110TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
110–155

INDUSTRIAL BANK HOLDING COMPANY ACT OF 2007

MAY 16, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 698]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 698) to amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Bank Holding Company Act of 2007".

SEC. 2. INDUSTRIAL BANK HOLDING COMPANY REGULATION.

(a) DEFINITIONS.—

(1) INDUSTRIAL BANK.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by adding at the end the following new paragraph:

"(4) INDUSTRIAL BANK.—The term 'industrial bank' means any insured State bank that is an industrial bank, industrial loan company, or other institution that is excluded, pursuant to section 2(c)(2)(H) of the Bank Holding Company Act of 1956, from the definition of the term 'bank' for purposes of such Act.".

(2) INDUSTRIAL BANK HOLDING COMPANY.—Section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by adding at the end the following new paragraphs:

"(8) INDUSTRIAL BANK HOLDING COMPANY.—The term 'industrial bank holding company' means any company that—

"(A) controls (as determined by the Corporation pursuant to section 2(a) of the Bank Holding Company Act of 1956), directly or indirectly, any industrial bank; and

"(B) is not—

"(i) 1 or more of the following: a bank holding company, a savings and loan holding company, a company that is subject to the Bank Holding Company Act of 1956 pursuant to section 8(a) of the International Banking Act of 1978, or a holding company regulated by the Securities and Exchange Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007); or

"(ii) controlled by a company described in clause (i).

"(9) CAPITAL TERMS RELATING TO INDUSTRIAL BANK HOLDING COMPANIES.—

"(A) ADEQUATELY CAPITALIZED.—With respect to an industrial bank holding company, the term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(B) WELL CAPITALIZED.—With respect to an industrial bank holding company, the term 'well capitalized' means a level of capitalization which meets or exceeds the required capital levels for well capitalized industrial bank holding companies established by the Corporation.".

(3) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER DEFINITIONS.—

(A) APPROPRIATE FEDERAL BANKING AGENCY.—Section 3(q)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(3)) is amended—

(i) by striking "or a foreign" and inserting ", any foreign"; and

(ii) by inserting ", and any industrial bank holding company and any subsidiary of an industrial bank holding company (other than a bank)" after "insured branch".

(B) DEPOSITORY INSTITUTION HOLDING COMPANY.—Section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)) is amended—

(i) by striking "or a savings" and inserting ", any savings"; and

(ii) by inserting ", and any industrial bank holding company" before the period at the end.

(b) INDUSTRIAL BANK HOLDING COMPANY REGISTRATION AND OWNERSHIP.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 51. INDUSTRIAL BANK HOLDING COMPANY REGULATION.

"(a) ACQUISITION OF INDUSTRIAL BANK SHARES OR ASSETS.—Section 3 of the Bank Holding Company Act of 1956 (other than section 3(c)(3)(B) of that Act) shall apply to any company that is or would become an industrial bank holding company in the same manner as such section applies to a company that is or would become a bank holding company, except that for purposes of applying this subsection—

"(1) any reference to a 'bank holding company' in such section 3 shall be deemed to be a reference to an 'industrial bank holding company';

"(2) any reference to a 'bank' in such section shall be deemed to be a reference to an 'industrial bank';

"(3) any reference to the 'Board' in such section shall be deemed to be a reference to the Corporation;

"(4) any reference to the 'Bank Holding Company Act Amendments of 1970' in such section shall be deemed to be a reference to the 'Industrial Bank Holding Company Act of 2007';

"(5) any reference to a 'home State' in such section 3 shall be deemed to be a reference to—

"(A) with respect to an industrial bank holding company, the State in which the total deposits of all banking subsidiaries of such company were the largest on the later of—

"(i) January 28, 2007; or

"(ii) the date on which the company becomes an industrial bank holding company under this section; and

"(B) with respect to an industrial bank, the home State of the bank as determined under section 44(g);

"(6) any reference to a 'host State' in such section 3 shall be deemed to be a reference to—

"(A) with respect to an industrial bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, an industrial bank subsidiary; and

"(B) with respect to an industrial bank, the host State of the bank as determined under section 44(g);

"(7) any reference to an 'out-of-State bank holding company' in such section 3 shall be deemed to be a reference to, with respect to any State, an industrial bank holding company whose home State is another State; and

"(8) any reference to an 'out-of-State bank' in such section 3 shall be deemed to be a reference to, with respect to any State, an industrial bank whose home State is another State.

"(b) APPLICATION PROCESS.—An application filed under subsection (a) to acquire control of an industrial bank shall be treated as an application for a deposit facility for purposes of this Act and any other Federal law.

"(c) REGISTRATION.—

"(1) IN GENERAL.—Each industrial bank holding company shall register with the Corporation on forms prescribed by the Corporation before the end of the 180-day period beginning on the later of—

"(A) the date the company becomes an industrial bank holding company; or

"(B) the date of the enactment of the Industrial Bank Holding Company Act of 2007.

"(2) INFORMATION TO BE INCLUDED.—Each registration submitted under paragraph (1) shall include such information, under oath, with respect to the financial condition, ownership, operations, management, and intercompany relationships of the industrial bank holding company and subsidiaries of such holding company, and other factors (including information described in subsection (d)(1)(C)), as the Corporation may determine to be appropriate to carry out the purposes of this section.

"(3) EXTENSION OF TIME FOR SUBMITTING COMPLETE INFORMATION.—Upon application by an industrial bank holding company and subject to such requirements, factors, and evidence as the Corporation may require, the Corporation may extend the period described in paragraph (1) within which such company shall register and file the requisite information.

"(d) REPORTS AND EXAMINATIONS.—

"(1) REPORTS.—

"(A) REPORTS REQUIRED.—Each industrial bank holding company and each subsidiary of an industrial bank holding company, other than an industrial bank, shall file with the Corporation such reports as may be required by the Corporation.

"(B) FORM AND MANNER.—Reports filed under subparagraph (A) shall be made under oath and shall be in such form and for such periods, as the Corporation may prescribe.

"(C) INFORMATION.—Each report filed under subparagraph (A) shall contain such information as the Corporation may require concerning—

"(i) the operations of the industrial bank holding company and the holding company's subsidiaries;

"(ii) the financial condition of the industrial bank holding company and such subsidiaries, together with information on systems maintained within the holding company or within any such subsidiary for monitoring and controlling financial and operating risks, and trans-

actions with insured depository institution subsidiaries of the holding company;

"(iii) compliance by the industrial bank holding company and the holding company's subsidiaries with all applicable Federal and State law; and

"(iv) such other information as the Corporation may require.

"(D) ACCEPTANCE OF EXISTING REPORTS.—For purposes of this paragraph, the Corporation may accept reports that an industrial bank holding company or any subsidiary of such company has provided or has been required to provide to any other Federal or State supervisor or to any appropriate self-regulatory organization.

"(2) EXAMINATIONS.—

"(A) IN GENERAL.—Each industrial bank holding company and each subsidiary of each such holding company (other than an industrial bank) shall be subject to such examinations by the Corporation as the Corporation may prescribe for purposes of this section.

"(B) FURNISHING REPORTS TO OTHER AGENCIES.—Examination and other reports made or received under this section may be furnished by the Corporation to any other appropriate Federal agency or any appropriate State bank supervisor or other State financial supervisory agency.

"(C) USE OF REPORTS FROM OTHER AGENCIES.—The Corporation may use, for the purposes of this subsection, reports of examination made by any other appropriate Federal agency, any appropriate State bank supervisor, or any other State financial supervisory authority with respect to any industrial bank holding company or subsidiary of any such holding company, to the extent the Corporation may determine such use to be feasible for such purposes.

"(3) CAPITAL.—

"(A) IN GENERAL.—The Corporation may not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any functionally regulated affiliate (as defined in section 45) of any depository institution that is controlled by an industrial bank holding company that—

"(i) is not a depository institution; and

"(ii) is—

"(I) in compliance with the applicable capital requirements of the appropriate Federal supervisory agency of the affiliate (including the Securities and Exchange Commission or State insurance authority);

"(II) properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State; or

"(III) is licensed as an insurance agent with the appropriate State insurance authority.

"(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Corporation from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

"(i) activities of a registered investment adviser other than with respect to investment advisory activities or activities incidental to investment advisory activities; or

"(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

"(e) ACCESS TO INFORMATION.—

"(1) INFORMATION PROVIDED BY CORPORATION.—Any confidential supervisory information, including examination or other reports, pertaining to an industrial bank furnished by the Corporation to any other Federal agency or any appropriate State supervisory agency shall remain confidential unless the Corporation, in writing, otherwise consents.

"(2) DEFERENCE TO DEPOSITORY INSTITUTION EXAMINATIONS.—Any appropriate Federal supervisory agency of a holding company of an industrial bank shall, to the fullest extent possible, forego any examination of any depository institution subsidiary of the holding company and use the reports of examinations of the institution made by the appropriate Federal banking agency and the appropriate State bank supervisor in lieu of a direct examination.

"(3) INFORMATION TO BE PROVIDED TO CORPORATION.—

"(A) REQUEST TO AGENCY.—Upon request by the Corporation, an appropriate Federal supervisory agency may provide to the Corporation information regarding the condition of an industrial bank, any holding company that controls such industrial bank, or any other affiliate of any such holding company that is necessary to assess risk to the industrial bank.

"(B) AVAILABILITY FROM HOLDING COMPANY DIRECTLY.—Notwithstanding section 45, section 115 of the Gramm-Leach-Bliley Act, or any other provision of law (including any regulation), if the information requested under subparagraph (A) is not provided to the Corporation, and the information is necessary to assess risk to the industrial bank, the Corporation may require the holding company or affiliate referred to in such subparagraph with respect to such bank to provide such information to the Corporation.

"(4) EXAMINATIONS BY CORPORATION.—

"(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding section 45, section 115 of the Gramm-Leach-Bliley Act, or any other provision of law (including any regulation), no law shall be construed as preventing the Corporation from examining an affiliate of an industrial bank pursuant to paragraph (2), (3), or (4) of section 10(b), as may be necessary to disclose fully the relationship between the industrial bank and the affiliate, and the effect of such relationship on the industrial bank, if the Corporation finds such examination necessary to determine the condition of an industrial bank.

"(B) FUNCTIONALLY REGULATED AFFILIATES.— Before the Corporation may examine any affiliate of an industrial bank that is—

"(i) a broker, a dealer, an investment company, or an investment advisor, or

"(ii) an entity that is subject to consolidated supervision by the Securities and Exchange Commission, other than a depository institution,

the Corporation shall request the Commission to provide the information that the Corporation is seeking to obtain through examination and may proceed with the examination only if the requested information is not provided by the Commission in a timely manner.

"(f) LIMITATION ON CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (3) or (4), no industrial bank may be controlled, directly or indirectly, by a commercial firm.

"(2) COMMERCIAL FIRM DEFINED.—For purposes of this section, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters, as determined by the Corporation in accordance with regulations which the Corporation shall prescribe.

"(3) PRE-2003 EXCLUSIONS.—

"(A) GRANDFATHERED INSTITUTIONS.—Paragraph (1) shall not apply with respect to any industrial bank—

"(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

"(ii) with respect to which there is no change in control, directly or indirectly, of the bank after September 30, 2003, that requires a registration under this section or an application under section 7(j) or 18(c), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act, except a direct or indirect change of control in which—

"(I) immediately prior to such change in control neither the ultimate acquiring holding company nor the ultimate acquired holding company is a commercial firm;

"(II) immediately after such change of control the resulting ultimate holding company is not a commercial firm; and

"(III) the resulting ultimate holding company is subject to consolidated supervision by the Office of Thrift Supervision or a holding company regulated by the Securities and Exchange Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007).

"(B) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of the industrial bank referred to in subparagraph (A)(ii) shall not be treated as a 'change in control' for purposes of such subparagraph if—

"(i) the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such bank on the date referred to in such subparagraph, and remains an affiliate at all times after such date; and

"(ii) the transaction through which the company acquired control of the industrial bank constituted solely a corporate reorganization of a

company that controlled the industrial bank on the date referred to in such subparagraph.

"(4) PRE-2007 EXCLUSIONS.—

"(A) GRANDFATHERED COMMERCIAL FIRMS.—Paragraph (1) shall not apply to any commercial firm—

"(i) which became a holding company of an industrial bank by virtue of acquiring control of an industrial bank on or after October 1, 2003, and before January 29, 2007;

"(ii) which does not acquire control of any other depository institution after January 28, 2007;

"(iii) with respect to which there is no change in control, directly or indirectly, of any depository institution subsidiary after January 28, 2007, that requires a registration under this section or an application under section 7(j) or 18(c), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act; and

"(iv) each industrial bank subsidiary of which remains in compliance with the limitations contained in subparagraph (B).

"(B) ACTIVITY AND BRANCHING LIMITATIONS.—An industrial bank subsidiary of a commercial firm described in clauses (i), (ii) and (iii) of subparagraph (A) is in compliance with the requirements of this subparagraph for purposes of subparagraph (A)(iv) so long as the industrial bank—

"(i) engages only in activities in which the industrial bank was engaged on January 28, 2007; and

"(ii) does not acquire, establish, or operate any branch, deposit production office, loan production office, automated teller machine, or remote service unit in any State other than the home State of the bank or any host State in which such bank operated branches on January 28, 2007.

"(C) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of a depository institution subsidiary referred to in subparagraph (A)(iii) shall not be treated as a 'change in control' for purposes of such subparagraph if—

"(i) the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such subsidiary on the date referred to in such subparagraph, and remains an affiliate at all times after such date; and

"(ii) the transaction through which the company acquired control of the depository institution constituted solely a corporate reorganization of a company that controlled the depository institution on the date referred to in such subparagraph.

"(g) PROCEDURES AND TIMING FOR TERMINATION OF ACTIVITIES OR DIVESTITURE.—

"(1) TRANSITION PROVISION.—

"(A) IN GENERAL.—Any company that fails to comply with the provisions of subsection (f) shall divest its ownership or control of each industrial bank subsidiary of the company not later than the end of the 2-year period beginning on the first date that the company ceased to comply with subsection (f).

"(B) EXTENSION OF TIME PERIOD.—

"(i) IN GENERAL.—Upon application by a holding company that controls an industrial bank, the appropriate Federal supervisory agency of such holding company may extend the 2-year period referred to in subparagraph (A) with respect to such company for not more than 1 year if, in such agency's judgment, such an extension would not be detrimental to the public interest.

"(ii) FACTORS.—In making any decision to grant an extension under clause (i) to a holding company of an industrial bank, the appropriate Federal supervisory agent of such holding company shall consider whether—

"(I) the company has made a good faith effort to divest such interests; and

"(II) such extension is necessary to avert substantial loss to the company.

"(2) CONDITIONS BEFORE DIVESTITURE.—During the 2-year period referred to in paragraph (1)(A) with respect to any company and any extension of such period, the appropriate Federal supervisory agency may impose any conditions or restrictions on the company or any subsidiary of the company (other than a bank), including restricting or prohibiting transactions between the company or subsidiary and any depository institution subsidiary of the company, as are appropriate under the circumstances.

"(3) TERMINATION OF ACTIVITIES OR DIVESTITURE OF NONBANK SUBSIDIARIES CONSTITUTING SERIOUS RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the appropriate Federal supervisory agency may, whenever such agency has reasonable cause to believe that the continuation by a holding company of an industrial bank of any activity or of ownership or control of any nonbank subsidiary of such holding company, other than a nonbank subsidiary of a depository institution, constitutes a serious risk to the financial safety, soundness, or stability of a depository institution subsidiary of the holding company and is inconsistent with sound banking principles or with the purposes of this section, at the election of the holding company—

"(i) order such holding company or any such nonbank subsidiary, after due notice and opportunity for hearing, and after considering the views of the appropriate Federal banking agency and, if applicable, appropriate State bank supervisor, to terminate such activities or to terminate (within 120 days or such longer period as the appropriate Federal supervisory agency may direct in unusual circumstances) the ownership or control by such holding company or nonbank subsidiary of any such depository institution subsidiary either by sale or by distribution of the shares of the depository institution subsidiary, in accordance with subparagraph (B), to the shareholders of the holding company of the industrial bank; or

"(ii) order the holding company of the industrial bank, after due notice and opportunity for hearing, and after consultation with the appropriate State bank supervisor for the industrial bank, to terminate (within 120 days or such longer period as the appropriate Federal supervisory agency may direct) the ownership or control of any such industrial bank by such company.

"(B) PRO RATA DISTRIBUTION.—Any distribution to shareholders referred to in clause (i) shall be pro rata with respect to all of the shareholders of the distributing company, and such company shall not make any charge to any shareholder in connection with such distribution.

"(4) FOREIGN BANK OWNERSHIP.—After January 28, 2007, no foreign bank may acquire, directly or indirectly, control of an industrial bank unless the Board of Governors of the Federal Reserve System has determined, by order, in connection with the change in control or acquisition of the industrial bank and after consultation with the Corporation, that the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country in accordance with the standard in section 3(c)(3)(B) of the Bank Holding Company Act of 1956.

"(5) HOLDING COMPANY RESPONSIBILITY.—

"(A) SOURCE OF STRENGTH.—Notwithstanding section 45, a holding company of an industrial bank—

"(i) shall serve as a source of financial and managerial strength to the subsidiary banks of such holding company; and

"(ii) shall not conduct the operations of the holding company in an unsafe or unsound manner.

"(B) IMPLEMENTATION.—The appropriate Federal supervisory agency of the holding company of an industrial bank shall implement the requirements under subparagraph (A).

"(h) ADMINISTRATIVE PROVISIONS.—

"(1) AGENT FOR SERVICE OF PROCESS.—The Corporation may require any industrial bank holding company, or persons connected with such holding company if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

"(2) RELEASE FROM REGISTRATION.—The Corporation may at any time, upon the Corporation's own motion or upon application, release a registered industrial bank holding company from any registration previously made by such company, if the Corporation determines that such company no longer controls any industrial bank.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPROPRIATE FEDERAL SUPERVISORY AGENCY.—The term 'appropriate Federal supervisory agency' means, with respect to a company that controls an industrial bank—

"(A) the Corporation, in the case of a company that is an industrial bank holding company;

"(B) the Board of Governors of the Federal Reserve System, in the case of a company that is a bank holding company or that is subject to the Bank

Holding Company Act of 1956 pursuant to section 8(a) of the International Banking Act of 1978;

"(C) the Office of Thrift Supervision, in the case of a company that is a savings and loan holding company; and

"(D) the Securities and Exchange Commission, in the case of a company that is regulated by the Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007).

"(2) RULE OF CONSTRUCTION.—Under the definition of the term 'appropriate Federal supervisory agency' in paragraph (1), more than 1 agency may be an appropriate Federal supervisory agency with respect to any given company that controls an industrial bank.".

(c) ENFORCEMENT.—

(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end the following new paragraph:

"(11) INDUSTRIAL BANK HOLDING COMPANIES.—This subsection and subsections (c) through (s) and subsection (u) of this section shall apply to any industrial bank holding company, and to any subsidiary (other than a bank) of an industrial bank holding company in the same manner as such subsections apply to State nonmember insured banks.".

(2) Section 8(h)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(2)) is amended by striking "(2) Any party to" and inserting "(2) Any party aggrieved by an order of any appropriate Federal supervisory agency under section 51 or any party to".

(3) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by striking "or 39" each place such term appears and inserting ", 39, or 51".

(d) PROMPT CORRECTIVE ACTION.—Section 38(f)(2)(H) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(f)(2)(H)) is amended by—

(1) by striking "BANK HOLDING COMPANY.—Prohibiting any bank" and inserting "HOLDING COMPANY.—

"(i) BANK HOLDING COMPANY.—Prohibiting any bank"; and

(2) by adding at the end the following new clause:

"(ii) INDUSTRIAL BANK HOLDING COMPANY.—Prohibiting any industrial bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Corporation.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 10(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)(2)) is amended by inserting "or section 51" after "subsection (b)(4)".

(2) Section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6)) is amended—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C), by inserting "and" after the semicolon; and

(C) by inserting after paragraph (C) the following new paragraph:

"(D) any industrial bank holding company (as defined in section 3(w)(8) of the Federal Deposit Insurance Act);".

(3) Section 115 of the Gramm-Leach-Bliley Act (12 U.S.C. 1820a) is amended—

(A) in subsection (a), by striking "or" after "bank holding company" and inserting ", industrial bank holding company, or";

(B) in subsection (d)—

(i) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(ii) by inserting after paragraph (4) the following new paragraph:

"(5) INDUSTRIAL BANK HOLDING COMPANY.—The term 'industrial bank holding company' has the same meaning as in section 3(w)(8) of the Federal Deposit Insurance Act.".

(4) Section 304(g)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(1)) is amended by inserting ", industrial bank holding company," after "bank holding company".

SEC. 3. REGULATIONS.

The Corporation shall prescribe such regulations as the Corporation determines to be appropriate to carry out the amendments made by this Act.

PURPOSE AND SUMMARY

H.R. 698, "Industrial Bank Holding Company Act of 2007," is intended to restore the traditional separation between banking and commerce by prohibiting commercial ownership of industrial banks and empowering the Federal Deposit Insurance Corporation (FDIC) as the federal supervisor of industrial bank holding companies.

H.R. 698 generally prohibits commercial companies from owning industrial banks. A company will be considered "commercial" if it derived 15 percent or more of its gross revenue, on a consolidated basis, from non-financial activities. Those commercial companies that already own industrial banks, however, will be exempt from this prohibition under one of two grandfather provisions.

H.R. 698 also establishes the FDIC as the consolidated supervisor of industrial bank holding companies, which are companies that control industrial banks and are not already subject to consolidated supervision by another federal regulator. In addition, the legislation provides the FDIC with certain regulatory tools, comparable to those possessed by the Federal Reserve, to be able to effectively supervise industrial bank holding companies. H.R. 698 gives the FDIC the authority to, among others, examine industrial bank holding companies and subsidiaries, regulate the acquisition of industrial banks, set capital adequacy standards on industrial bank holding companies, and apply a similar enforcement regime to industrial bank holding companies that the Federal Reserve applies to bank holding companies.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, a commercial company cannot own a bank; however, a commercial company can own an industrial bank. Industrial banks are state-chartered banks that have direct access to federal deposit insurance and the Federal Reserve's discount window and payments system, and have most of the deposit-taking, lending, and other powers of banks. Industrial banks, however, operate under a special exception to the federal Bank Holding Company Act that allows companies, including commercial companies or foreign banks, to own and operate industrial banks outside the framework of federal supervision and activity restrictions that otherwise apply to bank holding companies.

Federal law places few, limited restrictions on the types of activities that an industrial bank may conduct. Industrial banks operating under the Bank Holding Company Act exception can offer a range of federally insured retail deposit accounts; commercial, mortgage, credit card, and other loans; and other banking services. Industrial banks with greater than $100 million in assets may operate under the exception so long as they do not accept demand deposits, but many such industrial banks offer "negotiable order of withdrawal" accounts that are the functional equivalent of demand deposits. Federal law also allows industrial banks to branch across state lines to the same extent as other types of insured banks.

Only seven states charter entities identified as industrial banks by the FDIC: Utah, California, Colorado, Minnesota, Hawaii, Indiana and Nevada. Of these, Minnesota, California and Colorado no longer permit commercial companies to acquire or establish industrial banks, leaving Utah, Nevada and Hawaii as the only states

permitting new charters for industrial banks owned by commercial firms. Hawaii has not chartered any industrial banks since at least 1992, and Indiana no longer charters any new industrial banks.

In recent years, the aggregate amount of assets and deposits held by all industrial banks has increased substantially. Between 1997 and 2006, the aggregate amount of assets increased from $25.1 billion to $212.8 billion, an increase of more than 750 percent, and the aggregate amount of deposits increased from $11.7 billion to $146.7 billion, an increase of more than 1,000 percent. The size and nature of individual industrial banks have changed as well in recent years. The largest industrial bank in 1987 had assets of approximately $410 million; the largest industrial bank in 2006 had more than $67 billion in assets and more than $54 billion in deposits, making it among the twenty largest insured banks in terms of deposits. Historically, industrial banks were locally owned and focused on small consumer loans. Today, many industrial banks are controlled by large, internationally active companies and used to support complex business plans and operations.

Without this legislation, further expansion of industrial banks may undermine the separation of banking and commerce. Several concerns are at issue. First, banks affiliated with commercial companies may be less willing to provide credit to the competitors of their commercial affiliates or may provide credit to their commercial affiliates at preferential rates or more favorable terms. Second, allowing the mixing of banking and commerce might, in effect, lead to an extension of the federal safety net to commercial affiliates and make insured banks susceptible to the risks facing their commercial affiliates. Third, allowing banks and commercial companies to affiliate with each other could lead to the concentration of economic power in a few very large conglomerates.

On June 8, 2006, ninety-eight Members of Congress wrote to the FDIC requesting a moratorium on new approvals for new commercially-owned industrial banks until Congress considers the matter. A six-month moratorium was imposed by the FDIC on July 28, 2006. Reps. Frank and Gillmor, joined by 115 other Members of Congress, wrote to the FDIC on December 7, 2006 and requested that the moratorium be extended. On January 31, 2007, the FDIC voted to extend the moratorium on approving applications for commercially-owned industrial banks for one year, through January 31, 2008.

HEARINGS

The Committee on Financial Services held a legislative hearing entitled "H.R. 698, the Industrial Bank Holding Company Act of 2007" on April 25, 2007. The following witnesses testified:

PANEL ONE

- The Honorable Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation
- Mr. Donald L. Kohn, Vice Chairman, Board of Governors of the Federal Reserve System
- The Honorable John M. Reich, Director, Office of Thrift Supervision

• Mr. Robert Colby, Deputy Director, Market Regulation, Securities and Exchange Commission
• Commissioner G. Edward Leary, Department of Financial Institutions, State of Utah

PANEL TWO

• Ms. Amy Isaacs, National Director, Americans for Democratic Action
• Mr. Arthur Connelly, Chairman and Chief Executive Officer, South Shore Bancorp MHC, on behalf of America's Community Bankers
• Mr. Jim Ghiglieri, President, Alpha Community Bank, on behalf of the Independent Community Bankers of America
• Mr. Earl McVicker, Chairman and Chief Executive Officer, Central Bank & Trust Co., on behalf of American Bankers Association
• Mr. John L. Douglas, Alston & Bird LLP, on behalf of American Financial Services Association
• Mr. Marc Lackritz, Chief Executive Officer, Securities Industry and Financial Markets Association
• Mr. Thomas M. Stevens, Immediate Past President, National Association of Realtors

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 2, 2007, and ordered reported H.R. 698, the Industrial Bank Holding Company Act, as amended, to the House with a favorable recommendation.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote. During consideration of the bill, the following amendments were considered:

An amendment in the nature of a substitute by Mr. Frank, No. 1, making various substantive and technical changes to the bill, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Mr. Campbell, No. 1a, regarding exceptions, was offered and withdrawn.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 698, "Industrial Bank Holding Company Act of 2007," will restore the traditional separation between banking and commerce by prohibiting commercial ownership of industrial banks and empowering the Federal Deposit Insurance Corporation (FDIC) as the federal supervisor of industrial bank holding companies.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

MAY 15, 2007.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 698, the Industrial Bank Holding Company Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathleen Gramp.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 698—Industrial Bank Holding Company Act of 2007

Summary: H.R. 698 would amend exiting law regarding federal deposit insurance for industrial banks and their holding companies. Those institutions are chartered by states and subject to regulation by the Federal Deposit Insurance Corporation (FDIC) and other federal financial regulators, as appropriate. This legislation would set limits on the types of industrial banks eligible for federal deposit insurance and would clarify federal agencies' authority to supervise those entities and their holding companies.

Enacting this bill would affect direct spending and revenues, but CBO estimates that such effects would be negligible. H.R. 698 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost of complying with the requirements would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation).

The bill contains private-sector mandates as defined in UMRA. Those mandates are on industrial bank holding companies, and commercial firms and foreign banks that want to own an industrial bank. Because future regulatory and business decisions are unknown, CBO cannot estimate the cost of some of the private-sector mandates in the bill, and is uncertain whether the aggregate direct cost of all of the mandates would exceed the annual threshold established by UMRA ($131 million in 2007, adjusted annually for inflation).

Estimated costs to the Federal Government: H.R. 698 would clarify the terms and conditions for providing federal deposit insurance to industrial banks. According to officials at the affected financial regulatory agencies, implementing those changes would have no significant effect on their workload or costs relative to current law. While negligible, those changes would affect direct spending and revenues because most financial regulatory activities are funded directly by regulatory fees, insurance premiums, or revenues (in the case of the Federal Reserve Board). Spending by the Securities and Exchange Commission, which would have some new authorities under this bill, is subject to annual appropriation.

Provisions limiting eligibility for deposit insurance also could affect the volume of insured deposits held by industrial banks. Based on historical data on industrial bank deposits, CBO estimates that those restrictions would have a negligible impact on the aggregate level of deposits and no significant effect on the amounts collected for insurance premiums.

Estimated impact on state, local, and tribal governments: H.R. 698 contains intergovernmental mandates as defined in UMRA because it would preempt certain state laws. CBO estimates that the cost of complying with the requirements would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation) over the next five years.

Provisions in section 2 would preempt certain state laws by prohibiting certain commercial firms from controlling industrial banks, a practice currently permitted under state law in three states. Utah, Nevada, and Hawaii currently issue charters for industrial banks controlled by commercial firms, although Hawaii has not done so since 1992. This preemption would impose costs on those states in the form of lost revenue from fees and corporate income taxes by prohibiting those states from chartering new industrial banks that are controlled by certain commercial entities. Although CBO cannot predict the amount of revenue that would have been collected by the states in the absence of legislation, based on information from state bank regulators, CBO estimates that losses to states as a result of this prohibition would not exceed the threshold established in UMRA over the next five years.

Section 2 also would require certain commercial entities to divest ownership of their industrial banks if the bank controlled by the

commercial entity changes control, engages in new activities, or becomes active in new states, or if the commercial entity acquires other depository institutions. Three additional states—California, Colorado, and Minnesota—no longer allow commercial entities to establish or acquire industrial banks, but have allowed this practice in the past. A fourth state—Indiana—has chartered industrial banks in the past but no longer issues new charters. It is possible that this provision would result in divestiture and consequently additional losses in revenue in those states, but CBO cannot predict the likelihood of such actions or the magnitude of any such losses.

Estimated impact on the private sector: The bill contains private-sector mandates as defined in UMRA. Those mandates are on industrial bank holding companies, and commercial firms and foreign banks that want to own an industrial bank. Because future regulatory and business decisions are unknown, CBO cannot estimate the cost of some of the private-sector mandates in the bill, and is uncertain whether the aggregate direct cost of all of the mandates would exceed the annual threshold established by UMRA ($131 million in 2007, adjusted annually for inflation).

The bill would impose private-sector mandates because it would:

- Subject industrial bank holding companies to a new regulatory framework;
- Prohibit commercial firms from acquiring or establishing an industrial bank and limit activities of certain existing commercial firms with industrial banks; and
- Prohibit foreign banks from acquiring an industrial bank without joint approval of the Federal Reserve and the Federal Deposit Insurance Corporation (FDIC).

Industrial bank holding companies

Section 2 would provide a new regulatory framework for industrial bank holding companies and establish the FDIC as the consolidated supervisor of industrial bank holding companies. Industrial bank holding companies, as defined in the bill, are companies that control industrial banks and are not currently subject to consolidated supervision by another federal regulator. While some of the regulations established under the bill may be new, in general, most of the requirements would be incremental relative to current regulation. According to government sources, implementation of the regulations in the bill would be similar to current practice. Hence, the cost of complying with the new regulatory framework would be minimal.

Limitations on control and activities of industrial banks

The bill would prohibit commercial companies (those deriving 15 percent or more of their gross revenue, on a consolidated basis, from nonfinancial activities) from owning an industrial bank. The cost of complying with this mandate would be the cost of conducting by other means the financial activities that commercial companies would have conducted in the industrial bank, or the forgone net income from not being able to undertake such activities. The FDIC established a six-month moratorium on approval of applications with respect to industrial banks that would become subsidiaries of companies engaged in nonfinancial activities in July 2006 and has extended the moratorium through January 31, 2008.

According to government sources, fewer than a dozen commercial firms have pending applications. Because of uncertainty about the business plans of pending applicants for ownership of industrial banks and the number of such applications that would be approved in the absence of this legislation, CBO cannot estimate the cost of this mandate.

Those commercial companies that already owned an industrial bank by October 1 , 2003, would be exempt from this prohibition as long as no change in control takes place. Commercial companies that had an industrial bank after October 1, 2003, and before January 28, 2007, could continue their existing operations but would be prohibited from acquiring control of any other depository institution, from undertaking any new activities, and from establishing or acquiring any new branches, certain production offices and service units, or ATMs other than in their home state or any state where they already have branches. The cost of complying with this limitation would be the expected net income that affected entities would forgo due to the limitations on their industrial bank activities. According to government data, only a handful of entities would be affected by this limitation. Because of uncertainty about the future business plans of those entities, CBO cannot estimate the cost of complying with this limitation. Assuming those entities are already engaged in activities they had planned to conduct over the next five years, the cost of complying with this mandate would be small relative to the UMRA threshold.

Requirements on foreign banks

The bill would also require that a foreign bank must obtain a ruling from the Federal Reserve (in consultation with the FDIC) that the foreign bank is subject to consolidated comprehensive supervision in its home country before it can acquire an industrial bank. According to government sources, no foreign banks are currently seeking to acquire an industrial bank. Thus, CBO expects that the cost of this mandate would be minimal, if any.

Estimate prepared by: Federal costs: Kathleen Gramp. Impact on state, local, and tribal governments: Elizabeth Cove. Impact on the private-sector: Judith Ruud.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the

United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 698 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the "Industrial Bank Holding Company Act of 2007."

Section 2. Industrial bank holding company regulation

This section provides for regulation of industrial bank holding companies by amending the Federal Deposit Insurance Act (FDIA) to (i) add, among others, definitions of industrial bank and industrial bank holding company, (ii) add a new section 51, (iii) provide the FDIC with enforcement authority over industrial bank holding companies, and (iv) provide the FDIC with authority to take certain actions against industrial bank holding companies under the prompt corrective action provisions of the FDIA. This section also makes a number of technical and conforming amendments.

Section 2(a). Definitions

This subsection establishes various definitions. The term "industrial bank holding company" is defined as any company that controls an industrial bank and is not (i) a type of company already subject to consolidated supervision by the Federal Reserve, the Office of Thrift Supervision (OTS), or the Securities and Exchange Commission (SEC), or (ii) controlled by a company described in (i). This subsection, along with other provisions of this legislation, also clarifies that the FDIC may set regulatory capital standards on industrial bank holding companies.

Section 2(b). Industrial bank holding company registration and ownership

This subsection amends the FDIA by adding a new section 51 to codify the regulation of industrial bank holding companies. A specific description of section 51 is set forth below.

FDIA Section 51(a). Acquisition of industrial bank shares or assets

This subsection grants the FDIC the authority to approve the formation of industrial bank holding companies and their acquisition of industrial banks that is comparable to the Federal Reserve's authority over the formation of bank holding companies and their

acquisition of banks. This subsection references section 3 of the Bank Holding Company Act and clarifies certain defined terms.

FDIA Section 51(b). Application process

This subsection provides that an application under subsection (a) will be treated as an application for a deposit facility for purposes of this legislation and any other Federal law.

FDIA Section 51(c). Registration

This subsection provides that each industrial bank holding company must register with the FDIC within 180 days of the later of the date of becoming an industrial bank holding company or the date of the enactment of this legislation. The FDIC may extend this 180-day period.

FDIA Section 51(d). Reports and examinations

Subparagraph (1) requires industrial bank holding companies and their non-industrial bank subsidiaries to file reports with the FDIC. The FDIC may accept reports that have been provided to other federal or state supervisors or to an appropriate self-regulatory organization.

Subparagraph (2) provides that industrial bank holding companies and their non-industrial bank subsidiaries will be subject to examination by the FDIC. The FDIC may furnish the examination and other reports to any other federal agency or any appropriate state bank supervisor. In addition, the FDIC may use reports of examination made by any other federal agency or any appropriate state bank supervisor.

Subparagraph (3) mirrors similar language in section 5 of the Bank Holding Company Act and limits the FDIC's ability to set capital adequacy standards on certain functionally regulated affiliates of depository institutions controlled by industrial bank holding companies.

FDIA Section 51(e). Access to information

Subparagraph (1) provides that any confidential supervisory information pertaining to an industrial bank that the FDIC shares with other agencies will remain confidential unless the FDIC consents in writing.

Subparagraph (2) directs the appropriate Federal supervisory agency of a holding company of an industrial bank to forego examination of depository institution subsidiaries to the fullest extent possible and instead use the reports of exam made by the appropriate banking agency.

Subparagraph (3) provides that upon request by the FDIC, the appropriate Federal supervisory agency may provide information to the FDIC regarding an industrial bank, a holding company of an industrial bank, or any other affiliates. If this information is not provided to the FDIC and is necessary to assess the risk to the industrial bank, the FDIC then may require that the information be provided by the bank, company, or affiliate.

Subparagraph (4) provides that the FDIC will not be prevented from examining a holding company or an affiliate of an industrial bank pursuant to section 10(b) of the FDIA if the examination is necessary to determine the condition of the industrial bank. With

regard to entities regulated by the SEC, the FDIC will first ask the SEC for information and then proceed with the examination only if the SEC does not timely provide the information.

Nothing in this subsection (e) or subsection (g)(5) below is intended to affect or alter the existing and well-established allocation of supervisory responsibilities, authorities and functions as well as information-sharing arrangements among the Federal banking agencies with respect to organizations that are a bank holding company or a savings and loan holding company.

FDIA Section 51(f). Limitation on control

This subsection provides that no industrial bank may be controlled, directly or indirectly, by a commercial firm unless it qualifies for one of two grandfather provisions. The test for a commercial firm looks back one year: a firm is commercial if it had 15 percent or more of its gross revenues on a consolidated basis from nonfinancial activities in three of the last four calendar quarters.

The first grandfather provision in paragraph (3) applies to any industrial bank that became an insured depository institution or had its application for deposit insurance approved before October 1, 2003. Such an industrial bank is exempt from the prohibition on commercial ownership of industrial banks set forth in paragraph (1) as long as it does not undergo a change in control that requires certain enumerated regulatory filings. An internal corporate reorganization does not result in a loss of the grandfather status.

The second grandfather provision in paragraph (4) applies to any commercial firm that became a holding company of an industrial bank on or after October 1, 2003 and before January 29, 2007. Such a commercial firm is exempt from the prohibition on commercial ownership of industrial banks set forth in paragraph (1) as long as it does not acquire control of another insured depository institution after January 28, 2007, does not undergo a change in control that requires certain enumerated regulatory filings, and does not violate the activity and branching limitations set forth in subparagraph (4)(B). An internal corporate reorganization does not result in a loss of the grandfather status.

The activity limitation in subparagraph (4)(B)(i) restricts any industrial bank subsidiary of a commercial firm from commencing new activities after January 28, 2007. It is intended that the FDIC apply these activity limitations by regulation or order so as to allow the industrial bank to engage in a substantially similar activity that falls within the same category of activities in which it was engaged prior to January 28, 2007, so long as the activity was permissible under state law before that date. The activity limitation of subparagraph (4)(B)(i) prevents a grandfathered industrial bank from materially changing the overall mix of the deposits that it offers or receives after January 28, 2007. For example, if substantially all of a grandfathered industrial bank's deposits were obtained from affiliated persons before January 28, 2007, it could not receive a substantial part of its deposits from unaffiliated third parties after that date.

FDIA Section 51(g). Procedures and timing for termination of activities or divestitures

Paragraph (1) directs companies that fail to comply with the provisions of subsection (f) to divest their industrial bank subsidiaries no later than two years after the date such companies ceased to comply with subsection (f). Under this provision, a company that acquired an existing industrial bank would have two years, with the potential for a one-year extension, to divest the acquired industrial bank if, after the acquisition, the company did not meet the 85 percent financial test established by this legislation. However, consistent with the prohibition set forth in subsection (f)(1), a company that does not meet the 85 percent financial test may not acquire or establish a de novo industrial bank.

Paragraph (2) allows the appropriate Federal supervisory agency to impose any conditions or restrictions on the companies or their nonbank subsidiaries during the period set forth in paragraph (1).

Paragraph (3) authorizes, after due notice and opportunity for hearing, the appropriate Federal supervisory agency to order a holding company of an industrial bank, at the election of the holding company, either to (i) terminate any activity or ownership or control of any nonbank subsidiary (other than a nonbank subsidiary of a depository institution) or (ii) terminate ownership or control of its industrial bank, for reasons of financial safety, soundness, or stability.

Paragraph (4) provides that a foreign bank may not acquire an industrial bank unless the Federal Reserve, after consultation with the FDIC, determines that the foreign bank is subject to comprehensive consolidated supervision in its home country.

Paragraph (5) applies to all holding companies that own industrial banks. This provision is designed to ensure that the holding companies of industrial banks, like bank holding companies under current law, are required to serve as a source of strength to their subsidiary banks and to conduct their activities in a safe and sound manner. Under this provision, the relevant holding company supervisors would take action as necessary to assure that holding companies meet these obligations in an appropriate way. For example, the SEC requires that the Consolidated Supervised Entities must maintain a liquidity portfolio of cash or highly liquid and highly rated unencumbered debt instruments. Those liquid assets could be available to the industrial bank and other regulated entities as required by the relevant regulator.

It is intended that the FDIC will draft rules governing the application of the grandfather provisions and the divestiture provisions as well as the definition of "commercial firm" in subsections 51(f) and 51(g) to avoid interpretations that could cause undue hardship on a company subject to this legislation. For example, it is intended that the FDIC will undertake to implement the definition of "commercial firm" in subparagraph 51(f)(2), which is based on the previous four quarters of revenues, so that no restatement of past earnings prior to the most recent four quarters will affect a company's compliance with the test.

FDIA Section 51(h). Administrative provisions

This subsection authorizes the FDIC to require an industrial bank holding company to appoint an agent for service of process

and to release a registered industrial bank holding company from any previously made registration.

FDIA Section 51(i). Definitions

This subsection defines the term "appropriate Federal supervisory agency," with respect to a company that controls an industrial bank, as (i) the FDIC for an industrial bank holding company, (ii) the Federal Reserve for a bank holding company or a company subject to the Bank Holding Company Act pursuant to section 8(a) of the International Banking Act, (iii) the OTS for a savings and loan holding company, and (iv) the SEC for a company regulated by the SEC as a Consolidated Supervised Entity under the applicable regulation in effect as of January 29, 2007. More than one agency may be the appropriate supervisor for a company that controls an industrial bank.

Section 2(c). Enforcement

This subsection amends the FDIA to clarify that industrial bank holding companies and their nonbank subsidiaries are subject to the existing enforcement provisions in the FDIA.

Section 2(d). Prompt corrective action

This subsection amends the FDIA to give the FDIC prior approval authority over capital distributions by an industrial bank holding company if an insured depository institution subsidiary is (i) significantly undercapitalized or (ii) undercapitalized and fails to submit and implement a capital restoration plan.

Section 2(e). Technical and conforming amendments

This subsection makes technical and conforming changes in existing law to include industrial bank holding companies.

Section 3. Regulations

This section grants the FDIC the authority to issue regulations as the FDIC determines appropriate to carry out the amendments made by this legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL DEPOSIT INSURANCE ACT

* * * * * * *

SEC. 3. As used in this Act—

(a) DEFINITIONS OF BANK AND RELATED TERMS.—

(1) * * *

* * * * * * *

(4) INDUSTRIAL BANK.—The term "industrial bank" means any insured State bank that is an industrial bank, industrial loan company, or other institution that is excluded, pursuant to

section 2(c)(2)(H) of the Bank Holding Company Act of 1956, from the definition of the term "bank" for purposes of such Act.

* * * * * * *

(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" means—

(1) * * *

* * * * * * *

(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank [or a foreign], *any foreign* bank having an insured branch*, and any industrial bank holding company and any subsidiary of an industrial bank holding company (other than a bank)*; and

* * * * * * *

(w) DEFINITIONS RELATING TO AFFILIATES OF DEPOSITORY INSTITUTIONS.—

(1) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" means a bank holding company [or a savings], *any savings* and loan holding company*, and any industrial bank holding company*.

* * * * * * *

(8) INDUSTRIAL BANK HOLDING COMPANY.—The term "industrial bank holding company" means any company that—

(A) controls (as determined by the Corporation pursuant to section 2(a) of the Bank Holding Company Act of 1956), directly or indirectly, any industrial bank; and

(B) is not—

(i) 1 or more of the following: a bank holding company, a savings and loan holding company, a company that is subject to the Bank Holding Company Act of 1956 pursuant to section 8(a) of the International Banking Act of 1978, or a holding company regulated by the Securities and Exchange Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007); or

(ii) controlled by a company described in clause (i).

(9) CAPITAL TERMS RELATING TO INDUSTRIAL BANK HOLDING COMPANIES.—

(A) ADEQUATELY CAPITALIZED.—With respect to an industrial bank holding company, the term "adequately capitalized" means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

(B) WELL CAPITALIZED.—With respect to an industrial bank holding company, the term "well capitalized" means a level of capitalization which meets or exceeds the required capital levels for well capitalized industrial bank holding companies established by the Corporation.

* * * * * * *

SEC. 8. (a) * * *

(b)(1) * * *

* * * * * * *

(11) INDUSTRIAL BANK HOLDING COMPANIES.—This subsection and subsections (c) through (s) and subsection (u) of this section shall apply to any industrial bank holding company, and to any subsidiary (other than a bank) of an industrial bank holding company in the same manner as such subsections apply to State nonmember insured banks.

* * * * * * *

(h)(1) * * *

[(2) Any party to**]** *(2) Any party aggrieved by an order of any appropriate Federal supervisory agency under section 51 or any party to* any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the depository institution or the institution-affiliated party concerned, or an order issued under paragraph (1) of subsection (g) of this section) by the filing in the court of appeals of the United States for the circuit in which the home office of the depository institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (1) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

* * * * * * *

(i)(1) The appropriate Federal banking agency may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the depository institution is located, for the enforcement of any effective and outstanding notice or order issued under this section or under section 38 **[**or 39**]***, 39, or 51*, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this section or under section 38 **[**or 39**]***, 39, or 51* no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under any such section, or to review, modify, suspend, terminate, or set aside any such notice or order.

(2) CIVIL MONEY PENALTY.—

(A) FIRST TIER.—Any insured depository institution which, and any institution-affiliated party who—

(i) * * *

(ii) violates any final order or temporary order issued pursuant to subsection (b), (c), (e), (g), or (s) or any final order under section 38 [or 39], *39, or 51*;

* * * * * * *

SEC. 10. (a) * * *

* * * * * * *

(e) EXAMINATION FEES.—

(1) * * *

(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) *or section 51* may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

* * * * * * *

SEC. 38. PROMPT CORRECTIVE ACTION.

(a) * * *

* * * * * * *

(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

(1) * * *

(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

(A) * * *

* * * * * * *

(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY [BANK HOLDING COMPANY.—Prohibiting any bank] *HOLDING COMPANY.*—

(i) BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

(ii) INDUSTRIAL BANK HOLDING COMPANY.—Prohibiting any industrial bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Corporation.

* * * * * * *

SEC. 51. INDUSTRIAL BANK HOLDING COMPANY REGULATION.

(a) ACQUISITION OF INDUSTRIAL BANK SHARES OR ASSETS.—Section 3 of the Bank Holding Company Act of 1956 (other than section 3(c)(3)(B) of that Act) shall apply to any company that is or would become an industrial bank holding company in the same manner as such section applies to a company that is or would become a bank holding company, except that for purposes of applying this subsection—

(1) any reference to a "bank holding company" in such section 3 shall be deemed to be a reference to an "industrial bank holding company";

(2) any reference to a "bank" in such section shall be deemed to be a reference to an "industrial bank";

(3) any reference to the "Board" in such section shall be deemed to be a reference to the Corporation;

(4) any reference to the "Bank Holding Company Act Amendments of 1970" in such section shall be deemed to be a reference to the "Industrial Bank Holding Company Act of 2007";

(5) any reference to a "home State" in such section 3 shall be deemed to be a reference to—

(A) with respect to an industrial bank holding company, the State in which the total deposits of all banking subsidiaries of such company were the largest on the later of—

(i) January 28, 2007; or

(ii) the date on which the company becomes an industrial bank holding company under this section; and

(B) with respect to an industrial bank, the home State of the bank as determined under section 44(g);

(6) any reference to a "host State" in such section 3 shall be deemed to be a reference to—

(A) with respect to an industrial bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, an industrial bank subsidiary; and

(B) with respect to an industrial bank, the host State of the bank as determined under section 44(g);

(7) any reference to an "out-of-State bank holding company" in such section 3 shall be deemed to be a reference to, with respect to any State, an industrial bank holding company whose home State is another State; and

(8) any reference to an "out-of-State bank" in such section 3 shall be deemed to be a reference to, with respect to any State, an industrial bank whose home State is another State.

(b) APPLICATION PROCESS.—An application filed under subsection (a) to acquire control of an industrial bank shall be treated as an application for a deposit facility for purposes of this Act and any other Federal law.

(c) REGISTRATION.—

(1) IN GENERAL.—Each industrial bank holding company shall register with the Corporation on forms prescribed by the Corporation before the end of the 180-day period beginning on the later of—

(A) the date the company becomes an industrial bank holding company; or

(B) the date of the enactment of the Industrial Bank Holding Company Act of 2007.

(2) INFORMATION TO BE INCLUDED.—Each registration submitted under paragraph (1) shall include such information, under oath, with respect to the financial condition, ownership, operations, management, and intercompany relationships of the industrial bank holding company and subsidiaries of such holding company, and other factors (including information de-

scribed in subsection (d)(1)(C)), as the Corporation may determine to be appropriate to carry out the purposes of this section.

(3) EXTENSION OF TIME FOR SUBMITTING COMPLETE INFORMATION.—Upon application by an industrial bank holding company and subject to such requirements, factors, and evidence as the Corporation may require, the Corporation may extend the period described in paragraph (1) within which such company shall register and file the requisite information.

(d) REPORTS AND EXAMINATIONS.—

(1) REPORTS.—

(A) REPORTS REQUIRED.—Each industrial bank holding company and each subsidiary of an industrial bank holding company, other than an industrial bank, shall file with the Corporation such reports as may be required by the Corporation.

(B) FORM AND MANNER.—Reports filed under subparagraph (A) shall be made under oath and shall be in such form and for such periods, as the Corporation may prescribe.

(C) INFORMATION.—Each report filed under subparagraph (A) shall contain such information as the Corporation may require concerning—

(i) the operations of the industrial bank holding company and the holding company's subsidiaries;

(ii) the financial condition of the industrial bank holding company and such subsidiaries, together with information on systems maintained within the holding company or within any such subsidiary for monitoring and controlling financial and operating risks, and transactions with insured depository institution subsidiaries of the holding company;

(iii) compliance by the industrial bank holding company and the holding company's subsidiaries with all applicable Federal and State law; and

(iv) such other information as the Corporation may require.

(D) ACCEPTANCE OF EXISTING REPORTS.—For purposes of this paragraph, the Corporation may accept reports that an industrial bank holding company or any subsidiary of such company has provided or has been required to provide to any other Federal or State supervisor or to any appropriate self-regulatory organization.

(2) EXAMINATIONS.—

(A) IN GENERAL.—Each industrial bank holding company and each subsidiary of each such holding company (other than an industrial bank) shall be subject to such examinations by the Corporation as the Corporation may prescribe for purposes of this section.

(B) FURNISHING REPORTS TO OTHER AGENCIES.—Examination and other reports made or received under this section may be furnished by the Corporation to any other appropriate Federal agency or any appropriate State bank supervisor or other State financial supervisory agency.

(C) USE OF REPORTS FROM OTHER AGENCIES.—The Corporation may use, for the purposes of this subsection, re-

ports of examination made by any other appropriate Federal agency, any appropriate State bank supervisor, or any other State financial supervisory authority with respect to any industrial bank holding company or subsidiary of any such holding company, to the extent the Corporation may determine such use to be feasible for such purposes.

(3) CAPITAL.—

(A) IN GENERAL.—The Corporation may not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any functionally regulated affiliate (as defined in section 45) of any depository institution that is controlled by an industrial bank holding company that—

(i) is not a depository institution; and

(ii) is—

(I) in compliance with the applicable capital requirements of the appropriate Federal supervisory agency of the affiliate (including the Securities and Exchange Commission or State insurance authority);

(II) properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State; or

(III) is licensed as an insurance agent with the appropriate State insurance authority.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Corporation from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

(i) activities of a registered investment adviser other than with respect to investment advisory activities or activities incidental to investment advisory activities; or

(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

(e) ACCESS TO INFORMATION.—

(1) INFORMATION PROVIDED BY CORPORATION.—Any confidential supervisory information, including examination or other reports, pertaining to an industrial bank furnished by the Corporation to any other Federal agency or any appropriate State supervisory agency shall remain confidential unless the Corporation, in writing, otherwise consents.

(2) DEFERENCE TO DEPOSITORY INSTITUTION EXAMINATIONS.—Any appropriate Federal supervisory agency of a holding company of an industrial bank shall, to the fullest extent possible, forego any examination of any depository institution subsidiary of the holding company and use the reports of examinations of the institution made by the appropriate Federal banking agency and the appropriate State bank supervisor in lieu of a direct examination.

(3) INFORMATION TO BE PROVIDED TO CORPORATION.—

(A) REQUEST TO AGENCY.—Upon request by the Corporation, an appropriate Federal supervisory agency may provide to the Corporation information regarding the condition

of an industrial bank, any holding company that controls such industrial bank, or any other affiliate of any such holding company that is necessary to assess risk to the industrial bank.

(B) AVAILABILITY FROM HOLDING COMPANY DIRECTLY.—Notwithstanding section 45, section 115 of the Gramm-Leach-Bliley Act, or any other provision of law (including any regulation), if the information requested under subparagraph (A) is not provided to the Corporation, and the information is necessary to assess risk to the industrial bank, the Corporation may require the holding company or affiliate referred to in such subparagraph with respect to such bank to provide such information to the Corporation.

(4) EXAMINATIONS BY CORPORATION.—

(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding section 45, section 115 of the Gramm-Leach-Bliley Act, or any other provision of law (including any regulation), no law shall be construed as preventing the Corporation from examining an affiliate of an industrial bank pursuant to paragraph (2), (3), or (4) of section 10(b), as may be necessary to disclose fully the relationship between the industrial bank and the affiliate, and the effect of such relationship on the industrial bank, if the Corporation finds such examination necessary to determine the condition of an industrial bank.

(B) FUNCTIONALLY REGULATED AFFILIATES.—Before the Corporation may examine any affiliate of an industrial bank that is—

(i) a broker, a dealer, an investment company, or an investment advisor, or

(ii) an entity that is subject to consolidated supervision by the Securities and Exchange Commission, other than a depository institution,

the Corporation shall request the Commission to provide the information that the Corporation is seeking to obtain through examination and may proceed with the examination only if the requested information is not provided by the Commission in a timely manner.

(f) LIMITATION ON CONTROL.—

(1) IN GENERAL.—Except as provided in paragraph (3) or (4), no industrial bank may be controlled, directly or indirectly, by a commercial firm.

(2) COMMERCIAL FIRM DEFINED.—For purposes of this section, the term "commercial firm" means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters, as determined by the Corporation in accordance with regulations which the Corporation shall prescribe.

(3) PRE-2003 EXCLUSIONS.—

(A) GRANDFATHERED INSTITUTIONS.—Paragraph (1) shall not apply with respect to any industrial bank—

(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

(ii) with respect to which there is no change in control, directly or indirectly, of the bank after September 30, 2003, that requires a registration under this section or an application under section 7(j) or 18(c), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act, except a direct or indirect change of control in which—

(I) immediately prior to such change in control neither the ultimate acquiring holding company nor the ultimate acquired holding company is a commercial firm;

(II) immediately after such change of control the resulting ultimate holding company is not a commercial firm; and

(III) the resulting ultimate holding company is subject to consolidated supervision by the Office of Thrift Supervision or a holding company regulated by the Securities and Exchange Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007).

(B) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of the industrial bank referred to in subparagraph (A)(ii) shall not be treated as a "change in control" for purposes of such subparagraph if—

(i) the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such bank on the date referred to in such subparagraph, and remains an affiliate at all times after such date; and

(ii) the transaction through which the company acquired control of the industrial bank constituted solely a corporate reorganization of a company that controlled the industrial bank on the date referred to in such subparagraph.

(4) PRE-2007 EXCLUSIONS.—

(A) GRANDFATHERED COMMERCIAL FIRMS.—Paragraph (1) shall not apply to any commercial firm—

(i) which became a holding company of an industrial bank by virtue of acquiring control of an industrial bank on or after October 1, 2003, and before January 29, 2007;

(ii) which does not acquire control of any other depository institution after January 28, 2007;

(iii) with respect to which there is no change in control, directly or indirectly, of any depository institution subsidiary after January 28, 2007, that requires a registration under this section or an application under section 7(j) or 18(c), section 3 of the Bank Holding

Company Act of 1956, or section 10 of the Home Owners' Loan Act; and

(iv) each industrial bank subsidiary of which remains in compliance with the limitations contained in subparagraph (B).

(B) ACTIVITY AND BRANCHING LIMITATIONS.—An industrial bank subsidiary of a commercial firm described in clauses (i), (ii) and (iii) of subparagraph (A) is in compliance with the requirements of this subparagraph for purposes of subparagraph (A)(iv) so long as the industrial bank—

(i) engages only in activities in which the industrial bank was engaged on January 28, 2007; and

(ii) does not acquire, establish, or operate any branch, deposit production office, loan production office, automated teller machine, or remote service unit in any State other than the home State of the bank or any host State in which such bank operated branches on January 28, 2007.

(C) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of a depository institution subsidiary referred to in subparagraph (A)(iii) shall not be treated as a "change in control" for purposes of such subparagraph if—

(i) the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such subsidiary on the date referred to in such subparagraph, and remains an affiliate at all times after such date; and

(ii) the transaction through which the company acquired control of the depository institution constituted solely a corporate reorganization of a company that controlled the depository institution on the date referred to in such subparagraph.

(g) PROCEDURES AND TIMING FOR TERMINATION OF ACTIVITIES OR DIVESTITURE.—

(1) TRANSITION PROVISION.—

(A) IN GENERAL.—Any company that fails to comply with the provisions of subsection (f) shall divest its ownership or control of each industrial bank subsidiary of the company not later than the end of the 2-year period beginning on the first date that the company ceased to comply with subsection (f).

(B) EXTENSION OF TIME PERIOD.—

(i) IN GENERAL.—Upon application by a holding company that controls an industrial bank, the appropriate Federal supervisory agency of such holding company may extend the 2-year period referred to in subparagraph (A) with respect to such company for not more than 1 year if, in such agency's judgment, such an extension would not be detrimental to the public interest.

(ii) FACTORS.—In making any decision to grant an extension under clause (i) to a holding company of an industrial bank, the appropriate Federal supervisory

agent of such holding company shall consider whether—

(I) the company has made a good faith effort to divest such interests; and

(II) such extension is necessary to avert substantial loss to the company.

(2) CONDITIONS BEFORE DIVESTITURE.—During the 2-year period referred to in paragraph (1)(A) with respect to any company and any extension of such period, the appropriate Federal supervisory agency may impose any conditions or restrictions on the company or any subsidiary of the company (other than a bank), including restricting or prohibiting transactions between the company or subsidiary and any depository institution subsidiary of the company, as are appropriate under the circumstances.

(3) TERMINATION OF ACTIVITIES OR DIVESTITURE OF NONBANK SUBSIDIARIES CONSTITUTING SERIOUS RISK.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, the appropriate Federal supervisory agency may, whenever such agency has reasonable cause to believe that the continuation by a holding company of an industrial bank of any activity or of ownership or control of any nonbank subsidiary of such holding company, other than a nonbank subsidiary of a depository institution, constitutes a serious risk to the financial safety, soundness, or stability of a depository institution subsidiary of the holding company and is inconsistent with sound banking principles or with the purposes of this section, at the election of the holding company—

(i) order such holding company or any such nonbank subsidiary, after due notice and opportunity for hearing, and after considering the views of the appropriate Federal banking agency and, if applicable, appropriate State bank supervisor, to terminate such activities or to terminate (within 120 days or such longer period as the appropriate Federal supervisory agency may direct in unusual circumstances) the ownership or control by such holding company or nonbank subsidiary of any such depository institution subsidiary either by sale or by distribution of the shares of the depository institution subsidiary, in accordance with subparagraph (B), to the shareholders of the holding company of the industrial bank; or

(ii) order the holding company of the industrial bank, after due notice and opportunity for hearing, and after consultation with the appropriate State bank supervisor for the industrial bank, to terminate (within 120 days or such longer period as the appropriate Federal supervisory agency may direct) the ownership or control of any such industrial bank by such company.

(B) PRO RATA DISTRIBUTION.—Any distribution to shareholders referred to in clause (i) shall be pro rata with respect to all of the shareholders of the distributing company, and such company shall not make any charge to any shareholder in connection with such distribution.

(4) FOREIGN BANK OWNERSHIP.—After January 28, 2007, no foreign bank may acquire, directly or indirectly, control of an industrial bank unless the Board of Governors of the Federal Reserve System has determined, by order, in connection with the change in control or acquisition of the industrial bank and after consultation with the Corporation, that the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country in accordance with the standard in section 3(c)(3)(B) of the Bank Holding Company Act of 1956.

(5) HOLDING COMPANY RESPONSIBILITY.—

(A) SOURCE OF STRENGTH.—Notwithstanding section 45, a holding company of an industrial bank—

(i) shall serve as a source of financial and managerial strength to the subsidiary banks of such holding company; and

(ii) shall not conduct the operations of the holding company in an unsafe or unsound manner.

(B) IMPLEMENTATION.—The appropriate Federal supervisory agency of the holding company of an industrial bank shall implement the requirements under subparagraph (A).

(h) ADMINISTRATIVE PROVISIONS.—

(1) AGENT FOR SERVICE OF PROCESS.—The Corporation may require any industrial bank holding company, or persons connected with such holding company if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

(2) RELEASE FROM REGISTRATION.—The Corporation may at any time, upon the Corporation's own motion or upon application, release a registered industrial bank holding company from any registration previously made by such company, if the Corporation determines that such company no longer controls any industrial bank.

(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL SUPERVISORY AGENCY.—The term "appropriate Federal supervisory agency" means, with respect to a company that controls an industrial bank—

(A) the Corporation, in the case of a company that is an industrial bank holding company;

(B) the Board of Governors of the Federal Reserve System, in the case of a company that is a bank holding company or that is subject to the Bank Holding Company Act of 1956 pursuant to section 8(a) of the International Banking Act of 1978;

(C) the Office of Thrift Supervision, in the case of a company that is a savings and loan holding company; and

(D) the Securities and Exchange Commission, in the case of a company that is regulated by the Commission pursuant to section 240.15c3-1(a)(7) of title 17 of the Code of Federal Regulations (as in effect on January 29, 2007).

(2) RULE OF CONSTRUCTION.—Under the definition of the term "appropriate Federal supervisory agency" in paragraph (1), more than 1 agency may be an appropriate Federal super-

visory agency with respect to any given company that controls an industrial bank.

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RIGHT TO FINANCIAL PRIVACY ACT OF 1978

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TITLE XI—RIGHT TO FINANCIAL PRIVACY

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DEFINITIONS

SEC. 1101. For the purpose of this title, the term—

(1) * * *

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(6) "holding company" means—

(A) * * *

(B) any company described in section 4(f)(1) of the Bank Holding Company Act of 1956; [and]

(C) any savings and loan holding company (as defined in the Home Owners' Loan Act); *and*

(D) any industrial bank holding company (as defined in section 3(w)(8) of the Federal Deposit Insurance Act);

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GRAMM-LEACH-BLILEY ACT

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TITLE I—FACILITATING AFFILIATION AMONG BANKS, SECURITIES FIRMS, AND INSURANCE COMPANIES

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Subtitle B—Streamlining Supervision of Bank Holding Companies

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SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—Except as provided in subsection (c), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company [or], *industrial bank holding company, or* a savings and loan holding company.

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(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) * * *

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(5) INDUSTRIAL BANK HOLDING COMPANY.—The term "industrial bank holding company" has the same meaning as in section 3(w)(8) of the Federal Deposit Insurance Act.

[(5)**]** *(6)* INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act.

[(6)**]** *(7)* REGISTERED INVESTMENT COMPANY.—The term "registered investment company" means an investment company that is registered with the Commission under the Investment Company Act of 1940.

[(7)**]** *(8)* SAVINGS AND LOAN HOLDING COMPANY.—The term "savings and loan holding company" has the meaning given the term in section 10(a)(1)(D) of the Home Owners' Loan Act.

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HOME MORTGAGE DISCLOSURE ACT OF 1975

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TITLE III—HOME MORTGAGE DISCLOSURE

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MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 304. (a) * * *

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(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

(1) made (or for which completed applications are received) by any mortgage banking subsidiary of a bank holding company*, industrial bank holding company,* or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

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