking agency
14 for such member bank, subsidiary, or affiliate.”.

15 (b) TRANSACTIONS WITH AFFILIATES.—Section
16 23B(e) of the Federal Reserve Act (12 U.S.C. 371c–1(e))
17 is amended—

18 (1) by striking the undesignated matter fol-
19 lowing subparagraph (B);

20 (2) by redesignating subparagraphs (A) and
21 (B) as clauses (i) and (ii), respectively, and adjust-
22 ing the clause margins accordingly;

23 (3) by redesignating paragraphs (1) and (2) as
24 subparagraphs (A) and (B), respectively, and adjust-
25 ing the subparagraph margins accordingly;

1 (4) by striking “The Board” and inserting the
2 following:

3 “(1) IN GENERAL.—The Board”;

4 (5) in paragraph (1)(B), as so redesignated—

5 (A) in the matter preceding clause (i), by
6 inserting before “regulations” the following:
7 “subject to paragraph (2), if the Board finds
8 that an exemption or exclusion is in the public
9 interest and is consistent with the purposes of
10 this section, and notifies the Federal Deposit
11 Insurance Corporation of such finding,”; and

12 (B) in clause (ii), by striking the comma at
13 the end and inserting a period; and

14 (6) by adding at the end the following:

15 “(2) EXCEPTION.—The Board may grant an
16 exemption or exclusion under this subsection only if,
17 during the 60-day period beginning on the date of
18 receipt of notice of the finding from the Board
19 under paragraph (1)(B), the Federal Deposit Insur-
20 ance Corporation does not object, in writing, to such
21 exemption or exclusion, based on a determination
22 that the exemption presents an unacceptable risk to
23 the Deposit Insurance Fund.”.

1 (c) HOME OWNERS' LOAN ACT.—Section 11 of the
2 Home Owners' Loan Act (12 U.S.C. 1468) is amended
3 by adding at the end the following:

4 “(d) EXEMPTIONS.—

5 “(1) FEDERAL SAVINGS ASSOCIATIONS.—The
6 Comptroller of the Currency may, by order, exempt
7 a transaction of a Federal savings association from
8 the requirements of this section if—

9 “(A) the Board and the Office of the
10 Comptroller of the Currency jointly find the ex-
11 emption to be in the public interest and con-
12 sistent with the purposes of this section and no-
13 tify the Federal Deposit Insurance Corporation
14 of such finding; and

15 “(B) before the end of the 60-day period
16 beginning on the date on which the Federal De-
17 posit Insurance Corporation receives notice of
18 the finding under subparagraph (A), the Fed-
19 eral Deposit Insurance Corporation does not ob-
20 ject, in writing, to the finding, based on a de-
21 termination that the exemption presents an un-
22 acceptable risk to the Deposit Insurance Fund.

23 “(2) STATE SAVINGS ASSOCIATION.—The Fed-
24 eral Deposit Insurance Corporation may, by order,
25 exempt a transaction of a State savings association

1 from the requirements of this section if the Board
2 and the Federal Deposit Insurance Corporation
3 jointly find that—

4 “(A) the exemption is in the public interest
5 and consistent with the purposes of this section;
6 and

7 “(B) the exemption does not present an
8 unacceptable risk to the Deposit Insurance
9 Fund.”.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect 1 year after the transfer date.

12 **SEC. 609. ELIMINATING EXCEPTIONS FOR TRANSACTIONS**
13 **WITH FINANCIAL SUBSIDIARIES.**

14 (a) AMENDMENT.—Section 23A(e) of the Federal Re-
15 serve Act (12 U.S.C. 371c(e)) is amended—

16 (1) by striking paragraph (3); and

17 (2) by redesignating paragraph (4) as para-
18 graph (3).

19 (b) PROSPECTIVE APPLICATION OF AMENDMENT.—

20 The amendments made by this section shall apply with
21 respect to any covered transaction between a bank and
22 a subsidiary of the bank, as those terms are defined in
23 section 23A of the Federal Reserve Act (12 U.S.C. 371c),
24 that is entered into on or after the date of enactment of
25 this Act.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect 1 year after the transfer date.

3 **SEC. 610. LENDING LIMITS APPLICABLE TO CREDIT EXPO-**
4 **SURE ON DERIVATIVE TRANSACTIONS, RE-**
5 **PURCHASE AGREEMENTS, REVERSE REPUR-**
6 **CHASE AGREEMENTS, AND SECURITIES**
7 **LENDING AND BORROWING TRANSACTIONS.**

8 (a) NATIONAL BANKS.—Section 5200(b) of the Re-
9 vised Statutes of the United States (12 U.S.C. 84(b)) is
10 amended—

11 (1) in paragraph (1), by striking “shall in-
12 clude” and all that follows through the end of the
13 paragraph and inserting the following: “shall in-
14 clude—

15 “(A) all direct or indirect advances of
16 funds to a person made on the basis of any ob-
17 ligation of that person to repay the funds or re-
18 payable from specific property pledged by or on
19 behalf of the person;

20 “(B) to the extent specified by the Comp-
21 troller of the Currency, any liability of a na-
22 tional banking association to advance funds to
23 or on behalf of a person pursuant to a contrac-
24 tual commitment; and

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

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

4 “(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.”.

5 (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”.

6 (c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

1 **SEC. 611. CONSISTENT TREATMENT OF DERIVATIVE TRANS-**
2 **ACTIONS IN LENDING LIMITS.**

3 (a) AMENDMENT.—Section 18 of the Federal Deposit
4 Insurance Act (12 U.S.C. 1828) is amended by adding at
5 the end the following:

6 “(y) STATE LENDING LIMIT TREATMENT OF DE-
7 RIVATIVES TRANSACTIONS.—An insured State bank may
8 engage in a derivative transaction, as defined in section
9 5200(b)(3) of the Revised Statutes of the United States
10 (12 U.S.C. 84(b)(3)), only if the law with respect to lend-
11 ing limits of the State in which the insured State bank
12 is chartered takes into consideration credit exposure to de-
13 rivative transactions.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect 18 months after the transfer
16 date.

17 **SEC. 612. RESTRICTION ON CONVERSIONS OF TROUBLED**
18 **BANKS.**

19 (a) CONVERSION OF A NATIONAL BANKING ASSOCIA-
20 TION.—The Act entitled “An Act to provide for the con-
21 version of national banking associations into and their
22 merger or consolidation with State banks, and for other
23 purposes.” (12 U.S.C. 214 et seq.) is amended by adding
24 at the end the following:

1 **“SEC. 10. PROHIBITION ON CONVERSION.**

2 “A national banking association may not convert to
3 a State bank or State savings association during any pe-
4 riod in which the national banking association is subject
5 to a cease and desist order (or other formal enforcement
6 order) issued by, or a memorandum of understanding en-
7 tered into with, the Comptroller of the Currency with re-
8 spect to a significant supervisory matter.”.

9 (b) CONVERSION OF A STATE BANK OR SAVINGS AS-
10 SOCIATION.—Section 5154 of the Revised Statutes of the
11 United States (12 U.S.C. 35) is amended by adding at
12 the end the following: “The Comptroller of the Currency
13 may not approve the conversion of a State bank or State
14 savings association to a national banking association or
15 Federal savings association during any period in which the
16 State bank or State savings association is subject to a
17 cease and desist order (or other formal enforcement order)
18 issued by, or a memorandum of understanding entered
19 into with, a State bank supervisor or the appropriate Fed-
20 eral banking agency with respect to a significant super-
21 visory matter or a final enforcement action by a State At-
22 torney General.”.

23 (c) CONVERSION OF A FEDERAL SAVINGS ASSOCIA-
24 TION.—Section 5(i) of the Home Owners’ Loan Act (12
25 U.S.C. 1464(i)) is amended by adding at the end the fol-
26 lowing:

1 “(6) LIMITATION ON CERTAIN CONVERSIONS BY
2 FEDERAL SAVINGS ASSOCIATIONS.—A Federal sav-
3 ings association may not convert to a State bank or
4 State savings association during any period in which
5 the Federal savings association is subject to a cease
6 and desist order (or other formal enforcement order)
7 issued by, or a memorandum of understanding en-
8 tered into with, the Office of Thrift Supervision or
9 the Comptroller of the Currency with respect to a
10 significant supervisory matter.”.

11 (d) EXCEPTION.—The prohibition on the approval of
12 conversions under the amendments made by subsections
13 (a), (b), and (c) shall not apply, if—

14 (1) the Federal banking agency that would be
15 the appropriate Federal banking agency after the
16 proposed conversion gives the appropriate Federal
17 banking agency or State bank supervisor that issued
18 the cease and desist order (or other formal enforce-
19 ment order) or memorandum of understanding, as
20 appropriate, written notice of the proposed conver-
21 sion including a plan to address the significant su-
22 pervisory matter in a manner that is consistent with
23 the safe and sound operation of the institution;

24 (2) within 30 days of receipt of the written no-
25 tice required under paragraph (1), the appropriate

1 Federal banking agency or State bank supervisor
2 that issued the cease and desist order (or other for-
3 mal enforcement order) or memorandum of under-
4 standing, as appropriate, does not object to the con-
5 version or the plan to address the significant super-
6 visory matter;

7 (3) after conversion of the insured depository
8 institution, the appropriate Federal banking agency
9 after the conversion implements such plan; and

10 (4) in the case of a final enforcement action by
11 a State Attorney General, approval of the conversion
12 is conditioned on compliance by the insured depository
13 institution with the terms of such final enforce-
14 ment action.

15 (e) NOTIFICATION OF PENDING ENFORCEMENT AC-
16 TIONS.—

17 (1) COPY OF CONVERSION APPLICATION.—At
18 the time an insured depository institution files a
19 conversion application, the insured depository insti-
20 tution shall transmit a copy of the conversion appli-
21 cation to—

22 (A) the appropriate Federal banking agen-
23 cy for the insured depository institution; and

24 (B) the Federal banking agency that would
25 be the appropriate Federal banking agency of

1 the insured depository institution after the pro-
2 posed conversion; and

3 (2) NOTIFICATION AND ACCESS TO INFORMA-
4 TION.—Upon receipt of a copy of the application de-
5 scribed in paragraph (1), the appropriate Federal
6 banking agency for the insured depository institution
7 proposing the conversion shall—

8 (A) notify the Federal banking agency that
9 would be the appropriate Federal banking agen-
10 cy for the institution after the proposed conver-
11 sion in writing of any ongoing supervisory or
12 investigative proceedings that the appropriate
13 Federal banking agency for the institution pro-
14 posing to convert believes is likely to result, in
15 the near term and absent the proposed conver-
16 sion, in a cease and desist order (or other for-
17 mal enforcement order) or memorandum of un-
18 derstanding with respect to a significant super-
19 visory matter; and

20 (B) provide the Federal banking agency
21 that would be the appropriate Federal banking
22 agency for the institution after the proposed
23 conversion access to all investigative and super-
24 visory information relating to the proceedings
25 described in subparagraph (A).

1 **SEC. 613. DE NOVO BRANCHING INTO STATES.**

2 (a) NATIONAL BANKS.—Section 5155(g)(1)(A) of the
3 Revised Statutes of the United States (12 U.S.C.
4 36(g)(1)(A)) is amended to read as follows:

5 “(A) the law of the State in which the
6 branch is located, or is to be located, would per-
7 mit establishment of the branch, if the national
8 bank were a State bank chartered by such
9 State; and”.

10 (b) STATE INSURED BANKS.—Section 18(d)(4)(A)(i)
11 of the Federal Deposit Insurance Act (12 U.S.C.
12 1828(d)(4)(A)(i)) is amended to read as follows:

13 “(i) the law of the State in which the
14 branch is located, or is to be located, would
15 permit establishment of the branch, if the
16 bank were a State bank chartered by such
17 State; and”.

18 **SEC. 614. LENDING LIMITS TO INSIDERS.**

19 (a) EXTENSIONS OF CREDIT.—Section
20 22(h)(9)(D)(i) of the Federal Reserve Act (12 U.S.C.
21 375b(9)(D)(i)) is amended—

22 (1) by striking the period at the end and insert-
23 ing “; or”;

24 (2) by striking “a person” and inserting “the
25 person”;

1 “(1) IN GENERAL.—An insured depository in-
2 stitution may not purchase an asset from, or sell an
3 asset to, an executive officer, director, or principal
4 shareholder of the insured depository institution, or
5 any related interest of such person (as such terms
6 are defined in section 22(h) of Federal Reserve Act),
7 unless—

8 “(A) the transaction is on market terms;
9 and

10 “(B) if the transaction represents more
11 than 10 percent of the capital stock and surplus
12 of the insured depository institution, the trans-
13 action has been approved in advance by a ma-
14 jority of the members of the board of directors
15 of the insured depository institution who do not
16 have an interest in the transaction.

17 “(2) RULEMAKING.—The Board of Governors
18 of the Federal Reserve System may issue such rules
19 as may be necessary to define terms and to carry
20 out the purposes this subsection. Before proposing
21 or adopting a rule under this paragraph, the Board
22 of Governors of the Federal Reserve System shall
23 consult with the Comptroller of the Currency and
24 the Corporation as to the terms of the rule.”.

1 (b) AMENDMENTS TO THE FEDERAL RESERVE
2 ACT.—Section 22(d) of the Federal Reserve Act (12
3 U.S.C. 375) is amended to read as follows:

4 “(d) [Reserved]”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect on the transfer date.

7 **SEC. 616. REGULATIONS REGARDING CAPITAL LEVELS.**

8 (a) CAPITAL LEVELS OF BANK HOLDING COMPA-
9 NIES.—Section 5(b) of the Bank Holding Company Act
10 of 1956 (12 U.S.C. 1844(b)) is amended—

11 (1) by inserting after “orders” the following: “,
12 including regulations and orders relating to the cap-
13 ital requirements for bank holding companies,”; and

14 (2) by adding at the end the following: “In es-
15 tablishing capital regulations pursuant to this sub-
16 section, the Board shall seek to make such require-
17 ments countercyclical, so that the amount of capital
18 required to be maintained by a company increases in
19 times of economic expansion and decreases in times
20 of economic contraction, consistent with the safety
21 and soundness of the company.”.

22 (b) CAPITAL LEVELS OF SAVINGS AND LOAN HOLD-
23 ING COMPANIES.—Section 10(g)(1) of the Home Owners’
24 Loan Act (12 U.S.C. 1467a(g)(1)) is amended—

1 (1) by inserting after “orders” the following: “,
2 including regulations and orders relating to capital
3 requirements for savings and loan holding compa-
4 nies,”; and

5 (2) by inserting at the end the following: “In
6 establishing capital regulations pursuant to this sub-
7 section, the appropriate Federal banking agency
8 shall seek to make such requirements countercyclical
9 so that the amount of capital required to be main-
10 tained by a company increases in times of economic
11 expansion and decreases in times of economic con-
12 traction, consistent with the safety and soundness of
13 the company.”.

14 (c) CAPITAL LEVELS OF INSURED DEPOSITORY IN-
15 STITUTIONS.—Section 908(a)(1) of the International
16 Lending Supervision Act of 1983 (12 U.S.C. 3907(a)(1))
17 is amended by adding at the end the following: “Each ap-
18 propriate Federal banking agency shall seek to make the
19 capital standards required under this section or other pro-
20 visions of Federal law for insured depository institutions
21 countercyclical so that the amount of capital required to
22 be maintained by an insured depository institution in-
23 creases in times of economic expansion and decreases in
24 times of economic contraction, consistent with the safety
25 and soundness of the insured depository institution.”

1 (d) SOURCE OF STRENGTH.—The Federal Deposit
2 Insurance Act (12 U.S.C. 1811 et seq.) is amended by
3 inserting after section 38 (12 U.S.C. 1831o) the following:

4 **“SEC. 38A. SOURCE OF STRENGTH.**

5 “(a) HOLDING COMPANIES.—The appropriate Fed-
6 eral banking agency for a bank holding company or sav-
7 ings and loan holding company shall require the bank
8 holding company or savings and loan holding company to
9 serve as a source of financial strength for any subsidiary
10 of the bank holding company or savings and loan holding
11 company that is a depository institution.

12 “(b) OTHER COMPANIES.—If an insured depository
13 institution is not the subsidiary of a bank holding com-
14 pany or savings and loan holding company, the appro-
15 priate Federal banking agency for the insured depository
16 institution shall require any company that directly or indi-
17 rectly controls the insured depository institution to serve
18 as a source of financial strength for such institution.

19 “(c) REPORTS.—The appropriate Federal banking
20 agency for an insured depository institution described in
21 subsection (b) may, from time to time, require the com-
22 pany, or a company that directly or indirectly controls the
23 insured depository institution to submit a report, under
24 oath, for the purposes of—

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the transfer date.

3 **SEC. 618. SECURITIES HOLDING COMPANIES.**

4 (a) DEFINITIONS.—In this section—

5 (1) the term “associated person of a securities
6 holding company” means a person directly or indi-
7 rectly controlling, controlled by, or under common
8 control with, a securities holding company;

9 (2) the term “foreign bank” has the same
10 meaning as in section 1(b)(7) of the International
11 Banking Act of 1978 (12 U.S.C. 3101(b)(7));

12 (3) the term “insured bank” has the same
13 meaning as in section 3 of the Federal Deposit In-
14 surance Act (12 U.S.C. 1813);

15 (4) the term “securities holding company”—

16 (A) means—

17 (i) a person (other than a natural per-
18 son) that owns or controls 1 or more bro-
19 kers or dealers registered with the Com-
20 mission; and

21 (ii) the associated persons of a person
22 described in clause (i); and

23 (B) does not include a person that is—

24 (i) a nonbank financial company su-
25 pervised by the Board under title I;

1 (ii) an insured bank (other than an
2 institution described in subparagraphs (D),
3 (F), or (H) of section 2(c)(2) of the Bank
4 Holding Company Act of 1956 (12 U.S.C.
5 1841(c)(2)) or a savings association;

6 (iii) an affiliate of an insured bank
7 (other than an institution described in sub-
8 paragraphs (D), (F), or (H) of section
9 2(c)(2) of the Bank Holding Company Act
10 of 1956 (12 U.S.C. 1841(c)(2)) or an affil-
11 iate of a savings association;

12 (iv) a foreign bank, foreign company,
13 or company that is described in section
14 8(a) of the International Banking Act of
15 1978 (12 U.S.C. 3106(a));

16 (v) a foreign bank that controls, di-
17 rectly or indirectly, a corporation chartered
18 under section 25A of the Federal Reserve
19 Act (12 U.S.C. 611 et seq.); or

20 (vi) subject to comprehensive consoli-
21 dated supervision by a foreign regulator;

22 (5) the term “supervised securities holding com-
23 pany” means a securities holding company that is
24 supervised by the Board of Governors under this
25 section; and

1 (6) the terms “affiliate”, “bank”, “bank hold-
2 ing company”, “company”, “control”, “savings asso-
3 ciation”, and “subsidiary” have the same meanings
4 as in section 2 of the Bank Holding Company Act
5 of 1956.

6 (b) SUPERVISION OF A SECURITIES HOLDING COM-
7 PANY NOT HAVING A BANK OR SAVINGS ASSOCIATION
8 AFFILIATE.—

9 (1) IN GENERAL.—A securities holding com-
10 pany that is required by a foreign regulator or provi-
11 sion of foreign law to be subject to comprehensive
12 consolidated supervision may register with the Board
13 of Governors under paragraph (2) to become a su-
14 pervised securities holding company. Any securities
15 holding company filing such a registration shall be
16 supervised in accordance with this section, and shall
17 comply with the rules and orders prescribed by the
18 Board of Governors applicable to supervised securi-
19 ties holding companies.

20 (2) REGISTRATION AS A SUPERVISED SECURI-
21 TIES HOLDING COMPANY.—

22 (A) REGISTRATION.—A securities holding
23 company that elects to be subject to comprehen-
24 sive consolidated supervision shall register by
25 filing with the Board of Governors such infor-

1 mation and documents as the Board of Gov-
2 ernors, by regulation, may prescribe as nec-
3 essary or appropriate in furtherance of the pur-
4 poses of this section.

5 (B) EFFECTIVE DATE.—A securities hold-
6 ing company that registers under subparagraph
7 (A) shall be deemed to be a supervised securi-
8 ties holding company, effective on the date that
9 is 45 days after the date of receipt of the reg-
10 istration information and documents under sub-
11 paragraph (A) by the Board of Governors, or
12 within such shorter period as the Board of Gov-
13 ernors, by rule or order, may determine.

14 (c) SUPERVISION OF SECURITIES HOLDING COMPA-
15 NIES.—

16 (1) RECORDKEEPING AND REPORTING.—

17 (A) RECORDKEEPING AND REPORTING RE-
18 QUIRED.—Each supervised securities holding
19 company and each affiliate of a supervised secu-
20 rities holding company shall make and keep for
21 periods determined by the Board of Governors
22 such records, furnish copies of such records,
23 and make such reports, as the Board of Gov-
24 ernors determines to be necessary or appro-
25 priate to carry out this section, to prevent eva-

1 sions thereof, and to monitor compliance by the
2 supervised securities holding company or affil-
3 iate with applicable provisions of law.

4 (B) FORM AND CONTENTS.—

5 (i) IN GENERAL.—Any record or re-
6 port required to be made, furnished, or
7 kept under this paragraph shall—

8 (I) be prepared in such form and
9 according to such specifications (in-
10 cluding certification by a registered
11 public accounting firm), as the Board
12 of Governors may require; and

13 (II) be provided promptly to the
14 Board of Governors at any time, upon
15 request by the Board of Governors.

16 (ii) CONTENTS.—Records and reports
17 required to be made, furnished, or kept
18 under this paragraph may include—

19 (I) a balance sheet or income
20 statement of the supervised securities
21 holding company or an affiliate of a
22 supervised securities holding company;

23 (II) an assessment of the consoli-
24 dated capital and liquidity of the su-
25 pervised securities holding company;

1 (III) a report by an independent
2 auditor attesting to the compliance of
3 the supervised securities holding com-
4 pany with the internal risk manage-
5 ment and internal control objectives of
6 the supervised securities holding com-
7 pany; and

8 (IV) a report concerning the ex-
9 tent to which the supervised securities
10 holding company or affiliate has com-
11 plied with the provisions of this sec-
12 tion and any regulations prescribed
13 and orders issued under this section.

14 (2) USE OF EXISTING REPORTS.—

15 (A) IN GENERAL.—The Board of Gov-
16 ernors shall, to the fullest extent possible, ac-
17 cept reports in fulfillment of the requirements
18 of this paragraph that a supervised securities
19 holding company or an affiliate of a supervised
20 securities holding company has been required to
21 provide to another regulatory agency or a self-
22 regulatory organization.

23 (B) AVAILABILITY.—A supervised securi-
24 ties holding company or an affiliate of a super-
25 vised securities holding company shall promptly

1 provide to the Board of Governors, at the re-
2 quest of the Board of Governors, any report de-
3 scribed in subparagraph (A), as permitted by
4 law.

5 (3) EXAMINATION AUTHORITY.—

6 (A) FOCUS OF EXAMINATION AUTHOR-
7 ITY.—The Board of Governors may make ex-
8 aminations of any supervised securities holding
9 company and any affiliate of a supervised secu-
10 rities holding company to carry out this sub-
11 section, to prevent evasions thereof, and to
12 monitor compliance by the supervised securities
13 holding company or affiliate with applicable
14 provisions of law.

15 (B) DEFERENCE TO OTHER EXAMINA-
16 TIONS.—For purposes of this subparagraph, the
17 Board of Governors shall, to the fullest extent
18 possible, use the reports of examination made
19 by other appropriate Federal or State regu-
20 latory authorities with respect to any function-
21 ally regulated subsidiary or any institution de-
22 scribed in subparagraph (D), (F), or (H) of
23 section 2(c)(2) of the Bank Holding Company
24 Act of 1956 (12 U.S.C. 1841(c)(2)).

25 (d) CAPITAL AND RISK MANAGEMENT.—

1 (1) IN GENERAL.—The Board of Governors
2 shall, by regulation or order, prescribe capital ade-
3 quacy and other risk management standards for su-
4 pervised securities holding companies that are ap-
5 propriate to protect the safety and soundness of the
6 supervised securities holding companies and address
7 the risks posed to financial stability by supervised
8 securities holding companies.

9 (2) DIFFERENTIATION.—In imposing standards
10 under this subsection, the Board of Governors may
11 differentiate among supervised securities holding
12 companies on an individual basis, or by category,
13 taking into consideration the requirements under
14 paragraph (3).

15 (3) CONTENT.—Any standards imposed on a
16 supervised securities holding company under this
17 subsection shall take into account—

18 (A) the differences among types of busi-
19 ness activities carried out by the supervised se-
20 curities holding company;

21 (B) the amount and nature of the financial
22 assets of the supervised securities holding com-
23 pany;

24 (C) the amount and nature of the liabilities
25 of the supervised securities holding company,

1 including the degree of reliance on short-term
2 funding;

3 (D) the extent and nature of the off-bal-
4 ance sheet exposures of the supervised securi-
5 ties holding company;

6 (E) the extent and nature of the trans-
7 actions and relationships of the supervised secu-
8 rities holding company with other financial
9 companies;

10 (F) the importance of the supervised secu-
11 rities holding company as a source of credit for
12 households, businesses, and State and local gov-
13 ernments, and as a source of liquidity for the
14 financial system; and

15 (G) the nature, scope, and mix of the ac-
16 tivities of the supervised securities holding com-
17 pany.

18 (4) NOTICE.—A capital requirement imposed
19 under this subsection may not take effect earlier
20 than 180 days after the date on which a supervised
21 securities holding company is provided notice of the
22 capital requirement.

23 (e) OTHER PROVISIONS OF LAW APPLICABLE TO SU-
24 PERVISED SECURITIES HOLDING COMPANIES.—

1 (1) FEDERAL DEPOSIT INSURANCE ACT.—Sub-
2 sections (b), (c) through (s), and (u) of section 8 of
3 the Federal Deposit Insurance Act (12 U.S.C. 1818)
4 shall apply to any supervised securities holding com-
5 pany, and to any subsidiary (other than a bank or
6 an institution described in subparagraph (D), (F),
7 or (H) of section 2(c)(2) of the Bank Holding Com-
8 pany Act of 1956 (12 U.S.C. 1841(c)(2))) of a su-
9 pervised securities holding company, in the same
10 manner as such subsections apply to a bank holding
11 company for which the Board of Governors is the
12 appropriate Federal banking agency. For purposes
13 of applying such subsections to a supervised securi-
14 ties holding company or a subsidiary (other than a
15 bank or an institution described in subparagraph
16 (D), (F), or (H) of section 2(c)(2) of the Bank
17 Holding Company Act of 1956 (12 U.S.C.
18 1841(c)(2))) of a supervised securities holding com-
19 pany, the Board of Governors shall be deemed the
20 appropriate Federal banking agency for the super-
21 vised securities holding company or subsidiary.

22 (2) BANK HOLDING COMPANY ACT OF 1956.—
23 Except as the Board of Governors may otherwise
24 provide by regulation or order, a supervised securi-
25 ties holding company shall be subject to the provi-

1 sions of the Bank Holding Company Act of 1956
2 (12 U.S.C. 1841 et seq.) in the same manner and
3 to the same extent a bank holding company is sub-
4 ject to such provisions, except that a supervised se-
5 curities holding company may not, by reason of this
6 paragraph, be deemed to be a bank holding company
7 for purposes of section 4 of the Bank Holding Com-
8 pany Act of 1956 (12 U.S.C. 1843).

9 **SEC. 619. PROHIBITIONS ON PROPRIETARY TRADING AND**
10 **CERTAIN RELATIONSHIPS WITH HEDGE**
11 **FUNDS AND PRIVATE EQUITY FUNDS.**

12 The Bank Holding Company Act of 1956 (12 U.S.C.
13 1841 et seq.) is amended by adding at the end the fol-
14 lowing:

15 **“SEC. 13. PROHIBITIONS ON PROPRIETARY TRADING AND**
16 **CERTAIN RELATIONSHIPS WITH HEDGE**
17 **FUNDS AND PRIVATE EQUITY FUNDS.**

18 “(a) IN GENERAL.—

19 “(1) PROHIBITION.—Unless otherwise provided
20 in this section, a banking entity shall not—

21 “(A) engage in proprietary trading; or

22 “(B) acquire or retain any equity, partner-
23 ship, or other ownership interest in or sponsor
24 a hedge fund or a private equity fund.

1 “(2) NONBANK FINANCIAL COMPANIES SUPER-
2 VISED BY THE BOARD.—Any nonbank financial com-
3 pany supervised by the Board that engages in pro-
4 prietary trading or takes or retains any equity, part-
5 nership, or other ownership interest in or sponsors
6 a hedge fund or a private equity fund shall be sub-
7 ject, by rule, as provided in subsection (b)(2), to ad-
8 ditional capital requirements for and additional
9 quantitative limits with regards to such proprietary
10 trading and taking or retaining any equity, partner-
11 ship, or other ownership interest in or sponsorship
12 of a hedge fund or a private equity fund, except that
13 permitted activities as described in subsection (d)
14 shall not be subject to the additional capital and ad-
15 ditional quantitative limits except as provided in
16 subsection (d)(3), as if the nonbank financial com-
17 pany supervised by the Board were a banking entity.

18 “(b) STUDY AND RULEMAKING.—

19 “(1) STUDY.—Not later than 6 months after
20 the date of enactment of this section, the Financial
21 Stability Oversight Council shall study and make
22 recommendations on implementing the provisions of
23 this section so as to—

24 “(A) promote and enhance the safety and
25 soundness of banking entities;

1 “(B) protect taxpayers and consumers and
2 enhance financial stability by minimizing the
3 risk that insured depository institutions and the
4 affiliates of insured depository institutions will
5 engage in unsafe and unsound activities;

6 “(C) limit the inappropriate transfer of
7 Federal subsidies from institutions that benefit
8 from deposit insurance and liquidity facilities of
9 the Federal Government to unregulated entities;

10 “(D) reduce conflicts of interest between
11 the self-interest of banking entities and
12 nonbank financial companies supervised by the
13 Board, and the interests of the customers of
14 such entities and companies;

15 “(E) limit activities that have caused
16 undue risk or loss in banking entities and
17 nonbank financial companies supervised by the
18 Board, or that might reasonably be expected to
19 create undue risk or loss in such banking enti-
20 ties and nonbank financial companies super-
21 vised by the Board;

22 “(F) appropriately accommodate the busi-
23 ness of insurance within an insurance company,
24 subject to regulation in accordance with the rel-
25 evant insurance company investment laws, while

1 protecting the safety and soundness of any
2 banking entity with which such insurance com-
3 pany is affiliated and of the United States fi-
4 nancial system; and

5 “(G) appropriately time the divestiture of
6 illiquid assets that are affected by the imple-
7 mentation of the prohibitions under subsection
8 (a).

9 “(2) RULEMAKING.—

10 “(A) IN GENERAL.—Unless otherwise pro-
11 vided in this section, not later than 9 months
12 after the completion of the study under para-
13 graph (1), the appropriate Federal banking
14 agencies, the Securities and Exchange Commis-
15 sion, and the Commodity Futures Trading
16 Commission, shall consider the findings of the
17 study under paragraph (1) and adopt rules to
18 carry out this section, as provided in subpara-
19 graph (B).

20 “(B) COORDINATED RULEMAKING.—

21 “(i) REGULATORY AUTHORITY.—The
22 regulations issued under this paragraph
23 shall be issued by—

1 “(I) the appropriate Federal
2 banking agencies, jointly, with respect
3 to insured depository institutions;

4 “(II) the Board, with respect to
5 any company that controls an insured
6 depository institution, or that is treat-
7 ed as a bank holding company for
8 purposes of section 8 of the Inter-
9 national Banking Act, any nonbank fi-
10 nancial company supervised by the
11 Board, and any subsidiary of any of
12 the foregoing (other than a subsidiary
13 for which an agency described in sub-
14 clause (I), (III), or (IV) is the pri-
15 mary financial regulatory agency);

16 “(III) the Commodity Futures
17 Trading Commission, with respect to
18 any entity for which the Commodity
19 Futures Trading Commission is the
20 primary financial regulatory agency,
21 as defined in section 2 of the Dodd-
22 Frank Wall Street Reform and Con-
23 sumer Protection Act; and

24 “(IV) the Securities and Ex-
25 change Commission, with respect to

1 any entity for which the Securities
2 and Exchange Commission is the pri-
3 mary financial regulatory agency, as
4 defined in section 2 of the Dodd-
5 Frank Wall Street Reform and Con-
6 sumer Protection Act.

7 “(ii) COORDINATION, CONSISTENCY,
8 AND COMPARABILITY.—In developing and
9 issuing regulations pursuant to this sec-
10 tion, the appropriate Federal banking
11 agencies, the Securities and Exchange
12 Commission, and the Commodity Futures
13 Trading Commission shall consult and co-
14 ordinate with each other, as appropriate,
15 for the purposes of assuring, to the extent
16 possible, that such regulations are com-
17 parable and provide for consistent applica-
18 tion and implementation of the applicable
19 provisions of this section to avoid providing
20 advantages or imposing disadvantages to
21 the companies affected by this subsection
22 and to protect the safety and soundness of
23 banking entities and nonbank financial
24 companies supervised by the Board.

1 “(iii) COUNCIL ROLE.—The Chair-
2 person of the Financial Stability Oversight
3 Council shall be responsible for coordina-
4 tion of the regulations issued under this
5 section.

6 “(c) EFFECTIVE DATE.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (2) and (3), this section shall take effect on
9 the earlier of—

10 “(A) 12 months after the date of the
11 issuance of final rules under subsection (b); or

12 “(B) 2 years after the date of enactment
13 of this section.

14 “(2) CONFORMANCE PERIOD FOR DIVESTI-
15 TURE.—A banking entity or nonbank financial com-
16 pany supervised by the Board shall bring its activi-
17 ties and investments into compliance with the re-
18 quirements of this section not later than 2 years
19 after the date on which the requirements become ef-
20 fective pursuant to this section or 2 years after the
21 date on which the entity or company becomes a
22 nonbank financial company supervised by the Board.
23 The Board may, by rule or order, extend this two-
24 year period for not more than one year at a time,
25 if, in the judgment of the Board, such an extension

1 is consistent with the purposes of this section and
2 would not be detrimental to the public interest. The
3 extensions made by the Board under the preceding
4 sentence may not exceed an aggregate of 3 years.

5 “(3) EXTENDED TRANSITION FOR ILLIQUID
6 FUNDS.—

7 “(A) APPLICATION.—The Board may,
8 upon the application of a banking entity, extend
9 the period during which the banking entity, to
10 the extent necessary to fulfill a contractual obli-
11 gation that was in effect on May 1, 2010, may
12 take or retain its equity, partnership, or other
13 ownership interest in, or otherwise provide addi-
14 tional capital to, an illiquid fund.

15 “(B) TIME LIMIT ON APPROVAL.—The
16 Board may grant 1 extension under subpara-
17 graph (A), which may not exceed 5 years.

18 “(4) DIVESTITURE REQUIRED.—Except as oth-
19 erwise provided in subsection (d)(1)(G), a banking
20 entity may not engage in any activity prohibited
21 under subsection (a)(1)(B) after the earlier of—

22 “(A) the date on which the contractual ob-
23 ligation to invest in the illiquid fund terminates;
24 and

1 “(B) the date on which any extensions
2 granted by the Board under paragraph (3) ex-
3 pire.

4 “(5) ADDITIONAL CAPITAL DURING TRANSITION
5 PERIOD.—Notwithstanding paragraph (2), on the
6 date on which the Commission issues rules under
7 subsection (b)(2) the appropriate Federal banking
8 agencies, the Securities and Exchange Commission,
9 and the Commodity Futures Trading Commission
10 shall issue rules, as provided in subsection (b)(2), to
11 impose additional capital requirements, and any
12 other restrictions, as appropriate, on any equity,
13 partnership, or ownership interest in or sponsorship
14 of a hedge fund or private equity fund by a banking
15 entity.

16 “(6) SPECIAL RULEMAKING.—Not later than 6
17 months after the date of enactment of this section,
18 the Board shall issues rules to implement paragraph
19 (2) and (3).

20 “(d) PERMITTED ACTIVITIES.—

21 “(1) IN GENERAL.—Notwithstanding the re-
22 strictions under subsection (a), to the extent per-
23 mitted by any other provision of Federal or State
24 law, and subject to the limitations under paragraph
25 (2) and any restrictions or limitations that the ap-

1 appropriate Federal banking agencies, the Securities
2 and Exchange Commission, and the Commodity Fu-
3 tures Trading Commission, may determine, the fol-
4 lowing activities (in this section referred to as ‘per-
5 mitted activities’) are permitted:

6 “(A) The purchase, sale, acquisition, or
7 disposition of obligations of the United States
8 or any agency thereof, obligations, participa-
9 tions, or other instruments of or issued by the
10 Government National Mortgage Association, the
11 Federal National Mortgage Association, the
12 Federal Home Loan Mortgage Corporation, a
13 Federal Home Loan Bank, the Federal Agricul-
14 tural Mortgage Corporation, or a Farm Credit
15 System institution chartered under and subject
16 to the provisions of the Farm Credit Act of
17 1971 (12 U.S.C. 2001 et seq.), and obligations
18 of any State or of any political subdivision
19 thereof.

20 “(B) The purchase, sale, acquisition, or
21 disposition of securities and other instruments
22 described in subsection (h)(4) in connection
23 with underwriting or market-making-related ac-
24 tivities, to the extent that any such activities
25 permitted by this subparagraph are designed

1 not to exceed the reasonably expected near term
2 demands of clients, customers, or counterpar-
3 ties.

4 “(C) Risk-mitigating hedging activities in
5 connection with and related to individual or ag-
6 gregated positions, contracts, or other holdings
7 of the banking entity that are designed to re-
8 duce the specific risks to a banking entity in
9 connection with and related to such positions,
10 contracts, or other holdings.

11 “(D) The purchase, sale, acquisition, or
12 disposition of securities and other instruments
13 described in subsection (h)(4) on behalf of cus-
14 tomers.

15 “(E) Investments in one or more small
16 business investment companies, as defined in
17 section 102 of the Small Business Investment
18 Act of 1958 (15 U.S.C. 662), investments de-
19 signed primarily to promote the public welfare,
20 of the type permitted under paragraph (11) of
21 section 5136 of the Revised Statutes of the
22 United States (12 U.S.C. 24), or investments
23 that are qualified rehabilitation expenditures
24 with respect to a qualified rehabilitated building
25 or certified historic structure, as such terms are

1 defined in section 47 of the Internal Revenue
2 Code of 1986 or a similar State historic tax
3 credit program.

4 “(F) The purchase, sale, acquisition, or
5 disposition of securities and other instruments
6 described in subsection (h)(4) by a regulated in-
7 surance company directly engaged in the busi-
8 ness of insurance for the general account of the
9 company and by any affiliate of such regulated
10 insurance company, provided that such activi-
11 ties by any affiliate are solely for the general
12 account of the regulated insurance company,
13 if—

14 “(i) the purchase, sale, acquisition, or
15 disposition is conducted in compliance
16 with, and subject to, the insurance com-
17 pany investment laws, regulations, and
18 written guidance of the State or jurisdic-
19 tion in which each such insurance company
20 is domiciled; and

21 “(ii) the appropriate Federal banking
22 agencies, after consultation with the Fi-
23 nancial Stability Oversight Council and the
24 relevant insurance commissioners of the
25 States and territories of the United States,

1 have not jointly determined, after notice
2 and comment, that a particular law, regu-
3 lation, or written guidance described in
4 clause (i) is insufficient to protect the safe-
5 ty and soundness of the banking entity, or
6 of the financial stability of the United
7 States.

8 “(G) Organizing and offering a private eq-
9 uity or hedge fund, including serving as a gen-
10 eral partner, managing member, or trustee of
11 the fund and in any manner selecting or con-
12 trolling (or having employees, officers, directors,
13 or agents who constitute) a majority of the di-
14 rectors, trustees, or management of the fund,
15 including any necessary expenses for the fore-
16 going, only if—

17 “(i) the banking entity provides bona
18 fide trust, fiduciary, or investment advisory
19 services;

20 “(ii) the fund is organized and offered
21 only in connection with the provision of
22 bona fide trust, fiduciary, or investment
23 advisory services and only to persons that
24 are customers of such services of the bank-
25 ing entity;

1 “(iii) the banking entity does not ac-
2 quire or retain an equity interest, partner-
3 ship interest, or other ownership interest
4 in the funds except for a de minimis in-
5 vestment subject to and in compliance with
6 paragraph (4);

7 “(iv) the banking entity complies with
8 the restrictions under paragraphs (1) and
9 (2) of subparagraph (f);

10 “(v) the banking entity does not, di-
11 rectly or indirectly, guarantee, assume, or
12 otherwise insure the obligations or per-
13 formance of the hedge fund or private eq-
14 uity fund or of any hedge fund or private
15 equity fund in which such hedge fund or
16 private equity fund invests;

17 “(vi) the banking entity does not
18 share with the hedge fund or private equity
19 fund, for corporate, marketing, pro-
20 motional, or other purposes, the same
21 name or a variation of the same name;

22 “(vii) no director or employee of the
23 banking entity takes or retains an equity
24 interest, partnership interest, or other
25 ownership interest in the hedge fund or

1 private equity fund, except for any director
2 or employee of the banking entity who is
3 directly engaged in providing investment
4 advisory or other services to the hedge
5 fund or private equity fund; and

6 “(viii) the banking entity discloses to
7 prospective and actual investors in the
8 fund, in writing, that any losses in such
9 hedge fund or private equity fund are
10 borne solely by investors in the fund and
11 not by the banking entity, and otherwise
12 complies with any additional rules of the
13 appropriate Federal banking agencies, the
14 Securities and Exchange Commission, or
15 the Commodity Futures Trading Commis-
16 sion, as provided in subsection (b)(2), de-
17 signed to ensure that losses in such hedge
18 fund or private equity fund are borne sole-
19 ly by investors in the fund and not by the
20 banking entity.

21 “(H) Proprietary trading conducted by a
22 banking entity pursuant to paragraph (9) or
23 (13) of section 4(c), provided that the trading
24 occurs solely outside of the United States and
25 that the banking entity is not directly or indi-

1 rectly controlled by a banking entity that is or-
2 ganized under the laws of the United States or
3 of one or more States.

4 “(I) The acquisition or retention of any eq-
5 uity, partnership, or other ownership interest
6 in, or the sponsorship of, a hedge fund or a pri-
7 vate equity fund by a banking entity pursuant
8 to paragraph (9) or (13) of section 4(c) solely
9 outside of the United States, provided that no
10 ownership interest in such hedge fund or pri-
11 vate equity fund is offered for sale or sold to a
12 resident of the United States and that the
13 banking entity is not directly or indirectly con-
14 trolled by a banking entity that is organized
15 under the laws of the United States or of one
16 or more States.

17 “(J) Such other activity as the appropriate
18 Federal banking agencies, the Securities and
19 Exchange Commission, and the Commodity Fu-
20 tures Trading Commission determine, by rule,
21 as provided in subsection (b)(2), would promote
22 and protect the safety and soundness of the
23 banking entity and the financial stability of the
24 United States.

25 “(2) LIMITATION ON PERMITTED ACTIVITIES.—

1 “(A) IN GENERAL.—No transaction, class
2 of transactions, or activity may be deemed a
3 permitted activity under paragraph (1) if the
4 transaction, class of transactions, or activity—

5 “(i) would involve or result in a mate-
6 rial conflict of interest (as such term shall
7 be defined by rule as provided in sub-
8 section (b)(2)) between the banking entity
9 and its clients, customers, or counterpar-
10 ties;

11 “(ii) would result, directly or indi-
12 rectly, in a material exposure by the bank-
13 ing entity to high-risk assets or high-risk
14 trading strategies (as such terms shall be
15 defined by rule as provided in subsection
16 (b)(2));

17 “(iii) would pose a threat to the safety
18 and soundness of such banking entity; or

19 “(iv) would pose a threat to the finan-
20 cial stability of the United States.

21 “(B) RULEMAKING.—The appropriate
22 Federal banking agencies, the Securities and
23 Exchange Commission, and the Commodity Fu-
24 tures Trading Commission shall issue regula-
25 tions to implement subparagraph (A), as part

1 of the regulations issued under subsection
2 (b)(2).

3 “(3) CAPITAL AND QUANTITATIVE LIMITA-
4 TIONS.—The appropriate Federal banking agencies,
5 the Securities and Exchange Commission, and the
6 Commodity Futures Trading Commission shall, as
7 provided in subsection (b)(2), adopt rules imposing
8 additional capital requirements and quantitative lim-
9 itations, including diversification requirements, re-
10 garding the activities permitted under this section if
11 the appropriate Federal banking agencies, the Secu-
12 rities and Exchange Commission, and the Com-
13 modity Futures Trading Commission determine that
14 additional capital and quantitative limitations are
15 appropriate to protect the safety and soundness of
16 banking entities engaged in such activities.

17 “(4) DE MINIMIS INVESTMENT.—

18 “(A) IN GENERAL.—A banking entity may
19 make and retain an investment in a hedge fund
20 or private equity fund that the banking entity
21 organizes and offers, subject to the limitations
22 and restrictions in subparagraph (B) for the
23 purposes of—

24 “(i) establishing the fund and pro-
25 viding the fund with sufficient initial eq-

1 case may the aggregate of all of the
2 interests of the banking entity in all
3 such funds exceed 3 percent of the
4 Tier 1 capital of the banking entity.

5 “(iii) CAPITAL.—For purposes of de-
6 termining compliance with applicable cap-
7 ital standards under paragraph (3), the ag-
8 gregate amount of the outstanding invest-
9 ments by a banking entity under this para-
10 graph, including retained earnings, shall be
11 deducted from the assets and tangible eq-
12 uity of the banking entity, and the amount
13 of the deduction shall increase commensu-
14 rate with the leverage of the hedge fund or
15 private equity fund.

16 “(C) EXTENSION.—Upon an application by
17 a banking entity, the Board may extend the pe-
18 riod of time to meet the requirements under
19 subparagraph (B)(i)(I) for 2 additional years, if
20 the Board finds that an extension would be con-
21 sistent with safety and soundness and in the
22 public interest.

23 “(e) ANTI-EVASION.—

24 “(1) RULEMAKING.—The appropriate Federal
25 banking agencies, the Securities and Exchange Com-

1 mission, and the Commodity Futures Trading Com-
2 mission shall issue regulations, as part of the rule-
3 making provided for in subsection (b)(2), regarding
4 internal controls and recordkeeping, in order to in-
5 sure compliance with this section.

6 “(2) TERMINATION OF ACTIVITIES OR INVEST-
7 MENT.—Notwithstanding any other provision of law,
8 whenever an appropriate Federal banking agency,
9 the Securities and Exchange Commission, or the
10 Commodity Futures Trading Commission, as appro-
11 priate, has reasonable cause to believe that a bank-
12 ing entity or nonbank financial company supervised
13 by the Board under the respective agency’s jurisdic-
14 tion has made an investment or engaged in an activ-
15 ity in a manner that functions as an evasion of the
16 requirements of this section (including through an
17 abuse of any permitted activity) or otherwise violates
18 the restrictions under this section, the appropriate
19 Federal banking agency, the Securities and Ex-
20 change Commission, or the Commodity Futures
21 Trading Commission, as appropriate, shall order,
22 after due notice and opportunity for hearing, the
23 banking entity or nonbank financial company super-
24 vised by the Board to terminate the activity and, as
25 relevant, dispose of the investment. Nothing in this

1 paragraph shall be construed to limit the inherent
2 authority of any Federal agency or State regulatory
3 authority to further restrict any investments or ac-
4 tivities under otherwise applicable provisions of law.

5 “(f) LIMITATIONS ON RELATIONSHIPS WITH HEDGE
6 FUNDS AND PRIVATE EQUITY FUNDS.—

7 “(1) IN GENERAL.—No banking entity that
8 serves, directly or indirectly, as the investment man-
9 ager, investment adviser, or sponsor to a hedge fund
10 or private equity fund, or that organizes and offers
11 a hedge fund or private equity fund pursuant to
12 paragraph (d)(1)(G), and no affiliate of such entity,
13 may enter into a transaction with the fund, or with
14 any other hedge fund or private equity fund that is
15 controlled by such fund, that would be a covered
16 transaction, as defined in section 23A of the Federal
17 Reserve Act (12 U.S.C. 371c), with the hedge fund
18 or private equity fund, as if such banking entity and
19 the affiliate thereof were a member bank and the
20 hedge fund or private equity fund were an affiliate
21 thereof.

22 “(2) TREATMENT AS MEMBER BANK.—A bank-
23 ing entity that serves, directly or indirectly, as the
24 investment manager or investment adviser to a
25 hedge fund or private equity fund, or that organizes

1 and offers a hedge fund or private equity fund pur-
2 suant to paragraph (d)(1)(G), shall be subject to
3 section 23B of the Federal Reserve Act (12 U.S.C.
4 371c–1), as if such banking entity were a member
5 bank and such hedge fund or private equity fund
6 were an affiliate thereof.

7 “(3) PERMITTED SERVICES.—

8 “(A) IN GENERAL.—Notwithstanding para-
9 graph (1), the Board may permit a banking en-
10 tity or nonbank financial company supervised
11 by the Board to enter into any prime brokerage
12 transaction with any hedge fund or private eq-
13 uity fund in which a hedge fund or private eq-
14 uity fund managed, sponsored, or advised by
15 such banking entity or nonbank financial com-
16 pany supervised by the Board has taken an eq-
17 uity, partnership, or other ownership interest,
18 if—

19 “(i) the banking entity or nonbank fi-
20 nancial company supervised by the Board
21 is in compliance with each of the limita-
22 tions set forth in subsection (d)(1)(G) with
23 regard to a hedge fund or private equity
24 fund organized and offered by such bank-

1 ing entity or nonbank financial company
2 supervised by the Board;

3 “(ii) the chief executive officer (or
4 equivalent officer) of the banking entity
5 certifies in writing annually (with a duty to
6 update the certification if the information
7 in the certification materially changes) that
8 the conditions specified in subsection
9 (d)(1)(g)(v) are satisfied;

10 “(iii) the Board has determined that
11 such transaction is consistent with the safe
12 and sound operation and condition of the
13 banking entity or nonbank financial com-
14 pany supervised by the Board.

15 “(B) TREATMENT OF PRIME BROKERAGE
16 TRANSACTIONS.—For purposes of subparagraph
17 (A), a prime brokerage transaction described in
18 subparagraph (A) shall be subject to section
19 23B of the Federal Reserve Act (12 U.S.C.
20 371c-1) as if the counterparty were an affiliate
21 of the banking entity.

22 “(4) APPLICATION TO NONBANK FINANCIAL
23 COMPANIES SUPERVISED BY THE BOARD.—The ap-
24 propriate Federal banking agencies, the Securities
25 and Exchange Commission, and the Commodity Fu-

1 tures Trading Commission shall adopt rules, as pro-
2 vided in subsection (b)(2), imposing additional cap-
3 ital charges or other restrictions for nonbank finan-
4 cial companies supervised by the Board to address
5 the risks to and conflicts of interest of banking enti-
6 ties described in paragraphs (1), (2), and (3) of this
7 subsection.

8 “(g) RULES OF CONSTRUCTION.—

9 “(1) LIMITATION ON CONTRARY AUTHORITY.—

10 Except as provided in this section, notwithstanding
11 any other provision of law, the prohibitions and re-
12 strictions under this section shall apply to activities
13 of a banking entity or nonbank financial company
14 supervised by the Board, even if such activities are
15 authorized for a banking entity or nonbank financial
16 company supervised by the Board.

17 “(2) SALE OR SECURITIZATION OF LOANS.—

18 Nothing in this section shall be construed to limit or
19 restrict the ability of a banking entity or nonbank fi-
20 nancial company supervised by the Board to sell or
21 securitize loans in a manner otherwise permitted by
22 law.

23 “(3) AUTHORITY OF FEDERAL AGENCIES AND

24 STATE REGULATORY AUTHORITIES.—Nothing in this

25 section shall be construed to limit the inherent au-

1 thority of any Federal agency or State regulatory
2 authority under otherwise applicable provisions of
3 law.

4 “(h) DEFINITIONS.—In this section, the following
5 definitions shall apply:

6 “(1) BANKING ENTITY.—The term ‘banking en-
7 tity’ means any insured depository institution (as de-
8 fined in section 3 of the Federal Deposit Insurance
9 Act (12 U.S.C. 1813)), any company that controls
10 an insured depository institution, or that is treated
11 as a bank holding company for purposes of section
12 8 of the International Banking Act of 1978, and any
13 affiliate or subsidiary of any such entity. For pur-
14 poses of this paragraph, the term ‘insured depository
15 institution’ does not include an institution that func-
16 tions solely in a trust or fiduciary capacity, if—

17 “(A) all or substantially all of the deposits
18 of such institution are in trust funds and are
19 received in a bona fide fiduciary capacity;

20 “(B) no deposits of such institution which
21 are insured by the Federal Deposit Insurance
22 Corporation are offered or marketed by or
23 through an affiliate of such institution;

24 “(C) such institution does not accept de-
25 mand deposits or deposits that the depositor

1 may withdraw by check or similar means for
2 payment to third parties or others or make
3 commercial loans; and

4 “(D) such institution does not—

5 “(i) obtain payment or payment re-
6 lated services from any Federal Reserve
7 bank, including any service referred to in
8 section 11(a) of the Federal Reserve Act
9 (12 U.S.C. 248a); or

10 “(ii) exercise discount or borrowing
11 privileges pursuant to section 19(b)(7) of
12 the Federal Reserve Act (12 U.S.C.
13 461(b)(7)).

14 “(2) HEDGE FUND; PRIVATE EQUITY FUND.—
15 The terms ‘hedge fund’ and ‘private equity fund’
16 mean an issuer that would be an investment com-
17 pany, as defined in the Investment Company Act of
18 1940 (15 U.S.C. 80a-1 et seq.), but for section
19 3(c)(1) or 3(c)(7) of that Act, or such similar funds
20 as the appropriate Federal banking agencies, the Se-
21 curities and Exchange Commission, and the Com-
22 modity Futures Trading Commission may, by rule,
23 as provided in subsection (b)(2), determine.

24 “(3) NONBANK FINANCIAL COMPANY SUPER-
25 VISED BY THE BOARD.—The term ‘nonbank finan-

1 cial company supervised by the Board’ means a
2 nonbank financial company supervised by the Board
3 of Governors, as defined in section 102 of the Fi-
4 nancial Stability Act of 2010.

5 “(4) PROPRIETARY TRADING.—The term ‘pro-
6 prietary trading’, when used with respect to a bank-
7 ing entity or nonbank financial company supervised
8 by the Board, means engaging as a principal for the
9 trading account of the banking entity or nonbank fi-
10 nancial company supervised by the Board in any
11 transaction to purchase or sell, or otherwise acquire
12 or dispose of, any security, any derivative, any con-
13 tract of sale of a commodity for future delivery, any
14 option on any such security, derivative, or contract,
15 or any other security or financial instrument that
16 the appropriate Federal banking agencies, the Secu-
17 rities and Exchange Commission, and the Com-
18 modity Futures Trading Commission may, by rule
19 as provided in subsection (b)(2), determine.

20 “(5) SPONSOR.—The term to ‘sponsor’ a fund
21 means—

22 “(A) to serve as a general partner, man-
23 aging member, or trustee of a fund;

24 “(B) in any manner to select or to control
25 (or to have employees, officers, or directors, or

1 agents who constitute) a majority of the direc-
2 tors, trustees, or management of a fund; or

3 “(C) to share with a fund, for corporate,
4 marketing, promotional, or other purposes, the
5 same name or a variation of the same name.

6 “(6) TRADING ACCOUNT.—The term ‘trading
7 account’ means any account used for acquiring or
8 taking positions in the securities and instruments
9 described in paragraph (4) principally for the pur-
10 pose of selling in the near term (or otherwise with
11 the intent to resell in order to profit from short-term
12 price movements), and any such other accounts as
13 the appropriate Federal banking agencies, the Secu-
14 rities and Exchange Commission, and the Com-
15 modity Futures Trading Commission may, by rule
16 as provided in subsection (b)(2), determine.

17 “(7) ILLIQUID FUND.—

18 “(A) IN GENERAL.—The term ‘illiquid
19 fund’ means a hedge fund or private equity
20 fund that—

21 “(i) as of May 1, 2010, was prin-
22 cipally invested in, or was invested and
23 contractually committed to principally in-
24 vest in, illiquid assets, such as portfolio

1 companies, real estate investments, and
2 venture capital investments; and

3 “(ii) makes all investments pursuant
4 to, and consistent with, an investment
5 strategy to principally invest in illiquid as-
6 sets. In issuing rules regarding this sub-
7 paragraph, the Board shall take into con-
8 sideration the terms of investment for the
9 hedge fund or private equity fund, includ-
10 ing contractual obligations, the ability of
11 the fund to divest of assets held by the
12 fund, and any other factors that the Board
13 determines are appropriate.

14 “(B) HEDGE FUND.—For the purposes of
15 this paragraph, the term ‘hedge fund’ means
16 any fund identified under subsection (h)(2), and
17 does not include a private equity fund, as such
18 term is used in section 203(m) of the Invest-
19 ment Advisers Act of 1940 (15 U.S.C. 80b-
20 3(m)).”.

21 **SEC. 620. STUDY OF BANK INVESTMENT ACTIVITIES.**

22 (a) STUDY.—

23 (1) IN GENERAL.—Not later than 18 months
24 after the date of enactment of this Act, the appro-
25 priate Federal banking agencies shall jointly review

1 and prepare a report on the activities that a banking
2 entity, as such term is defined in the Bank Holding
3 Company Act of 1956 (12 U.S.C. 1841 et. seq.),
4 may engage in under Federal and State law, includ-
5 ing activities authorized by statute and by order, in-
6 terpretation and guidance.

7 (2) CONTENT.—In carrying out the study
8 under paragraph (1), the appropriate Federal bank-
9 ing agencies shall review and consider—

10 (A) the type of activities or investments;

11 (B) any financial, operational, managerial,
12 or reputation risks associated with or presented
13 as a result of the banking entity engaged in the
14 activity or making the investment; and

15 (C) risk mitigation activities undertaken by
16 the banking entity with regard to the risks.

17 (b) REPORT AND RECOMMENDATIONS TO THE COUN-
18 CIL AND TO CONGRESS.—The appropriate Federal bank-
19 ing agencies shall submit to the Council, the Committee
20 on Financial Services of the House of Representatives,
21 and the Committee on Banking, Housing, and Urban Af-
22 fairs of the Senate the study conducted pursuant to sub-
23 section (a) no later than 2 months after its completion.
24 In addition to the information described in subsection (a),
25 the report shall include recommendations regarding—

1 (1) whether each activity or investment has or
2 could have a negative effect on the safety and sound-
3 ness of the banking entity or the United States fi-
4 nancial system;

5 (2) the appropriateness of the conduct of each
6 activity or type of investment by banking entities;
7 and

8 (3) additional restrictions as may be necessary
9 to address risks to safety and soundness arising
10 from the activities or types of investments described
11 in subsection (a).

12 **SEC. 621. CONFLICTS OF INTEREST.**

13 (a) IN GENERAL.—The Securities Act of 1933 (15
14 U.S.C. 77a et seq.) is amended by inserting after section
15 27A the following:

16 **“SEC. 27B. CONFLICTS OF INTEREST RELATING TO CER-**
17 **TAIN SECURITIZATIONS.**

18 “(a) IN GENERAL.—An underwriter, placement
19 agent, initial purchaser, or sponsor, or any affiliate or sub-
20 sidiary of any such entity, of an asset-backed security (as
21 such term is defined in section 3 of the Securities and
22 Exchange Act of 1934 (15 U.S.C. 78c), which for the pur-
23 poses of this section shall include a synthetic asset-backed
24 security), shall not, at any time for a period ending on
25 the date that is one year after the date of the first closing

1 of the sale of the asset-backed security, engage in any
2 transaction that would involve or result in any material
3 conflict of interest with respect to any investor in a trans-
4 action arising out of such activity.

5 “(b) RULEMAKING.—Not later than 270 days after
6 the date of enactment of this section, the Commission
7 shall issue rules for the purpose of implementing sub-
8 section (a).

9 “(c) EXCEPTION.—The prohibitions of subsection (a)
10 shall not apply to—

11 “(1) risk-mitigating hedging activities in con-
12 nection with positions or holdings arising out of the
13 underwriting, placement, initial purchase, or spon-
14 sorship of an asset-backed security, provided that
15 such activities are designed to reduce the specific
16 risks to the underwriter, placement agent, initial
17 purchaser, or sponsor associated with positions or
18 holdings arising out of such underwriting, place-
19 ment, initial purchase, or sponsorship; or

20 “(2) purchases or sales of asset-backed securi-
21 ties made pursuant to and consistent with—

22 “(A) commitments of the underwriter,
23 placement agent, initial purchaser, or sponsor,
24 or any affiliate or subsidiary of any such entity,

1 to provide liquidity for the asset-backed secu-
2 rity, or

3 “(B) bona fide market-making in the asset
4 backed security.

5 “(d) RULE OF CONSTRUCTION.—This subsection
6 shall not otherwise limit the application of section 15G
7 of the Securities Exchange Act of 1934.”.

8 (b) EFFECTIVE DATE.—Section 27B of the Securi-
9 ties Act of 1933, as added by this section, shall take effect
10 on the effective date of final rules issued by the Commis-
11 sion under subsection (b) of such section 27B, except that
12 subsections (b) and (d) of such section 27B shall take ef-
13 fect on the date of enactment of this Act.

14 **SEC. 622. CONCENTRATION LIMITS ON LARGE FINANCIAL**
15 **FIRMS.**

16 The Bank Holding Company Act of 1956 (12 U.S.C.
17 1841 et seq.) is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 13. CONCENTRATION LIMITS ON LARGE FINANCIAL**
20 **FIRMS.**

21 “(a) DEFINITIONS.—In this section—

22 “(1) the term ‘Council’ means the Financial
23 Stability Oversight Council;

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

25 “(A) an insured depository institution;

1 “(B) a bank holding company;

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

3 “(D) a company that controls an insured
4 depository institution;

5 “(E) a nonbank financial company super-
6 vised by the Board under title I of the Dodd-
7 Frank Wall Street Reform and Consumer Pro-
8 tection Act; and

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

12 “(3) the term ‘liabilities’ means—

13 “(A) with respect to a United States finan-
14 cial company—

15 “(i) the total risk-weighted assets of
16 the financial company, as determined
17 under the risk-based capital rules applica-
18 ble to bank holding companies, as adjusted
19 to reflect exposures that are deducted from
20 regulatory capital; less

21 “(ii) the total regulatory capital of the
22 financial company under the risk-based
23 capital rules applicable to bank holding
24 companies;

1 “(B) with respect to a foreign-based finan-
2 cial company—

3 “(i) the total risk-weighted assets of
4 the United States operations of the finan-
5 cial company, as determined under the ap-
6 plicable risk-based capital rules, as ad-
7 justed to reflect exposures that are de-
8 ducted from regulatory capital; less

9 “(ii) the total regulatory capital of the
10 United States operations of the financial
11 company, as determined under the applica-
12 ble risk-based capital rules; and

13 “(C) with respect to an insurance company
14 or other nonbank financial company supervised
15 by the Board, such assets of the company as
16 the Board shall specify by rule, in order to pro-
17 vide for consistent and equitable treatment of
18 such companies.

19 “(b) CONCENTRATION LIMIT.—Subject to the rec-
20 ommendations by the Council under subsection (e), a fi-
21 nancial company may not merge or consolidate with, ac-
22 quire all or substantially all of the assets of, or otherwise
23 acquire control of, another company, if the total consoli-
24 dated liabilities of the acquiring financial company upon
25 consummation of the transaction would exceed 10 percent

1 of the aggregate consolidated liabilities of all financial
2 companies at the end of the calendar year preceding the
3 transaction.

4 “(c) EXCEPTION TO CONCENTRATION LIMIT.—With
5 the prior written consent of the Board, the concentration
6 limit under subsection (b) shall not apply to an acquisi-
7 tion—

8 “(1) of a bank in default or in danger of de-
9 fault;

10 “(2) with respect to which assistance is pro-
11 vided by the Federal Deposit Insurance Corporation
12 under section 13(c) of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1823(c)); or

14 “(3) that would result only in a de minimis in-
15 crease in the liabilities of the financial company.

16 “(d) RULEMAKING AND GUIDANCE.—The Board
17 shall issue regulations implementing this section in accord-
18 ance with the recommendations of the Council under sub-
19 section (e), including the definition of terms, as necessary.
20 The Board may issue interpretations or guidance regard-
21 ing the application of this section to an individual financial
22 company or to financial companies in general.

23 “(e) COUNCIL STUDY AND RULEMAKING.—

1 “(1) STUDY AND RECOMMENDATIONS.—Not
2 later than 6 months after the date of enactment of
3 this section, the Council shall—

4 “(A) complete a study of the extent to
5 which the concentration limit under this section
6 would affect financial stability, moral hazard in
7 the financial system, the efficiency and competi-
8 tiveness of United States financial firms and fi-
9 nancial markets, and the cost and availability of
10 credit and other financial services to households
11 and businesses in the United States; and

12 “(B) make recommendations regarding any
13 modifications to the concentration limit that the
14 Council determines would more effectively im-
15 plement this section.

16 “(2) RULEMAKING.—Not later than 9 months
17 after the date of completion of the study under para-
18 graph (1), and notwithstanding subsections (b) and
19 (d), the Board shall issue final regulations imple-
20 menting this section, which shall reflect any rec-
21 ommendations by the Council under paragraph
22 (1)(B).”.

1 **SEC. 623. INTERSTATE MERGER TRANSACTIONS.**

2 (a) INTERSTATE MERGER TRANSACTIONS.—Section
3 18(c) of the Federal Deposit Insurance Act (12 U.S.C.
4 1828(c)) is amended by adding at the end the following:

5 “(13)(A) Except as provided in subparagraph (B),
6 the responsible agency may not approve an application for
7 an interstate merger transaction if the resulting insured
8 depository institution (including all insured depository in-
9 stitutions which are affiliates of the resulting insured de-
10 pository institution), upon consummation of the trans-
11 action, would control more than 10 percent of the total
12 amount of deposits of insured depository institutions in
13 the United States.

14 “(B) Subparagraph (A) shall not apply to an inter-
15 state merger transaction that involves 1 or more insured
16 depository institutions in default or in danger of default,
17 or with respect to which the Corporation provides assist-
18 ance under section 13.

19 “(C) In this paragraph—

20 “(i) the term ‘interstate merger transaction’
21 means a merger transaction involving 2 or more in-
22 sured depository institutions that have different
23 home States and that are not affiliates; and

24 “(ii) the term ‘home State’ means—

1 “(I) with respect to a national bank, the
2 State in which the main office of the bank is lo-
3 cated;

4 “(II) with respect to a State bank or State
5 savings association, the State by which the
6 State bank or State savings association is char-
7 tered; and

8 “(III) with respect to a Federal savings as-
9 sociation, the State in which the home office (as
10 defined by the regulations of the Director of the
11 Office of Thrift Supervision, or, on and after
12 the transfer date, the Comptroller of the Cur-
13 rency) of the Federal savings association is lo-
14 cated.”.

15 (b) ACQUISITIONS BY BANK HOLDING COMPANIES.—

16 (1) IN GENERAL.—Section 4 of the Bank Hold-
17 ing Company Act of 1956 (12 U.S.C. 1843) is
18 amended—

19 (A) in subsection (i), by adding at the end
20 the following:

21 “(8) INTERSTATE ACQUISITIONS.—

22 “(A) IN GENERAL.—The Board may not
23 approve an application by a bank holding com-
24 pany to acquire an insured depository institu-

1 tion under subsection (c)(8) or any other provi-
2 sion of this Act if—

3 “(i) the home State of such insured
4 depository institution is a State other than
5 the home State of the bank holding com-
6 pany; and

7 “(ii) the applicant (including all in-
8 sured depository institutions which are af-
9 filiates of the applicant) controls, or upon
10 consummation of the transaction would
11 control, more than 10 percent of the total
12 amount of deposits of insured depository
13 institutions in the United States.

14 “(B) EXCEPTION.—Subparagraph (A)
15 shall not apply to an acquisition that involves
16 an insured depository institution in default or
17 in danger of default, or with respect to which
18 the Federal Deposit Insurance Corporation pro-
19 vides assistance under section 13 of the Federal
20 Deposit Insurance Act (12 U.S.C. 1823).”; and

21 (B) in subsection (k)(6)(B), by striking
22 “savings association” and inserting “insured
23 depository institution”.

1 (2) DEFINITIONS.—Section 2(o)(4) of the Bank
2 Holding Company Act of 1956 (12 U.S.C.
3 1841(o)(4)) is amended—

4 (A) in subparagraph (B), by striking
5 “and” at the end;

6 (B) in subparagraph (C)(ii), by striking
7 the period at the end and inserting a semicolon;
8 and

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

10 “(D) with respect to a State savings asso-
11 ciation, the State by which the savings associa-
12 tion is chartered; and

13 “(E) with respect to a Federal savings as-
14 sociation, the State in which the home office (as
15 defined by the regulations of the Director of the
16 Office of Thrift Supervision, or, on and after
17 the transfer date, the Comptroller of the Cur-
18 rency) of the Federal savings association is lo-
19 cated.”.

20 (e) ACQUISITIONS BY SAVINGS AND LOAN HOLDING
21 COMPANIES.—Section 10(e)(2) of the Home Owners’
22 Loan Act (12 U.S.C. 1467a(e)(2)) is amended—

23 (1) in paragraph (2)—

24 (A) in subparagraph (C), by striking “or”
25 at the end;

1 (B) in subparagraph (D), by striking the
2 period at the end and inserting “, or”;

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

4 “(E) in the case of an application by a sav-
5 ings and loan holding company to acquire an
6 insured depository institution, if—

7 “(i) the home State of the insured de-
8 pository institution is a State other than
9 the home State of the savings and loan
10 holding company;

11 “(ii) the applicant (including all in-
12 sured depository institutions which are af-
13 filiates of the applicant) controls, or upon
14 consummation of the transaction would
15 control, more than 10 percent of the total
16 amount of deposits of insured depository
17 institutions in the United States; and

18 “(iii) the acquisition does not involve
19 an insured depository institution in default
20 or in danger of default, or with respect to
21 which the Federal Deposit Insurance Cor-
22 poration provides assistance under section
23 13 of the Federal Deposit Insurance Act
24 (12 U.S.C. 1823).”;

25 (2) by adding at the end the following:

1 “(7) DEFINITIONS.—For purposes of paragraph

2 (2)(E)—

3 “(A) the terms ‘default’, ‘in danger of de-

4 fault’, and ‘insured depository institution’ have

5 the same meanings as in section 3 of the Fed-

6 eral Deposit Insurance Act (12 U.S.C. 1813);

7 and

8 “(B) the term ‘home State’ means—

9 “(i) with respect to a national bank,

10 the State in which the main office of the

11 bank is located;

12 “(ii) with respect to a State bank or

13 State savings association, the State by

14 which the savings association is chartered;

15 “(iii) with respect to a Federal sav-

16 ings association, the State in which the

17 home office (as defined by the regulations

18 of the Director of the Office of Thrift Su-

19 pervision, or, on and after the transfer

20 date, the Comptroller of the Currency) of

21 the Federal savings association is located;

22 and

23 “(iv) with respect to a savings and

24 loan holding company, the State in which

25 the amount of total deposits of all insured

1 depository institution subsidiaries of such
2 company was the greatest on the date on
3 which the company became a savings and
4 loan holding company.”.

5 **SEC. 624. QUALIFIED THRIFT LENDERS.**

6 Section 10(m)(3) of the Home Owners’ Loan Act (12
7 U.S.C. 1467a(m)(3)) is amended—

8 (1) by striking subparagraph (A) and inserting
9 the following:

10 “(A) IN GENERAL.—A savings association
11 that fails to become or remain a qualified thrift
12 lender shall immediately be subject to the re-
13 strictions under subparagraph (B).”; and

14 (2) in subparagraph (B)(i), by striking sub-
15 clause (III) and inserting the following:

16 “(III) DIVIDENDS.—The savings
17 association may not pay dividends, ex-
18 cept for dividends that—

19 “(aa) would be permissible
20 for a national bank;

21 “(bb) are necessary to meet
22 obligations of a company that
23 controls such savings association;
24 and

1 “(cc) are specifically ap-
2 proved by the Comptroller of the
3 Currency and the Board after a
4 written request submitted to the
5 Comptroller of the Currency and
6 the Board by the savings associa-
7 tion not later than 30 days be-
8 fore the date of the proposed
9 payment.

10 “(IV) REGULATORY AUTHOR-
11 ITY.—A savings association that fails
12 to become or remain a qualified thrift
13 lender shall be deemed to have vio-
14 lated section 5 of the Home Owners’
15 Loan Act (12 U.S.C. 1464) and sub-
16 ject to actions authorized by section
17 5(d) of the Home Owners’ Loan Act
18 (12 U.S.C. 1464(d)).”.

19 **SEC. 625. TREATMENT OF DIVIDENDS BY CERTAIN MUTUAL**
20 **HOLDING COMPANIES.**

21 (a) IN GENERAL.—Section 10(o) of the Home Own-
22 ers’ Loan Act (12 U.S.C. 1467a(o)) is amended by adding
23 at the end the following:

24 “(11) DIVIDENDS.—

25 “(A) DECLARATION OF DIVIDENDS.—

1 “(i) ADVANCE NOTICE REQUIRED.—
2 Each subsidiary of a mutual holding com-
3 pany that is a savings association shall
4 give the appropriate Federal banking agen-
5 cy and the Board notice not later than 30
6 days before the date of a proposed declara-
7 tion by the board of directors of the sav-
8 ings association of any dividend on the
9 guaranty, permanent, or other
10 nonwithdrawable stock of the savings asso-
11 ciation.

12 “(ii) INVALID DIVIDENDS.—Any divi-
13 dend described in clause (i) that is de-
14 clared without giving notice to the appro-
15 priate Federal banking agency and the
16 Board under clause (i), or that is declared
17 during the 30-day period preceding the
18 date of a proposed declaration for which
19 notice is given to the appropriate Federal
20 banking agency and the Board under
21 clause (i), shall be invalid and shall confer
22 no rights or benefits upon the holder of
23 any such stock.

24 “(B) WAIVER OF DIVIDENDS.—A mutual
25 holding company may waive the right to receive

1 any dividend declared by a subsidiary of the
2 mutual holding company, if—

3 “(i) no insider of the mutual holding
4 company, associate of an insider, or tax-
5 qualified or non-tax-qualified employee
6 stock benefit plan of the mutual holding
7 company holds any share of the stock in
8 the class of stock to which the waiver
9 would apply; or

10 “(ii) the mutual holding company
11 gives written notice to the Board of the in-
12 tent of the mutual holding company to
13 waive the right to receive dividends, not
14 later than 30 days before the date of the
15 proposed date of payment of the dividend,
16 and the Board does not object to the waiv-
17 er.

18 “(C) RESOLUTION INCLUDED IN WAIVER
19 NOTICE.—A notice of a waiver under subpara-
20 graph (B) shall include a copy of the resolution
21 of the board of directors of the mutual holding
22 company, in such form and substance as the
23 Board may determine, together with any sup-
24 porting materials relied upon by the board of
25 directors of the mutual holding company, con-

1 including that the proposed dividend waiver is
2 consistent with the fiduciary duties of the board
3 of directors to the mutual members of the mu-
4 tual holding company.

5 “(D) STANDARDS FOR WAIVER OF DIVI-
6 DEND.—The Board may not object to a waiver
7 of dividends under subparagraph (B) if—

8 “(i) the waiver would not be detri-
9 mental to the safe and sound operation of
10 the savings association;

11 “(ii) the board of directors of the mu-
12 tual holding company expressly determines
13 that a waiver of the dividend by the mu-
14 tual holding company is consistent with the
15 fiduciary duties of the board of directors to
16 the mutual members of the mutual holding
17 company; and

18 “(iii) the mutual holding company
19 has, prior to December 1, 2009—

20 “(I) reorganized into a mutual
21 holding company under subsection (o);

22 “(II) issued minority stock either
23 from its mid-tier stock holding com-
24 pany or its subsidiary stock savings
25 association; and

1 “(III) waived dividends it had a
2 right to receive from the subsidiary
3 stock savings association.

4 “(E) VALUATION.—

5 “(i) IN GENERAL.—The appropriate
6 Federal banking agency shall consider
7 waived dividends in determining an appro-
8 priate exchange ratio in the event of a full
9 conversion to stock form.

10 “(ii) EXCEPTION.—In the case of a
11 savings association that has reorganized
12 into a mutual holding company, has issued
13 minority stock from a mid-tier stock hold-
14 ing company or a subsidiary stock savings
15 association of the mutual holding company,
16 and has waived dividends it had a right to
17 receive from a subsidiary savings associa-
18 tion before December 1, 2009, the appro-
19 priate Federal banking agency shall not
20 consider waived dividends in determining
21 an appropriate exchange ratio in the event
22 of a full conversion to stock form.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on the transfer date.

1 **SEC. 626. INTERMEDIATE HOLDING COMPANIES.**

2 The Home Owners' Loan Act (12 U.S.C. 1461 et
3 seq.) is amended by inserting after section 10 (12 U.S.C.
4 1467a) the following new section:

5 **“SEC. 10A. INTERMEDIATE HOLDING COMPANIES.**

6 “(a) DEFINITION.—For purposes of this section:

7 “(1) FINANCIAL ACTIVITIES.—The term ‘finan-
8 cial activities’ means activities described in clauses
9 (i) and (ii) of section 10(c)(9)(A).

10 “(2) GRANDFATHERED UNITARY SAVINGS AND
11 LOAN HOLDING COMPANY.—The term ‘grand-
12 fathered unitary savings and loan holding company’
13 means a company described in section 10(c)(9)(C).

14 “(3) INTERNAL FINANCIAL ACTIVITIES.—The
15 term ‘internal financial activities’ includes—

16 “(A) internal financial activities conducted
17 by a grandfathered savings and loan holding
18 company or any affiliate; and

19 “(B) internal treasury, investment, and
20 employee benefit functions.

21 “(b) REQUIREMENT.—

22 “(1) IN GENERAL.—

23 “(A) ACTIVITIES OTHER THAN FINANCIAL
24 ACTIVITIES.—If a grandfathered unitary sav-
25 ings and loan holding company conducts activi-
26 ties other than financial activities, the Board

1 may require such company to establish and con-
2 duct all or a portion of such financial activities
3 in or through an intermediate holding company,
4 which shall be a savings and loan holding com-
5 pany, established pursuant to regulations of the
6 Board, not later than 90 days (or such longer
7 period as the Board may deem appropriate)
8 after the transfer date.

9 “(B) OTHER ACTIVITIES.—Notwith-
10 standing subparagraph (A), the Board shall re-
11 quire a grandfathered unitary savings and loan
12 holding company to establish an intermediate
13 holding company if the Board makes a deter-
14 mination that the establishment of such inter-
15 mediate holding company is necessary—

16 “(i) to appropriately supervise activi-
17 ties that are determined to be financial ac-
18 tivities; or

19 “(ii) to ensure that supervision by the
20 Board does not extend to the activities of
21 such company that are not financial activi-
22 ties.

23 “(2) INTERNAL FINANCIAL ACTIVITIES.—

24 “(A) TREATMENT OF INTERNAL FINAN-
25 CIAL ACTIVITIES.—For purposes of this sub-

1 section, the internal financial activities of a
2 grandfathered unitary savings and loan holding
3 company shall not be required to be placed in
4 an intermediate holding company.

5 “(B) GRANDFATHERED ACTIVITIES.—A
6 grandfathered unitary savings and loan holding
7 company may continue to engage in an internal
8 financial activity, subject to review by the
9 Board to determine whether engaging in such
10 activity presents undue risk to the grand-
11 fathered unitary savings and loan holding com-
12 pany or to the financial stability of the United
13 States, if—

14 “(i) the grandfathered unitary savings
15 and loan holding company engaged in the
16 activity during the year before the date of
17 enactment of this section; and

18 “(ii) at least $\frac{2}{3}$ of the assets or $\frac{2}{3}$ of
19 the revenues generated from the activity
20 are from or attributable to the grand-
21 fathered unitary savings and loan holding
22 company.

23 “(3) SOURCE OF STRENGTH.—A grandfathered
24 unitary savings and loan holding company that di-
25 rectly or indirectly controls an intermediate holding

1 company established under this section shall serve as
2 a source of strength to its subsidiary intermediate
3 holding company.

4 “(4) PARENT COMPANY REPORTS.—The Board,
5 may from time to time, examine and require reports
6 under oath from a grandfathered unitary savings
7 and loan holding company that controls an inter-
8 mediate holding company, and from the appropriate
9 officers or directors of such company, solely for pur-
10 poses of ensuring compliance with the provisions of
11 this section, including assessing the ability of the
12 company to serve as a source of strength to its sub-
13 sidiary intermediate holding company as required
14 under paragraph (3) and enforcing compliance with
15 such requirement.

16 “(5) LIMITED PARENT COMPANY ENFORCE-
17 MENT.—

18 “(A) IN GENERAL.—In addition to any
19 other authority of the Board, the Board may
20 enforce compliance with the provisions of this
21 subsection that are applicable to any company
22 described in paragraph (1)(A) that controls an
23 intermediate holding company under section 8
24 of the Federal Deposit Insurance Act, and a
25 company described in paragraph (1)(A) shall be

1 subject to such section (solely for purposes of
2 this subparagraph) in the same manner and to
3 the same extent as if the company described in
4 paragraph (1)(A) were a savings and loan hold-
5 ing company.

6 “(B) APPLICATION OF OTHER ACT.—Any
7 violation of this subsection by a grandfathered
8 unitary savings and loan holding company that
9 controls an intermediate holding company may
10 also be treated as a violation of the Federal De-
11 posit Insurance Act for purposes of subpara-
12 graph (A).

13 “(C) NO EFFECT ON OTHER AUTHOR-
14 ITY.—No provision of this paragraph shall be
15 construed as limiting any authority of the
16 Board or any other Federal agency under any
17 other provision of law.

18 “(c) REGULATIONS.—The Board—

19 “(1) shall promulgate regulations to establish
20 the criteria for determining whether to require a
21 grandfathered unitary savings and loan holding com-
22 pany to establish an intermediate holding company
23 under subsection (b); and

24 “(2) may promulgate regulations to establish
25 any restrictions or limitations on transactions be-

1 tween an intermediate holding company or a parent
2 of such company and its affiliates, as necessary to
3 prevent unsafe and unsound practices in connection
4 with transactions between the intermediate holding
5 company, or any subsidiary thereof, and its parent
6 company or affiliates that are not subsidiaries of the
7 intermediate holding company, except that such reg-
8 ulations shall not restrict or limit any transaction in
9 connection with the bona fide acquisition or lease by
10 an unaffiliated person of assets, goods, or services.

11 “(d) RULES OF CONSTRUCTION.—

12 “(1) ACTIVITIES.—Nothing in this section shall
13 be construed to require a grandfathered unitary sav-
14 ings and loan holding company to conform its activi-
15 ties to permissible activities.

16 “(2) PERMISSIBLE CORPORATE REORGANIZA-
17 TION.—The formation of an intermediate holding
18 company as required in subsection (b) shall be pre-
19 sumed to be a permissible corporate reorganization
20 as described in section 10(e)(9)(D).”.

21 **SEC. 627. INTEREST-BEARING TRANSACTION ACCOUNTS**

22 **AUTHORIZED.**

23 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-
24 TEREST ON DEMAND DEPOSITS.—

1 (1) FEDERAL RESERVE ACT.—Section 19(i) of
2 the Federal Reserve Act (12 U.S.C. 371a) is amend-
3 ed to read as follows:

4 “(i) [Repealed]”.

5 (2) HOME OWNERS’ LOAN ACT.—The first sen-
6 tence of section 5(b)(1)(B) of the Home Owners’
7 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by
8 striking “savings association may not—” and all
9 that follows through “(ii) permit any” and inserting
10 “savings association may not permit any”.

11 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
12 tion 18(g) of the Federal Deposit Insurance Act (12
13 U.S.C. 1828(g)) is amended to read as follows:

14 “(g) [Repealed]”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect 1 year after the date of
17 the enactment of this Act.

18 **SEC. 628. CREDIT CARD BANK SMALL BUSINESS LENDING.**

19 Section 2(c)(2)(F)(v) of the Bank Holding Company
20 Act of 1956 (12 U.S.C. 1841(c)(2)(F)(v)) is amended by
21 inserting before the period the following: “, other than
22 credit card loans that are made to businesses that meet
23 the criteria for a small business concern to be eligible for
24 business loans under regulations established by the Small

1 Business Administration under part 121 of title 13, Code
2 of Federal Regulations”.