

111TH CONGRESS  
1ST SESSION

# H. R. 4377

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called “Glass-Steagall Act”, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Ms. KAPTUR introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called “Glass-Steagall 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 “Return to Prudent  
5 Banking Act of 2009”.

1 **SEC. 2. GLASS-STEAGALL REVIVED.**

2 (a) WALL BETWEEN COMMERCIAL BANKS AND SE-  
3 CURITIES ACTIVITIES REESTABLISHED.—Section 18 of  
4 the Federal Deposit Insurance Act (12 U.S.C. 1828) is  
5 amended by adding at the end the following new sub-  
6 section:

7 “(y) LIMITATIONS ON SECURITY AFFILIATIONS.—

8 “(1) PROHIBITION ON AFFILIATION BETWEEN  
9 INSURED DEPOSITORY INSTITUTIONS AND INVEST-  
10 MENT BANKS OR SECURITIES FIRMS.—An insured  
11 depository institution may not be or become an affil-  
12 iate of any broker or dealer, any investment adviser,  
13 any investment company, or any other person en-  
14 gaged principally in the issue, flotation, under-  
15 writing, public sale, or distribution at wholesale or  
16 retail or through syndicate participation of stocks,  
17 bonds, debentures, notes, or other securities.

18 “(2) PROHIBITION ON OFFICERS, DIRECTORS  
19 AND EMPLOYEES OF SECURITIES FIRMS SERVICE ON  
20 BOARDS OF DEPOSITORY INSTITUTIONS.—

21 “(A) IN GENERAL.—An individual who is  
22 an officer, director, partner or employee of any  
23 broker or dealer, any investment adviser, any  
24 investment company, or any other person en-  
25 gaged principally in the issue, flotation, under-  
26 writing, public sale, or distribution at wholesale

1 or retail or through syndicate participation of  
2 stocks, bonds, debentures, notes, or other secu-  
3 rities may not serve at the same time as an of-  
4 ficer, director, employee, or other institution-af-  
5 filiated party of any insured depository institu-  
6 tion.

7 “(B) EXCEPTION.—Subparagraph (A)  
8 shall not apply with respect to service by any  
9 individual which is otherwise prohibited under  
10 such subparagraph if the appropriate Federal  
11 banking agency determines, by regulation with  
12 respect to a limited number of cases, that serv-  
13 ice by such individual as an officer, director,  
14 employee, or other institution-affiliated party of  
15 any insured depository institution would not un-  
16 duly influence the investment policies of the de-  
17 pository institution or the advice the institution  
18 provides to customers.

19 “(C) TERMINATION OF SERVICE.—Subject  
20 to a determination under subparagraph (B),  
21 any individual described in subparagraph (A)  
22 who, as of the date of the enactment of the Re-  
23 turn to Prudent Banking Act of 2009, is serv-  
24 ing as an officer, director, employee, or other  
25 institution-affiliated party of any insured depos-

1           itory institution shall terminate such service as  
2           soon as practicable after such date of enact-  
3           ment and no later than the end of the 60-day  
4           period beginning on such date.

5           “(3) TERMINATION OF EXISTING AFFILI-  
6           ATION.—

7                   “(A) ORDERLY WIND-DOWN OF EXISTING  
8                   AFFILIATION.—Any affiliation of an insured de-  
9                   pository institution with any broker or dealer,  
10                  any investment adviser, any investment com-  
11                  pany, or any other person, as of the date of the  
12                  enactment of the Return to Prudent Banking  
13                  Act of 2009, which is prohibited under para-  
14                  graph (1) shall be terminated as soon as prac-  
15                  ticable and in any event no later than the end  
16                  of the 2-year period beginning on such date of  
17                  enactment.

18                  “(B) EARLY TERMINATION.—The appro-  
19                  priate Federal banking agency, after oppor-  
20                  tunity for hearing, may terminate, at any time,  
21                  the authority conferred by the preceding sub-  
22                  paragraph to continue any affiliation subject to  
23                  such subparagraph until the end of the period  
24                  referred to in such subparagraph if the agency  
25                  determines, having due regard for the purposes

1 of this subsection and the Return to Prudent  
2 Banking Act of 2009, that such action is nec-  
3 essary to prevent undue concentration of re-  
4 sources, decreased or unfair competition, con-  
5 flicts of interest, or unsound banking practices  
6 and is in the public interest.

7 “(C) EXTENSION.—Subject to a deter-  
8 mination under subparagraph (B), an appro-  
9 priate Federal banking agency may extend the  
10 2-year period referred to in subparagraph (A)  
11 above from time to time as to any particular in-  
12 sured depository institution for not more than  
13 6 months at a time, if, in the judgment of the  
14 agency, such an extension would not be detri-  
15 mental to the public interest, but no such exten-  
16 sions shall in the aggregate exceed 1 year.

17 “(4) DEFINITIONS.—For purposes of this sub-  
18 section, the terms ‘broker’ and ‘dealer’ have the  
19 same meanings as in section 3(a) of the Securities  
20 Exchange Act of 1934 and the terms ‘investment  
21 adviser’ and ‘investment company’ have the meaning  
22 given such terms under the Investment Advisers Act  
23 of 1940 and the Investment Company Act of 1940,  
24 respectively.”.

1 (b) PROHIBITION ON BANKING ACTIVITIES BY SECURITIES FIRMS CLARIFIED.—Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by adding at the end the following new subsection:

2 “(c) BUSINESS OF RECEIVING DEPOSITS.—For purposes of this section, the term ‘business of receiving deposits’ includes the establishment and maintenance of any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).”

10 (c) CONTINUED APPLICABILITY OF ICI VS. CAMP.—

11 (1) IN GENERAL.—The Congress ratifies the interpretation of the paragraph designated the “Seventh” of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24; as amended by section 16 of the Banking Act of 1933 and subsequent amendments) and section 21 of the Banking Act of 1933 (12 U.S.C. 378) by the Supreme Court of the United States in the case of Investment Company Institute v. Camp (401 U.S. 617 et seq. (1971)) with regard to the permissible activities of banks and securities firms, except to the extent expressly prescribed otherwise by this section.

23 (2) APPLICABILITY OF REASONING.—The reasoning of the Supreme Court of the United States in the case referred to in paragraph (1) with respect

1 to sections 20 and 32 of the Banking Act of 1933  
2 (as in effect prior to the date of the enactment of  
3 the Gramm-Leach-Bliley Act) shall continue to apply  
4 to subsection (y) of section 18 of the Federal De-  
5 posit Insurance Act (as added by subsection (a) of  
6 this section) except to the extent the scope and ap-  
7 plication of such subsection as enacted exceed the  
8 scope and application of such sections 20 and 32.

9 (3) LIMITATION ON AGENCY INTERPRETATION  
10 OR JUDICIAL CONSTRUCTION.—No appropriate Fed-  
11 eral banking agency, by regulation, order, interpre-  
12 tation, or other action, and no court within the  
13 United States may construe the paragraph des-  
14 ignated the “Seventh” of section 5136 of the Re-  
15 vised Statutes of the United States (12 U.S.C. 24;  
16 as amended by section 16 of the Banking Act of  
17 1933 and subsequent amendments), section 21 of  
18 the Banking Act of 1933, or section 18(y) of the  
19 Federal Deposit Insurance Act more narrowly than  
20 the reasoning of the Supreme Court of the United  
21 States in the case of *Investment Company Institute*  
22 *v. Camp* (401 U.S. 617 et seq. (1971)) as to the  
23 construction and the purposes of such provisions.

1 **SEC. 3. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**  
2 **SIONS.**

3 (a) FINANCIAL HOLDING COMPANY.—

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

8 (2) TRANSITION.—

9 (A) ORDERLY WIND-DOWN OF EXISTING  
10 AFFILIATION.—In the case of a bank holding  
11 company which, pursuant to the amendments  
12 made by paragraph (1), is no longer authorized  
13 to control or be affiliated with any entity that  
14 was permissible for a financial holding com-  
15 pany, any affiliation by the bank holding com-  
16 pany which is not permitted for a bank holding  
17 company shall be terminated as soon as prac-  
18 ticable and in any event no later than the end  
19 of the 2-year period beginning on such date of  
20 enactment.

21 (B) EARLY TERMINATION.—The Board of  
22 Governors of the Federal Reserve System, after  
23 opportunity for hearing, may terminate, at any  
24 time, the authority conferred by the preceding  
25 subparagraph to continue any affiliation subject  
26 to such subparagraph until the end of the pe-



1           riod referred to in such subparagraph if the  
2           Board determines, having due regard to the  
3           purposes of this Act, that such action is nec-  
4           essary to prevent undue concentration of re-  
5           sources, decreased or unfair competition, con-  
6           flicts of interest, or unsound banking practices,  
7           and is in the public interest.

8           (C) EXTENSION.—Subject to a determina-  
9           tion under subparagraph (B), the Board of  
10          Governors of the Federal Reserve System may  
11          extend the 2-year period referred to in subpara-  
12          graph (A) above from time to time as to any  
13          particular bank holding company for not more  
14          than 6 months at a time, if, in the judgment of  
15          the Board, such an extension would not be det-  
16          rimental to the public interest, but no such ex-  
17          tensions shall in the aggregate exceed 1 year.

18          (3) TECHNICAL AND CONFORMING AMEND-  
19          MENTS.—

20                 (A) Section 2 of the Bank Holding Com-  
21                 pany Act of 1956 (12 U.S.C. 1841) is amended  
22                 by striking subsection (p).

23                 (B) Section 5(c) of the Bank Holding  
24                 Company Act of 1956 (12 U.S.C. 1844(c)) is  
25                 amended—

1 (i) by striking subparagraph (E) of  
2 paragraph (2); and

3 (ii) by striking paragraphs (3), (4),  
4 and (5).

5 (C) Section 5 of the Bank Holding Com-  
6 pany Act of 1956 (12 U.S.C. 1844) is amended  
7 by striking subsection (g).

8 (D) The Federal Deposit Insurance Act  
9 (12 U.S.C. 1811 et seq.) is amended by striking  
10 section 45.

11 (E) The Bank Holding Company Act of  
12 1956 (12 U.S.C. 1841 et seq.) is amended by  
13 striking section 10A.

14 (F) Subtitle B of title I of the Gramm-  
15 Leach-Bliley Act is amended by striking section  
16 114 (12 U.S.C. 1828a) and section 115 (12  
17 U.S.C. 1820a).

18 (b) FINANCIAL SUBSIDIARIES REPEALED.—

19 (1) IN GENERAL.—Section 5136A of the Re-  
20 vised Statutes of the United States (12 U.S.C. 24a)  
21 is amended to read as follows:

22 **“SEC. 5136A. [REPEALED].”.**

23 (2) TRANSITION.—

24 (A) ORDERLY WIND-DOWN OF EXISTING  
25 AFFILIATION.—In the case of a national bank

1           which, pursuant to the amendments made by  
2           paragraph (1), is no longer authorized to con-  
3           trol or be affiliated with financial subsidiary as  
4           of the date of the enactment of this Act, such  
5           affiliation shall be terminated as soon as prac-  
6           ticable and in any event no later than the end  
7           of the 2-year period beginning on such date of  
8           enactment.

9           (B) EARLY TERMINATION.—The Comp-  
10          troller of the Currency, after opportunity for  
11          hearing, may terminate, at any time, the au-  
12          thority conferred by the preceding subpara-  
13          graph to continue any affiliation subject to such  
14          subparagraph until the end of the period re-  
15          ferred to in such subparagraph if the Comp-  
16          troller determines, having due regard for the  
17          purposes of this Act, that such action is nec-  
18          essary to prevent undue concentration of re-  
19          sources, decreased or unfair competition, con-  
20          flicts of interest, or unsound banking practices  
21          and is in the public interest.

22          (C) EXTENSION.—Subject to a determina-  
23          tion under subparagraph (B), the Comptroller  
24          of the Currency may extend the 2-year period  
25          referred to in subparagraph (A) above from

1           time to time as to any particular national bank  
2           for not more than 6 months at a time, if, in the  
3           judgment of the Comptroller, such an extension  
4           would not be detrimental to the public interest,  
5           but no such extensions shall in the aggregate  
6           exceed 1 year.

7           (3) TECHNICAL AND CONFORMING AMEND-  
8           MENT.—

9                   (A) The 20th undesignated paragraph of  
10           section 9 of the Federal Reserve Act (12 U.S.C.  
11           335) is amended by striking the last sentence.

12                   (B) The Federal Deposit Insurance Act is  
13           amended by striking section 46 (12 U.S.C.  
14           1831w).

15           (4) CLERICAL AMENDMENT.—The table of sec-  
16           tions for chapter one of title LXII of the Revised  
17           Statutes of the United States is amended by striking  
18           the item relating to section 5136A.

19           (c) DEFINITION OF BROKER.—Section 3(a)(4)(B) of  
20           the Securities Exchange Act of 1934 (15 U.S.C.  
21           78c(a)(4)(B)) is amended—

22                   (1) by striking clauses (i), (iii), (v), (vii), (x),  
23           and (xi); and

1           (2) by redesignating clauses (ii), (iv), (vi), (viii),  
2           and (ix) as clauses (i), (ii), (iii), (iv), and (v), respec-  
3           tively.

4           (d) DEFINITION OF DEALER.—Section 3(a)(5)(C) of  
5           the Securities Exchange Act of 1934 (15 U.S.C.  
6           78c(a)(5)(C)) is amended—

7           (1) by striking clauses (i) and (iii); and

8           (2) by redesignating clauses (ii) and (iv) as  
9           clauses (i) and (ii), respectively.

10          (e) DEFINITION OF IDENTIFIED BANKING PROD-  
11          UCT.—Subsection (a) of section 206 of the Gramm-Leach-  
12          Bliley Act (15 U.S.C. 78c note) is amended—

13          (1) by inserting “and” after the semicolon at  
14          the end of paragraph (4);

15          (2) in paragraph (5), by striking “; or” and in-  
16          serting a period; and

17          (3) by striking paragraph (6) and all that fol-  
18          lows through the end of such subsection.

19          (f) DEFINITION OF ACTIVITIES CLOSELY RELATED  
20          TO BANKING.—

21          (1) IN GENERAL.—Section 4(c)(8) of the Bank  
22          Holding Company Act of 1956 (12 U.S.C.  
23          1843(c)(8)) is amended by striking “the day before  
24          the date of the enactment of the Gramm-Leach-Bli-  
25          ley Act” and inserting “January 1, 1970,”.

1           (2) PROVISION ALLOWING FOR EXCEPTIONS  
2 AFTER REPORT TO THE CONGRESS.—Subsection (j)  
3 of section 4 of the Bank Holding Company Act of  
4 1956 (12 U.S.C. 1843(j)) is amended to read as fol-  
5 lows:

6           “(j) APPROVAL FOR CERTAIN POST-1970 SUB-  
7 SECTION (c)(8) ACTIVITIES.—

8           “(1) IN GENERAL.—Notwithstanding the limita-  
9 tion of the January 1, 1970, approval deadline in  
10 subsection (c)(8), the Board may determine an activ-  
11 ity to be so closely related to banking as to be a  
12 proper incident thereto for purposes of such sub-  
13 section, subject to the requirements of this sub-  
14 section and such terms and conditions as the Board  
15 may require.

16           “(2) GENERAL STANDARDS.—In making any  
17 determination under paragraph (1), the Board shall  
18 consider whether performance of the activity by a  
19 bank holding company or a subsidiary of such com-  
20 pany can reasonably be expected to result in a viola-  
21 tion of section 18(y) of the Federal Deposit Insur-  
22 ance Act, section 21 of the Banking Act of 1933, or  
23 the spirit of section 2(c) of the Return to Prudent  
24 Banking Act of 2009, and other possible adverse ef-  
25 fects, such as undue concentration of resources, de-

1        creased or unfair competition, conflicts of interests,  
2        or unsound banking practices.

3            “(3) REPORT AND WAIT.—No determination of  
4        the Board under paragraph (1) may take effect be-  
5        fore the end of the 180-day period beginning on the  
6        date by which notice of the determination has been  
7        submitted to both Houses of the Congress together  
8        with a detailed explanation of the activities to which  
9        the determination relates and the basis for the de-  
10       termination, unless before the end of such period,  
11       such activities have been approved by an Act of Con-  
12       gress.”.

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

17        **SEC. 4. REPORTS TO THE CONGRESS.**

18        (a) REPORTS REQUIRED.—Each time the Board of  
19        Governors of the Federal Reserve System, the Comptroller  
20        of the Currency, or another appropriate Federal banking  
21        agency makes a determination or an extension under sub-  
22        paragraph (B) or (C) of paragraph (2) or (3) of section  
23        18(y) of the Federal Deposit Insurance Act (as added by  
24        section 2(a)) or subparagraph (B) or (C) of subsection  
25        (a)(2) or (b)(2) of section 3, as the case may be, the

1 Board, Comptroller, or agency shall promptly submit a re-  
2 port of such determination or extension to the Congress.

3 (b) CONTENTS.—Each report submitted to the Con-  
4 gress under subsection (a) shall contain a detailed descrip-  
5 tion of the basis for the determination or extension.

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