

As Passed
by the Senate
Conferees

June 15, 2010

****Senate Counteroffer Offer****

Title: Title III

Matter: Transfer of Powers to the Comptroller of the Currency, the Corporation, and the Board of Governors

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

1. Add House provision requiring adoption of procedures and standards to ensure employee transfer requirements are met and to study implementation of such transfer requirements.
2. With modifications, add House provision requiring an implementation plan and reporting requirements to ensure an orderly transfer of personnel and property from OTS.
3. With modifications, add House provision enhancing Federal Deposit Insurance: elimination of pro-cyclical assessments; enhanced access to information for deposit insurance purposes; and transition reserve ratio requirement to reflect new assessment base.
4. With modifications, add provision to insure noninterest bearing transaction accounts above standard FDIC limit, similar to current FDIC Transaction Account Guarantee Program.
5. With modifications, add provision to increase permanently FDIC and NCUSIF standard maximum deposit insurance amount to \$250,000 and make the increase retroactive to January 1, 2008.
6. With modifications, amend base text provision establishing the Office of Women and Minority Inclusion to: require the Director of the Office be a Senior Executive Service position; require the Director to coordinate technical assistance to minority-owned and women-owned businesses; require the assessment of the impact of the policies and regulations of each agency on minority-owned and women-owned businesses; and establish an Office of Women and Minority Inclusion in the Office of National Insurance.

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

1. Offering alternative language to strike Senate provision exempting the Office of the Comptroller of the Currency from the Federal Property and Administrative Services Act.
2. Amend Senate provision protection employees from involuntary separation by increasing the protection period from 2 years to 3 years, extending the protection to OCC employees, and clarifying pay-protection provisions.
3. Add Mutual National Bank and Federal Mutual Bank Holding Company Charters.

HOUSE PROPOSED AMENDMENTS TO TITLE III

[Page and line #s refer to Base text of proposed conference report]

insert
Rider
A

~~Page 357, strike line 10 and all that follows through
line 23.~~

Page 365, strike line 5 and all that follows through
line 22, and insert the following new paragraphs:

- 1 (1) 3-YEAR PROTECTION.—
- 2 (A) IN GENERAL.—Except as provided in
- 3 paragraph (2), each affected employee shall not,
- 4 during the 3-year period beginning on the
- 5 transfer date, be involuntarily separated, or in-
- 6 voluntarily reassigned outside his or her locality
- 7 pay area.
- 8 (B) AFFECTED EMPLOYEES.—For pur-
- 9 poses of this paragraph, the term “affected em-
- 10 ployee” means—
- 11 (i) an employee transferred from the
- 12 Office of Thrift Supervision holding a per-
- 13 manent position on the day before the
- 14 transfer date; and
- 15 (ii) an employee of the Office of the
- 16 Comptroller of the Currency holding a per-

RIDER A

Page 357, line 13, after "law" insert "(except the full and open competition requirements of the Competition in Contracting Act)

Page 357, line 16, delete ", in any lawful manner, such goods and services, or personal or".

1 manent position on the day before the
2 transfer date.

3 (2) EXCEPTIONS.—Paragraph (1) does not
4 limit the right of the Office of the Comptroller of the
5 Currency or the Corporation to—

6 (A) separate an employee for cause or for
7 unacceptable performance; or

8 (B) terminate an appointment to a position
9 excepted from the competitive service because of
10 its confidential policy-making, policy-deter-
11 mining, or policy-advocating character.

Page 366, line 7, after the period add the following new sentence: "Notwithstanding the preceding sentence, if the employee was receiving a higher rate of basic pay on a temporary basis (because of a temporary assignment, temporary promotion, or other temporary action) immediately before the transfer, the Agency may reduce the rate of basic pay on the date the rate would have been reduced but for the transfer, and the protected rate for the remainder of the 2-year period will be the reduced rate that would have applied but for the transfer."

Page 375, line 11, strike "and".

Page 375, line 19, strike the period and insert a semicolon.

Page 375, after line 19, insert the following new paragraphs:

- 1 (3) shall, jointly with the Director of the Office
- 2 of Thrift Supervision, develop and adopt procedures
- 3 and safeguards designed to ensure that the require-
- 4 ments of this subsection are met; and
- 5 (4) shall conduct a study detailing the position
- 6 assignments of all employees transferred pursuant to
- 7 subsection (a), describing the procedures and safe-
- 8 guards adopted pursuant to paragraph (3), and
- 9 demonstrating that the requirements of this sub-
- 10 section have been met; and shall, not later than 365
- 11 days after the transfer date, submit a copy of such
- 12 study to Congress.

Page 381, after line 5, insert the following new section:

13 SEC. 327. IMPLEMENTATION PLAN AND REPORTS

180

14 (a) PLAN SUBMISSION.—Within 90 days of the enact-

15 ment of the Restoring American Financial Stability Act

16 of 2010, ~~the Secretary and the Corporation, in consulta-~~

17 ~~tion with the Office of the Comptroller of the Currency~~

18 and the Office of Thrift Supervision, shall jointly submit

19 a plan to the ~~Congress~~ and the Inspectors General of the

20 Department of the Treasury ~~and of the Corporation~~ detail-

the Board of Governor

and the Board of Governors

the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Financial Services

4 Board of Governors,

1 ing the steps the ~~Secretary~~, the Corporation, the Office
2 of the Comptroller of the Currency, and the Office of
3 Thrift Supervision will take to implement the provisions
4 of sections 301 through 326, and the provisions of the
5 amendments made by such sections.

6 (b) INSPECTORS GENERAL REVIEW OF THE PLAN.—

7 Within 60 days of the date on which the ~~Congress~~ receives
8 the plan required under subsection (a), the Inspectors
9 General of the Department of the Treasury ~~and of the~~
10 Corporation shall jointly provide a written report to the
11 ~~Secretary and the Corporation~~ and shall submit a copy
12 to the ~~Congress~~ detailing whether the plan conforms with

Board of Governors,

and the Board of Governors

13 the intent of the provisions of sections 301 through 326,
14 and the provisions of the amendments made by such sec-
15 tions, including—

the Office of the Comptroller of the Currency and the Office of Thrift Supervision

Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Financial Services

16 (1) whether the plan sufficiently takes into con-
17 sideration the orderly transfer of personnel;

18 (2) whether the plan describes procedures and
19 safeguards to ensure that the Office of Thrift Super-
20 vision employees are not unfairly disadvantaged rel-
21 ative to employees of the Office of the Comptroller
22 of the Currency and the Corporation;

23 (3) whether the plan sufficiently takes into con-
24 sideration the orderly transfer of authority and re-
25 sponsibilities;

1 (4) whether the plan sufficiently takes into con-
2 sideration the effective transfer of funds;

3 (5) whether the plan sufficiently takes in con-
4 sideration the orderly transfer of property; and

5 (6) any additional recommendations for an or-
6 derly and effective process.

7 (a) IMPLEMENTATION REPORTS.—Not later than 6
8 months after the date on which the Congress receives the
9 report required under subsection (b), and every 6 months
10 thereafter until all aspects of the plan have been imple-
11 mented, the Inspectors General of the Department of the
12 Treasury and the Corporation shall jointly provide a writ-
13 ten report on the status of the implementation of the plan
14 to the Secretary and the Corporation and shall submit a
15 copy to the Congress.

Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Financial Services

and the Board of Governors

Board of Governors,

the Office of the Comptroller of the Currency and the Office of Thrift Supervision

Page 382, after line 16, insert the following new sections (and redesignate the subsequent section accordingly):

16 SEC. 332. ELIMINATION OF PROCYCLICAL ASSESSMENTS.

17 Section 7(e) of the Federal Deposit Insurance Act is
18 amended—

19 (1) in paragraph (2)—

20 (A) by amending subparagraph (B) to read
21 as follows:

1 “(B) LIMITATION.—The Board of Direc-
2 tors may, in its sole discretion, suspend or limit
3 the declaration of payment of dividends under
4 subparagraph (A).”;

5 (B) by amending subparagraph (C) to read
6 as follows:

7 “(C) NOTICE AND OPPORTUNITY FOR COM-
8 MENT.—The Corporation shall prescribe, by
9 regulation, after notice and opportunity for
10 comment, the method for the declaration, cal-
11 culation, distribution, and payment of dividends
12 under this paragraph”; and

13 (C) by striking subparagraphs (D) through
14 (G); and

15 (2) in paragraph (4)(A) by striking “para-
16 graphs (2)(D) and” and inserting “paragraphs (2)
17 and”.

18 SEC. 333. ENHANCED ACCESS TO INFORMATION FOR DE-
19 POSIT INSURANCE PURPOSES.

20 ~~[(a) Section 7(a)(2)(B) of the Federal Deposit Insur-
21 ance Act is amended by striking “, after agreement with
22 the Comptroller of the Currency, the Board of Governors
23 of the Federal Reserve System, and the Director of the
24 Office of Thrift Supervision, as appropriate.”.]~~

INSERT RIDER (B).

1 (b) Section 7(b)(1)(E) of the Federal Deposit Insur-
 2 ance Act is amended—

3 (1) in clause (i), by striking “such as” and in-
 4 serting “including”; and

5 (2) ⁱⁿ by striking clause (iii), by striking “Corporation.”

6 *and inserting “Corporation, except as provided in section 7(a)(2)(B)”*
 SEC. 334. TRANSITION RESERVE RATIO REQUIREMENTS TO

7 REFLECT NEW ASSESSMENT BASE.

8 (a) Section 7(b)(3)(B) of the Federal Deposit Insur-
 9 ance Act is amended to read as follows:

10 “(B) MINIMUM RESERVE RATIO.—The re-
 11 serve ratio designated by the Board of Direc-
 12 tors for any year may not be less than 1.15 per-
 13 cent of estimated insured deposits, or the com-
 14 parable percentage of the assessment base set
 15 forth in paragraph (2)(C).”

16 (b) Section 3(y)(3) of the Federal Deposit Insurance
 17 Act is amended by inserting “, or such comparable per-
 18 centage of the assessment base set forth in section
 19 7(b)(2)(C)” before the period.

20 (c) For a period of not less than 5 years after the
 21 date of the enactment of this title, the Federal Deposit
 22 Insurance Corporation shall make available to the public
 23 the reserve ratio and the designated reserve ratio using
 24 both estimated insured deposits and the assessment base

RIDER B

Rider **A/B**

- (a) Section 7(a)(2)(B) of the Federal Deposit Insurance Act is amended by striking "agreement" and inserting "consultation".

1 under section 7(b)(2)(C) of the Federal Deposit Insurance
2 Act.

3 **SEC. 335. PERMANENT INCREASE IN DEPOSIT AND SHARE**
4 **INSURANCE.**

5 (a) **PERMANENT INCREASE IN DEPOSIT INSUR-**
6 **ANCE.**—Section 11(a)(1)(E) of the Federal Deposit Insur-
7 ance Act (12 U.S.C. 1821(a)(1)(E)) is amended—

8 (1) by striking “\$100,000” and inserting
9 “\$250,000”; and

10 (2) by adding at the end the following new sen-
11 tences: “Notwithstanding any other provision of law,
12 the increase in the standard maximum deposit insur-
13 ance amount to \$250,000 shall apply to depositors
14 in any institution for which the Corporation was ap-
15 pointed as receiver or conservator on or after Janu-
16 ary 1, 2008, and before October 3, 2008. The Cor-
17 poration shall take such actions as are necessary to
18 carry out the requirements of this section with re-
19 spect to such depositors, without regard to any time
20 limitations under this Act. In implementing this and
21 the preceding 2 sentences, any payment on a deposit
22 claim made by the Corporation as receiver or conser-
23 vator to a depositor above the standard maximum
24 deposit insurance amount in effect at the time of the
25 appointment of the Corporation as receiver or con-

1 servator shall be deemed to be part of the net
 2 amount due to the depositor under subparagraph
 3 (B).”

4 (b) PERMANENT INCREASE IN SHARE INSURANCE.—
 5 Section 207(k)(5) of the Federal Credit Union Act (12
 6 U.S.C. 1787(k)(5)) is amended by striking “\$100,000”
 7 and inserting “\$250,000”.

8 ~~(c) TECHNICAL AND CONFORMING AMENDMENT.—~~
 9 ~~Section 11(a)(1)(F)(i)(I) of the Federal Deposit Insurance~~
 10 ~~Act (12 U.S.C. 1821 (a)(1)(F)(i)(I)) is amended striking~~
 11 ~~“\$100,000” and inserting “\$250,000”.~~

12 ~~SEC. 336. PERMANENT EXTENSION OF THE TRANSACTION~~
 13 ~~ACCOUNT GUARANTY PROGRAM.~~

TEMPORARY

14 (a) TAGP EXTENSION.—Section 11(a)(1) of the
 15 Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is
 16 amended—

17 (1) in subparagraph (B)—

18 (A) by striking “The net amount” and in-
 19 serting the following:

20 “(i) IN GENERAL.—Subject to clause

21 (ii), the net amount”; and

22 (B) by adding at the end the following new
 23 clauses:

24 “(ii) INSURANCE FOR NONINTEREST-
 25 BEARING TRANSACTION ACCOUNTS.—Not-

1 withstanding clause (i), the Corporation
2 shall fully insure the net amount that any
3 depositor at an insured depository institu-
4 tion maintains in a noninterest-bearing
5 transaction account. Such amount shall
6 not be taken into account when computing
7 the net amount due to such depositor
8 under clause (i).

9 “(iii) NONINTEREST-BEARING TRANS-
10 ACTION ACCOUNT DEFINED.—For purposes
11 of this subparagraph, the term ‘non-
12 interest-bearing transaction account’
13 means a deposit or account maintained at
14 an insured depository institution—

15 “(I) with respect to which inter-
16 est is neither accrued nor paid;

17 “(II) on which the depositor or
18 account holder is permitted to make
19 withdrawals by negotiable or transfer-
20 able instrument, payment orders of
21 withdrawal, telephone or other elec-
22 tronic media transfers, or other simi-
23 lar items for the purpose of making
24 payments or transfers to third parties
25 or others; and

1 " (III) on which the insured de-
2 pository institution does not reserve
3 the right to require advance notice of
4 an intended withdrawal."; and

5 (2) in subparagraph (C), by striking "subpara-
6 graph (B)" and inserting "subparagraph (B)(i)".

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall take effect on December 31, 2010.

Page 388, after line 16, insert the following new sec-
tion (and redesignate subsequent sections accordingly):

← INSERT
RIDER (C)

9 ~~SEC. 341. MUTUAL NATIONAL BANKS AND FEDERAL MU-
10 TUAL BANK HOLDING COMPANIES AUTHOR-
11 IZED.~~

12 ~~(a) IN GENERAL.—Chapter one of title LXII of the
13 Revised Statutes of the United States (12 U.S.C. 21 et
14 seq.) is amended by inserting after section 5133 the fol-
15 lowing new sections:~~

16 ~~"SEC. 5133A. MUTUAL NATIONAL BANKS.~~

17 ~~"(a) IN GENERAL.—Notwithstanding the section des-
18 igned the 'Third' of section 5134, in order to provide
19 mutual institutions for the deposit of funds, the extension
20 of credit, and provision of other services, the Comptroller
21 of the Currency may charter mutual national banks either
22 de novo or through a conversion of any insured depository
23 institution or any State mutual bank or credit union, sub-~~

Rider ~~B~~ C

RIDER C

(c) PROSPECTIVE REPEAL.—Effective January 1, 2013, section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)), as amended by subsection (a), is amended—

(1) in subparagraph (B)—

(A) by striking “DEPOSIT.—” and all that follows through “clause (ii), the net amount” and inserting “DEPOSIT.—The net amount”; and

(B) by striking clauses (ii) and (iii); and

(2) in subparagraph (C), by striking “subparagraph (B)(i)” and inserting “subparagraph (B)”.

1 ject to regulations prescribed by the Comptroller of the
2 Currency in accordance with this section. The powers con-
3 ferred by this section are intended to provide for the cre-
4 ation and maintenance of mutual national banks as bodies
5 corporate existing in perpetuity for the benefit of their de-
6 positors and the communities in which they operate.

7 “(b) REGULATIONS.—

8 “(1) REGULATIONS OF THE COMPTROLLER.—

9 The Comptroller of the Currency is authorized to
10 prescribe appropriate regulations for the organiza-
11 tion, incorporation, examination, operation, and reg-
12 ulation of mutual national banks. Except to the ex-
13 tent that such existing regulations conflict with sec-
14 tions 5133A and 5133B, mutual national banks
15 shall be subject to the regulations of the Director of
16 the Office of Thrift Supervision governing corporate
17 organization, governance, and conversion of mutual
18 institutions, as in effect on the date of the enact-
19 ment of the Restoring American Financial Stability
20 Act of 2010, including parts 543, 544, 546, 563b,
21 and 563c of chapter V of title 12, Code of Federal
22 Regulations (as in effect on that date), for up to 3
23 years beginning on the date of the enactment of the
24 Restoring American Financial Stability Act of 2010.

1 “(2) APPLICABILITY OF CAPITAL STOCK RE-
2 QUIREMENTS.—The Comptroller of the Currency
3 shall prescribe regulations regarding the manner in
4 which requirements of this title with respect to cap-
5 ital stock, and limitations imposed on national banks
6 under this title based on capital stock, shall apply to
7 mutual national banks.

8 “(c) CONVERSIONS.—

9 “(1) CONVERSION OF A MUTUAL DEPOSITORY
10 TO A MUTUAL NATIONAL BANK.—Subject to such
11 regulations as the Comptroller of the Currency may
12 prescribe for the protection of depositors' rights and
13 for any other purpose the Comptroller of the Cur-
14 rency may consider appropriate, any mutual depository
15 may convert to a mutual national bank by filing
16 with the Comptroller of the Currency a notice of its
17 election to convert on a specified date that is not
18 earlier than 30 days after the date on which the no-
19 tice is filed, and the mutual depository shall be con-
20 verted to a mutual national bank charter on the date
21 specified in the notice.

22 “(2) CONVERSION TO STOCK NATIONAL
23 BANK.—Subject to such regulations as the Comp-
24 troller of the Currency may prescribe for the protec-
25 tion of depositors' rights and for any other purpose

1 the Comptroller of the Currency may consider ap-
2 propriate, any national bank that is organized in the
3 mutual form under subsection (a) may reorganize as
4 a stock national bank.

5 “(3) CONVERSION TO STATE BANKS.—Any na-
6 tional mutual bank may convert to a State bank
7 charter in accordance with regulations prescribed by
8 the Comptroller of the Currency and applicable
9 State law.

10 “(d) TERMINATING MUTUALITY.—If a mutual na-
11 tional bank elects to terminate mutuality, it must do so
12 by—

13 “(1) liquidating or

14 “(2) converting to a national banking associa-
15 tion operating in stock form.

16 “(e) STATUS AND RIGHTS OF MEMBERS.—

17 “(1) In general, the status of a member is pri-
18 marily that of a depositor and secondarily that of a
19 holder of a contingent right to participate in the eq-
20 uity of a mutual national bank upon a liquidation or
21 conversion.

22 “(2) Each member of a mutual national bank
23 shall have the following rights:

1 “(A) Such rights as may be agreed upon,
2 by contract, between the member and the mu-
3 tual national bank.

4 “(B) The right to vote for members of the
5 board of directors of the mutual national bank.

6 “(C) The right to attend any meeting of
7 members properly called by the board of direc-
8 tors of a mutual national bank.

9 “(D) In the event the board of directors,
10 in its sole discretion, determines a conversion of
11 a mutual national bank to a national banking
12 association operating in stock form is in the
13 best interests of the community in which the
14 bank operates and the members approve the
15 conversion through a special proxy, then the
16 members as of a record date set by the board
17 of directors shall have the first right to sub-
18 scribe for and purchase stock in the converted
19 bank.

20 “(E) In the event the board of directors, in
21 its sole discretion, determines a liquidation of
22 the mutual national bank is in the best inter-
23 ests of the community in which the bank oper-
24 ates and the members approve the liquidation,
25 or if for any other reason the bank is liquidated

1 by operation of law, then the members as of the
2 date of liquidation shall have the right to have
3 credited to their accounts, on a pro rata basis,
4 any residual assets left after the liquidation of
5 the mutual national bank.

6 “(3) In the consideration of all questions re-
7 quiring action by the members of a mutual national
8 bank, the bank may provide in its charter that each
9 member shall be permitted (i) one vote per member,
10 or (ii) to cast one vote for each \$100, or fraction
11 thereof, of the withdrawal value of the member’s ac-
12 count, but not more than 1,000 votes per member.

13 “(f) PROXIES.—

14 “(1) A member may give, in writing or elec-
15 tronically, a perpetual proxy to a committee of the
16 board of directors of a mutual depository, provided
17 that the member may revoke such a proxy in writing
18 or electronically, with such revocation to take effect
19 after 6 business days.

20 “(2) Such proxies may be used to vote on any
21 issue requiring approval of the members, including
22 the conversion of a mutual depository into a mutual
23 national bank and the reorganization of a mutual
24 national bank into a Federal mutual bank holding
25 company, except that, without a prior finding by the

1 regulator of the mutual national bank that such ac-
2 tion is needed to avoid loss to the Federal Deposit
3 Insurance Corporation's deposit insurance fund or to
4 protect the stability of the United States financial
5 system, such proxies may not be used to vote in
6 favor of—

7 “(A) terminating mutuality for a mutual
8 national bank or a Federal mutual bank holding
9 company;

10 “(B) permitting the modification of a Fed-
11 eral mutual bank holding company; or

12 “(C) issuing mutual capital certificates
13 (except when used to found a mutual national
14 bank or a Federal mutual bank holding com-
15 pany de novo).

16 “(3) Proxies given by a member, in writing or
17 electronically, to management of, or to a committee
18 of the board of directors of, a mutual depository
19 shall not be deemed to have been revoked solely be-
20 cause of, and shall continue to exist following, a con-
21 version to a mutual national bank and any concu-
22 rent or subsequent reorganization to a Federal mu-
23 tual bank holding company.

24 “(g) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 “(1) INSURED DEPOSITORY INSTITUTION.—The
2 term ‘insured depository institution’ has the same
3 meaning as in section 3 of the Federal Deposit In-
4 surance Act.

5 “(2) MUTUAL NATIONAL BANK.—The term
6 ‘mutual national bank’ means a national banking as-
7 sociation that operates in mutual form and is char-
8 tered by the Comptroller of the Currency under this
9 section.

10 “(3) MUTUAL DEPOSITORY.—The term ‘mutual
11 depository’ means a depository institution that is or-
12 ganized in non-stock form, including a Federal non-
13 stock depository and any form of non-stock deposi-
14 tory provided for under State law, the deposits of
15 which are insured by an instrumentality of the Fed-
16 eral Government.

17 “(4) MUTUALITY.—The term ‘mutuality’ means
18 the quality of being an insured depository institution
19 organized under a Federal or State law providing for
20 the organization of non-stock depository institutions,
21 or a holding company organized under a Federal or
22 State law providing for the organization of non-stock
23 entities that control one or more depository institu-
24 tions.

1 “(5) MEMBER.—The term ‘member’ means
2 each tax-liable depositor in a mutual depository’s
3 savings, demand, or other authorized depository ac-
4 counts and each tax-liable depositor in such an ac-
5 count in a depository subsidiary of a Federal mutual
6 bank holding company.

7 “(6) TAX LIABLE DEPOSITOR.—The term ‘tax
8 liable depositor’ means the single person responsible
9 for paying any Federal taxes due on any interest
10 paid on any deposits held within any savings, de-
11 mand, or other authorized depository account or ac-
12 counts with any mutual depository.

13 “(7) MEMBERSHIP RIGHTS.—The term ‘mem-
14 bership rights’ means the rights of each member
15 under this section.

16 “(h) CONFORMING REFERENCES.—Unless otherwise
17 provided by the Comptroller of the Currency—

18 “(1) any reference in any Federal law to a na-
19 tional bank operating in stock form, including a ref-
20 erence to the term ‘national banking association’,
21 ‘member bank’, ‘national bank’, ‘national associa-
22 tion’, ‘bank’, ‘insured bank’, ‘insured depository in-
23 stitution’, or ‘depository institution’, shall be deemed
24 to refer also to a mutual national bank;

1 “(2) any reference in any Federal law to the
2 term ‘board of directors’, ‘director’, or ‘directors’ of
3 a national bank operating in stock form shall be
4 deemed to refer also to the board of a mutual na-
5 tional bank; and

6 “(3) any terms in Federal law that may apply
7 only to a national bank operating in stock form, in-
8 cluding the terms ‘stock’, ‘shares’, ‘shares of stock’,
9 ‘capital stock’, ‘common stock’, ‘stock certificate’,
10 ‘stock certificates’, ‘certificates representing shares
11 of stock’, ‘stock dividend’, ‘transferable stock’, ‘each
12 class of stock’, ‘cumulate such shares’, ‘par value’;
13 ‘preferred stock’ shall not apply to a mutual national
14 bank, unless the Comptroller of the Currency deter-
15 mines that the context requires otherwise.

16 **“SEC. 5133B. FEDERAL MUTUAL BANK HOLDING COMPA-**
17 **NIES.**

18 **“(a) REORGANIZATION OF MUTUAL NATIONAL BANK**
19 **AS A HOLDING COMPANY.—**

20 “(1) **IN GENERAL.—**Subject to approval under
21 the Bank Holding Company Act of 1956, a mutual
22 national bank may reorganize so as to become a
23 Federal mutual bank holding company by submitting
24 a reorganization plan to the appropriate bank hold-
25 ing company regulator.

1 “(2) PLAN APPROVAL.—Upon the approval of
2 the reorganization plan by the appropriate bank
3 holding company regulator and the issuance of the
4 appropriate charters—

5 “(A) the substantial part of the mutual na-
6 tional bank’s assets and liabilities, including all
7 of the bank’s insured liabilities, shall be trans-
8 ferred to a national banking association, a ma-
9 jority of the shares of voting stock of which is
10 owned, directly or indirectly, by the mutual na-
11 tional bank that is to become a Federal mutual
12 bank holding company; and

13 “(B) the mutual national bank shall be-
14 come a Federal mutual bank holding company.

15 “(b) DIRECTORS AND CERTAIN ACCOUNT HOLDERS’
16 APPROVAL OF PLAN REQUIRED.—This subsection does
17 not authorize a reorganization unless—

18 “(1) a majority of the mutual national bank’s
19 board of directors has approved the plan providing
20 for such reorganization; and

21 “(2) a majority of members has approved the
22 plan at a meeting held at the call of the directors
23 under the procedures prescribed by the bank’s char-
24 ter and bylaws.

1 “(c) OWNERSHIP OF DEPOSITORY SUBSIDIARIES.—

2 To avoid terminating mutuality, a Federal mutual bank
3 holding company must own, directly or indirectly, a major-
4 ity of the shares of voting stock of each of its depository
5 subsidiaries.

6 “(d) NO TERMINATION OF MUTUALITY.—Neither a
7 reorganization of a mutual depository nor a modification
8 of a Federal mutual bank holding company shall cause a
9 termination of mutuality.

10 “(e) RETENTION OF CAPITAL.—In connection with a
11 transaction described in subsection (a), a mutual national
12 bank may, subject to the approval of the appropriate bank
13 holding company regulator, retain capital at the holding
14 company level to the extent that the capital retained at
15 the holding company level exceeds the amount of capital
16 required for the national banking association chartered as
17 a part of a transaction described in subsection (a) to meet
18 all relevant capital standards established by the Comp-
19 troller of the Currency for national banking associations.

20 “(f) TERMINATING MUTUALITY.—If a Federal mu-
21 tual bank holding company elects to terminate mutuality,
22 it must do so by either liquidating or converting to a bank
23 holding company operating in stock form.

24 “(g) MEMBERSHIP RIGHTS.—Holders of savings, de-
25 mand, or other authorized depository accounts in a depository

1 tory subsidiary of a Federal mutual bank holding company
2 shall have the same membership rights with respect to the
3 Federal mutual bank holding company as those holders
4 would have had if the depository subsidiary of the Federal
5 mutual bank holding company had been a mutual national
6 bank.

7 “(a) REGULATION.—A Federal mutual bank holding
8 company shall be—

9 “(1) chartered by the appropriate bank holding
10 company regulator and shall be subject to such regu-
11 lations as the appropriate bank holding company
12 regulator shall prescribe; and

13 “(2) regulated under the Bank Holding Com-
14 pany Act of 1956 on the same terms and subject to
15 the same limitations as any other company that con-
16 trols a bank.

17 “(i) CAPITAL IMPROVEMENT.—

18 “(1) PLEDGE OF STOCK OF NATIONAL BANK
19 SUBSIDIARY.—This section shall not prohibit a Fed-
20 eral mutual bank holding company from pledging all
21 or a portion of the stock of the national banking as-
22 sociation chartered as part of a transaction de-
23 scribed in subsection (a) to raise capital for such na-
24 tional banking association.

1 “(2) ISSUANCE OF NONVOTING SHARES.—This
2 section shall not prohibit a national banking associa-
3 tion chartered as part of a transaction described in
4 subsection (a) from issuing any nonvoting shares or
5 less than 50 percent of the voting shares of such
6 bank to any person other than the Federal mutual
7 bank holding company.

8 “(j) INSOLVENCY AND LIQUIDATION.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of law, the appropriate bank holding com-
11 pany regulator may file a petition under chapter 7
12 of title 11, United States Code, with respect to a
13 Federal mutual bank holding company upon—

14 “(A) the default of any national bank—

15 “(i) the stock of which is owned by
16 the Federal mutual bank holding company;
17 and

18 “(ii) that was chartered in a trans-
19 action described in subsection (a); or

20 “(B) a foreclosure on a pledge by the Fed-
21 eral mutual bank holding company described in
22 subsection (i)(1).

23 “(2) DISTRIBUTION OF NET PROCEEDS.—Ex-
24 cept as provided in paragraph (3), the net proceeds
25 of any liquidation of any Federal mutual bank hold-

1 ing company under paragraph (1) shall be trans-
2 ferred to persons who hold membership interests in
3 such Federal mutual bank holding company.

4 “(3) RECOVERY BY FDIC.—If the Federal De-
5 posit Insurance Corporation incurs a loss as a result
6 of the default of any insured bank subsidiary of a
7 Federal mutual bank holding company that is liq-
8 uidated under paragraph (1), the Federal Deposit
9 Insurance Corporation shall succeed to the interests
10 of the depositors of the bank as members in the
11 Federal mutual bank holding company, to the extent
12 of the Federal Deposit Insurance Corporation’s loss.

13 “(k) DEFINITIONS.—

14 “(1) FEDERAL MUTUAL BANK HOLDING COM-
15 PANY.—The term ‘Federal mutual bank holding
16 company’ means a holding company that is orga-
17 nized in mutual form and owns, directly or indi-
18 rectly, a majority of the shares of voting stock of
19 one or more depository subsidiaries of a Federal mu-
20 tual bank holding company.

21 “(2) DEPOSITORY SUBSIDIARY OF A FEDERAL
22 MUTUAL BANK HOLDING COMPANY.—The term ‘de-
23 pository subsidiary of a Federal mutual bank hold-
24 ing company’ means a depository institution orga-
25 nized in stock form that is insured by the Federal

1 Deposit Insurance Corporation, the majority of the
2 shares of voting stock of which are owned by the
3 Federal mutual bank holding company or its wholly
4 owned subsidiaries and none of the shares of stock
5 of which are pledged or otherwise subjected to lien
6 except as permitted in subsection (i).

7 “(3) REORGANIZATION OF A MUTUAL DEPOSITORY.—The term ‘reorganization of a mutual depository’ means the conversion of a mutual depository into a depository subsidiary of a Federal mutual bank holding company.

8 “(4) MODIFICATION OF A FEDERAL MUTUAL BANK HOLDING COMPANY.—The term ‘modification of a Federal mutual bank holding company’ means either: (A) the sale of shares of common or preferred stock in a depository subsidiary of a Federal mutual bank holding company to any party other than the subsidiary’s parent Federal mutual bank holding company or a wholly owned subsidiary of that parent; or (B) the voluntary grant of a lien on shares of common or preferred stock in a depository subsidiary of a Federal mutual bank holding company.

9 “(5) DEFAULT.—With respect to a national bank, the term ‘default’ means an adjudication or other official determination by any court of com-

1 petent jurisdiction, the Comptroller of the Currency,
2 or other public authority pursuant to which a con-
3 servator, receiver, or other legal custodian is ap-
4 pointed for the national bank.

5 “(1) CONFORMING REFERENCES.—Unless otherwise
6 provided by the appropriate bank holding company regu-
7 lator—

8 “(1) any reference in any Federal law to a bank
9 holding company operating in stock form shall be
10 deemed to refer also to a Federal mutual bank hold-
11 ing company;

12 “(2) any reference in any Federal law to the
13 term ‘board of directors’, ‘director’, or ‘directors’ of
14 a national bank operating in stock form shall be
15 deemed to refer also to the board of a Federal mu-
16 tual bank holding company; and

17 “(3) any terms in Federal law that may apply
18 only to a national bank operating in stock form, in-
19 cluding the terms ‘stock’, ‘shares’, ‘shares of stock’,
20 ‘capital stock’, ‘common stock’, ‘stock certificate’,
21 ‘stock certificates’, ‘certificates representing shares
22 of stock’, ‘stock dividend’, ‘transferable stock’, ‘each
23 class of stock’, ‘cumulate such shares’, ‘par value’,
24 ‘preferred stock’ shall not apply to a Federal mutual
25 bank holding company, unless the appropriate bank

1 holding company regulator determines that the con-
2 text requires otherwise.”.

3 (b) LIMITATION ON FEDERAL REGULATION OF
4 STATE BANKS.—Except as otherwise provided in Federal
5 law, the Comptroller of the Currency, the Board of Gov-
6 ernors of the Federal Reserve System, and the Federal
7 Deposit Insurance Corporation may not adopt or enforce
8 any regulation that contravenes the corporate governance
9 rules prescribed by State law or regulation for State banks
10 unless the Director, Board, or Corporation finds that the
11 Federal regulation is necessary to assure the safety and
12 soundness of the State banks.

13 (c) TECHNICAL AMENDMENT.—The table of sections
14 for chapter one of title LXII of the Revised Statutes of
15 the United States (12 U.S.C. 21 et seq.) is amended by
16 inserting after the item relating to section 5133 the fol-
17 lowing new items:

“5133A. Mutual national banks.

“5133B. Federal mutual bank holding companies.”.

18 (d) APPROPRIATE FEDERAL BANKING AGENCY FOR
19 FEDERAL MUTUAL BANK HOLDING COMPANIES.—Sec-
20 tion 3(q)(1) of the Federal Deposit Insurance Act (12
21 U.S.C. 1813(q)(2)) is amended by inserting after subpara-
22 graph (F) the following new subparagraph:

23 “(G) supervisory or regulatory proceedings
24 arising from the authority given to the appro-

1 appropriate bank holding company regulator under
2 section 5133B of the Revised Statutes of the
3 United States.”.

4 (e) **MUTUAL HOLDING COMPANY CONVERSION.**—

5 (1) **IN GENERAL.**—Any mutual holding com-
6 pany, including any form of mutual depository hold-
7 ing company provided for under State law, may con-
8 vert to a Federal mutual bank holding company by
9 filing with the appropriate bank holding company
10 regulator a notice of its election to convert on a
11 specified date that is not earlier than 30 days after
12 the date on which the notice is filed, and the mutual
13 holding company shall be converted to a Federal mu-
14 tual holding company charter on the date specified
15 in the notice.

16 (2) **DEFINITIONS.**—For purposes of this sub-
17 section, the following definitions shall apply:

18 (A) **FEDERAL MUTUAL BANK HOLDING**
19 **COMPANY.**—The term “Federal mutual bank
20 holding company” has the same meaning as in
21 section 5133B of the Revised Statutes of the
22 United States (as added by this section); and

23 (B) **MUTUAL HOLDING COMPANY.**—The
24 term “mutual holding company” has the same
25 meaning as in section 10(o)(10)(A) of the

1 Home Owners Loan Act as in effect on the day
 2 before the date of enactment of this Act.
 3 (f) ~~EFFECTIVE DATE~~—This section shall take effect
 4 on the date of enactment of this Act.

Page 385, line 10, after the period insert the following new sentence: "The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined in section 3132 of title 5, United States Code."

or an equivalent designation standards for

coordinating Page 385, line 18, insert ", including the ~~coordinating~~ *coordinating* of technical assistance to such businesses" before the period.

Page 385, after line 20, insert the following new paragraph:

5 (3) OTHER DUTIES.—Each Director shall advise the agency administrator on the impact of the
 6 policies and regulations of the agency on minority-
 7 owned and women-owned businesses.
 8

~~Page 390, line 15, strike "and" after the semicolon.~~

~~Page 390, line 16, strike the period and insert "; and".~~

~~Page 390, after line 16, insert the following new subparagraph:~~

1

~~(J) the Office of National Insurance.~~



Additional technical amendment for Technical/Manager's Amendment to Title III

On page 3, line 16 of the Technical/Manager's Amendment to Title III

On page 383, strike lines 3-10 and insert --

' "(2) ACTING OFFICIALS MAY SERVE. – In the event of a vacancy in the office of the Comptroller of the Currency or the office of Director of the Consumer Financial Protection Bureau and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency or the Director of the Consumer Financial Protection Bureau, the acting Comptroller of the Currency or the acting Director of the Consumer Financial Protection Bureau, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director." ; and'

On page 383, line 12, strike the period and insert "or of the Consumer Financial Protection Bureau."

RESTORING AMERICAN FINANCIAL STABILITY
CONFERENCE AMENDMENT

On page 385 of the Conference Base Text, between lines 20 and 21, insert the following:

- 1 (3) **RULE OF CONSTRUCTION.**—Nothing in
- 2 paragraph (2)(C) may be construed to mandate any
- 3 requirement on or otherwise affect the lending poli-
- 4 cies and practices of any regulated entity, or to
- 5 imply or require any specific action based on the
- 6 findings of the assessment.

