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COMMITTEE ON FINANCIAL SERVICES

Summary of Republican Substitute to H.R. 4173, the Wall Street Reform and Consumer Protection Act

Ends the Bailouts – The Republican Substitute provides for the resolution of insolvent non-bank institutions—no matter how large or systemically important—by creating a new chapter of the bankruptcy code to make it more efficient and better suited for resolving large non-bank financial institutions. This new chapter will facilitate coordination between regulators and the courts to ensure technical and specialized expertise is applied when dealing with these complex institutions. Bankruptcy judges would also have the power to stay claims by creditors and counterparties to prevent runs on troubled institutions.

Reforms of the Federal Reserve – The Republican Substitute constrains the Fed's unfettered power to intervene in markets provided under the emergency authorities of Section 13(3) of the Federal Reserve Act. It requires the Treasury Secretary to sign off on any use of Section 13(3) authorities and gives Congress the ability to pass a joint resolution of disapproval to terminate the assistance. Additionally, these powers will no longer be available to assist a specific institution (e.g., AIG). The Republican Substitute also requires all expenditures made under Section 13(3) to be placed on Treasury's balance sheet. Doing so would ensure that risks to taxpayers from the Fed's various liquidity facilities and credit programs are fully disclosed and accounted for in the Federal budget.

Protects Consumers Without Limiting Access to Credit, Imposing Excessive Compliance and Litigation Costs on Small Banks and Other Firms, Creating a Massive New Government Bureaucracy, or Undermining Safety and Soundness Regulation – The Republican Substitute establishes a Council of existing federal and state regulatory authorities to issue uniform consumer protection rules and examination practices that would be adopted jointly with and enforced by the prudential regulators. Enforcement of consumer protection rules on state-regulated institutions should be carried out by the appropriate state regulatory authority. The Substitute establishes in the Council a consumer complaint hotline for the timely referral and remedy of consumer complaints. It amends the mission statements of each regulatory agency to include consumer protection and, within each regulatory agency, establishes a consumer protection division.

Strengthens Anti-Fraud Enforcement – The Republican Substitute increases both civil and criminal money penalties in government enforcement actions, maximizes restitution for victims of fraud, improves surveillance of bad actors who prey on consumers, and allows regulators to share information with foreign regulators and law enforcement agencies engaged in the investigation and prosecution of violations of financial laws without waiving privileges. Monetary recoveries above what is needed to make full restitution to harmed investors or consumers would be used to hire additional enforcement staff.

Reforms the Over-the-Counter (OTC) Derivatives Market – The Republican Substitute requires all derivatives trades to be reported to a trade repository that would provide valuable transparency to the entire derivatives market and give regulators the ability to analyze appropriate data for their purposes, as well as provide aggregated data to the broader markets. It further requires the regulators to review the data and regularly report back to Congress on whether there are entities that should be more heavily regulated due to their activities in the derivatives markets. While not creating broad requirements for mandatory clearing, the Substitute codifies clearing commitments that the private sector has already implemented, working responsibly and cooperatively with the appropriate regulators, to engage in ever greater amounts of centralized clearing for derivatives over time.

Strengthens Shareholder Rights on Executive Compensation – The Republican substitute requires a triennial shareholder "say on pay" vote on compensation for public companies, which is a forward-looking vote that strengthens shareholder rights. It also allows shareholders to opt out of the "say on pay" regime, and provides for state laws to preempt requirements regarding independent compensation committees.

Reforms Credit Rating Agencies – The Republican Substitute changes the definition of the Nationally Recognized Statistical Ratings Organization to "nationally registered statistical rating organizations" and removes all references to ratings throughout Federal law and regulation, so that the rating agencies will no longer operate as a government-sanctioned oligopoly.

Reforms Government Sponsored Enterprises (GSEs) – The Republican Substitute phases out taxpayer subsidies of Fannie Mae and Freddie Mac over a number of years and ends the current model of privatized profits and socialized losses. It sunsets the current GSE conservatorship by a date certain, and places Fannie and Freddie in receivership if they are not financially viable at that time. If they are viable, once the housing market has stabilized, the plan would initiate the process of cutting their ties to the government by winding down the federal subsidies granted through their charters and transitioning Fannie and Freddie into non-government backed entities that compete on a level playing field with other private firms. In making reforms, Republicans will address reducing Fannie and Freddie's portfolios, re-focusing Fannie and Freddie on promoting housing affordability, and requiring SEC registration and the payment of taxes.

Establishes a Federal Insurance Office – The Republican Substitute includes provisions from H.R. 4173 establishing a Federal Insurance Office within the Treasury Department to advise the Secretary on major domestic and international insurance issues. The scope of the new Office's authority would include all lines of insurance except health insurance. The Office would have the authority to collect and request insurance industry data, and to coordinate federal efforts and develop U.S. policy on prudential aspects of international insurance matters.