

113TH CONGRESS
1ST SESSION

S. 798

To address equity capital requirements for financial institutions, bank holding companies, subsidiaries, and affiliates, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2013

Mr. BROWN (for himself, Mr. VITTER, Mr. KIRK, and Mr. SESSIONS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To address equity capital requirements for financial institutions, bank holding companies, subsidiaries, and affiliates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terminating Bailouts
5 for Taxpayer Fairness Act of 2013” or the “TBTF Act”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—As used in this Act—

8 (1) the terms “affiliate”, “appropriate Federal
9 banking agency”, “Federal banking agency”, “for-

1 eign bank”, and “insured depository institution”
2 have the same meanings as in section 3 of the Fed-
3 eral Deposit Insurance Act (12 U.S.C. 1813);

4 (2) the terms “bank holding company” and
5 “subsidiary” have the same meanings as in section
6 2 of the Bank Holding Company Act of 1956 (12
7 U.S.C. 1841);

8 (3) the term “Board” means the Board of Gov-
9 ernors of the Federal Reserve System;

10 (4) the term “Corporation” means the Federal
11 Deposit Insurance Corporation;

12 (5) the term “financial institution” means an
13 insured depository institution, bank holding com-
14 pany, a savings and loan holding company, and a
15 foreign bank subject to the Bank Holding Company
16 Act of 1956;

17 (6) the term “nonbank financial company” has
18 the same meaning as in the Dodd-Frank Wall Street
19 Reform and Consumer Protection Act (12 U.S.C.
20 5311); and

21 (7) the term “savings and loan holding com-
22 pany” has the same meaning as in section 10 of the
23 Home Owners’ Loan Act (10 U.S.C. 1467a), except
24 that such term does not include any savings and
25 loan holding company described in section

1 10(c)(9)(C) of the Home Owners' Loan Act (12
2 U.S.C. 1467a(c)(9)(C)).

3 **SEC. 3. EQUITY CAPITAL REQUIREMENTS.**

4 (a) EQUITY CAPITAL REQUIREMENTS FOR BANK
5 HOLDING COMPANIES, SUBSIDIARIES, AND AFFILI-
6 ATES.—

7 (1) EQUITY CAPITAL REQUIREMENTS.—

8 (A) IN GENERAL.—Not later than 1 year
9 after the date of enactment of this Act, the ap-
10 propriate Federal banking agency, in consulta-
11 tion with the other Federal banking agencies,
12 shall, by rule, establish capital requirements for
13 the ratio of equity capital to total consolidated
14 assets for all financial institutions.

15 (B) LIMITATIONS.—

16 (i) IN GENERAL.—In no case may the
17 requirements issued under this subsection
18 require any financial institution with more
19 than \$50,000,000,000 in total consolidated
20 assets to have a ratio of less than 8 per-
21 cent of equity capital to total consolidated
22 assets.

23 (ii) COMPARABILITY.—The equity
24 capital requirement issued under this sub-
25 section for any financial institution with

1 \$50,000,000,000 or less in total consoli-
2 dated assets shall be comparable to the re-
3 quirements established by the appropriate
4 Federal banking agencies under the
5 prompt corrective actions regulations im-
6 plementing section 38 of the Federal De-
7 posit Insurance Act (12 U.S.C. 1831o) and
8 under the capital adequacy regulations im-
9 plementing section 5 of the Bank Holding
10 Company Act of 1956 (12 U.S.C. 1844),
11 that were in effect as of May 1, 2013.

12 (2) CAPITAL SURCHARGE FOR THE LARGEST FI-
13 NANCIAL INSTITUTIONS.—

14 (A) STUDY REQUIRED.—

15 (i) IN GENERAL.—The Corporation
16 shall study historical equity capital ratios
17 chosen by large depository institutions be-
18 fore the advent of the Federal Reserve
19 System, Federal deposit insurance, and the
20 Federal income tax encouraged deposi-
21 tories to favor more highly leveraged de-
22 posit and debt funding.

23 (ii) REPORT TO CONGRESS.—Not later
24 than 90 days after the date of enactment
25 of this Act, the Corporation shall issue a

1 report to the Committee on Banking,
2 Housing, and Urban Affairs of the Senate
3 and the Committee on Financial Services
4 of the House of Representatives regarding
5 the study conducted under clause (i).

6 (iii) INCORPORATION OF FINDINGS.—

7 The Corporation, in consultation with the
8 other Federal banking agencies, shall
9 structure the capital surcharge for finan-
10 cial institutions with at least
11 \$500,000,000,000 in total consolidated as-
12 sets, such that the surcharge fully accounts
13 for and offsets any distortion of capital lev-
14 els by the Government policies described in
15 clause (i).

16 (B) RULES.—Not later than 1 year after
17 the date of completion of the study required by
18 subparagraph (A), the appropriate Federal
19 banking agency, in consultation with the other
20 Federal banking agencies, shall, by rule, estab-
21 lish equity capital surcharges for each financial
22 institution having at least \$500,000,000,000 in
23 total consolidated assets.

24 (C) INCREASES AUTHORIZED.—Capital re-
25 quirements established under this paragraph

1 may increase continuously as a percentage of
2 total consolidated assets as the total consoli-
3 dated assets of a financial institution increase.

4 (D) REQUIRED AMOUNT.—The surcharge
5 imposed under the rules issued under this para-
6 graph shall require any financial institution
7 having at least \$500,000,000,000 in total con-
8 solidated assets to have a ratio of not less than
9 15 percent of equity capital to total consoli-
10 dated assets.

11 (E) ANTI-EVASION.—

12 (i) IN GENERAL.—Any attempt by a
13 financial institution to structure any activi-
14 ty, transaction, or affiliation for the pur-
15 pose or effect of evading or attempting to
16 evade the asset threshold that gives rise to
17 the surcharge provided in subparagraph
18 (A) shall be considered a violation of the
19 Federal Deposit Insurance Act, section 24
20 of the Revised Statutes of the United
21 States, and the Bank Holding Company
22 Act of 1956, as applicable to such financial
23 institution.

24 (ii) RESTRICTING ACTIVITIES.—Not-
25 withstanding any other provision of law, if

1 the Board, the Corporation, or the Comp-
2 troller of the Currency has reasonable
3 cause to believe that a financial institution
4 or any affiliate thereof has engaged in an
5 activity, transaction, or affiliation in a
6 manner that functions as an evasion of the
7 asset threshold that gives rise to the sur-
8 charge provided in subparagraph (A) or
9 otherwise violates such provision, the ap-
10 propriate Federal banking agency shall
11 order, after due notice and opportunity for
12 hearing, the financial institution to re-
13 strict, restructure, or divest the offending
14 activities, transactions, or investments.

15 (3) EFFECTIVE DATE.—The equity capital and
16 surcharge rules issued under paragraphs (1) and (2)
17 shall apply with respect to each financial institution
18 not later than 5 years after the date on which final
19 rules are published in the Federal Register with re-
20 spect to that financial institution.

21 (4) WELL-CAPITALIZED STATUS.—

22 (A) COMPLIANCE WITH OTHER PROVI-
23 SIONS.—Any financial institution that meets
24 the equity capital requirements established
25 under paragraph (1) or surcharge requirements

1 established under paragraph (2) shall be consid-
2 ered well capitalized for purposes of—

3 (i) section 38 of the Federal Deposit
4 Insurance Act (12 U.S.C. 1831o); and

5 (ii) the early remediation require-
6 ments established pursuant to section 166
7 of the Dodd-Frank Wall Street Reform
8 and Consumer Protection Act (12 U.S.C.
9 5366).

10 (B) AGENCY ACTIONS.—Consistent with
11 this section, the appropriate Federal banking
12 agency, in consultation with the other Federal
13 banking agencies, shall, by regulation, establish
14 the appropriate capital categories for financial
15 institutions under section 38 of the Federal De-
16 posit Insurance Act (12 U.S.C. 1831o) and
17 early remediation requirements established pur-
18 suant to section 166 of the Dodd-Frank Wall
19 Street Reform and Consumer Protection Act
20 (12 U.S.C. 5366).

21 (5) ENHANCED PRUDENTIAL STANDARDS.—The
22 equity capital and surcharge rules issued under
23 paragraphs (1) and (2) shall be considered sufficient
24 to satisfy the risk-based capital requirements and le-
25 verage limits for purposes of section 165 of the

1 Dodd-Frank Wall Street Reform and Consumer Pro-
2 tection Act (12 U.S.C. 5365).

3 (b) EQUITY CAPITAL REQUIREMENTS FOR AFFILI-
4 ATES AND SUBSIDIARIES OF BANK HOLDING COMPA-
5 NIES.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, notwithstanding
8 any other provision of law applicable to insured de-
9 pository institutions, the Board (subject to section
10 5(c)(3) of the Bank Holding Company Act of 1956
11 (12 U.S.C. 1844(c)(3)) and section 10(g) of the
12 Home Owners' Loan Act (12 U.S.C. 1467a(g))), the
13 Corporation, and the Comptroller of the Currency
14 shall each promulgate regulations to establish capital
15 requirements for each affiliate and subsidiary of a fi-
16 nancial institution that are no less stringent than
17 the equity capital requirements established under
18 subsection (a)(1) or surcharge requirements estab-
19 lished under subsection (a)(2).

20 (2) LIMITATION.—Paragraph (1) and the regu-
21 lations issued under paragraph (1) do not apply in
22 the case of any financial institution with less than
23 \$50,000,000,000 in total consolidated assets.

24 (3) AMENDMENT TO BANK HOLDING COMPANY
25 ACT OF 1956.—Section 5(c)(5)(B) of the Bank Hold-

1 ing Company Act of 1956 (12 U.S.C.
2 1844(c)(5)(B)) is amended—

3 (A) by striking clauses (i) and (v);

4 (B) in clause (iv), by striking “; or” and
5 inserting a period;

6 (C) in clause (iii), by inserting “or” after
7 the semicolon; and

8 (D) by redesignating clauses (ii) through
9 (iv) as clauses (i) through (iii), respectively.

10 (4) AMENDMENT TO THE HOME OWNER’S LOAN
11 ACT.—The Home Owner’s Loan Act (15 U.S.C.
12 1461 et seq.) is amended—

13 (A) in section 2 (12 U.S.C. 1462) by add-
14 ing at the end the following:

15 “(12) FUNCTIONALLY REGULATED AFFIL-
16 IATE.—The term ‘functionally regulated affiliate’
17 means, with respect to a savings association, any af-
18 filiate of such savings association that is a company
19 described in section 5(c)(5)(B) of the Bank Holding
20 Company Act of 1956 (12 U.S.C. 1844(c)(5)(B)).”;
21 and

22 (B) in section 10(g) (12 U.S.C. 1467a(g))
23 by adding at the end the following:

24 “(6) CAPITAL FOR FUNCTIONALLY REGULATED
25 SUBSIDIARIES AND FUNCTIONALLY REGULATED AF-

1 FILIATES.—Notwithstanding section 3(b)(1) of the
2 Terminating Bailouts for Taxpayer Fairness Act of
3 2013, the Board may not, by regulation, guideline,
4 order, or otherwise, prescribe or impose any capital
5 or capital adequacy rules, guidelines, standards, or
6 requirements on any functionally regulated sub-
7 sidiary of a savings and loan holding company or
8 functionally regulated affiliate of a savings associa-
9 tion that—

10 “(A) is not a depository institution; and

11 “(B) is—

12 “(i) in compliance with the applicable
13 capital requirements of its Federal regu-
14 latory authority (including the Securities
15 and Exchange Commission) or State insur-
16 ance authority;

17 “(ii) properly registered as an invest-
18 ment adviser under the Investment Advis-
19 ers Act of 1940, or with any State; or

20 “(iii) licensed as an insurance agent
21 with the appropriate State insurance au-
22 thority.”.

23 (c) SPECIFIC ELEMENTS OF CAPITAL REQUIRE-
24 MENTS.—For purposes of calculating—

1 (1) equity capital requirements under this sec-
2 tion, equity capital shall consist of tangible common
3 equity (defined as common stockholders' equity less
4 goodwill), deferred tax assets, accumulated other
5 comprehensive income, treasury stock, and intan-
6 gible assets plus retained earnings; and

7 (2) total consolidated assets under this section,
8 derivative exposures shall include—

9 (A) the fair value of the derivative expo-
10 sures without recognizing the benefits of any
11 netting arrangement, unless—

12 (i) the netting arrangement is docu-
13 mented under a formal master netting
14 agreement or other formal arrangement
15 with a derivatives clearing organization;
16 and

17 (ii) the financial institution, as a mat-
18 ter of ongoing business practice, exchanges
19 collateral on a daily basis for the fulfill-
20 ment of variation margin requirements on
21 a net basis, and fulfills all contractual pay-
22 ment requirements, including payments for
23 contract termination, on a net basis, with
24 such net exchange of collateral and pay-
25 ments encompassing all derivative expo-

1 sures covered by the formal arrangement;

2 and

3 (B) off-balance sheet assets—

4 (i) defined as any assets in which the
5 financial institution has guaranteed per-
6 formance by another party or provided a li-
7 quidity backstop should another party be
8 unable to perform under the contractual
9 obligation; and

10 (ii) excluding commitments to lend,
11 whereby certain provisions and or cov-
12 enants exist that limit the risk to the bank
13 holding company with respect to future
14 draws of liquidity.

15 (d) RISK-BASED CAPITAL REQUIREMENTS PER-
16 MITTED.—

17 (1) RULE OF CONSTRUCTION.—Except as pro-
18 vided in paragraph (2), nothing in this section shall
19 be interpreted to prevent any appropriate Federal
20 banking agency from establishing supplemental risk-
21 based capital requirements for any financial institu-
22 tion with more than \$20,000,000,000 in total con-
23 solidated assets, or any affiliate or subsidiary of
24 such institutions for the purpose of measuring the

1 relative risk of certain assets and preventing invest-
2 ment in excessive amounts of riskier assets.

3 (2) LIMITATION.—

4 (A) JOINT DETERMINATION.—An appro-
5 priate Federal banking agency may not imple-
6 ment risk-based capital requirements with re-
7 spect to a financial institution with more than
8 \$20,000,000,000, unless all appropriate Federal
9 banking agencies agree that bank supervision is
10 insufficient to prevent the excessive concentra-
11 tion of riskier assets.

12 (B) REPORT TO CONGRESS.—Before pro-
13 posing risk based capital rules described in this
14 subsection, the appropriate Federal banking
15 agencies shall submit a joint report to the Com-
16 mittee on Banking, Housing, and Urban Affairs
17 of the Senate and the Committee on Financial
18 Services of the House of Representatives detail-
19 ing the deficiency in supervisory tools in pre-
20 venting investment in excessive amounts of
21 riskier assets and how risk based capital will be
22 used. The appropriate Federal banking agencies
23 may establish supplemental risk-based capital
24 requirements that do not replace the equity
25 capital requirements required by this Act not

1 earlier than 90 days after the date of submis-
 2 sion of the report under this subparagraph.

3 (e) TREATMENT OF BASEL III INTERNATIONAL AC-
 4 CORD.—The Board, the Corporation, and the Comptroller
 5 of the Currency shall be prohibited from any further im-
 6 plementation of any rules of the Federal banking agencies
 7 regarding “Basel III: A Global Regulatory Framework for
 8 More Resilient Banks and Banking Systems”.

9 **SEC. 4. PROHIBITION ON SUBSIDY TRANSFERS.**

10 Section 23A of the Federal Reserve Act (12 U.S.C.
 11 371c) is amended—

12 (1) in subsection (a), by adding at the end the
 13 following:

14 “(5) PROHIBITION ON TRANSACTIONS BY IN-
 15 SURED DEPOSITORY INSTITUTIONS WITH AFFILI-
 16 ATES OR SUBSIDIARIES.—

17 “(A) AFFILIATE TRANSACTIONS PROHIB-
 18 ITED.—Except as provided in subparagraph
 19 (B), only an insured depository institution that
 20 is a member bank or an affiliate or subsidiary
 21 of a member bank may engage in a covered
 22 transaction with another affiliate or subsidiary
 23 that is not an insured depository institution.

24 “(B) EXCEPTIONS.—Notwithstanding sub-
 25 paragraph (A), an insured depository institution

1 that is not a member bank or an affiliate or
2 subsidiary of a member bank may—

3 “(i) engage in lawful dividend pay-
4 ments to its holding company; or

5 “(ii) make sales of property or securi-
6 ties to, or accept infusions of capital or
7 other distributions from, its parent holding
8 company, consistent with section 38A of
9 the Federal Deposit Insurance Act (12
10 U.S.C. 1831p).”; and

11 (2) in subsection (b)—

12 (A) by redesignating paragraphs (8)
13 through (11) as paragraphs (9) through (12),
14 respectively; and

15 (B) by inserting after paragraph (7) the
16 following:

17 “(8) the term ‘member bank’ means a member
18 bank having less than \$50,000,000,000 of total con-
19 solidated assets;”.

20 **SEC. 5. LIMITATION ON THE FEDERAL SAFETY NET.**

21 (a) **PROHIBITION AGAINST GOVERNMENT ASSIST-**
22 **ANCE TO NON-BANKS.**—Except in connection with the
23 resolution of any insured depository institution or finan-
24 cial company for which the Corporation has been ap-
25 pointed as receiver, no affiliate or subsidiary of a financial

1 institution, or affiliate of an insured depository institution
2 or nonbank financial institution may receive any assist-
3 ance through—

4 (1) asset purchases made by the United States
5 Government, loans from the United States Govern-
6 ment, investments in debt or equity made by the
7 United States Government, or capital injections
8 from the United States Government;

9 (2) the Exchange Stabilization Fund, as estab-
10 lished under section 2 of the Gold Reserve Act of
11 1934;

12 (3) the Deposit Insurance Fund established
13 under section 11(a)(4) of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1821(a)(4));

15 (4) the Board, pursuant to its authority under
16 section 10B, 13, or 13A of the Federal Reserve Act
17 (12 U.S.C. 347b, 342, and 343); or

18 (5) the Board, pursuant to its authority under
19 the third paragraph of section 13 of the Federal Re-
20 serve Act (12 U.S.C. 343).

21 (b) EXCLUSION FOR MONETARY POLICY.—Sub-
22 section (a) shall not apply to transactions or operations
23 implementing monetary policy matters under the direction
24 of the Federal Open Market Committee or the Board of
25 Governors of the Federal Reserve System.

1 (c) LENDING TO SYSTEMICALLY IMPORTANT FINAN-
 2 CIAL MARKET UTILITIES.—Section 806 of the Dodd-
 3 Frank Wall Street Reform and Consumer Protection Act
 4 (12 U.S.C. 6455) is amended—

5 (1) by striking subsections (a) through (c); and

6 (2) redesignating subsections (d) and (e) as
 7 subsections (a) and (b), respectively.

8 (d) TERMINATION OF SYSTEMIC RISK EXEMPTION.—
 9 Section 13(c)(4)(G) of the Federal Deposit Insurance Act
 10 (12 U.S.C. 1823(c)(4)) is amended—

11 (1) by striking subparagraph (G); and

12 (2) by redesignating subparagraph (H) as sub-
 13 paragraph (G).

14 **SEC. 6. RELIEF FOR COMMUNITY BANKS AND SMALL SAV-**
 15 **INGS ASSOCIATIONS.**

16 (a) RURAL DEFINITION.—For purposes of the rules
 17 of the Bureau of Consumer Financial Protection (in this
 18 section referred to as the “Bureau”) regarding qualified
 19 mortgages for purposes of section 129C(c)(2) of the Truth
 20 in Lending Act, the definition of the term “rural” means
 21 any area other than—

22 (1) a city or town that has a population of
 23 greater than 50,000 inhabitants; and

24 (2) any urbanized area contiguous and adjacent
 25 to a city or town described in paragraph (1).

1 (b) SECURITIES EXCHANGE ACT OF 1934.—The Se-
2 curities Exchange Act of 1934 (15 U.S.C. 78a et seq.)
3 is amended—

4 (1) in section 12(g) (15 U.S.C. 78l(g))—

5 (A) in paragraph (1)(B), by inserting after
6 “is a bank” the following: “, a savings and loan
7 holding company (as defined in section 10 of
8 the Home Owners’ Loan Act),”; and

9 (B) in paragraph (4), by inserting after
10 “case of a bank” the following: “, a savings and
11 loan holding company (as defined in section 10
12 of the Home Owners’ Loan Act),”; and

13 (2) in section 15(d), by striking “case of bank”
14 and inserting the following: “case of a bank, a sav-
15 ings and loan holding company (as defined in section
16 10 of the Home Owners’ Loan Act),”.

17 (c) FEDERAL RESERVE BOARD.—The policy state-
18 ment of the Board in the Small Bank Holding Company
19 Statement found at Part 225 of the appendix to title 12,
20 Code of Federal Regulations (or any successor thereto),
21 shall apply to financial institutions that are otherwise sub-
22 ject to that policy statement with consolidated assets of
23 more than \$5,000,000,000.

24 (d) MUTUAL HOLDING COMPANY DIVIDEND WAIV-
25 ERS.—Notwithstanding the rule of the Board regarding

1 Mutual Holding Company Dividend Waivers in section
2 239.63 of title 12, Code of Federal Regulations (or any
3 successor thereto), grandfathered mutual holding compa-
4 nies and all other mutual holding companies shall be per-
5 mitted to waive the receipt of dividends declared on the
6 common stock of their bank or mid-size holding compa-
7 nies.

8 (e) EXAMINATION OMBUDSMAN.—

9 (1) IN GENERAL.—The Federal Financial Insti-
10 tutions Examination Council Act of 1978 (12 U.S.C.
11 3301 et seq.) is amended by adding at the end the
12 following:

13 **“SEC. 1012. OFFICE OF EXAMINATION OMBUDSMAN.**

14 “(a) ESTABLISHMENT.—There is established in the
15 Council an Office of Examination Ombudsman.

16 “(b) HEAD OF OFFICE.—There is established the po-
17 sition of the Ombudsman, who shall serve as the head of
18 the Office of Examination Ombudsman, and who shall be
19 hired separately by the Council and shall be independent
20 from any member agency of the Council.

21 “(c) STAFFING.—The Ombudsman is authorized to
22 hire staff to support the activities of the Office of Exam-
23 ination Ombudsman.

24 “(d) DUTIES.—The Ombudsman shall—

1 “(1) receive and, at the Ombudsman’s discre-
2 tion, investigate complaints from financial institu-
3 tions, their representatives, or another entity acting
4 on behalf of such institutions, concerning examina-
5 tions, examination practices, or examination reports;

6 “(2) hold meetings, at least once every 3
7 months and in locations designed to encourage par-
8 ticipation from all sections of the United States,
9 with financial institutions, their representatives, or
10 another entity acting on behalf of such institutions,
11 to discuss examination procedures, examination
12 practices, or examination policies;

13 “(3) review examination procedures of the Fed-
14 eral financial institutions regulatory agencies to en-
15 sure that the written examination policies of those
16 agencies are being followed in practice and adhere to
17 the standards for consistency established by the
18 Council;

19 “(4) conduct a continuing and regular program
20 of examination quality assurance for all examination
21 types conducted by the Federal financial institutions
22 regulatory agencies;

23 “(5) process any supervisory appeal initiated
24 under section 1015 or section 309(e) of the Riegle

1 Community Development and Regulatory Improve-
2 ment Act of 1994; and

3 “(6) report annually to the Committee on Fi-
4 nancial Services of the House of Representatives, the
5 Committee on Banking, Housing, and Urban Affairs
6 of the Senate, and the Council, on the reviews car-
7 ried out pursuant to paragraphs (3) and (4), includ-
8 ing compliance with the requirements set forth in
9 section 1012 regarding timeliness of examination re-
10 ports, and the Council’s recommendations for im-
11 provements in examination procedures, practices,
12 and policies.

13 “(e) CONFIDENTIALITY.—The Ombudsman shall
14 keep confidential all meetings, discussions, and informa-
15 tion provided by financial institutions.”.

16 (2) DEFINITION.—Section 1003 of the Federal
17 Financial Institutions Examination Council Act of
18 1978 (12 U.S.C. 3302) is amended—

19 (A) in paragraph (2), by striking “and” at
20 the end;

21 (B) in paragraph (3), by adding “and” at
22 the end; and

23 (C) by adding at the end the following:

24 “(4) the term ‘Ombudsman’ means the Om-
25 budsman established under section 1012.”.

1 (f) EXCEPTION TO ANNUAL WRITTEN PRIVACY NO-
2 TICE REQUIREMENT UNDER THE GRAMM-LEACH-BLILEY
3 ACT.—Section 503 of the Gramm-Leach-Bliley Act (15
4 U.S.C. 6803) is amended by adding at the end the fol-
5 lowing:

6 “(f) EXCEPTION TO ANNUAL WRITTEN NOTICE RE-
7 QUIREMENT.—

8 “(1) IN GENERAL.—A financial institution de-
9 scribed in paragraph (2) shall not be required to
10 provide an annual written disclosure under this sec-
11 tion, until such time as the financial institution fails
12 to comply with subparagraph (A), (B), or (C) of
13 paragraph (1).

14 “(2) COVERED INSTITUTIONS.—Paragraph (1)
15 applies with respect to a financial institution that—

16 “(A) provides nonpublic personal informa-
17 tion in accordance with the provisions of sub-
18 section (b)(2) or (e) of section 502 or regula-
19 tions prescribed under section 504(b);

20 “(B) has not changed its policies and prac-
21 tices with respect to disclosing nonpublic per-
22 sonal information from the policies and prac-
23 tices that were disclosed in the most recent dis-
24 closure sent to consumers in accordance with
25 this section; and

1 “(C) otherwise provides customers access
2 to such most recent disclosure in electronic or
3 other form permitted by regulations prescribed
4 under section 504.”.

5 (g) EXEMPTION FROM SMALL BUSINESS DATA COL-
6 LECTION.—Section 704B(h)(1) of the Equal Credit Op-
7 portunity Act (15 U.S.C. 1691c–2(h)(1)) is amended by
8 inserting “with more than \$10,000,000,000 in total con-
9 solidated assets” after “entity”.

10 (h) DODD-FRANK.—Section 171(b)(5)(C) of the
11 Dodd-Frank Wall Street Reform and Consumer Protec-
12 tion Act (12 U.S.C. 5371(b)(5)(C)) is amended by insert-
13 ing before the period at the end “or savings and loan hold-
14 ing company with less than \$500,000,000 in total consoli-
15 dated assets”.

○