

**\*\* Senate Counter Offer \*\***

**Title: Title VI**

**Matter: Improvements to Regulation of Bank and Savings Association Holding Companies and Depository Institutions**

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The Senate accepts the following House proposals for amendments to the Base text:

1. **Amend Senate Provision** regarding moratorium on applications for credit card banks, industrial loan companies, and certain other depository institutions to allow for limited investments in the parent company. (Senate bill, § 603, page 514, after line 4).
2. **Amend Senate Provision** on banking agency authority over holding company subsidiaries to require the Federal Reserve to examine nonbank subsidiaries that engage in bank-permissible activities. With modifications. (Senate bill § 605, page 530).
3. **Amend Senate Provision** on requirements for bank holding companies to remain well capitalized and well managed to engage in expanded activities so that it applies to savings & loan holding companies as well. (Senate bill § 606, page 538, after line 24).
4. **Amend Senate Provision** restricting charter conversions of banks and savings associations subject to an enforcement order, to allow for charter conversions not opposed by both the old and new federal banking agency. With modifications. (Senate bill § 612, pages 552-553).
5. **Strike Senate Provision** applying national bank lending to state-chartered banks. Proposed alternative. (Senate bill § 611, Page 551, lines 11-23).
6. **Amend Senate Provision** on regulations regarding capital levels at holding companies to incorporate House provision on countercyclical capital. With modifications. (Senate bill § 616, page 557, lines 1-14; House bill § 1255).
7. **Amend House Provision** on treatment of dividends by certain mutual holding companies to clarify universe of applicable companies who have relied on OTS rules in this regard. (Base text § 623, pages 595-598; House bill § 1219).
8. **Add Portions of House Provision** requiring use of intermediate holding companies by commercial firms that control grandfathered unitary thrift holding companies. With modifications. (House bill § 1103).
9. **Add House provision** on repeal of prohibition of banks paying interest on demand deposits. (House bill § 11001).
10. **Add House Provision** permitting credit card banks to issue credit cards to small businesses. (House bill §1301(a)(4)(B)).

The Senate does not accept the following House proposals for amendments to the Base text:

1. **Amend Senate Provision** regarding functionally regulated subsidiaries to delete insurance companies from the definition because there is no federal regulation of insurance companies, and other technical and conforming changes to the section on holding company reports and the definition of functionally regulated subsidiary. (Senate bill § 604, page 521, line 4 – page 529, line 20).
2. **Amend Senate Provision** on securities holding companies to better reflect House position by limiting eligibility to register as a securities holding company. (Senate bill, §618, page 559, line 16 – 570, line 2; House bill, § 1961, pages 533 – 541).
3. **Amend Senate Provision** on concentration limits on large financial firms to amend the definition of financial company to more closely conform to other portions of the bill. (Senate bill § 620, page 583, lines 11-23).

**The Senate proposes the following amendment to the Base text:**

An amendment to Section 619, which strengthens limits placed on proprietary trading by banks and bank holding companies, reduces the likelihood of conflicts of interest on the part of underwriters and sponsors of asset-backed securities, and provides other improvements to the section.

**HOUSE PROPOSED AMENDMENTS TO TITLE VI**

Page 511, line 19, strike “title, a company” and insert the following:

1 title:

2 (1) ~~COMMERCIAL FIRM.—A~~ company

Page 512, after line 2, insert the following new paragraphs:

3 (2) ~~NONBANK FINANCIAL COMPANY.—The term~~  
4 “nonbank financial company” shall have the mean-  
5 ing given such term under section 102.

6 (3) ~~TRANSFER DATE.—The term “transfer~~  
7 date” shall have the meaning given such term under  
8 section 311(a).

Page 513, line 18, strike “trust bank” and all that follows through page 514, line 4, and insert the following:

9 trust bank—

10 (i) that—

11 (I) is in danger of default, as de-  
12 termined by the appropriate Federal  
13 banking agency;

1 (II) results from the merger or  
2 whole acquisition of a commercial firm  
3 that directly or indirectly controls the  
4 industrial bank, credit card bank, or  
5 trust bank in a bona fide merger with  
6 or acquisition by another commercial  
7 firm, as determined by the appro-  
8 priate Federal banking agency; or

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

18 (ii) that has obtained all regulatory  
19 approvals otherwise required for such  
20 change of control under any applicable  
21 Federal or State law, including section 7(j)  
22 of the Federal Deposit Insurance Act (12  
23 U.S.C. 1817(j)).

Page 520, line 4, strike “The” and insert “Subject to subtitle B of the Consumer Financial Protection Act of 2010, the”.

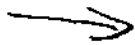
Page 521, strike lines 3 through 6 and insert the following:

- 1                   (ii) monitor the compliance of the  
 2                   bank holding company and the subsidiary  
 3                   with—  
 4                   (I) this Act;  
 5                   (II) Federal laws that the Board  
 6                   has specific jurisdiction to enforce  
 7                   against the company or subsidiary;  
 8                   and  
 9                   (III) other than in the case of an  
 10                  insured depository institution or func-  
 11                  tionally regulated subsidiary, any  
 12                  other applicable provisions of Federal  
 13                  law.

Page 521, line 22, after “banking agency” insert “, the Securities Exchange Commission, the Commodity Futures Trading Commission,”.

Page 522, strike lines 11 through 13, and insert the following:

Rider A



Rider A

Page 521, line 23 strike “of a subsidiary” and insert “, as appropriate, for a subsidiary”

1 (1) in section 5(c)(5)(B) (12 U.S.C.  
2 1844(c)(5)(B))—

3 (A) in clause (iii), by adding “or” after the  
4 semicolon; and

5 (B) by striking clauses ~~(iv) and~~ (v) and in-  
6 serting the following:

7 “<sup>✓</sup>(~~iv~~) an entity that is subject to regu-  
8 lation by, or registration with, the Com-  
9 modity Futures Trading Commission, with  
10 respect to ~~actions~~ *activities conducted* as a futures commission  
11 merchant, commodity trading adviser, ~~reg~~ *commodity*  
12 ~~operator~~ *pool*, commodity pool operator, swap exe-  
13 cution facility, swap data repository, swap  
14 dealer, major swap participant, and activi-  
15 ties that are incidental to such commod-  
16 ities *and swaps* activities.”; and

Page 524, line 2, strike “\$25,000,000,000” and in-  
sert “\$10,000,000,000”.

Page 524, line 8, strike “Board of Governors” and  
insert “~~the Board’s~~” *approval*  
*approval of the Board*

Page 526, line 18, strike “The” and insert “Subject  
to subtitle B of the Consumer Financial Protection Act  
of 2010, the”.

Page 527, strike lines 20 through 23 and insert the following:

1                   “(ii) monitor the compliance of the  
2                   ~~bank~~ <sup>savings and loan</sup> holding company and the subsidiary  
3                   with—  
4                   “(I) this Act;  
5                   “(II) Federal laws that the  
6                   Board has specific jurisdiction to en-  
7                   force against the company or sub-  
8                   sidiary; and  
9                   “(III) other than in the case of  
10                  an insured depository institution or  
11                  functionally regulated subsidiary, any  
12                  other applicable provisions of Federal  
13                  law.”.

Page 528, line 13, after “banking agency” insert “, the Securities Exchange Commission, the Commodity Futures Trading Commission,”.

Page 529, line 12, strike “or”.

Page 529, line 18, strike the quotation marks and following period and insert “; or”.

Page 529, after line 18, insert the following new subclause:

Rider B





**Rider B**

**Page 529, line 14 strike “of a subsidiary” and insert “, as appropriate, for a subsidiary”**

1                   “(III) a company described in  
2                   subsection (c)(9)(C) solely by virtue of  
3                   such company’s control of an inter-  
4                   mediate holding company established  
5                   pursuant to section 10A.”.

Page 530, strike line 1 and all that follows through  
page 538, line 7, and insert the following:

6 **SEC. 605. ASSURING CONSISTENT OVERSIGHT OF PERMIS-**  
7 **SIBLE ACTIVITIES OF DEPOSITORY INSTITU-**  
8 **TION SUBSIDIARIES OF HOLDING COMPA-**  
9 **NIES.**

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

13 **“SEC. 26. ASSURING CONSISTENT OVERSIGHT OF SUBSIDI-**  
14 **ARIES OF HOLDING COMPANIES.**

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

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

18               “(2) FUNCTIONALLY REGULATED SUB-  
19 SIDIARY.—The term ‘functionally regulated sub-  
20 sidiary’ has the same meaning as in section 5(c)(5)  
21 of the Bank Holding Company Act.

22               “(3) LEAD INSURED DEPOSITORY INSTITU-  
23 TION.—The term ‘lead insured depository institu-

1 tion' has the same meaning as in section 2(o)(8) of  
 2 the Bank Holding Company Act.

3 "(b) EXAMINATION REQUIREMENTS.—The Board  
 4 shall examine the activities of a nondepository institution  
 5 subsidiary (other than a functionally regulated subsidiary  
 6 or a subsidiary of a depository institution) of a depository  
 7 institution holding company that are permissible for the  
 8 ~~lead~~ insured depository institution of the depository insti-  
 9 ~~tion~~ holding company in the same manner, subject to  
 10 the same standards, and with the same frequency as would  
 11 be required if such activities were conducted in the lead  
 12 insured depository institution of the depository institution  
 13 holding company.

14 "(c) STATE COORDINATION.—

15 "(1) CONSULTATION AND COORDINATION.—If a  
 16 nondepository institution subsidiary is supervised by  
 17 a State bank supervisor or other State regulatory  
 18 authority, the Board, in conducting the examinations  
 19 required in subsection (b), shall consult and coordi-  
 20 nate with such State regulator.

21 "(2) ALTERNATING EXAMINATIONS PER-  
 22 MITTED.—The examinations required under sub-  
 23 section (b) may be conducted in joint or alternating  
 24 manner with a State regulator, if the Board deter-  
 25 mines that an examination of a nondepository insti-

*Subject to Subtitle B  
 of the Consumer  
 Financial  
 Protection  
 Act*

*Subsidiaries*

1       tution subsidiary conducted by the State carries out  
2       the purposes of this section.

3       “(d) APPROPRIATE FEDERAL BANKING AGENCY  
4       BACKUP EXAMINATION AUTHORITY.—

5             “(1) IN GENERAL.—In the event examinations  
6       required under subsection (b) are ~~not conducted~~<sup>^</sup> in  
7       the same manner, subject to the same standards,  
8       and with the same frequency as would be required  
9       if such activities were conducted <sup>by</sup> of the lead insured  
10      depository institution <sup>subsidiary</sup> of the depository institution  
11      holding company, the appropriate Federal banking  
12      agency for the lead insured depository institution  
13      may recommend in writing (which shall include a  
14      written explanation of the concerns giving rise to the  
15      recommendation) that the Board perform the exam-  
16      ination required under subsection (b).

17            “(2) EXAMINATION BY AN APPROPRIATE FED-  
18      ERAL BANKING AGENCY.—If the Board does not, be-  
19      fore the end of the 60-day period beginning on the  
20      date on which the Board receives a recommendation  
21      under paragraph (1), begin an examination as re-  
22      quired under subsection (b) or provide <sup>written</sup> an expla-  
23      nation or plan to the appropriate Federal banking  
24      agency making such recommendation responding to  
25      the concerns raised by the appropriate Federal

*subject to  
the Consumer  
Financial Protection  
Act 1*

1 banking agency for the lead insured depository insti-  
2 tution, the appropriate Federal banking agency for  
3 the lead insured depository institution may, examine  
4 the activities that are permissible for a depository  
5 institution subsidiary conducted by such nondeposi-  
6 tory institution subsidiary (other than a functionally  
7 regulated subsidiary or a subsidiary of a depository  
8 institution) of the depository institution holding  
9 company as if the nondepository institution sub-  
10 sidiary were an insured depository institution for  
11 which the appropriate Federal banking agency of the  
12 lead insured depository institution was the appro-  
13 priate Federal banking agency, to determine whether  
14 the activities—

15 “(A) *pose a material threat to the* present material safety and sound-  
16 ness *of insured* ~~risks to~~ any depository institution sub-  
17 sidiary of the depository institution holding  
18 company;

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

21 “(C) are subject to appropriate systems for  
22 monitoring and controlling the financial, oper-  
23 ating, and other material risks of the activities  
24 *that may pose a material threat to the* ~~and protecting~~ the depository institution sub-  
25 sidiaries of the holding company.

*safety  
and  
soundness  
of*

*insured*

1           “(3) AGENCY COORDINATION WITH THE  
2 BOARD.—An appropriate Federal banking agency  
3 that conducts an examination pursuant to paragraph  
4 (2) shall coordinate examination of the activities of  
5 nondepository institution subsidiaries described in  
6 subsection (b) with the Board in a manner that—

7                   “(A) avoids duplication;

8                   “(B) shares information relevant to the su-  
9 pervision of the depository institution holding  
10 company;

11                   “(C) achieves the objectives of subsection  
12 (b); and

13                   “(D) ensures that the depository institu-  
14 tion holding company and the subsidiaries of  
15 the depository institution holding company are  
16 not subject to conflicting supervisory demands  
17 by such agency and the Board.

18           “(4) FEE PERMITTED FOR EXAMINATION  
19 COSTS.—An appropriate Federal banking agency  
20 that conducts an examination or enforcement action  
21 pursuant to this section may collect an assessment,  
22 fee, or such other charge <sup>from the subsidiary</sup> as the appropriate Federal  
23 banking agency determines necessary or appropriate  
24 to carry out the responsibilities of the appropriate

1 Federal banking agency in connection with such ex-  
2 amination.

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

5 “(1) RECOMMENDATION OF ENFORCEMENT AC-  
6 TION.—The appropriate Federal banking agency for  
7 the lead insured depository institution, based upon  
8 its examination of a nondepository institution sub-  
9 subsidiary conducted pursuant to subsection (d), <sup>or other relevant information,</sup> may  
10 submit to the Board, in writing, a recommendation  
11 that the Board take enforcement action against such  
12 nondepository institution subsidiary, together with  
13 an explanation of the concerns giving rise to the rec-  
14 ommendation, if the appropriate Federal banking  
15 agency determines (by a vote of its members, if ap-  
16 plicable) that the activities of the nondepository in-  
17 stitution subsidiary pose a material threat to the  
18 safety and soundness of any insured depository insti-  
19 tution subsidiary of the depository institution hold-  
20 ing company.

21 “(2) BACK-UP AUTHORITY OF THE APPRO-  
22 PRIATE FEDERAL BANKING AGENCY.—If, within the  
23 60-day period beginning on the date on which the  
24 Board receives a recommendation under paragraph  
25 (1), the Board does not take enforcement action

1 against the nondepository institution subsidiary or  
 2 provide a plan for supervisory or enforcement action  
 3 that is acceptable to the appropriate Federal bank-  
 4 ing agency that made the recommendation pursuant  
 5 to paragraph (1), such agency may take the rec-  
 6 ommended enforcement action, *against the depository institution subsidiary* in the same manner  
 7 as if the nondepository institution subsidiary were  
 8 an insured depository institution for which the agen-  
 9 cy was the appropriate Federal banking agency.

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

14 ~~“(1) coordinate the examination of depository  
 15 institution holding companies and insured depository  
 16 institutions with the appropriate Federal banking  
 17 agency of such companies or institutions;~~

18 ~~“(2) provide reasonable notice to, and consult  
 19 with, the appropriate Federal banking agency or  
 20 State regulatory agency of a depository institution  
 21 holding company or any subsidiary of such company  
 22 *described in (b)* before commencing any examination of the company  
 23 or subsidiary ~~under any provision of Federal law;~~~~

24 ~~“(3) to the fullest extent possible—~~



1           “(A) rely on the examinations, inspections,  
2           and reports of the appropriate Federal banking  
3           agency; ~~and~~

4           “(B) avoid duplication of examination ac-  
5           tivities, reporting requirements, and requests  
6           for information; and

7           “(C) ensure that the depository institution  
8           holding company and the subsidiaries of the de-  
9           pository institution holding company are not  
10          subject to conflicting supervisory demands by  
11          the appropriate Federal banking agencies.

12          <sup>RULE OF</sup>  
13          “(g) <sup>1</sup>CONSTRUCTION.—No provision of this section  
14          shall be construed as limiting any authority of the Board,  
15          the Corporation, or the Comptroller of the Currency under  
16          any other provision of law.”.

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

Page 535, line 6, strike ~~“The”~~ and insert “Subject  
to subtitle B of the Consumer Financial Protection Act  
of 2010, the”.

Page 538, after line 24, insert the following new  
subsection (and redesignate the subsequent subsection ac-  
cordingly):

1 (b) HOME OWNERS' LOAN ACT AMENDMENT.—Sec-  
2 tion 10(c)(2) of the Home Owners' Loan Act (12 U.S.C.  
3 1467a(e)(2)) is amended by adding at the end the fol-  
4 lowing new subparagraph:

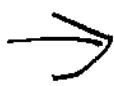
5 “(H) Any activity that is permissible for a  
6 financial holding company (as such term is de-  
7 fined under section 2(p) of the Bank Holding  
8 Company Act of 1956 (12 U.S.C. 1841(p)) to  
9 conduct under section 4(k) of the Bank Holding  
10 Company Act of 1956 if—

11 “(i) the savings and loan holding com-  
12 pany meets all of the criteria to qualify as  
13 a financial holding company, and complies  
14 with all of the requirements applicable to a  
15 financial holding company, under sections  
16 4(l) and 4(m) of the Bank Holding Com-  
17 pany Act and section 804(c) of the Com-  
18 munity Reinvestment Act of 1977 (12  
19 U.S.C. 2903(c)) as if the savings and loan  
20 holding company was a bank holding com-  
21 pany; and

22 “(ii) the savings and loan holding  
23 company conducts the activity in accord-  
24 ance with the same terms, conditions, and  
25 requirements that apply to the conduct of

1 such activity by a bank holding company  
 2 under the Bank Holding Company Act of  
 3 1956 and the Board's regulations and in-  
 4 terpretations under such Act."

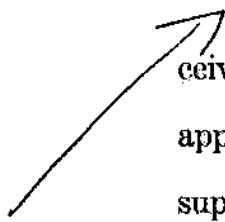
Rider C



Page 551, strike lines 11 through 23 (and redesignate subsequent sections accordingly).

Page 552, line 13, after "to" insert ", or has received written notice from the Comptroller of the Currency that the Comptroller of the Currency is beginning the process to subject the national bank to".

page 552, line 24, after "to" insert ", or has received written notice from a State bank supervisor or an appropriate Federal banking agency that the State bank supervisor or the appropriate Federal banking agency is beginning the process to subject such bank or savings association to".



Page 553, line 13, after "to" insert ", or has received written notice from the Office of Thrift Supervision or the Comptroller of the Currency that the Office of Thrift Supervision or the Comptroller of the Currency is beginning the process to subject the national bank to".

Page 553, after line 18, insert the following new subsection:

Rider D

Rider C

Page 551, line 23 strike "each insured State bank" and insert "each insured State bank having total assets of more than \$50,000,000,000"

Rider D

Page 552, line 18, delete "BANK." and insert "BANK OR FEDERAL SAVINGS ASSOCIATION."

Page 552, line 22, delete "national banking association" and insert "national banking association or Federal savings association."

Page 553, line 1, after "appropriate Federal banking agency" insert "or a final enforcement action by a State Attorney General."

1 (d) EXCEPTION.—The amendments made by sub-  
2 sections (a), (b), and (c) shall not apply to any conversion  
3 of an insured depository institution if—

4 (1) the Federal banking agency that would be  
5 the appropriate Federal banking agency after the  
6 proposed conversion gives the appropriate Federal  
7 banking agency or State bank supervisor that issued  
8 the cease and desist order (or other formal enforce-  
9 ment order) or memorandum of understanding, as  
10 appropriate, written notice of the proposed conver-  
11 sion including a plan to address the significant su-  
12 pervisory matter in a manner that is consistent with  
13 the safe and sound operation of the institution;

14 (2) within 30 days of receipt of the written no-  
15 tice required under paragraph (1), the appropriate  
16 Federal banking agency or State bank supervisor  
17 that issued the cease and desist order (or other for-  
18 mal enforcement order) or memorandum of under-  
19 standing, as appropriate, does not object to the con-  
20 version or the plan to address the significant super-  
21 visory matter; ~~and~~

22 (3) after conversion of the insured depository  
23 institution, the appropriate Federal banking agency  
24 after the conversion implements such plan; *and*

RIDER E

Rider E

(4) in the case of a final enforcement action by a State Attorney General, approval of the conversion is conditioned on compliance by the insured depository institution with the terms of such final action.

(e) Notification of pending enforcement actions.--Prior to a conversion of any type referenced in the amendments made by subsections (a), (b) and (c), the appropriate Federal banking agency for the insured depository institution proposing the conversion shall—

"(1) notify the Federal banking agency that would be the appropriate Federal banking agency for the institution after the proposed conversion in writing of any ongoing supervisory or investigative proceedings that the appropriate Federal banking agency for the institution proposing to convert believes may result, in the near term and absent the proposed conversion, in a cease and desist order (or other formal enforcement order) or memorandum of understanding with respect to a significant supervisory matter; and

"(2) provide the Federal banking agency that would be the appropriate Federal banking agency for the institution after the proposed conversion access to all investigative and supervisory information relating to the proceedings described in paragraph (1).

Page 557, strike lines 1 through 14 and insert the following (and redesignate the subsequent subsection accordingly):

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

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

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

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

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

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



1 (2) by inserting at the end the following: "In  
 2 establishing capital regulations pursuant to this sub-  
 3 section, the Director shall seek to make such re-  
 4 quirements countercyclical so that the amount of  
 5 capital required to be maintained by a company in-  
 6 creases in times of economic expansion and de-  
 7 creases in times of economic contraction, consistent  
 8 with the safety and soundness of the company."

9 (c) CAPITAL LEVELS OF INSURED DEPOSITORY IN-  
 10 STITUTIONS.—Section <sup>908</sup> ~~88~~ of the <sup>International Lending</sup> ~~Federal Deposit Insur-~~ <sup>Supervision</sup>  
 11 ~~ance Act~~ <sup>3907</sup> (12 U.S.C. ~~1831e~~) is amended by adding at the <sup>Act of</sup>  
 12 end the following <sup>1983</sup> ~~new subsection~~.

13 ~~“(p) COUNTERCYCLICAL CAPITAL STANDARDS.”~~

14 Each appropriate Federal banking agency shall seek to  
 15 make the capital standards required under this section or  
 16 other provisions of Federal law for insured depository in-  
 17 stitutions countercyclical so that the amount of capital re-  
 18 quired to be maintained by an insured depository institu-  
 19 tion increases in times of economic expansion and de-  
 20 creases in times of economic contraction, consistent with  
 21 the safety and soundness of the insured depository institu-  
 22 tion.”.

Page 560, beginning on line 16, strike “subpara-  
 graphs (D), (F), or (H)” and insert “subparagraph (D)”.

Page 560, beginning on line 21, strike “subparagraphs (D), (F), or (H)” and insert “subparagraph (D)”.

Page 566, line 11, strike “institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(e)(2))” and insert “depository institution”.

Page 568, strike lines 14 through 17 (and redesignate the subsequent subsection accordingly).

Page 583, beginning on line 17, strike “supervised by the Board under title I of the Restoring American Financial Stability Act of 2010”.

Page 594, line 23, strike “Section” and insert the following:

1 (a) IN GENERAL.—Section

Page 595, line 7, before “notice” insert “and the Board of Governors of the Federal Reserve System”.

Page 595, line 16, after “agency” insert “and the Board of Governors of the Federal Reserve System”.

Page 595, line 20, after “agency” insert “and the Board of Governors of the Federal Reserve System”.

Page 597, line 10, strike “and”.

Page 597, line 17, strike the period and insert “; and”.

Page 597, after line 17, insert the following new clause:

1                   “(iii) the mutual holding company  
2                   has, prior to December 1, 2009—  
3                   “(I) reorganized into a mutual  
4                   holding company under subsection (o);  
5                   “(II) issued minority stock either  
6                   from its mid-tier stock holding com-  
7                   pany or its subsidiary stock savings  
8                   association; and  
9                   “(III) waived dividends it had a  
10                   right to receive from the subsidiary <sup>stock</sup>  
11                   savings association.”.

Page 597, line 19, strike “Board” and insert “appropriate Federal banking agency”.

Page 597, line 25, strike “and has” and insert “, has”.

Page 598, line 4, after “company” insert “, and has waived dividends it had a right to receive from a subsidiary savings association”.

Page 598, after line 8, insert the following new subsection:

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

Page 598, after line 8, insert the following new sections:

3 **SEC. 624. INTERMEDIATE HOLDING COMPANIES.**

4 (a) IN GENERAL.—The Home Owners' Loan Act is  
 5 amended by inserting after section 10 the following new  
 6 section:

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

8 “(a) REQUIREMENT.—A company described in sec-  
 9 tion 10(e)(9)(C) that is also a commercial company as de-  
 10 fined in section 602 of the Restoring American Financial  
 11 Stability Act of 2010 shall be required to form or des-  
 12 ignate an intermediate holding company which is a savings  
 13 and loan holding company.

14 “(b) CONDUCT OF ACTIVITIES.—A company that is  
 15 required to form an intermediate holding company shall  
 16 conduct all such activities which are permissible for a sav-  
 17 ings and loan holding company formed after the date of  
 18 the enactment of the Gramm-Leach-Bliley Act, as deter-  
 19 mined under section 10, through such intermediate hold-  
 20 ing company, other than—

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Page 21 of the House offer, line 8, strike "(a) REQUIREMENT.—A company" through page 32, line 18, insert the following, and redesignate subsection (c) as subsection (e):

"(a) DEFINITION – For purposes of this section, the term –

- (1) "financial activities" means activities described in 10(c)(9)(A)(i) and (ii) .
- (2) "grandfathered unitary savings and loan holding company" means a company described in section 10(c)(9)(C).

"(b) REQUIREMENT—.

(1) IN GENERAL –

(A) If a grandfathered unitary savings and loan holding company conducts activities other than financial activities, the Board may require such company to establish and conduct all or a portion of such financial activities in or through an intermediate holding company, which shall be a savings and loan holding company, established pursuant to regulation of the Board, not later than 90 days (or such longer period as the Board may deem appropriate) after the transfer date.

(B) Notwithstanding subparagraph (A), the Board shall require a company described in section 10(c)(9)(C) to establish an intermediate holding company if the Board makes a determination that the establishment of such intermediate holding company is necessary to—

- (i) appropriately supervise activities that are determined to be financial activities,  
or
- (ii) to ensure that supervision by the Board does not extend to the commercial activities of such company ."

(2) INTERNAL FINANCIAL ACTIVITIES.—For purposes of this subsection, activities that are financial activities, but shall not be required to be placed in an intermediate holding company include internal financial activities conducted for a grandfathered savings and loan holding company or any affiliate, including internal treasury, investment, and employee benefit functions. With respect to any internal financial activity of such company during the year prior to the date of enactment of this Act, such company may continue to engage in such activity as long as at least 2/3 of the assets or 2/3 of the revenues generated from the activity are from or attributable to such company, subject to review by the Board to determine whether engaging in such activity presents undue risk to such company or to the financial stability of the United States.

(3) SOURCE OF STRENGTH. A grandfathered unitary savings and loan holding company that directly or indirectly controls an intermediate holding company established under this section shall serve as a source of strength to its subsidiary intermediate holding company.

(4) PARENT COMPANY REPORTS.— The Board may, from time to time, examine and require reports under oath from a grandfathered unitary savings and loan holding company that controls an intermediate holding company, and from the appropriate officers or directors of such company, solely for purposes of ensuring compliance with the provisions of this section, including assessing the ability of the company to serve as a source of strength to its subsidiary intermediate holding company pursuant to paragraph (3) and enforcing such compliance.

(5) LIMITED PARENT COMPANY ENFORCEMENT

(A) IN GENERAL.— In addition to any other authority of the Board, the Board may enforce compliance with the provisions of this subsection that are applicable to any company described in paragraph (1) that controls an intermediate holding company under section 8 of the Federal Deposit Insurance Act, and such company shall be subject to such section (solely for such purposes) in the same manner and to the same extent as if such company were a savings and loan holding company.

(B) APPLICATION OF OTHER ACT— Any violation of this subsection by any grandfathered unitary savings and loan holding company that controls an intermediate holding company may also be treated as a violation of the Federal Deposit Insurance Act for purposes of subparagraph (A).

(C) No effect on other authority. — No provision of this subparagraph shall be construed as limiting any authority of the Board or any other Federal agency under any other provision of law.

(c) REGULATIONS.—The Board of Governors—

(1) shall promulgate regulations to establish the criteria for determining whether to require a grandfathered unitary savings and loan holding company to establish an intermediate holding company under subsection (a); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a parent of such company and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between such company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of such company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

(d) RULES OF CONSTRUCTION —

(1) Nothing in this section shall be construed to require a grandfathered unitary savings and loan holding company to conform its activities to permissible activities; and

(2) The formation of an intermediate holding company as required in subsection (a) shall be presumed to be a permissible corporate reorganization as described in section 10(c)(9)(D).

1           “(1) internal financial activities conducted for  
2           such company or any affiliate, including, but not  
3           limited to internal treasury, investment, and em-  
4           ployee benefit functions, provided that with respect  
5           to any internal financial activity engaged in for the  
6           company or an affiliate and a nonaffiliate during the  
7           year prior to date of enactment, the company (or an  
8           affiliate not a subsidiary of the intermediate com-  
9           pany) may continue to engage in that activity so  
10          long as at least  $\frac{2}{3}$  of the assets or  $\frac{2}{3}$  of the reve-  
11          nues generated from the activity are from or attrib-  
12          utable to the company or an affiliate, subject to re-  
13          view by the Board to determine whether engaging in  
14          such activity presents undue risk to the intermediate  
15          company or undue systemic risk; and

16          “(2) financial activities involving the provision  
17          of credit for the purchase or lease of products or  
18          services from an affiliate or for the purchase or lease  
19          of products produced by an affiliate of such inter-  
20          mediate holding company that is not a subsidiary of  
21          such intermediate holding company, in accordance  
22          with regulations prescribed by or orders issued by  
23          the Board, pursuant to this section.

24          “(c) RULES AND EXEMPTIONS.—In addition to any  
25          other authority of the Board, the Board shall prescribe

1 rules and regulations or issue orders providing for the es-  
2 tablishment and registration of intermediate holding com-  
3 panies and shall provide exemptions from the require-  
4 ments of this section (including an order in response to  
5 a request from an affected company), including, but not  
6 limited to, exemptions—

7 “(1) with respect to the requirement to conduct  
8 such activities which are permissible for a savings  
9 and loan holding company formed after the date of  
10 the enactment of the Gramm-Leach-Bliley Act, other  
11 than financial activities conducted for such company  
12 or any affiliate, including any financial activity en-  
13 gaged in for both the company or an affiliate and a  
14 nonaffiliate and financial activities involving the pro-  
15 vision of credit for the purchase or lease of products  
16 or services from an affiliate or for the purchase or  
17 lease of products produced by an affiliate of such in-  
18 termediate holding company that is not a subsidiary  
19 of such intermediate holding company, through such  
20 intermediate holding company, if the Board makes a  
21 finding that such exemption—

22 “(A)(i) would facilitate the extension of  
23 credit to individuals, households, and busi-  
24 nesses; or



1           “(ii) would allow for greater efficiency, im-  
2           proved customer service, or other public bene-  
3           fits in the conduct of financial activities by af-  
4           fected companies;

5           “(B) would not threaten the safety and  
6           soundness of the intermediate holding company,  
7           or of any insured depository institution or other  
8           subsidiary of the intermediate holding company;

9           “(C) would not increase systemic risk or  
10          threaten the stability of the overall financial  
11          system;

12          “(D) would not, as applied to the activities  
13          that are the subject of the rule, order or re-  
14          quest, result in substantially lessening competi-  
15          tion, or to tend to create a monopoly, or which  
16          in any other manner would be in restraint of  
17          trade, unless the Board finds that the anti-  
18          competitive effects are outweighed in the public  
19          interest by the probable effect of the exemption  
20          in meeting the convenience and needs of the  
21          community to be served; and

22          “(E) would meet the financial and mana-  
23          gerial standards for financial holding companies  
24          described in subparagraphs (A) and (B) of sec-

1           tion 4(j)(4) of the Bank Holding Company Act  
2           of 1956; and

3           “(2) from the affiliate transaction requirements  
4           of subsection (f), including but not limited to exemp-  
5           tions that would facilitate extensions of credit to un-  
6           affiliated persons for the personal, household, or  
7           business purposes of such unaffiliated persons, un-  
8           less the Board makes a finding that such exemp-  
9           tion—

10                   “(A) is not consistent with the purposes of  
11                   section 23A and section 23B of the Federal Re-  
12                   serve Act;

13                   “(B) would threaten the safety and sound-  
14                   ness of the intermediate holding company, or  
15                   any insured depository institution or other sub-  
16                   sidiary of the intermediate holding company;

17                   “(C) would increase systemic risk or  
18                   threaten the stability of the overall financial  
19                   system;

20                   “(D) would not, as applied to the activities  
21                   that are the subject of the rule, order or re-  
22                   quest result in substantially lessening competi-  
23                   tion, or to tend to create a monopoly, or which  
24                   in any other manner would be in restraint of  
25                   trade, unless the Board finds that the anti-

1 competitive effects are outweighed in the public  
2 interest by the probable effect of the exemption  
3 in meeting the convenience and needs of the  
4 community to be served; or

5 “(E) would permit an unfair, deceptive,  
6 abusive, or unsafe-and-unsound act or practice.

7 “(d) PARENT COMPANY REPORTS.—The Board may,  
8 from time to time, require reports under oath from a com-  
9 pany that controls an intermediate holding company, and  
10 appropriate officers or directors of such company, solely  
11 for purposes of ensuring compliance with the provisions  
12 of this section (including assessing the company’s ability  
13 to serve as a source of financial strength pursuant to sub-  
14 section (j)) and enforcing such compliance.

15 “(e) LIMITED PARENT COMPANY ENFORCEMENT.—

16 “(1) IN GENERAL.—In addition to any other  
17 power of the Board, the Board may enforce compli-  
18 ance with the provisions of this subsection which are  
19 applicable to any company that controls an inter-  
20 mediate holding company under section 8 of the  
21 Federal Deposit Insurance Act and such company or  
22 depository institution shall be subject to such section  
23 (for such purposes) in the same manner and to the  
24 same extent as if such company were a savings and  
25 loan holding company.

1           “(2) APPLICATION OF OTHER ACT.—Any viola-  
2           tion of this subsection by any company that controls  
3           an intermediate holding company may also be treat-  
4           ed as a violation of the Federal Deposit Insurance  
5           Act for purposes of paragraph (1).

6           “(3) NO EFFECT ON OTHER AUTHORITY.—No  
7           provision of this subsection shall be construed as  
8           limiting any authority of the Board or any other  
9           Federal agency under any other provision of law.

10          “(f) RESTRICTIONS ON AFFILIATE TRANSACTIONS.—

11           “(1) SECTION 23A AND 23B APPLICABILITY.—

12           “(A) IN GENERAL.—Transactions between  
13           an intermediate holding company (or any  
14           nonbank subsidiary thereof) and any affiliate  
15           not controlled by the intermediate holding com-  
16           pany shall be subject to the restrictions and  
17           limitations contained in section 23A and section  
18           23B of the Federal Reserve Act as if the inter-  
19           mediate holding company were a member bank,  
20           provided, that a transaction that otherwise  
21           would be a covered transaction shall not be a  
22           covered transaction if the transaction is in con-  
23           nection with the bona fide acquisition or lease  
24           by an unaffiliated person of assets, goods or

1 services but shall be subject to review under  
2 section 23A(f)(1) of such Act.

3 “(B) COVERED TRANSACTIONS.—A deposi-  
4 tory institution controlled by an intermediate  
5 holding company may not engage in a covered  
6 transaction (as defined in section 23A(b)(7) of  
7 the Federal Reserve Act) with any affiliate that  
8 is not the intermediate holding company or a  
9 subsidiary of the intermediate holding company;  
10 provided that, for purposes of the prohibition, a  
11 transaction that otherwise would be a covered  
12 transaction shall not be a covered transaction if  
13 the transaction is in connection with the bona  
14 fide acquisition or lease by an unaffiliated per-  
15 son of assets, goods or services, but shall be  
16 subject to review under section 23A(f)(1) of the  
17 Federal Reserve Act.

18 “(2) RULES OF CONSTRUCTION.—No provision  
19 of this section shall be construed as—

20 “(A) exempting any subsidiary insured de-  
21 pository institution of an intermediate holding  
22 company from compliance with section 23A or  
23 23B of the Federal Reserve Act with respect to  
24 each affiliate of such institution (as defined in  
25 section 23A or 23B of the Federal Reserve

1 Act), including any affiliate that is the inter-  
2 mediate holding company or subsidiary of the  
3 intermediate holding company; or

4 “(B) exempting any subsidiary savings as-  
5 sociation from compliance with section 11.

6 “(g) TYING PROVISIONS.—A company that directly  
7 or indirectly controls an intermediate holding company  
8 shall be—

9 “(1) treated as a bank holding company for  
10 purposes of section 106 of the Bank Holding Com-  
11 pany Act Amendments of 1970 and section 22(h) of  
12 the Federal Reserve Act and any regulation pre-  
13 scribed under any such section; and

14 “(2) subject to the restrictions of section 106 of  
15 the Bank Holding Company Act Amendments of  
16 1970, in connection with any transaction involving  
17 the products or services of such company or affiliate  
18 and those of a bank affiliate, treated as if such com-  
19 pany or affiliate were a bank holding company and  
20 such bank were a subsidiary of a bank holding com-  
21 pany.

22 “(h) FINANCIAL HOLDING COMPANY REQUIRE-  
23 MENTS.—An intermediate holding company shall be sub-  
24 ject to—

1           “(1) the conditions for engaging in expanded fi-  
2           nancial activities in section 4(l) of the Bank Holding  
3           Company Act of 1956; and

4           “(2) the provisions applicable to financial hold-  
5           ing companies that fail to meet certain requirements  
6           in section 4(m) of the Bank Holding Company Act  
7           of 1956.

8           “(i) INDEPENDENCE OF INTERMEDIATE HOLDING  
9           COMPANY.—

10           “(1) No less than 25 percent of the members  
11           of the board of directors of an intermediate holding  
12           company, and each subsidiary of an intermediate  
13           holding company, shall be independent of the parent  
14           company of the intermediate holding company and  
15           any subsidiary of such parent company. For pur-  
16           poses of this section, a director shall be independent  
17           of the parent company if such person is not cur-  
18           rently serving, and has not within the previous 2-  
19           year period served, as a director, officer, or employee  
20           of any affiliate of the intermediate holding company  
21           that is not a subsidiary of the intermediate holding  
22           company.

23           “(2) No executive officer of an intermediate  
24           holding company or any subsidiary of an inter-  
25           mediate holding company may serve as a director,

1 officer, or employee of an affiliate of the inter-  
2 mediate holding company that is not a subsidiary of  
3 the intermediate holding company.

4 “(3) The Board shall issue regulations that re-  
5 quire effective legal and operational separation of  
6 the functions of an intermediate holding company  
7 from its affiliates that are not subsidiaries of such  
8 intermediate holding company, provided, however  
9 that such rules shall not require operational separa-  
10 tion of internal functions including, but not limited  
11 to, human resources management, employee benefit  
12 plans, and information technology.

13 “(j) SOURCE OF STRENGTH.—A company that di-  
14 rectly or indirectly controls an intermediate holding com-  
15 pany shall serve as a source of financial strength to its  
16 subsidiary intermediate holding company.

17 “(k) PROHIBITION ON CERTAIN ACTIVITIES.—An in-  
18 termediate holding company shall be prohibited from con-  
19 ducting any nonbanking activities or investing in any  
20 nonbank companies other than those permissible for a sav-  
21 ings and loan holding company formed after the date of  
22 the enactment of the Gramm-Leach-Bliley Act, unless the  
23 Board specifically determines otherwise in accordance with  
24 subsection (c).



1       “(1) RULE OF CONSTRUCTION.—For purposes of this  
2 section, designation of an already established intermediate  
3 company that will serve as the intermediate holding com-  
4 pany shall satisfy the requirement to establish an inter-  
5 mediate holding company, provided that such existing in-  
6 termediate holding company complies with all other provi-  
7 sions applicable to an intermediate holding company.

8       “(m) DEFINITIONS.—For purposes of this section:

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

11           “(2) INSURED DEPOSITORY INSTITUTION.—The  
12 term ‘insured depository institution’ has the mean-  
13 ing given such term under section 3 of the Federal  
14 Deposit Insurance Act.

15           “(3) SAVINGS AND LOAN HOLDING COMPANY.—  
16 The term ‘savings and loan holding company’ has the  
17 meaning given such term under section  
18 10(a)(1)(D).”.

19       “(e) CLERICAL AMENDMENT.—The table of contents  
20 for the Home Owners’ Loan Act is amended by inserting  
21 after the item related to section 10 the follow new item:

“10A. Intermediate holding companies.”.

22 **SEC. 625. INTEREST-BEARING TRANSACTION ACCOUNTS**

23 **AUTHORIZED.**

24       “(a) REPEAL OF PROHIBITION ON PAYMENT OF IN-  
25 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 at the end of the 1-year  
 17 period beginning on the date of the enactment of this Act.

18 **SEC. 626. CREDIT CARD BANK SMALL BUSINESS LENDING,**  
 19 **(12 USC 1841 (c)(2)(F)(v))**  
 Section 2(c)(2)(F)(v) of the Bank Holding Company  
 20 Act is amended by inserting before the period the fol-  
 21 lowing: “, other than credit card loans that are made to  
 22 businesses that meet the criteria for a small business con-  
 23 cern to be eligible for business loans under regulations es-

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

