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H. R. 2585

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2017

Mr. CAPUANO (for himself, Mr. JONES, Mr. ELLISON, Mr. GENE GREEN of Texas, Mr. TONKO, Ms. NORTON, Mr. CONYERS, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century Glass-
5 Steagall Act of 2017”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) in response to a financial crisis and the en-
4 suing Great Depression, Congress enacted the Bank-
5 ing Act of 1933, known as the “Glass-Steagall Act”,
6 to prohibit commercial banks from offering invest-
7 ment banking and insurance services;

8 (2) a series of deregulatory decisions by the
9 Board of Governors of the Federal Reserve System
10 and the Office of the Comptroller of the Currency,
11 in addition to decisions by Federal courts, permitted
12 commercial banks to engage in an increasing num-
13 ber of risky financial activities that had previously
14 been restricted under the Glass-Steagall Act, and
15 also vastly expanded the meaning of the “business of
16 banking” and “closely related activities” in banking
17 law;

18 (3) in 1999, Congress enacted the “Gramm-
19 Leach-Bliley Act”, which repealed the Glass-Steagall
20 Act separation between commercial and investment
21 banking and allowed for complex cross-subsidies and
22 interconnections between commercial and investment
23 banks;

24 (4) former Kansas City Federal Reserve Presi-
25 dent Thomas Hoenig observed that “with the elimi-
26 nation of Glass-Steagall, the largest institutions with

1 the greatest ability to leverage their balance sheets
2 increased their risk profile by getting into trading,
3 market making, and hedge fund activities, adding
4 ever greater complexity to their balance sheets.”;

5 (5) the Financial Crisis Inquiry Report issued
6 by the Financial Crisis Inquiry Commission con-
7 cluded that, in the years between the passage of the
8 Gramm-Leach Bliley Act and the global financial
9 crisis, “regulation and supervision of traditional
10 banking had been weakened significantly, allowing
11 commercial banks and thrifts to operate with fewer
12 constraints and to engage in a wider range of finan-
13 cial activities, including activities in the shadow
14 banking system.” The Commission also concluded
15 that “[t]his deregulation made the financial system
16 especially vulnerable to the financial crisis and exac-
17 erbated its effects.”;

18 (6) a report by the Financial Stability Over-
19 sight Council pursuant to section 123 of the Dodd-
20 Frank Wall Street Reform and Consumer Protection
21 Act (12 U.S.C. 5333) states that increased com-
22 plexity and diversity of financial activities at finan-
23 cial institutions may “shift institutions towards more
24 risk-taking, increase the level of interconnectedness
25 among financial firms, and therefore may increase

1 systemic default risk. These potential costs may be
2 exacerbated in cases where the market perceives di-
3 verse and complex financial institutions as ‘too big
4 to fail,’ which may lead to excessive risk taking and
5 concerns about moral hazard.”;

6 (7) the Senate Permanent Subcommittee on In-
7 vestigations report, “Wall Street and the Financial
8 Crisis: Anatomy of a Financial Collapse”, states that
9 repeal of the Glass-Steagall Act “made it more dif-
10 ficult for regulators to distinguish between activities
11 intended to benefit customers versus the financial in-
12 stitution itself. The expanded set of financial serv-
13 ices investment banks were allowed to offer also con-
14 tributed to the multiple and significant conflicts of
15 interest that arose between some investment banks
16 and their clients during the financial crisis.”;

17 (8) the Senate Permanent Subcommittee on In-
18 vestigations report, “JPMorgan Chase Whale
19 Trades: A Case History of Derivatives Risks and
20 Abuses”, describes how traders at JPMorgan Chase
21 made risky bets using excess deposits that were
22 partly insured by the Federal Government;

23 (9) in Europe, the Vickers Independent Com-
24 mission on Banking (for the United Kingdom) and
25 the Liikanen Report (for the Euro area) have both

1 found that there is no inherent reason to bundle “re-
2 tail banking” with “investment banking” or other
3 forms of relatively high risk securities trading, and
4 European countries are set on a path of separating
5 various activities that are currently bundled together
6 in the business of banking;

7 (10) private sector actors prefer having access
8 to underpriced public sector insurance, whether ex-
9 plicit (for insured deposits) or implicit (for “too big
10 to fail” financial institutions), to subsidize dan-
11 gerous levels of risk-taking, which, from a broader
12 social perspective, is not an advantageous arrange-
13 ment; and

14 (11) the financial crisis, and the regulatory re-
15 sponse to the crisis, has led to more mergers be-
16 tween financial institutions, creating greater finan-
17 cial sector consolidation and increasing the domi-
18 nance of a few large, complex financial institutions
19 that are generally considered to be “too big to fail”,
20 and therefore are perceived by the markets as hav-
21 ing an implicit guarantee from the Federal Govern-
22 ment to bail them out in the event of their failure.

23 (b) PURPOSES.—The purposes of this Act are—

1 (1) to reduce risks to the financial system by
2 limiting the ability of banks to engage in activities
3 other than socially valuable core banking activities;

4 (2) to protect taxpayers and reduce moral haz-
5 ard by removing explicit and implicit government
6 guarantees for high-risk activities outside of the core
7 business of banking; and

8 (3) to eliminate any conflict of interest that
9 arises from banks engaging in activities from which
10 their profits are earned at the expense of their cus-
11 tomers or clients.

12 **SEC. 3. DEFINITIONS.**

13 In this Act—

14 (1) the term “bank holding company” has the
15 meaning given the term in section 2 of the Bank
16 Holding Company Act of 1956 (12 U.S.C. 1841);
17 and

18 (2) the terms “insurance company”, “insured
19 depository institution”, “securities entity”, and
20 “swaps entity” have the meanings given those terms
21 in section 18(s)(6)(D) of the Federal Deposit Insur-
22 ance Act, as added by section 4(a) of this Act.

23 **SEC. 4. SAFE AND SOUND BANKING.**

24 (a) COVERED INSURED DEPOSITORY INSTITU-
25 TIONS.—Section 18(s) of the Federal Deposit Insurance

1 Act (12 U.S.C. 1828(s)) is amended by adding at the end
2 the following:

3 “(6) LIMITATIONS ON BANKING AFFILI-
4 ATIONS.—

5 “(A) PROHIBITION ON AFFILIATIONS WITH
6 NONDEPOSITORY ENTITIES.—A covered insured
7 depository institution may not—

8 “(i) be or become an affiliate of any
9 insurance company, securities entity, or
10 swaps entity;

11 “(ii) be in common ownership or con-
12 trol with any insurance company, securities
13 entity, or swaps entity; or

14 “(iii) engage in any activity that
15 would cause the covered insured depository
16 institution to qualify as an insurance com-
17 pany, securities entity, or swaps entity.

18 “(B) INDIVIDUALS ELIGIBLE TO SERVE ON
19 BOARDS OF DEPOSITORY INSTITUTIONS.—

20 “(i) IN GENERAL.—An individual who
21 is an officer, director, partner, or employee
22 of any securities entity, insurance com-
23 pany, or swaps entity may not serve at the
24 same time as an officer, director, employee,

1 or other institution-affiliated party of any
2 covered insured depository institution.

3 “(ii) EXCEPTION.—Clause (i) shall
4 not apply with respect to service by any in-
5 dividual which is otherwise prohibited
6 under clause (i), if the appropriate Federal
7 banking agency determines, by regulation
8 with respect to a limited number of cases,
9 that service by such an individual as an of-
10 ficer, director, employee, or other institu-
11 tion-affiliated party of a covered insured
12 depository institution would not unduly in-
13 fluence—

14 “(I) the investment policies of
15 the institution; or

16 “(II) the advice that the institu-
17 tion provides to customers.

18 “(iii) TERMINATION OF SERVICE.—
19 Unless the appropriate Federal banking
20 agency makes a determination under
21 clause (ii), an individual described in
22 clause (i) who, as of the date of enactment
23 of this paragraph, is serving as an officer,
24 director, employee, or other institution-af-
25 filiated party of any covered insured depos-

1 itory institution shall terminate such serv-
2 ice as soon as is practicable after such date
3 of enactment, and in no event later than
4 the end of the 60-day period beginning on
5 that date of enactment.

6 “(C) TERMINATION OF EXISTING AFFILI-
7 ATIONS AND ACTIVITIES.—

8 “(i) ORDERLY TERMINATION OF EX-
9 ISTING AFFILIATIONS AND ACTIVITIES.—

10 Any affiliation, common ownership or con-
11 trol, or activity of a covered insured depos-
12 itory institution with any securities entity,
13 insurance company, swaps entity, or any
14 other person, as of the date of enactment
15 of this paragraph, which is prohibited
16 under subparagraph (A) shall be termi-
17 nated as soon as is practicable, and in no
18 event later than the end of the 5-year pe-
19 riod beginning on that date of enactment.

20 “(ii) EARLY TERMINATION.—The ap-
21 propriate Federal banking agency, at any
22 time after opportunity for hearing, may
23 order termination of an affiliation, common
24 ownership or control, or activity prohibited
25 by clause (i) before the end of the 5-year

1 period described in clause (i), if the agency
2 determines that such action—

3 “(I) is necessary to prevent
4 undue concentration of resources, de-
5 creased or unfair competition, con-
6 flicts of interest, or unsound banking
7 practices; and

8 “(II) is in the public interest.

9 “(iii) EXTENSION.—An appropriate
10 Federal banking agency may extend the 5-
11 year period described in clause (i) upon the
12 request of a covered insured depository in-
13 stitution described in clause (i) for a pe-
14 riod of not more than 6 months for each
15 request received, if—

16 “(I) the appropriate Federal
17 banking agency certifies that an ex-
18 tension would promote the public in-
19 terest and would not pose a signifi-
20 cant threat to the stability of the
21 banking system or financial markets
22 in the United States; and

23 “(II) any extensions granted
24 under this clause, in the aggregate, do

1 not exceed 1 year for any particular
2 covered insured depository institution.

3 “(iv) REQUIREMENTS FOR ENTITIES
4 RECEIVING AN EXTENSION.—Upon receipt
5 of each extension under clause (iii), the
6 covered insured depository institution shall
7 notify shareholders of the covered insured
8 depository institution and the general pub-
9 lic that it failed to comply with the re-
10 quirements of clause (i).

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

13 “(i) COVERED INSURED DEPOSITORY
14 INSTITUTION.—The term ‘covered insured
15 depository institution’—

16 “(I) has the meaning given the
17 term in section 3(c)(2); and

18 “(II) does not include a savings
19 association controlled by a savings
20 and loan holding company, as de-
21 scribed in section 10(c)(9)(C) of the
22 Home Owners’ Loan Act (12 U.S.C.
23 1467a(c)(9)(C)).

24 “(ii) INSURANCE COMPANY.—The
25 term ‘insurance company’ has the meaning

1 given the term in section 2(q) of the Bank
2 Holding Company Act of 1956 (12 U.S.C.
3 1841(q)).

4 “(iii) SECURITIES ENTITY.—The term
5 ‘securities entity’—

6 “(I) includes any entity engaged
7 in—

8 “(aa) the issuance, flotation,
9 underwriting, public sale, or dis-
10 tribution of stocks, bonds, debent-
11 ures, notes, or other securities;

12 “(bb) market making;

13 “(cc) activities of a broker
14 or dealer, as those terms are de-
15 fined in section 3(a) of the Secu-
16 rities Exchange Act of 1934 (15
17 U.S.C. 78c(a));

18 “(dd) activities of a futures
19 commission merchant;

20 “(ee) activities of an invest-
21 ment adviser or investment com-
22 pany, as those terms are defined
23 in section 202(a) of the Invest-
24 ment Advisers Act of 1940 (15
25 U.S.C. 80b–2(a)) and section

1 3(a)(1) of the Investment Com-
2 pany Act of 1940 (15 U.S.C.
3 80a-3(a)(1)), respectively; or

4 “(ff) hedge fund or private
5 equity investments in the securi-
6 ties of either privately or publicly
7 held companies; and

8 “(II) does not include an entity
9 that, pursuant to its authorized trust
10 and fiduciary activities—

11 “(aa) purchases and sells in-
12 vestments for the account of its
13 customers; or

14 “(bb) provides financial or
15 investment advice to its cus-
16 tomers.

17 “(iv) SWAPS ENTITY.—The term
18 ‘swaps entity’ means any swap dealer, se-
19 curity-based swap dealer, major swap par-
20 ticipant, or major security-based swap par-
21 ticipant, that is registered under—

22 “(I) the Commodity Exchange
23 Act (7 U.S.C. 1 et seq.); or

24 “(II) the Securities Exchange
25 Act of 1934 (15 U.S.C. 78a et seq.).”.

1 (b) LIMITATION ON BANKING ACTIVITIES.—Section
2 21 of the Banking Act of 1933 (12 U.S.C. 378) is amend-
3 ed by adding at the end the following:

4 “(c) BUSINESS OF RECEIVING DEPOSITS.—For pur-
5 poses of this section, the term ‘business of receiving depos-
6 its’ includes the establishment and maintenance of any
7 transaction account (as defined in section 19(b)(1)(C) of
8 the Federal Reserve Act (12 U.S.C. 461(b)(1)(C)).”.

9 (c) PERMITTED ACTIVITIES OF NATIONAL BANKS.—
10 The paragraph designated as “Seventh” of section 5136
11 of the Revised Statutes (12 U.S.C. 24) is amended to read
12 as follows:

13 “Seventh. PERMITTED ACTIVITIES.—(A) IN
14 GENERAL.—To exercise by its board of directors or
15 duly authorized officers or agents, subject to law, all
16 such powers as are necessary to carry on the busi-
17 ness of banking.

18 “(B) BUSINESS OF BANKING.—As used in this
19 paragraph, the term ‘business of banking’ shall be
20 limited to the following core banking services:

21 “(i) RECEIVING DEPOSITS.—A national
22 banking association may engage in the business
23 of receiving deposits.

24 “(ii) EXTENSIONS OF CREDIT.—A national
25 banking association may—

1 “(I) extend credit to individuals, busi-
2 nesses, not for profit organizations, and
3 other entities;

4 “(II) discount and negotiate promissory notes, drafts, bills of exchange, and
5 other evidences of debt; and
6

7 “(III) loan money on personal secu-
8 rity.

9 “(iii) PAYMENT SYSTEMS.—A national
10 banking association may participate in payment
11 systems, defined as instruments, banking proce-
12 dures, and interbank funds transfer systems
13 that ensure the circulation of money.

14 “(iv) COIN AND BULLION.—A national
15 banking association may buy, sell, and exchange
16 coin and bullion.

17 “(v) INVESTMENTS IN SECURITIES.—

18 “(I) IN GENERAL.—A national bank-
19 ing association may invest in investment
20 securities, defined as marketable obliga-
21 tions evidencing indebtedness of any per-
22 son, copartnership, association, or corpora-
23 tion in the form of bonds, notes, or deben-
24 tures (commonly known as ‘investment se-
25 curities’), obligations of the Federal Gov-

1 ernment, or any State or subdivision there-
2 of, and includes the definition of ‘invest-
3 ment securities’, as may be jointly pre-
4 scribed by regulation by—

5 “(aa) the Comptroller of the Cur-
6 rency;

7 “(bb) the Federal Deposit Insur-
8 ance Corporation; and

9 “(cc) the Board of Governors of
10 the Federal Reserve System.

11 “(II) LIMITATIONS.—The business of
12 dealing in securities and stock by a na-
13 tional banking association shall be limited
14 to—

15 “(aa) purchasing and selling such
16 securities and stock without recourse,
17 solely upon the order, and for the ac-
18 count of, customers, and in no case
19 for its own account, and the national
20 banking association shall not under-
21 write any issue of securities or stock;
22 and

23 “(bb) purchasing for its own ac-
24 count investment securities under
25 such limitations and restrictions as

1 the Comptroller of the Currency, the
2 Federal Deposit Insurance Corpora-
3 tion, and the Board of Governors of
4 the Federal Reserve System may
5 jointly prescribe, by regulation.

6 “(III) PROHIBITION ON AMOUNT OF
7 INVESTMENT.—In no event shall the total
8 amount of the investment securities of any
9 single obligor or maker, held by the asso-
10 ciation for its own account, exceed 10 per-
11 cent of its capital stock actually paid in
12 and unimpaired and 10 percent of its
13 unimpaired surplus fund, except that such
14 limitation shall not require any association
15 to dispose of any securities lawfully held by
16 it on August 23, 1935.

17 “(C) PROHIBITION AGAINST TRANSACTIONS IN-
18 VOLVING STRUCTURED OR SYNTHETIC PRODUCTS.—
19 A national banking association may not—

20 “(i) invest in a structured or synthetic
21 product, a financial instrument in which a re-
22 turn is calculated based on the value of, or by
23 reference to the performance of, a security,
24 commodity, swap, other asset, or an entity, or
25 any index or basket composed of securities,

1 commodities, swaps, other assets, or entities,
2 other than customarily determined interest
3 rates; or

4 “(ii) otherwise engage in the business of
5 receiving deposits or extending credit for trans-
6 actions involving structured or synthetic prod-
7 ucts.”.

8 (d) PERMITTED ACTIVITIES OF FEDERAL SAVINGS
9 ASSOCIATIONS.—Section 5(c)(1) of the Home Owners’
10 Loan Act (12 U.S.C. 1464(c)(1)) is amended—

11 (1) by striking subparagraph (Q); and

12 (2) by redesignating subparagraphs (R)
13 through (U) as subparagraphs (Q) through (T), re-
14 spectively.

15 (e) CLOSELY RELATED ACTIVITIES.—Section 4(c) of
16 the Bank Holding Company Act of 1956 (12 U.S.C.
17 1843(c)) is amended—

18 (1) in paragraph (8), by striking “had been de-
19 termined” and all that follows through the end and
20 inserting the following: “are so closely related to
21 banking so as to be a proper incident thereto, as
22 provided under this paragraph or any rule or regula-
23 tion issued by the Board under this paragraph, pro-
24 vided that for purposes of this paragraph, closely re-
25 lated shall not be considered to include—

1 “(A) serving as an investment adviser (as
2 defined in section 2(a) of the Investment Com-
3 pany Act of 1940 (15 U.S.C. 80a-2(a)) to an
4 investment company registered under that Act,
5 including sponsoring, organizing, and managing
6 a closed-end investment company;

7 “(B) agency transactional services for cus-
8 tomer investments, except that this subpara-
9 graph may not be construed as prohibiting pur-
10 chases and sales of investments for the account
11 of customers conducted by a bank (or sub-
12 sidiary thereof) pursuant to the bank’s trust
13 and fiduciary powers;

14 “(C) investment transactions as principal,
15 except for activities specifically allowed by para-
16 graph (14); and

17 “(D) management consulting and coun-
18 seling activities;”;

19 (2) in paragraph (13), by striking “or” at the
20 end;

21 (3) by redesignating paragraph (14) as para-
22 graph (15); and

23 (4) by inserting after paragraph (13) the fol-
24 lowing:

1 “(14) purchasing, as an end user, any swap, to
2 the extent that—

3 “(A) the purchase of any such swap occurs
4 contemporaneously with the underlying hedged
5 item or hedged transaction;

6 “(B) there is formal documentation identi-
7 fying the hedging relationship with particularity
8 at the inception of the hedge; and

9 “(C) the swap is being used to hedge
10 against exposure to—

11 “(i) changes in the value of an indi-
12 vidual recognized asset or liability or an
13 identified portion thereof that is attrib-
14 utable to a particular risk;

15 “(ii) changes in interest rates; or

16 “(iii) changes in the value of currency;
17 or”.

18 (f) PROHIBITED ACTIVITIES.—Section 4(a) of the
19 Bank Holding Company Act of 1956 (12 U.S.C. 1843(a))
20 is amended—

21 (1) in paragraph (1), by striking “, or” and in-
22 serting a semicolon;

23 (2) in paragraph (2), by striking the “require-
24 ments of this Act.” and inserting “requirements of
25 this Act; or”; and

1 (3) by inserting before the undesignated matter
2 following paragraph (2) the following:

3 “(3) with the exception of the activities per-
4 mitted under subsection (c), engage in the business
5 of a ‘securities entity’ or a ‘swaps entity’, as those
6 terms are defined in section 18(s)(6)(D) of the Fed-
7 eral Deposit Insurance Act, including dealing or
8 making markets in securities, repurchase agree-
9 ments, exchange traded and over-the-counter swaps,
10 as defined by the Commodity Futures Trading Com-
11 mission and the Securities and Exchange Commis-
12 sion, or structured or synthetic products, as defined
13 in the paragraph designated as ‘Seventh’ of section
14 5136 of the Revised Statutes of the United States,
15 or any other over-the-counter securities, swaps, con-
16 tracts, or any other agreement that derives its value
17 from, or takes on the form of, such securities, de-
18 rivatives, or contracts;

19 “(4) engage in proprietary trading, as provided
20 by section 13, or any rule or regulation under that
21 section;

22 “(5) own, sponsor, or invest in a hedge fund, or
23 private equity fund, or any other fund, as provided
24 by section 13, or any rule or regulation under that
25 section, or any other fund that exhibits the charac-

1 teristics of a fund that takes on proprietary trading
2 activities or positions;

3 “(6) hold ineligible securities or derivatives;

4 “(7) engage in market-making; or

5 “(8) engage in prime brokerage activities.”.

6 (g) ANTI-EVASION.—

7 (1) IN GENERAL.—Any attempt to structure
8 any contract, investment, instrument, or product in
9 such a manner that the purpose or effect of such
10 contract, investment, instrument, or product is to
11 evade or attempt to evade the prohibitions described
12 in section 18(s)(6) of the Federal Deposit Insurance
13 Act, section 21(c) of the Banking Act of 1933, the
14 paragraph designated as “Seventh” of section 5136
15 of the Revised Statutes (12 U.S.C. 24), section
16 5(c)(1) of the Home Owners’ Loan Act (12 U.S.C.
17 1464(e)(1)), or section 4(a) of the Bank Holding
18 Company Act of 1956 (12 U.S.C. 1843(a)), as
19 added or amended by this section, shall be consid-
20 ered a violation of the Federal Deposit Insurance
21 Act (12 U.S.C. 1811 et seq.), the Banking Act of
22 1933 (Public Law 73–66; 48 Stat. 162), section
23 5136 of the Revised Statutes (12 U.S.C. 24), the
24 Home Owners’ Loan Act (12 U.S.C. 1461 et seq.),

1 and the Bank Holding Company Act of 1956 (12
2 U.S.C. 1841 et seq.), as appropriate.

3 (2) TERMINATION.—

4 (A) IN GENERAL.—Notwithstanding any
5 other provision of law, if a Federal agency has
6 reasonable cause to believe that an insured de-
7 pository institution, securities entity, swaps en-
8 tity, insurance company, bank holding company,
9 or other entity over which that Federal agency
10 has regulatory authority has made an invest-
11 ment or engaged in an activity in a manner
12 that functions as an evasion of the prohibitions
13 described in paragraph (1) (including through
14 an abuse of any permitted activity) or otherwise
15 violates such prohibitions, the Federal agency
16 shall—

17 (i) order, after due notice and oppor-
18 tunity for hearing, the entity to terminate
19 the activity and, as relevant, dispose of the
20 investment;

21 (ii) order, after the procedures de-
22 scribed in clause (i), the entity to pay a
23 penalty equal to 10 percent of the entity's
24 net profits, averaged over the previous 3

1 years, into the Treasury of the United
2 States; and

3 (iii) initiate proceedings described in
4 section 8(e) of the Federal Deposit Insur-
5 ance Act (12 U.S.C. 1818(e)) for individ-
6 uals involved in evading the prohibitions
7 described in paragraph (1).

8 (B) CONSTRUCTION.—Nothing in this
9 paragraph shall be construed to limit the inher-
10 ent authority of any Federal agency or State
11 regulatory authority to further restrict any in-
12 vestments or activities under otherwise applica-
13 ble provisions of law.

14 (3) REPORTING REQUIREMENT.—Not later than
15 1 year after the date of enactment of this Act, and
16 every year thereafter, each Federal agency having
17 regulatory authority over any entity described in
18 paragraph (2)(A) shall submit to the Committee on
19 Banking, Housing, and Urban Affairs of the Senate
20 and the Committee on Financial Services of the
21 House of Representatives and make available to the
22 public a report, which shall identify—

23 (A) the number and character of any ac-
24 tivities that took place in the preceding year

1 that function as an evasion of the prohibitions
2 described in paragraph (1);

3 (B) the names of the particular entities en-
4 gaged in those activities; and

5 (C) the actions of the Federal agency
6 taken under paragraph (2).

7 (h) ATTESTATION.—Section 4 of the Bank Holding
8 Company Act of 1956 (12 U.S.C. 1843), as amended by
9 section 5(a) of this Act, is further amended by adding at
10 the end the following:

11 “(k) ATTESTATION.—Executives of any bank holding
12 company or its affiliate shall attest in writing, under pen-
13 alty of perjury, that the bank holding company or affiliate
14 is not engaged in any activity that is prohibited under sub-
15 section (a), except to the extent that such activity is per-
16 mitted under subsection (e).”.

17 **SEC. 5. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**
18 **SIONS.**

19 (a) TERMINATION OF FINANCIAL HOLDING COM-
20 PANY DESIGNATION.—

21 (1) IN GENERAL.—Section 4 of the Bank Hold-
22 ing Company Act of 1956 (12 U.S.C. 1843) is
23 amended by striking subsections (k), (l), (m), (n),
24 and (o).

25 (2) TRANSITION.—

1 (A) ORDERLY TERMINATION OF EXISTING
2 AFFILIATION.—In the case of a bank holding
3 company which, pursuant to the amendments
4 made by paragraph (1), is no longer authorized
5 to control or be affiliated with any entity that
6 was permissible for a financial holding company
7 on the day before the date of enactment of this
8 Act, any affiliation, ownership or control, or ac-
9 tivity by the bank holding company that is not
10 permitted for a bank holding company shall be
11 terminated as soon as is practicable, and in no
12 event later than the end of the 5-year period
13 beginning on the date of enactment of this Act.

14 (B) EARLY TERMINATION.—At any time,
15 the Board of Governors of the Federal Reserve
16 System (in this section referred to as the
17 “Board”), after opportunity for hearing, may
18 terminate an affiliation prohibited by subpara-
19 graph (A) before the end of the 5-year period
20 described in subparagraph (A) if the Board de-
21 termines that such action—

22 (i) is necessary to prevent undue con-
23 centration of resources, decreased or unfair
24 competition, conflicts of interest, or un-
25 sound banking practices; and

1 (ii) is in the public interest.

2 (C) EXTENSION.—The Board may extend
3 the 5-year period described in subparagraph (A)
4 upon the request of a bank holding company
5 described in subparagraph (A) for a period of
6 not more than 6 months for each request re-
7 ceived if—

8 (i) the Board certifies that an exten-
9 sion would promote the public interest and
10 would not pose a significant risk to the
11 stability of the banking system or financial
12 markets of the United States; and

13 (ii) any extensions granted under this
14 subparagraph, in the aggregate, do not ex-
15 ceed 1 year for any particular bank hold-
16 ing company.

17 (D) REQUIREMENTS FOR ENTITIES RE-
18 CEIVING AN EXTENSION.—Upon receipt of each
19 extension under subparagraph (C), a bank hold-
20 ing company shall notify the shareholders of the
21 bank holding company and the general public
22 that the bank holding company has failed to
23 comply with the requirements of subparagraph
24 (A).

1 (b) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS
2 DISALLOWED.—

3 (1) IN GENERAL.—Section 5136A of the Re-
4 vised Statutes (12 U.S.C. 24a) is repealed.

5 (2) TRANSITION.—

6 (A) ORDERLY TERMINATION OF EXISTING
7 AFFILIATION.—In the case of a national bank
8 which, pursuant to the amendment made by
9 paragraph (1), is no longer authorized to con-
10 trol or be affiliated with a financial subsidiary
11 as of the date of enactment of this Act, such af-
12 filiation, ownership or control, or activity shall
13 be terminated as soon as is practicable, and in
14 no event later than the end of the 5-year period
15 beginning on the date of enactment of this Act.

16 (B) EARLY TERMINATION.—At any time,
17 the Comptroller of the Currency (in this section
18 referred to as the “Comptroller”), after oppor-
19 tunity for hearing, may terminate an affiliation
20 prohibited by subparagraph (A) before the end
21 of the 5-year period described in subparagraph
22 (A) if the Comptroller determines that such ac-
23 tion—

24 (i) is necessary to prevent undue con-
25 centration of resources, decreased or unfair

1 competition, conflicts of interest, or un-
2 sound banking practices; and

3 (ii) is in the public interest.

4 (C) EXTENSION.—The Comptroller may
5 extend the 5-year period described in subpara-
6 graph (A) upon the request of a national bank
7 described in subparagraph (A) for a period of
8 not more than 6 months for each request re-
9 ceived if—

10 (i) the Comptroller certifies that an
11 extension would promote the public inter-
12 est and would not pose a significant risk to
13 the stability of the banking system or fi-
14 nancial markets of the United States; and

15 (ii) any extensions granted under this
16 subparagraph, in the aggregate, do not ex-
17 ceed 1 year for any particular national
18 bank.

19 (D) REQUIREMENTS FOR ENTITIES RE-
20 CEIVING AN EXTENSION.—Upon receipt of each
21 extension under subparagraph (C), a national
22 bank shall notify the shareholders of the na-
23 tional bank and the general public that the na-
24 tional bank has failed to comply with the re-
25 quirements described in subparagraph (A).

1 (3) CLERICAL AMENDMENT.—The table of sec-
2 tions for chapter one of title LXII of the Revised
3 Statutes is amended by striking the item relating to
4 section 5136A.

5 (c) REPEAL OF PROVISION RELATING TO FOREIGN
6 BANKS FILING AS FINANCIAL HOLDING COMPANIES.—
7 Section 8(c) of the International Banking Act of 1978 (12
8 U.S.C. 3106(c)) is amended by striking paragraph (3).

9 **SEC. 6. REPEAL OF BANKRUPTCY PROVISIONS.**

10 Title 11, United States Code, is amended by repeal-
11 ing sections 555, 559, 560, and 562.

12 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) BANK HOLDING COMPANY ACT OF 1956.—The
14 Bank Holding Company Act of 1956 (12 U.S.C. 1841 et
15 seq.) is amended—

16 (1) in section 2 (12 U.S.C. 1841)—

17 (A) by striking subsection (p); and

18 (B) by redesignating subsection (q) as sub-
19 section (p); and

20 (2) in section 5 (12 U.S.C. 1844)—

21 (A) in subsection (a), by striking the last
22 sentence;

23 (B) in subsection (e), by striking para-
24 graphs (3), (4), and (5); and

25 (C) by striking subsection (g).

1 (b) BANK HOLDING COMPANY ACT AMENDMENTS OF
2 1970.—Section 106(a) of the Bank Holding Company Act
3 Amendments of 1970 (12 U.S.C. 1971(a)) is amended by
4 striking the last sentence.

5 (c) CLAYTON ACT.—Section 7A(c) of the Clayton Act
6 (15 U.S.C. 18a(c)) is amended—

7 (1) in paragraph (7), by striking “, except
8 that” and all that follows and inserting a semicolon;
9 and

10 (2) in paragraph (8), by striking “, except
11 that” and all that follows and inserting a semicolon.

12 (d) COMMODITY EXCHANGE ACT.—The Commodity
13 Exchange Act (7 U.S.C. 1 et seq.) is amended—

14 (1) in section 1a(21)(G) (7 U.S.C. 1a(21)(G)),
15 by striking “(as defined in section 2 of the Bank
16 Holding Company Act of 1956)”;

17 (2) in section 2(c)(2)(B)(i)(II)(dd) (7 U.S.C.
18 2(c)(2)(B)(i)(II)(dd)), by striking “(as defined in
19 section 2 of the Bank Holding Company Act of
20 1956)”;

21 (3) in section 2(h)(7)(C)(i)(VIII) (7 U.S.C.
22 2(h)(7)(C)(i)(VIII)), by striking “, as defined in sec-
23 tion 4(k) of the Bank Holding Company Act of
24 1956”.

1 (e) COMMUNITY REINVESTMENT ACT OF 1977.—
2 Section 804 of the Community Reinvestment Act of 1977
3 (12 U.S.C. 2903) is amended—

4 (1) by striking subsection (c); and

5 (2) by redesignating subsection (d) as sub-
6 section (c).

7 (f) DODD-FRANK WALL STREET REFORM AND CON-
8 SUMER PROTECTION ACT.—Section 201(a)(11)(B) of the
9 Dodd-Frank Wall Street Reform and Consumer Protec-
10 tion Act (12 U.S.C. 5381(a)(11)(B)) is amended by strik-
11 ing “for purposes of section 4(k) of the Bank Holding
12 Company Act of 1956 (12 U.S.C. 1843(k))” each place
13 that term appears.

14 (g) FEDERAL DEPOSIT INSURANCE ACT.—The Fed-
15 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is
16 amended—

17 (1) in section 8(b)(3) (12 U.S.C. 1818(b)(3)),
18 by striking “section 50” and inserting “section 48”;

19 (2) in section 18(u)(1)(B) (12 U.S.C.
20 1828(u)(1)(B)), by striking “or section 45 of this
21 Act”;

22 (3) by striking sections 45 and 46 (12 U.S.C.
23 1831v and 1831w); and

24 (4) by redesignating sections 47 through 50 as
25 sections 45 through 48, respectively.

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

3 (1) in the 20th undesignated paragraph of sec-
4 tion 9 (12 U.S.C. 335), by striking the last sentence;
5 and

6 (2) in section 23A (12 U.S.C. 371c)—

7 (A) in subsection (b)(11), by striking “sub-
8 paragraph (H) or (I) of section 4(k)(4) of the
9 Bank Holding Company Act of 1956 or”;

10 (B) by striking subsection (e); and

11 (C) by redesignating subsection (f) as sub-
12 section (e).

13 (i) FINANCIAL STABILITY ACT OF 2010.—The Fi-
14 nancial Stability Act of 2010 (12 U.S.C. 5301 et seq.)
15 is amended—

16 (1) in section 113(c)(5) (12 U.S.C. 5323(c)(5)),
17 by striking “(as defined in section 4(k) of the Bank
18 Holding Company Act of 1956)”;

19 (2) in section 163 (12 U.S.C. 5363)—

20 (A) by striking subsection (b); and

21 (B) in subsection (a), by striking “(a)”
22 and all that follows through “For purposes”
23 and inserting “For purposes”;

24 (3) in section 167(b) (12 U.S.C. 5367(b)), by
25 striking “under section 4(k) of the Bank Holding

1 Company Act of 1956” each place that term ap-
2 pears; and

3 (4) in section 171(b) (12 U.S.C. 5371(b))—

4 (A) by striking paragraph (3); and

5 (B) by redesignating paragraphs (4)
6 through (7) as paragraphs (3) through (6), re-
7 spectively.

8 (j) GRAMM-LEACH-BLILEY ACT.—The Gramm-
9 Leach-Bliley Act (Public Law 106–102; 113 Stat. 1338)
10 is amended—

11 (1) by striking section 115 (12 U.S.C. 1820a);

12 (2) in section 307(f) (15 U.S.C. 6715(f)), by
13 amending paragraph (2) to read as follows:

14 “(2) BOARD.—The term ‘Board’ has the mean-
15 ing given the term in section 2 of the Bank Holding
16 Company Act of 1956 (12 U.S.C. 1841).”;

17 (3) in section 505(e) (15 U.S.C. 6805(e))—

18 (A) by striking “section 47(g)(2)(B)(iii) of
19 the Federal Deposit Insurance Act” and insert-
20 ing “section 45(g)(2)(B)(iii) of the Federal De-
21 posit Insurance Act”; and

22 (B) by striking “section 47(a)” and insert-
23 ing “section 45(a)”; and

1 (4) in section 509(3)(A) (15 U.S.C.
2 6809(3)(A)), by striking “as described in section
3 4(k) of the Bank Holding Company Act of 1956”.

4 (k) HOME OWNERS’ LOAN ACT.—Section 10(c) of
5 the Home Owners’ Loan Act (12 U.S.C. 1467a(c)) is
6 amended—

7 (1) in paragraph (2), by striking subparagraph
8 (H); and

9 (2) in paragraph (9)(A), by striking “per-
10 mitted” and all that follows and inserting “per-
11 mitted under paragraph (1)(C) or (2) of this sub-
12 section.”.

13 (l) INTERNAL REVENUE CODE.—Section
14 864(f)(4)(C)(ii) of the Internal Revenue Code of 1986 is
15 amended by striking “(within the meaning of section 2(p)
16 of the Bank Holding Company Act of 1956 (12 U.S.C.
17 1841(p))”.

18 (m) PAYMENT, CLEARING, AND SETTLEMENT SU-
19 PERVISION ACT OF 2010.—Section 803(5)(A) of the Pay-
20 ment, Clearing, and Settlement Supervision Act of 2010
21 (12 U.S.C. 5462(5)(A)) is amended—

22 (1) in clause (viii), by adding “and” at the end;

23 (2) in clause (ix), by striking “; and” and in-
24 serting a period; and

25 (3) by striking clause (x).

1 (n) SECURITIES EXCHANGE ACT OF 1934.—The Se-
2 curities Exchange Act of 1934 (15 U.S.C. 78a et seq.)
3 is amended—

4 (1) in section 3(a)(4)(B)(vi)(II) (15 U.S.C.
5 78c(a)(4)(B)(vi)(II)), by striking “other than” and
6 all that follows and inserting “other than a reg-
7 istered broker or dealer.”; and

8 (2) in section 3C(g)(3)(A) (15 U.S.C. 78c-
9 3(g)(3)(A))—

10 (A) in clause (vi), by adding “and” at the
11 end;

12 (B) in clause (vii), by striking the semi-
13 colon and inserting a period; and

14 (C) by striking clause (viii).

15 (o) TITLE 11.—Title 11, United States Code, is
16 amended—

17 (1) in section 101—

18 (A) in paragraph (25)(E), by striking “,
19 measured in accordance with section 562”;

20 (B) in paragraph (47)(A)(v), by striking “,
21 measured in accordance with section 562 of this
22 title”; and

23 (C) in paragraph (53B)(A)(vi), by striking
24 “, measured in accordance with section 562”;

1 (2) in section 103(a), by striking “555 through
2 557, and 559 through 562” and inserting “556,
3 557, and 561”;

4 (3) in section 362(b)—

5 (A) in paragraph (6), by striking “555 or”
6 each place that term appears;

7 (B) in paragraph (7), by striking “(as de-
8 fined in section 559)” each place that term ap-
9 pears;

10 (C) in paragraph (17), by striking “(as de-
11 fined in section 560)” each place that term ap-
12 pears; and

13 (D) in paragraph (27), by striking “(as de-
14 fined in section 555, 556, 559, or 560)” each
15 place that term appears and inserting “(as de-
16 fined in section 556)”;

17 (4) in section 502(g)—

18 (A) by striking “(1)” before “A claim”;

19 and

20 (B) by striking paragraph (2);

21 (5) in section 553—

22 (A) in subsection (a)—

23 (i) in paragraph (2)(B)(ii), by striking
24 “555, 556, 559, 560, or 561” and insert-
25 ing “556 or 561”; and

1 (ii) in paragraph (3)(C), by striking
2 “555, 556, 559, 560, or 561” and insert-
3 ing “556 or 561”; and

4 (B) in subsection (b)(1), by striking “555,
5 556, 559, 560, 561” and inserting “556, 561”;

6 (6) in section 561(b)(1), by striking “555, 556,
7 559, or 560” and inserting “556”;

8 (7) in section 741(7)(A)(xi), by striking “,
9 measured in accordance with section 562”;

10 (8) in section 761(4)(J), by striking “, meas-
11 ured in accordance with section 562”; and

12 (9) in section 901(a), by striking “555, 556,
13 557, 559, 560, 561, 562” and inserting “556, 557,
14 561”.

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