House-Senate Wall Street Reform and Consumer Protection Act

Side by Side House - Senate Comparison

Issue	House Title	Senate Title
Oversight Council	Title I, Subtitle A	Title I, Subtitle A and B
Systemically Important Firms	Subtitle B	Subtitle A and C
OTS	Subtitle C	Title III, Subtitle A, B, and D
Section 6 Firms	Subtitle D	Title VI
FDIC Fund	Subtitle E	Title III, Subtitle D
ABS	Subtitle F	Title IX, Subtitle D
Dissolution Authority	Subtitle G	Title II
Federal Reseral Reserve	Subtitle H	Title XI
Misc, TARP	Subtitles I through K	Title XIII
Securities Holding Co	Subtitle L	Title VI
Executive Compensation	Title II	Title IX, Subtitles E and G
Derivatives	Title III	Title VII
Consumer Protection	Title IV	Title X
Investor Registration	Title V Subtitle A	Title IV
Rating Agencies	Subtitle B	Title IX, Subtitle C
Investor Protection	Subtitle C	Title IX, Subtitle A, Subtitle B, Subtitle F, Subtitle G, Subtitle H, Subtitle I, Subtitle J
Insurance	Title VI	Title V
Mortgage and Predatory Lending	Title VII	Title X, Subtitle G
Foreclosure	Title VIII	none
Reinsurance	Title IX	Title V
Interest-Bearing Transaction Accts	Title X	none
Payment Systems	none	Title VIII
Access to Mainstream Institutions	none	Title XII
Greece	none	Title XIV
Congo	none	Title XV

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE I--FINANCIAL STABILITY IMPROVEMENT ACT **SEC. 1000. SHORT TITLE; DEFINITIONS.** (a) Short Title- This title may be cited as the `Financial Stability Improvement Act of 2009'.	***TITLE I--FINANCIAL STABILITY*** ***SEC. 101. SHORT TITLE.*** *This title may be cited as the `Financial Stability Act of 2010'.*	
(b) Definitions- For purposes of this title, the following definitions shall apply: (1) The term `Board' means the Board of Governors of the Federal Reserve System. (2) The term `Council' means the Financial Services Oversight Council established under section 1001. (3) The term `Federal financial regulatory agency' means any agency that has a voting member of the Council as set forth in section 1001(b)(1). (4) The term `financial company' means a company or other entity-- (A) that is-- (i) incorporated or organized under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands; or (ii) a company incorporated in or organized in a country other than the United States that has significant operations in the United States (hereafter in this title referred to as a `foreign financial parent') after through-- (I) a Federal or State branch or agency of a foreign bank as such terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101 et seq.); or (II) a United States affiliate or other United States operating entity; (B) that is, in whole or in part, directly or indirectly,	***SEC. 102. DEFINITIONS.*** *(a) In General- For purposes of this title, unless the context otherwise requires, the following definitions shall apply:* *(1) BANK HOLDING COMPANY- The term `bank holding company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). A foreign bank or company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956, pursuant to section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), shall be treated as a bank holding company for purposes of this title.* *(2) CHAIRPERSON- The term `Chairperson' means the Chairperson of the Council.* *(3) MEMBER AGENCY- The term `member agency' means an agency represented by a voting member of the Council.* *(4) NONBANK FINANCIAL COMPANY DEFINITIONS-* *(A) FOREIGN NONBANK FINANCIAL COMPANY- The term `foreign nonbank financial company' means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof) that is--* *(i) incorporated or organized in a country other than the United States; and* *(ii) predominantly engaged in, including through a branch in the United States, financial activities, as defined in paragraph (6).* *(B) U.S. NONBANK FINANCIAL COMPANY- The term `U.S. nonbank financial company' means a company (other than a bank holding company or a*	

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engaged in financial activities; and (C) that is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.). (5) FINANCIAL HOLDING COMPANY SUBJECT TO STRICTER STANDARDS- The term `financial holding company subject to stricter standards' means-- (A) a financial company that has been subjected to stricter prudential standards under subtitle B; or (B) in the case of a financial company described in subparagraph (A) that is required to establish an intermediate holding company under section 6 of the Bank Holding Company Act, the section 6 holding company through which the financial company is required to conduct its financial activities. (6) The term `primary financial regulatory agency' means the following: (A) The Comptroller of the Currency, with respect to any national bank, any Federal branch or Federal agency of a foreign bank, and, after the date on which the functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision are transferred under subtitle C, a Federal savings association. (B) The Board, with respect to-- (i) any State member bank; (ii) any bank holding company and any subsidiary of such company (as such terms are defined in the Bank Holding Company Act), other than a subsidiary that is described in any other subparagraph of this paragraph to the extent that the subsidiary is engaged in an activity described in such subparagraph; (iii) any financial holding company subject to stricter standards and any subsidiary (as such term is defined in the Bank Holding Company Act) of such company, other than a subsidiary that is described in any other subparagraph of this paragraph to the extent that the subsidiary is engaged in an activity described in such subparagraph; (iv) after the date on which the functions of the	*subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)) that is--* *(i) incorporated or organized under the laws of the United States or any State; and* *(ii) predominantly engaged in financial activities as defined in paragraph (6).* *(C) NONBANK FINANCIAL COMPANY- The term `nonbank financial company' means a U.S. nonbank financial company and a foreign nonbank financial company.* *(D) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS- The term `nonbank financial company supervised by the Board of Governors' means a nonbank financial company that the Council has determined under section 113 shall be supervised by the Board of Governors.* *(5) OFFICE OF FINANCIAL RESEARCH- The term `Office of Financial Research' means the office established under section 152.* *(6) PREDOMINANTLY ENGAGED- A company is `predominantly engaged in financial activities' if--* *(A) the annual gross revenues derived by the company and all of its subsidiaries from activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, from the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated annual gross revenues of the company; or* *(B) the consolidated assets of the company and all of its subsidiaries related to activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and, if applicable, related to the ownership or control of one or more insured depository institutions, represents 85 percent or more of the consolidated assets of the company.* *(7) SIGNIFICANT INSTITUTIONS- The terms `significant nonbank financial company' and `significant bank holding company' have the meanings given those terms by rule of the Board of Governors.*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Office of Thrift Supervision are transferred under subtitle C, any savings and loan holding company (as defined in section 10(a)(1)(D) of the Home Owners' Loan Act) and any subsidiary (as such term is defined in the Bank Holding Company Act of 1956) of such company, other than a subsidiary that is described in any other subparagraph of this paragraph, to the extent that the subsidiary is engaged in an activity described in such subparagraph; (v) any organization organized and operated under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq. or 611 et seq.); and (vi) any foreign bank or company that is treated as a bank holding company under subsection (a) of section 8 of the International Banking Act of 1978 and any subsidiary (other than a bank or other subsidiary that is described in any other subparagraph of this paragraph) of any such foreign bank or company. (C) The Federal Deposit Insurance Corporation, with respect to any State nonmember bank, any insured State branch of a foreign bank (as such terms are defined in section 3 of the Federal Deposit Insurance Act), and, after the date on which the functions of the Office of Thrift Supervision are transferred under subtitle C, any State savings association. (D) The National Credit Union Administration, with respect to any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.). (E) The Securities and Exchange Commission, with respect to-- (i) any broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); (ii) any investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); (iii) any investment adviser registered with the	*(b) Definitional Criteria- The Board of Governors shall establish, by regulation, the requirements for determining if a company is predominantly engaged in financial activities, as defined in subsection (a)(6).* *(c) Foreign Nonbank Financial Companies- For purposes of the authority of the Board of Governors under this title with respect to foreign nonbank financial companies, references in this title to `company' or `subsidiary' include only the United States activities and subsidiaries of such foreign company.*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) with respect to the investment advisory activities of such company and activities incidental to such advisory activities; (iv) any clearing agency (as defined in section 3(a)(23) of the Securities Exchange Act of 1934); (v) a securities-based swap execution facility that is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); (vi) any exchange registered as a national securities exchange with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); (vii) any credit rating agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); (viii) any securities information processor registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); and (ix) any transfer agent registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). (F) The Commodity Futures Trading Commission, with respect to-- (i) any futures commission merchant, any commodity trading adviser, any retail foreign exchange dealer, and any commodity pool operator registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) with respect to the commodities activities of such entity and activities incidental to such commodities activities; and (ii) any derivatives clearing organization, designated contract market, or swap execution facility (as defined in the Commodity Exchange		

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Act). (G) The Federal Housing Finance Agency with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal home loan banks. (H) The State insurance authority of the State in which an insurance company is domiciled, with respect to the insurance activities and activities incidental to such insurance activities of an insurance company that is subject to supervision by the State insurance authority under State insurance law. (I) The Office of Thrift Supervision, with respect to any Federal savings association, State savings association, or savings and loan holding company, until the date on which the functions of the Office of Thrift Supervision are transferred under subtitle C. (7) TERMS DEFINED IN OTHER LAWS- (A) AFFILIATE- The term `affiliate' has the meaning given such term in section 2(k) of the Bank Holding Company Act of 1956. (B) STATE MEMBER BANK, STATE NONMEMBER BANK- The terms `State member bank' and `State nonmember bank' have the same meanings as in subsections (d)(2) and (e)(2), respectively, of section 3 of the Federal Deposit Insurance Act.		
SEC. 1000A. RESTRICTIONS ON THE FEDERAL RESERVE SYSTEM PENDING AUDIT REPORT. (a) In General- Notwithstanding any other provision of law, the Comptroller General of the United States shall perform an audit of all actions taken by the Board of Governors of the Federal Reserve System and the Federal reserve banks during the current economic crisis pursuant to the authority granted under section 13(c) of the Federal Reserve Act. Such audit shall be completed as expeditiously as possible, but no later than 2 years, after the date of the enactment of the Financial Stability Improvement Act of 2009. (b) Report- (1) REQUIRED- Not later than the end of the 90-day period beginning on the date the audit referred to in subsection (a) is completed, the Comptroller General of the United States shall	***Title XI*** ***SEC. 1159. GAO AUDIT OF THE FEDERAL RESERVE FACILITIES; PUBLICATION OF BOARD ACTIONS.*** *(a) GAO Audit-* *(1) IN GENERAL- Notwithstanding section 714(b) of title 31, United States Code, or any other provision of law, the Comptroller General of the United States (in this subsection referred to as the `Comptroller General') shall conduct a one-time audit of all loans and other financial assistance provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act by the Board of Governors under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
submit a report to the Congress, and make such report available to the public. (2) CONTENTS- The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.	*Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act.* *(2) ASSESSMENTS- In conducting the audit under paragraph (1), the Comptroller General shall assess--* *(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;* *(B) the effectiveness of the collateral policies established for the facility in mitigating risk to the relevant Federal reserve bank and taxpayers;* *(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility;* *(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility; and* *(E) whether there were conflicts of interest with respect to the manner in which such facility was established or operated.* *(3) TIMING- The audit required by this subsection shall be commenced not later than 30 days after the date of enactment of this Act, and shall be completed not later than 12 months after that date of enactment.* *(4) REPORT REQUIRED- The Comptroller General shall submit a report on the audit conducted under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, and such report shall be made available to--* *(A) the Speaker of the House of Representatives;* *(B) the majority and minority leaders of the House of Representatives;* *(C) the majority and minority leaders of the Senate;* *(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and* *(E) any member of Congress who requests it.*	

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Subtitle A--The Financial Services Oversight Council **SEC. 1001. FINANCIAL SERVICES OVERSIGHT COUNCIL ESTABLISHED.** (a) Establishment- Immediately upon enactment of this title, there is established a Financial Services Oversight Council. (b) Membership- The Council shall consist of the following: (1) VOTING MEMBERS- Voting members, who shall each have one vote on the Council, as follows: (A) The Secretary of the Treasury, who shall serve as the Chairman of the Council. (B) The Chairman of the Board of Governors of the Federal Reserve System. (C) The Comptroller of the Currency. (D) The Director of the Office of Thrift Supervision, until the functions of the Director of the Office of Thrift Supervision are transferred pursuant to subtitle C. (E) The Chairman of the Securities and Exchange Commission. (F) The Chairman of the Commodity Futures Trading Commission. (G) The Chairperson of the Federal Deposit Insurance Corporation. (H) The Director of the Federal Housing Finance Agency. (I) The Chairman of the National Credit Union Administration. (J) The head of the Consumer Financial Protection Agency. (2) NONVOTING MEMBERS- Nonvoting members, who shall serve in an advisory capacity and shall not be excluded from any of the Council's proceedings, meetings, discussions, and deliberations: (A) The Director of the Federal Insurance Office. (B) A State insurance commissioner, to be designated by a selection process determined by the State insurance commissioners, provided that the term for which a State insurance commissioner may serve shall last no more than the 2-year period beginning on the date that the	***Title I*** ***Subtitle A--Financial Stability Oversight Council*** ***SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.*** *(a) Establishment- Effective on the date of enactment of this Act, there is established the Financial Stability Oversight Council.* *(b) Membership- The Council shall consist of the following members:* *(1) VOTING MEMBERS- The voting members, who shall each have 1 vote on the Council shall be--* *(A) the Secretary of the Treasury, who shall serve as Chairperson of the Council;* *(B) the Chairman of the Board of Governors;* *(C) the Comptroller of the Currency;* *(D) the Director of the Bureau;* *(E) the Chairman of the Commission;* *(F) the Chairperson of the Corporation;* *(G) the Chairperson of the Commodity Futures Trading Commission;* *(H) the Director of the Federal Housing Finance Agency; and* *(I) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.* *(2) NONVOTING MEMBERS- The Director of the Office of Financial Research--* *(A) shall serve in an advisory capacity as a nonvoting member of the Council; and* *(B) may not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council.* *(c) Terms; Vacancy-* *(1) TERMS- The independent member of the Council shall serve for a term of 6 years.* *(2) VACANCY- Any vacancy on the Council shall be filled in the manner in which the original appointment was made.* *(3) ACTING OFFICIALS MAY SERVE- In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or*	Sec. 111(d) of Senate bill moved next to Sec. 1003 of House bill. Sec. 111(e) and 111(f) of Senate bill moved next to Sec. 1004 of House bill. Sec. 111(h)(2) of Senate bill moved next to Sec. 1005(b) of House bill. Sec. 111(j)(1) of Senate bill moved next to Sec. 1005(b) of House bil.l Sec. 111(g) of Senate bill moved next to Sec. 1007 of House bill.

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
commissioner is selected. (C) A State banking supervisor, to be designated by a selection process determined by the State bank supervisors, provided that the term for which a State banking supervisor may serve shall last no more than the 2-year period beginning on the date that the supervisor is selected. (D) A State securities commissioner (or an officer performing like functions), to be designated by a selection process determined by such State securities commissioners, provided that the term for which a State securities commissioner may serve shall last no more than the 2-year period beginning on the date that the commissioner is selected.	*during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.* *(i) Compensation of Members-* *(1) FEDERAL EMPLOYEE MEMBERS- All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.* *(2) COMPENSATION FOR NON-FEDERAL MEMBER- Section 5314 of title 5, United States Code, is amended by adding at the end the following:* *`Independent Member of the Financial Stability Oversight Council (1).'.*	
(c) Duties- The Council shall have the following duties: (1) To advise the Congress on financial domestic and international regulatory developments, including insurance and accounting developments, and make recommendations that will enhance the integrity, efficiency, competitiveness, and stability of the United States financial markets. (2) To monitor the financial services marketplace to identify potential threats to the stability of the United States financial system. (3) To identify potential threats to the stability of the United States financial system that do not arise out of the financial services marketplace. (4) To develop strategies (and conduct exercises in furtherance of those strategies) to prepare for potential threats identified under paragraphs (2) and (3). In doing so, the Council shall collaborate with participants in the financial sector, financial sector coordinating councils, and any other parties the Council determines to be appropriate. (5) To subject financial companies and financial activities to stricter prudential standards in order to promote financial stability and mitigate systemic risk in accordance with subtitle B. (6) To issue formal recommendations that a Council member agency adopt stricter prudential standards for firms it regulates to mitigate systemic risk in accordance with subtitle B of this title. (7) To monitor international regulatory developments, including both insurance and accounting developments, and to identify	***SEC. 112. COUNCIL AUTHORITY.*** *(a) Purposes and Duties of the Council-* *(1) IN GENERAL- The purposes of the Council are--* *(A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected bank holding companies or nonbank financial companies;* *(B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and* *(C) to respond to emerging threats to the stability of the United States financial markets.* *(2) DUTIES- The Council shall, in accordance with this title--* *(A) collect information from member agencies and other Federal and State financial regulatory agencies and, if necessary to assess risks to the United States financial system, direct the Office of Financial Research to collect information from bank holding companies and nonbank financial companies;* *(B) provide direction to, and request data and analyses from, the Office of Financial Research to support the work of the Council;* *(C) monitor the financial services marketplace in order*	Section 112(a)(2)(M) of Senate bill appears by Sec. 1006 of House bill. Section 112(b)(3) to Section 112(b)(5) appears by Title I Subtitle B Section 1101 of the House bill.

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
those developments that may conflict with the policies of the United States or place United States financial services firms or United States financial markets at a competitive disadvantage. (8) To facilitate information sharing and coordination among the members of the Council regarding financial services policy development, rulemakings, examinations, reporting requirements, and enforcement actions. (9) To provide a forum for discussion and analysis of emerging market developments and financial regulatory issues among its members. (10) At the request of an agency that is a Council member, to resolve a jurisdictional dispute between that agency and another agency that is a Council member in accordance with section 1002. (11) To review and submit comments to the Securities and Exchange Commission and any standards setting body with respect to an existing or proposed accounting principle, standard, or procedure.	*to identify potential threats to the financial stability of the United States;* *(D) facilitate information sharing and coordination among the member agencies and other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions;* *(E) recommend to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies;* *(F) identify gaps in regulation that could pose risks to the financial stability of the United States;* *(G) require supervision by the Board of Governors for nonbank financial companies that may pose risks to the financial stability of the United States in the event of their material financial distress or failure, pursuant to section 113;* *(H) make recommendations to the Board of Governors concerning the establishment of heightened prudential standards for risk-based capital, leverage, liquidity, contingent capital, resolution plans and credit exposure reports, concentration limits, enhanced public disclosures, and overall risk management for nonbank financial companies and large, interconnected bank holding companies supervised by the Board of Governors;* *(I) identify systemically important financial market utilities and payment, clearing, and settlement activities (as that term is defined in title VIII), and require such utilities and activities to be subject to standards established by the Board of Governors;* *(J) make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets;* *(K) make determinations regarding exemptions in title VII, where necessary;* *(L) provide a forum for--*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(i) discussion and analysis of emerging market developments and financial regulatory issues; and *(ii) resolution of jurisdictional disputes among the members of the Council; and* *(b) Authority To Obtain Information-* *(1) IN GENERAL- The Council may receive, and may request the submission of, any data or information from the Office of Financial Research and member agencies, as necessary--* *(A) to monitor the financial services marketplace to identify potential risks to the financial stability of the United States; or* *(B) to otherwise carry out any of the provisions of this title.* *(2) SUBMISSIONS BY THE OFFICE AND MEMBER AGENCIES- Notwithstanding any other provision of law, the Office of Financial Research and any member agency are authorized to submit information to the Council.*	
SEC. 1002. RESOLUTION OF DISPUTES AMONG FEDERAL FINANCIAL REGULATORY AGENCIES. (a) Request for Dispute Resolution- The Council shall resolve a dispute among 2 or more Federal financial regulatory agencies if-- (1) a Federal financial regulatory agency has a dispute with another Federal financial regulatory agency about the agencies' respective jurisdiction over a particular financial company or financial activity or product (excluding matters for which a dispute mechanism specifically has been provided under section 4204 or title III); (2) the disputing agencies cannot, after a demonstrated good faith effort, resolve the dispute among themselves; and (3) any of the Federal financial regulatory agencies involved in the dispute-- (A) provides all other disputants prior notice of its intent to request dispute resolution by the Council; and (B) requests in writing, no earlier than 14 days after providing the notice described in paragraph (A), that the Council resolve the dispute. (b) Council Decision- The Council shall decide the dispute--	***SEC. 119. RESOLUTION OF SUPERVISORY JURISDICTIONAL DISPUTES AMONG MEMBER AGENCIES.*** *(a) Request for Dispute Resolution- The Council shall resolve a dispute among 2 or more member agencies, if--* *(1) a member agency has a dispute with another member agency about the respective jurisdiction over a particular bank holding company, nonbank financial company, or financial activity or product (excluding matters for which another dispute mechanism specifically has been provided under Federal law);* *(2) the Council determines that the disputing agencies cannot, after a demonstrated good faith effort, resolve the dispute without the intervention of the Council; and* *(3) any of the member agencies involved in the dispute--* *(A) provides all other disputants prior notice of the intent to request dispute resolution by the Council; and* *(B) requests in writing, not earlier than 14 days after providing the notice described in subparagraph (A), that the Council resolve the dispute.* *(b) Council Decision- The Council shall resolve each dispute described in subsection (a)--*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) within a reasonable time after receiving the dispute resolution request; (2) after consideration of relevant information provided by each party to the dispute; and (3) by agreeing with 1 of the disputants regarding the entirety of the matter or by determining a compromise position. (c) Form and Binding Effect- A Council decision under this section shall be in writing and include an explanation and shall be binding on all Federal financial regulatory agencies that are parties to the dispute.	*(1) within a reasonable time after receiving the dispute resolution request;* *(2) after consideration of relevant information provided by each agency party to the dispute; and* *(3) by agreeing with 1 of the disputants regarding the entirety of the matter, or by determining a compromise position.* *(c) Form and Binding Effect- A Council decision under this section shall--* *(1) be in writing;* *(2) include an explanation of the reasons therefor; and* *(3) be binding on all Federal agencies that are parties to the dispute.*	
SEC. 1003. TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES. The Council is authorized to appoint-- (1) subsidiary working groups composed of Council members and their staff, Council staff, or a combination; and (2) such temporary special advisory, technical, or professional committees as may be useful in carrying out its functions, which may be composed of Council members and their staff, other persons, or a combination.	***SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.*** *(d) Technical and Professional Advisory Committees- The Council may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Council, including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.*	
SEC. 1004. FINANCIAL SERVICES OVERSIGHT COUNCIL MEETINGS AND COUNCIL GOVERNANCE. (a) Meetings- The Council shall meet as frequently as the Chairman deems necessary, but not less than quarterly. (b) Voting- Unless otherwise provided, the Council shall make all decisions the Council is required or authorized to make by a majority of the total voting membership of the Council under section 1001(b)(1).	***SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.*** *(e) Meetings-* *(1) TIMING- The Council shall meet at the call of the Chairperson or a majority of the members then serving, but not less frequently than quarterly.* *(2) RULES FOR CONDUCTING BUSINESS- The Council shall adopt such rules as may be necessary for the conduct of the business of the Council. Such rules shall be rules of agency organization, procedure, or practice for purposes of section 553 of title 5, United States Code.* *(f) Voting- Unless otherwise specified, the Council shall make all decisions that it is authorized or required to make by a majority vote of the members then serving.*	
SEC. 1005. COUNCIL STAFF AND FUNDING.		See Title I Subtitle B of the Senate bill below.

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(a) Voting Members of the Council- The Secretary of the Treasury shall and all other voting members of the Council may, with the approval of the Council-- (1) detail permanent staff from the Department of the Treasury to provide the Council (and any temporary special advisory, technical, or professional committees appointed by the Council) with professional and expert support; and (2) provide such other services and facilities necessary for the performance of the Council's functions and fulfillment of the duties and mission of the Council.		
(b) Other Departments and Agencies- In addition to the assistance prescribed in subsection (a), departments and agencies of the United States may, with the approval of the Council-- (1) detail department or agency staff on a temporary basis to provide additional support to the Council (and any special advisory, technical, or professional committees appointed by the Council); and (2) provide such services, and facilities as the other departments or agencies may determine advisable. (c) Staff Status; Council Funding- (1) STATUS- Staff detailed to the Council by the Secretary of the Treasury and other United States departments or agencies shall-- (A) report to and be subject to oversight by the Council during their assignment to the Council; and (B) be compensated by the department of agency from which the staff was detailed.	***SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.*** *(h) Assistance From Federal Agencies- Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable.* *(j) Detail of Government Employees- Any employee of the Federal Government may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. An employee of the Federal Government detailed to the Council shall report to and be subject to oversight by the Council during the assignment to the Council, and shall be compensated by the department or agency from which the employee was detailed.*	
(2) FUNDING- The administrative expense of the Council shall be paid by the departments and agencies represented by voting members of the Council on an equal basis.	***Subtitle A--Financial Stability Oversight Council*** ***SEC. 118. COUNCIL FUNDING.*** *Any expenses of the Council shall be treated as expenses of, and paid by, the Office of Financial Research.* ***Subtitle B--Office of Financial Research*** ***SEC. 155. FUNDING.*** *(a) Financial Research Fund-*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) FUND ESTABLISHED- There is established in the Treasury of the United States a separate fund to be known as the `Financial Research Fund'. *(2) FUND RECEIPTS- All amounts provided to the Office under subsection (c), and all assessments that the Office receives under subsection (d) shall be deposited into the Financial Research Fund.* *(3) INVESTMENTS AUTHORIZED-* *(A) AMOUNTS IN FUND MAY BE INVESTED- The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.* *(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.* *(4) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Financial Research Fund shall be credited to and form a part of the Financial Research Fund.* *(b) Use of Funds-* *(1) IN GENERAL- Funds obtained by, transferred to, or credited to the Financial Research Fund shall be immediately available to the Office, and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.* *(2) FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS- Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated monies.* *(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT- Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.* *(c) Interim Funding- During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.* *(d) Permanent Self-funding-*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) IN GENERAL- Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of $50,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the estimated total expenses of the Office. *(2) SHORTFALL- To the extent that the assessments under paragraph (1) do not fully cover the total expenses of the Office, the Board of Governors shall provide to the Office an amount sufficient to cover the difference.*	
SEC. 1006. REPORTS TO THE CONGRESS. (a) In General- Semiannually the Council shall submit a report to the Committee on Ways and Means, the Committee on Agriculture, and the Committee on Financial Services of the House of Representatives and the Committee on Finance, the Committee on Agriculture, and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Comptroller General of the United States that-- (1) describes significant financial and regulatory developments, including insurance and accounting regulations and standards, and assesses the impact of those developments on the stability of the financial system; (2) recommends actions that will improve financial stability; (3) details the size, scale, scope, concentration, activities, and interconnectedness of the 50 largest financial institutions, by total assets, in the United States; (4) describes strategies developed by the Council to respond to potential threats to the stability of the United States financial system and the outcome of exercises conducted in furtherance of those strategies; (5) describes the nature and scope of any company or activities identified under subtitle B and steps taken to address them; and (6) describes any dispute resolutions undertaken under section 1002 and the result of such resolutions.	***SEC. 112. COUNCIL AUTHORITY.*** *(a)(2)(M) annually report to and testify before Congress on--* *(i) the activities of the Council;* *(ii) significant financial market developments and potential emerging threats to the financial stability of the United States;* *(iii) all determinations made under section 113 or title VIII, and the basis for such determinations; and* *(iv) recommendations--* *(I) to enhance the integrity, efficiency, competitiveness, and stability of United States financial markets;* *(II) to promote market discipline; and* *(III) to maintain investor confidence.*	
(b) Evaluation of Annual Report by GAO- Not later than 120 days after receiving the report required by subsection (a), the Comptroller General of the United States shall submit an evaluation of such report to the		

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Committee on Ways and Means, the Committee on Agriculture, and the Committee on Financial Services of the House of Representatives and the Committee on Finance, the Committee on Agriculture, and the Committee on Banking, Housing, and Urban Affairs of the Senate.		
(c) Statements by Voting Members of the Council- At the time each report is submitted under subsection (a), each voting member of the Council shall-- (1) if such member believes that the Council, the Government, and the private sector are taking all reasonable steps to ensure financial stability and to prevent systemic risk that would negatively affect the economy, submit a signed statement to the Committee on Ways and Means, the Committee on Agriculture, and the Committee on Financial Services of the House of Representatives and the Committee on Finance, the Committee on Agriculture, and the Committee on Banking, Housing, and Urban Affairs of the Senate stating such belief; or (2) if such member does not believe that all reasonable steps described under paragraph (1) are being taken, submit a signed statement to the Committee on Ways and Means, the Committee on Agriculture, and the Committee on Financial Services of the House of Representatives and the Committee on Finance, the Committee on Agriculture, and the Committee on Banking, Housing, and Urban Affairs of the Senate stating what actions such member believes need to be taken in order to ensure that all reasonable steps described under paragraph (1) are taken.		
(d) Testimony by the Chairman- The Chairman of the Council shall appear before the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at a semi-annual hearing, after the report is submitted under subsection (a)-- (1) to discuss the efforts, activities, objectives, and plans of the Council; and (2) to discuss and answer questions concerning such report.	***Subtitle B--Office of Financial Research*** ***SEC. 153. PURPOSE AND DUTIES OF THE OFFICE.*** *(d) Testimony-* *(1) IN GENERAL- The Director of the Office shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives annually on the activities of the Office, including the work of the Data Center and the Research and Analysis Center, and the assessment of the Office of significant financial market developments and potential*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	emerging threats to the financial stability of the United States. *(2) NO PRIOR REVIEW- No officer or agency of the United States shall have any authority to require the Director to submit the testimony required under paragraph (1) or other Congressional testimony to any officer or agency of the United States for approval, comment, or review prior to the submission of such testimony. Any such testimony to Congress shall include a statement that the views expressed therein are those of the Director and do not necessarily represent the views of the President.*	
(e) Study of Effects Consumer Financial Protection Agency Regulations and Standards- (1) STUDY REQUIRED- The Council shall conduct a study of the effects that regulations and standards of the Consumer Financial Protection Agency will have on all covered persons (as such term is defined in section 4002(9)), including nondepository institution covered persons. The Director of the Consumer Financial Protection Agency shall take the findings of the study into account when issuing regulations. (2) VALUE OF NONBANK PRODUCTS- The study shall include an evaluation and assessment of the appropriateness of using `APR' as a true measure of the value of all nonbank products. (3) SUBMISSION- Not later than 240 days after the date of the enactment of this Act, the Director of the Consumer Financial Protection Agency shall submit the study to Congress and include any recommendations the Director may have for changes in law and regulations to improve consumer protections and maintain access to credit.		
SEC. 1007. APPLICABILITY OF CERTAIN FEDERAL LAWS. (a) The Federal Advisory Committee Act shall not apply to the Financial Services Oversight Council, or any special advisory, technical, or professional committees appointed by the Council (except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States government, the Council shall publish a list of the names of the members of such	***Subtitle A--Financial Stability Oversight Council*** *SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED* *(g) Nonapplicability of FACA- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
committee). (b) The Council shall not be deemed an `agency' for purposes of any State or Federal law.	*members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee.*	
SEC. 1008. OVERSIGHT BY GAO. (a) Authority to Audit- The Comptroller General of the United States may audit the activities and financial transactions of-- (1) the Council; and (2) any person or entity acting on behalf of or under the authority of the Council, to the extent such activities and financial transactions relate to such person's or entity's work for the Council. (b) Access to Information- (1) IN GENERAL- Notwithstanding any other provision of law, the Comptroller General of the United States shall have access, upon request and at such reasonable time and in such reasonable form as the Comptroller General may request, to-- (A) any records or other information under the control of or used by the Council; (B) any records or other information under the control of a person or entity acting on behalf of or under the authority of the Council, to the extent such records or other information is relevant to an audit under subsection (a); and (C) the officers, directors, employees, financial advisors, staff, working groups, and agents and representatives of the Council (as related to the agent's or representative's activities on behalf of the Council) at such reasonable times as the Comptroller General may request. (2) CERTAIN INFORMATION SPECIFIED- Access under paragraph (1) includes access to-- (A) information provided to the Council by its voting and nonvoting members under section 1101; and (B) the identity of each financial holding company subject to stricter standards. (3) COPIES- Comptroller General may make and retain copies of such books, accounts, and other records access to which is granted under this provision as the Comptroller General considers appropriate. (c) Periodic Evaluations- The Comptroller General of the United States		

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall periodically evaluate the processes and activities of the Council and the extent to which the Council is fulfilling its duties under this title. The Comptroller General shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of each such evaluation.		
	TITLE I--FINANCIAL STABILITY ***Subtitle B--Office of Financial Research*** ***SEC. 151. DEFINITIONS.*** *For purposes of this subtitle--* *(1) the terms `Office' and `Director' mean the Office of Financial Research established under this subtitle and the Director thereof, respectively;* *(2) the term `financial company' has the same meaning as in title II, and includes an insured depository institution and an insurance company;* *(3) the term `Data Center' means the data center established under section 154;* *(4) the term `Research and Analysis Center' means the research and analysis center established under section 154;* *(5) the term `financial transaction data' means the structure and legal description of a financial contract, with sufficient detail to describe the rights and obligations between counterparties and make possible an independent valuation;* *(6) the term `position data'--* *(A) means data on financial assets or liabilities held on the balance sheet of a financial company, where positions are created or changed by the execution of a financial transaction; and* *(B) includes information that identifies counterparties, the valuation by the financial company of the position, and information that makes possible an independent valuation of the position;* *(7) the term `financial contract' means a legally binding agreement between 2 or more counterparties, describing rights and obligations relating to the future delivery of items of intrinsic or extrinsic value among the counterparties; and*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(8) the term `financial instrument' means a financial contract in which the terms and conditions are publicly available, and the roles of one or more of the counterparties are assignable without the consent of any of the other counterparties (including common stock of a publicly traded company, government bonds, or exchange traded futures and options contracts).	
	SEC. 152. OFFICE OF FINANCIAL RESEARCH ESTABLISHED. *(a) Establishment- There is established within the Department of the Treasury the Office of Financial Research.* *(b) Director-* *(1) IN GENERAL- The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.* *(2) TERM OF SERVICE- The Director shall serve for a term of 6 years, except that, in the event that a successor is not nominated and confirmed by the end of the term of service of a Director, the Director may continue to serve until such time as the next Director is appointed and confirmed.* *(3) EXECUTIVE LEVEL- The Director shall be compensated at level III of the Executive Schedule.* *(4) PROHIBITION ON DUAL SERVICE- The individual serving in the position of Director may not, during such service, also serve as the head of any financial regulatory agency.* *(5) RESPONSIBILITIES, DUTIES, AND AUTHORITY- The Director shall have sole discretion in the manner in which the Director fulfills the responsibilities and duties and exercises the authorities described in this subtitle.* *(c) Budget- The Director, in consultation with the Chairperson, shall establish the annual budget of the Office.* *(d) Office Personnel-* *(1) IN GENERAL- The Director, in consultation with the Chairperson, may fix the number of, and appoint and direct, all employees of the Office.* *(2) COMPENSATION- The Director, in consultation with the Chairperson, shall fix, adjust, and administer the pay for all employees of the Office, without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(3) COMPARABILITY- Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended-- *(A) by striking `Finance Board,' and inserting `Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection'; and* *(B) by striking `and the Office of Thrift Supervision,'.* *(e) Assistance From Federal Agencies- Any department or agency of the United States may provide to the Office and any special advisory, technical, or professional committees appointed by the Office, such services, funds, facilities, staff, and other support services as the Office may determine advisable. Any Federal Government employee may be detailed to the Office without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.* *(f) Procurement of Temporary and Intermittent Services- The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.* *(g) Contracting and Leasing Authority- Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Director may--* *(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest), as the Director deems necessary to carry out the duties and responsibilities of the Office; and* *(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).* *(h) Non-compete- The Director and any staff of the Office who has had access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to the Office, may not, for a period of 1 year after last having access to such transaction or position data or business confidential information, be employed by or provide advice or consulting services to a financial company, regardless of whether that entity is required to report to the Office. For staff whose access to business confidential information was limited, the Director may provide, on a case-by-case basis, for a shorter period of post-employment prohibition, provided that the shorter period does not compromise business confidential information.* *(i) Technical and Professional Advisory Committees- The Office, in*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	consultation with the Chairperson, may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Office, and the members of such committees may be staff of the Office, or other persons, or both. *(j) Fellowship Program- The Office, in consultation with the Chairperson, may establish and maintain an academic and professional fellowship program, under which qualified academics and professionals shall be invited to spend not longer than 2 years at the Office, to perform research and to provide advanced training for Office personnel.* *(k) Executive Schedule Compensation- Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:* *`Director of the Office of Financial Research.'.*	
	SEC. 153. PURPOSE AND DUTIES OF THE OFFICE. *(a) Purpose and Duties- The purpose of the Office is to support the Council in fulfilling the purposes and duties of the Council, as set forth in subtitle A, and to support member agencies, by--* *(1) collecting data on behalf of the Council, and providing such data to the Council and member agencies;* *(2) standardizing the types and formats of data reported and collected;* *(3) performing applied research and essential long-term research;* *(4) developing tools for risk measurement and monitoring;* *(5) performing other related services;* *(6) making the results of the activities of the Office available to financial regulatory agencies; and* *(7) assisting such member agencies in determining the types and formats of data authorized by this Act to be collected by such member agencies.* *(b) Administrative Authority- The Office may--* *(1) share data and information, including software developed by the Office, with the Council and member agencies, which shared data, information, and software--* *(A) shall be maintained with at least the same level of security as is used by the Office; and* *(B) may not be shared with any individual or entity without the permission of the Council;* *(2) sponsor and conduct research projects; and*	Section 153(d) moved to Section 1006(d) of House bill.

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(3) assist, on a reimbursable basis, with financial analyses undertaken at the request of other Federal agencies that are not member agencies. *(c) Rulemaking Authority-* *(1) SCOPE- The Office, in consultation with the Chairperson, shall issue rules, regulations, and orders only to the extent necessary to carry out the purposes and duties described in paragraphs (1), (2), and (7) of subsection (a).* *(2) STANDARDIZATION- Member agencies, in consultation with the Office, shall implement regulations promulgated by the Office under paragraph (1) to standardize the types and formats of data reported and collected on behalf of the Council, as described in subsection (a)(2). If a member agency fails to implement such regulations prior to the expiration of the 3-year period following the date of publication of final regulations, the Office, in consultation with the Chairperson, may implement such regulations with respect to the financial entities under the jurisdiction of the member agency.* *(e) Additional Reports- The Director may provide additional reports to Congress concerning the financial stability of the United States. The Director shall notify the Council of any such additional reports provided to Congress.* *(f) Subpoena-* *(1) IN GENERAL- The Director may require, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), but only upon a written finding by the Director that--* *(A) such data is required to carry out the functions described under this subtitle; and* *(B) the Office has coordinated with such agency, as required under section 154(b)(1)(B)(ii).* *(2) FORMAT- Subpoenas under paragraph (1) shall bear the signature of the Director, and shall be served by any person or class of persons designated by the Director for that purpose.* *(3) ENFORCEMENT- In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.*	
	SEC. 154. ORGANIZATIONAL STRUCTURE; RESPONSIBILITIES OF	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	PRIMARY PROGRAMMATIC UNITS. *(a) In General- There are established within the Office, to carry out the programmatic responsibilities of the Office--* *(1) the Data Center; and* *(2) the Research and Analysis Center.* *(b) Data Center-* *(1) GENERAL DUTIES-* *(A) DATA COLLECTION- The Data Center, on behalf of the Council, shall collect, validate, and maintain all data necessary to carry out the duties of the Data Center, as described in this subtitle. The data assembled shall be obtained from member agencies, commercial data providers, publicly available data sources, and financial entities under subparagraph (B).* *(B) AUTHORITY-* *(i) IN GENERAL- The Office may, as determined by the Council or by the Director in consultation with the Council, require the submission of periodic and other reports from any financial company for the purpose of assessing the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself, poses a threat to the financial stability of the United States.* *(ii) MITIGATION OF REPORT BURDEN- Before requiring the submission of a report from any financial company that is regulated by a member agency or any primary financial regulatory agency, the Office shall coordinate with such agencies and shall, whenever possible, rely on information available from such agencies.* *(C) RULEMAKING- The Office shall promulgate regulations pursuant to subsections (a)(1), (a)(2), (a)(7), and (c)(1) of section 153 regarding the type and scope of the data to be collected by the Data Center under this paragraph.* *(2) RESPONSIBILITIES-* *(A) PUBLICATION- The Data Center shall prepare*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	and publish, in a manner that is easily accessible to the public-- *(i) a financial company reference database;* *(ii) a financial instrument reference database; and* *(iii) formats and standards for Office data, including standards for reporting financial transaction and position data to the Office.* *(B) CONFIDENTIALITY- The Data Center shall not publish any confidential data under subparagraph (A).* *(3) INFORMATION SECURITY- The Director shall ensure that data collected and maintained by the Data Center are kept secure and protected against unauthorized disclosure.* *(4) CATALOG OF FINANCIAL ENTITIES AND INSTRUMENTS- The Data Center shall maintain a catalog of the financial entities and instruments reported to the Office.* *(5) AVAILABILITY TO THE COUNCIL AND MEMBER AGENCIES- The Data Center shall make data collected and maintained by the Data Center available to the Council and member agencies, as necessary to support their regulatory responsibilities.* *(6) OTHER AUTHORITY- The Office shall, after consultation with the member agencies, provide certain data to financial industry participants and to the general public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the financial system of the United States.* *(c) Research and Analysis Center-* *(1) GENERAL DUTIES- The Research and Analysis Center, on behalf of the Council, shall develop and maintain independent analytical capabilities and computing resources--* *(A) to develop and maintain metrics and reporting systems for risks to the financial stability of the United States;* *(B) to monitor, investigate, and report on changes in system-wide risk levels and patterns to the Council and Congress;* *(C) to conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets;*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(D) to evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by the member agencies; *(E) to maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators;* *(F) to investigate disruptions and failures in the financial markets, report findings, and make recommendations to the Council based on those findings;* *(G) to conduct studies and provide advice on the impact of policies related to systemic risk; and* *(H) to promote best practices for financial risk management.* *(d) Reporting Responsibilities-* *(1) REQUIRED REPORTS- Not later than 2 years after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the Office shall prepare and submit a report to Congress.* *(2) CONTENT- Each report required by this subsection shall assess the state of the United States financial system, including--* *(A) an analysis of any threats to the financial stability of the United States;* *(B) the status of the efforts of the Office in meeting the mission of the Office; and* *(C) key findings from the research and analysis of the financial system by the Office.*	
	SEC. 156. TRANSITION OVERSIGHT. *(a) Purpose- The purpose of this section is to ensure that the Office--* *(1) has an orderly and organized startup;* *(2) attracts and retains a qualified workforce; and* *(3) establishes comprehensive employee training and benefits programs.* *(b) Reporting Requirement-* *(1) IN GENERAL- The Office shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(2) PLANS- The plans described in this paragraph are as follows: *(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN- The Office shall submit a training and workforce development plan that includes, to the extent practicable--* *(i) identification of skill and technical expertise needs and actions taken to meet those requirements;* *(ii) steps taken to foster innovation and creativity;* *(iii) leadership development and succession planning; and* *(iv) effective use of technology by employees.* *(B) WORKPLACE FLEXIBILITY PLAN- The Office shall submit a workforce flexibility plan that includes, to the extent practicable--* *(i) telework;* *(ii) flexible work schedules;* *(iii) phased retirement;* *(iv) reemployed annuitants;* *(v) part-time work;* *(vi) job sharing;* *(vii) parental leave benefits and childcare assistance;* *(viii) domestic partner benefits;* *(ix) other workplace flexibilities; or* *(x) any combination of the items described in clauses (i) through (ix).* *(C) RECRUITMENT AND RETENTION PLAN- The Office shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to--* *(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;* *(ii) streamlined employment application processes;* *(iii) the provision of timely notification of the status of employment applications to applicants; and* *(iv) the collection of information to measure*	

House passed HR 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	indicators of hiring effectiveness. *(c) Expiration- The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.* *(d) Rule of Construction- Nothing in this section may be construed to affect--* *(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or* *(2) the rights of employees under chapter 71 of title 5, United States Code.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle C--Improvements to Supervision and Regulation of Federal Depository Institutions	***TITLE III--TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS***	
	SEC. 300. SHORT TITLE. *This title may be cited as the `Enhancing Financial Institution Safety and Soundness Act of 2010'.*	
	SEC. 301. PURPOSES. *The purposes of this title are--* *(1) to provide for the safe and sound operation of the banking system of the United States;* *(2) to preserve and protect the dual system of Federal and State-chartered depository institutions;* *(3) to ensure the fair and appropriate supervision of each depository institution, regardless of the size or type of charter of the depository institution; and* *(4) to streamline and rationalize the supervision of depository institutions and the holding companies of depository institutions.*	
SEC. 1201. DEFINITIONS. For purposes of this subtitle, the following definitions shall apply: (1) BOARD OF GOVERNORS- The term `Board of Governors' means the Board of Governors of the Federal Reserve System. (2) CORPORATION- The term `Corporation' means the Federal Deposit Insurance Corporation. (3) OFFICE OF THE COMPTROLLER OF THE CURRENCY- The term `Office of the Comptroller of the Currency' means the office established by section 324 of the Revised Statutes (12 U.S.C. 1). (4) OFFICE OF THRIFT SUPERVISION- The term `Office of Thrift Supervision' means the office established by section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a). (5) SECRETARY- The term `Secretary' means the Secretary of the Treasury. (6) TRANSFER DATE- The term `transfer date' has the meaning provided in section 1205.	***SEC. 302. DEFINITION.*** *In this title, the term `transferred employee' means, as the context requires, an employee transferred to the Office of the Comptroller of the Currency or the Corporation under section 322.*	

(7) CERTAIN OTHER TERMS- The terms `affiliate', `bank holding company', `control' (when used with respect to a depository institution), `depository institution', `Federal banking agency', `Federal savings association', `including', `insured branch', `insured depository institution', `savings association', `State savings association', and `subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act.		
SEC. 1202. AMENDMENTS TO THE HOME OWNERS' LOAN ACT RELATING TO TRANSFER OF FUNCTIONS. (a) Amendments to Section 2- Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended-- (1) by striking paragraph (1) and inserting the following new paragraph: `(1) BOARD OF GOVERNORS- The term `Board of Governors' means the Board of Governors of the Federal Reserve System.'; and (2) by striking paragraph (3) and inserting the following new paragraph: `(3) [repealed]'. (b) Amendments to Section 3- Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended-- (1) by striking subsection (a) and inserting the following new subsection: `(a) Establishment of Division of Thrift Supervision- To carry out the purposes of this Act, there is hereby established the Division of Thrift Supervision, which shall be a division within the Office of the Comptroller of the Currency.'; (2) in subsection (b)-- (A) by striking paragraph (1) and inserting the following new paragraph: `(1) IN GENERAL- The Division of Thrift Supervision shall be headed by a Senior Deputy Comptroller of the Currency who shall be subject to the general oversight of the Comptroller of the Currency.'; (B) in paragraph (2), by striking `Director' and inserting `Comptroller of the Currency'; and (C) by striking paragraphs (3) and (4); (3) by striking subsections (c), (d), and (e) and inserting the following new subsection: `(c) Powers of the Comptroller of the Currency- The Comptroller of the Currency shall have all the powers, duties, and functions transferred by the Financial Stability Improvement Act of 2009 to the Comptroller of		

the Currency to carry out this Act.'; (4) by redesignating subsections (f) and (i) as subsections (d) and (e), respectively; (5) in subsection (d) (as so redesignated), by striking `Director' each place such term appears and inserting `Comptroller of the Currency'; (6) by striking subsections (g), (h), and (j); and (7) in subsection (e) (as so redesignated), by striking `compensation of the Director and other employees of the Office and all other expenses thereof' and inserting `expenses incurred by the Comptroller of the Currency in carrying out this Act'. (c) Amendments to Section 4- Section 4 of the Home Owners' Loan Act (12 U.S.C. 1463) is amended by striking `Director' each time it appears and inserting `Comptroller of the Currency'.		
(d) Amendments to Section 5- (1) UNIVERSAL- Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended-- (A) by striking `Director' and `Director of the Office of Thrift Supervision' each place such terms appear and inserting `Comptroller of the Currency'; and (B) by striking `Director's' each place such term appears and inserting `Comptroller of the Currency's'. (2) SPECIFIC PROVISIONS- (A) Section 5(d)(2)(E) of the Home Owners' Loan Act is amended by striking `or the Resolution Trust Corporation, as appropriate,' each place such term appears. (B) Section 5(d)(3)(B) of the Home Owners' Loan Act is amended by striking `or the Resolution Trust Corporation'.		
(e) Amendments to Sections 8 and 9- Sections 8 and 9 of the Home Owners' Loan Act (12 U.S.C. 1466a and 1467) are each amended by striking `Director' each place such term appears and inserting `Comptroller of the Currency'. (f) Technical and Conforming Amendments- (1) SECTION 3- The heading for section 3 of the Home Owners' Loan Act is amended by striking `director of the office of thrift supervision' and inserting `division of thrift supervision'. (2) SECTION 5- The heading for paragraph (2)(E)(ii) of section 5(d) of the Home Owners' Loan Act and the heading for paragraph (3)(B) of such section are each amended by striking `OR RTC'. (g) Clerical Amendment- The table of contents section for the Home		

Owners' Loan Act is amended by striking the item relating to section 3 and inserting the following new item: `Sec. 3. Division of Thrift Supervision.'.		
	Subtitle D--Termination of Federal Thrift Charter ***SEC. 341. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS.*** *(a) In General- Beginning on the date of enactment of this Act, the Director of the Office of Thrift Supervision, or the Comptroller of the Currency, may not issue a charter for a Federal savings association under section 5 of the Home Owners' Loan Act (12 U.S.C. 1464).* *(b) Conforming Amendment- Section 5(a) of the Home Owner's Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:* *`(a) In General- In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the examination, operation, and regulation of associations to be known as `Federal savings associations' (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.'.* *(c) Prospective Repeal- Effective on the date on which the Comptroller of the Currency determines that no Federal savings associations exist, section 5 of the Home Owner's Loan Act (12 U.S.C. 1464) is repealed.*	
	SEC. 342. BRANCHING. *Notwithstanding the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any other provision of Federal or State law, a savings association that becomes a bank may continue to operate any branch or agency that the savings association operated immediately before the savings association became a bank.*	
SEC. 1203. AMENDMENTS TO THE REVISED STATUTES. (a) Amendment to Section 324- Section 324 of the Revised Statutes of the United States (12 U.S.C. 1) is amended to read as follows: **`SEC. 324. COMPTROLLER OF THE CURRENCY.**	***SEC. 314. AMENDMENTS TO THE REVISED STATUTES.*** *(a) Amendment to Section 324- Section 324 of the Revised Statutes of the United States (12 U.S.C. 1) is amended to read as follows:* ***`SEC. 324. COMPTROLLER OF THE CURRENCY.***	

`There shall be in the Department of the Treasury a bureau, the chief officer of which bureau shall be called the Comptroller of the Currency, and shall perform the duties of the Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Comptroller of the Currency shall have the same authority over matters as were vested in the Director of the Office of Thrift Supervision or the Office of Thrift Supervision on the day before the date of enactment of the Financial Stability Improvement Act of 2009 other than those authorities with respect to savings and loan holding companies and any affiliate of any such company (other than a savings association) as were vested in the Director of the Office of Thrift Supervision on such date. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency enforcement actions) unless otherwise specifically provided by law.'. (b) Amendments to Section 327- Section 327 of the Revised Statutes of the United States (12 U.S.C. 4) is amended to read as follows:	*`(a) Office of the Comptroller of the Currency Established- There is established in the Department of the Treasury a bureau to be known as the `Office of the Comptroller of the Currency' which is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction.* *`(b) Comptroller of the Currency-* *`(1) IN GENERAL- The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency. The Comptroller of the Currency shall perform the duties of the Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency enforcement actions), unless otherwise specifically provided by law.* *`(2) ADDITIONAL AUTHORITY- The Comptroller of the Currency shall have the same authority with respect to functions transferred to the Comptroller of the Currency under the Enhancing Financial Institution Safety and Soundness Act of 2010 (including matters that were within the jurisdiction of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision on the day before the transfer date under that Act) as was vested in the Director of the Office of Thrift Supervision on the transfer date under that Act.'.* *(b) Amendment to Section 329- Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by inserting before the period at the end the following: `or any Federal savings association'.* *(c) Effective Date- This section, and the amendments made by this section, shall take effect on the transfer date.*	
**`SEC. 327. DEPUTY COMPTROLLERS.**  `(a) Appointment- The Secretary of the Treasury shall appoint no more than 5 Deputy Comptrollers of the Currency-- `(1) 1 of whom shall be designated the Senior Deputy Comptroller for National Banks, who shall oversee the regulation and supervision of national banks; and `(2) 1 of whom shall be designated the Senior Deputy Comptroller for Thrift Supervision, who shall oversee the regulation and supervision of Federal savings associations, and		

who shall coordinate with the Office of Thrift Supervision pursuant to section 1211. `(b) Pay- The Secretary of the Treasury shall fix the compensation of the Deputy Comptrollers of the Currency and provide such other benefits as the Secretary may determine to be appropriate. `(c) Oath of Office; Duties- Each Deputy Comptroller shall take the oath of office and shall perform such duties as the Comptroller of the Currency shall direct. `(d) Service as Acting Comptroller- During a vacancy in the office or during the absence or disability of the Comptroller, each Deputy Comptroller shall possess the power and perform the duties attached by law to the Office of the Comptroller under such order of succession as the Comptroller shall direct.'. (c) Amendment to Section 329- Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by inserting `or any Federal savings association' before the period at the end.		
(d) Amendment to Section 5240- The fourth sentence of the second undesignated paragraph of Section 5240 of the Revised Statutes of the United States (12 U.S.C. 481) is amended by striking `Secretary of the Treasury;' and all that follows through the end of the sentence, and inserting `Secretary of the Treasury; the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation is and shall be paid from assessments on banks or affiliates thereof or from other fees or charges imposed pursuant to this subchapter shall be set and adjusted pursuant to chapter 71 of title 5, United States Code and without regard to the provisions of other laws applicable to officers or employees of the United States.'. (e) Amendment to Section 5240- The first sentence in the first undesignated paragraph of Section 5240 of the Revised Statutes of the United States (12 U.S.C. 482) is amended by inserting `pursuant to chapter 71 of title 5, United States Code,' after `shall,'.		
	SEC. 318. FUNDING. *(a) Funding of Office of the Comptroller of the Currency- Chapter 4 of title LXII of the Revised Statutes is amended by inserting after section 5240 (12 U.S.C. 481, 482) the following:* *`Sec. 5240A. The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. In*	

	`The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid, in accordance with this section.'.	
	(b) Funding of Board of Governors- Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following: *`(s) Assessments, Fees, and Other Charges for Certain Companies-* *`(1) IN GENERAL- The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the responsibilities of the Board with respect to such companies.* *`(2) COMPANIES- The companies described in this paragraph are--* *`(A) all bank holding companies having total consolidated assets of $50,000,000,000 or more;* *`(B) all savings and loan holding companies having total consolidated assets of $50,000,000,000 or more; and* *`(C) all nonbank financial companies supervised by the Board under section 113 of the Restoring American Financial Stability Act of 2010.'.* *(c) Corporation Examination Fees- Section 10(e) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)) is amended by striking paragraph (1) and inserting the following:* *`(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS- The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity*	

	described in section 3(q)(2) may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations, or as the Corporation determines is necessary or appropriate to carry out the responsibilities of the Corporation.'.	
(f) Effective Date- Subsection (b) shall take effect on the date of the enactment of this Act.	*(d) Effective Date- This section, and the amendments made by this section, shall take effect on the transfer date.*	
SEC. 1204. POWER AND DUTIES TRANSFERRED. (a) Director of the Office of Thrift Supervision- (1) TRANSFER OF FUNCTIONS- Except as otherwise provided in this subtitle, all functions of the Director of the Office of Thrift Supervision are transferred to the Office of the Comptroller of the Currency. (2) Comptroller'S AUTHORITY- Except as otherwise provided in this subtitle, the Comptroller of the Currency shall succeed to all powers, authorities, rights, and duties that were vested in the Director of the Office of Thrift Supervision under Federal law, including the Home Owners' Loan Act, on the day before the transfer date other than those powers, authorities, rights, and duties with respect to savings and loan holding companies and any affiliate of any such company (other than a savings association) as were vested in the Director of the Office of Thrift Supervision on such date. (3) FUNCTIONS RELATING TO SUPERVISION OF STATE SAVINGS ASSOCIATIONS- (A) TRANSFER OF FUNCTIONS- All functions of the Director of the Office of Thrift Supervision relating to the supervision and regulation of State savings associations are transferred to the Corporation. (B) Corporation'S AUTHORITY- The Corporation shall succeed to all powers, authorities, rights, and duties that were vested in the Director of the Office of Thrift Supervision under Federal law, including the Home Owners' Loan Act, on the day before the transfer date, relating to the supervision and regulation of State savings associations. (4) FUNCTIONS RELATING TO SUPERVISION OF SAVINGS AND LOAN HOLDING COMPANIES- (A) TRANSFER OF FUNCTIONS- All functions of the Director of the Office of Thrift Supervision relating to the supervision and regulation of Savings and Loan Holding Companies are transferred to the Board. (B) BOARD AUTHORITY- The Board shall succeed	***Subtitle A--Transfer of Powers and Duties*** ***SEC. 312. POWERS AND DUTIES TRANSFERRED.*** *(b) Functions of the Office of Thrift Supervision-* *(1) SAVINGS AND LOAN HOLDING COMPANY FUNCTIONS TRANSFERRED- There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to--* *(A) the supervision of--* *(i) any savings and loan holding company; and* *(ii) any subsidiary (other than a depository institution) of a savings and loan holding company; and* *(B) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.* *(2) ALL OTHER FUNCTIONS TRANSFERRED-* *(A) BOARD OF GOVERNORS- All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders and under section 5(q) of such Act relating to tying arrangements is transferred to the Board of Governors.* *(B) COMPTROLLER OF THE CURRENCY- Except as provided in paragraph (1) and subparagraph (A), there are transferred to the Comptroller of the Currency all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to*	

to all powers, authorities, rights, and duties that were vested in the Director of the Office of Thrift Supervision under Federal law, including the Home Owners' Loan Act, on the day before the transfer date, relating to the supervision and regulation of Savings and Loan Holding Companies.	*(C) CORPORATION- Except as provided in paragraph (1) and subparagraph (A), all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to State savings associations are transferred to the Corporation.* *(D) COMPTROLLER OF THE CURRENCY AND THE CORPORATION- Except as provided in paragraph (1) and subparagraph (A), all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings associations is transferred to the Office of the Comptroller of the Currency.*	
(b) Appropriate Federal Banking Agency- Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended in subsection (q)-- (1) by amending paragraph (1) to read as follows: `(1) the Comptroller of the Currency in the case of any national bank, Federal savings association or any Federal branch or agency of a foreign bank;'; (2) in paragraph (2)(E), by striking `and' at the end; (3) in paragraph (2)(F), by adding `and' at the end after the semicolon; (4) after paragraph (2)(F), by inserting the following new subparagraph: `(G) any savings and loan holding company and any subsidiary of a savings and loan holding company (other than a savings association); and'; (5) by amending paragraph (3) to read as follows: `(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank, a State savings association or a foreign bank having an insured branch.'; and (6) by striking paragraph (4).	*(c) Conforming Amendments-* *(1) FEDERAL DEPOSIT INSURANCE ACT- Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:* *`(1) the Office of the Comptroller of the Currency, in the case of--* *`(A) any national banking association;* *`(B) any Federal branch or agency of a foreign bank; and* *`(C) any Federal savings association;* *`(2) the Federal Deposit Insurance Corporation, in the case of--* *`(A) any insured State nonmember bank;* *`(B) any foreign bank having an insured branch; and* *`(C) any State savings association;* *`(3) the Board of Governors of the Federal Reserve System, in the case of--* *`(A) any State member bank;* *`(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;* *`(C) any foreign bank which does not operate an insured branch;* *`(D) any agency or commercial lending company other than a Federal agency;* *`(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;*	

	`(F) any bank holding company and any subsidiary (other than a depository institution) of a bank holding company; and* *`(G) any savings and loan holding company and any subsidiary (other than a depository institution) of a savings and loan holding company.'. *(2) FEDERAL DEPOSIT INSURANCE ACT-* *(A) APPLICATION- Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:* *`(3) Application to Bank Holding Companies, Savings and Loan Holding Companies, and Edge and Agreement Corporations-* *`(A) APPLICATION- This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 shall apply to--* *`(i) any bank holding company, and any subsidiary (other than a bank) of a bank holding company, as those terms are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the bank holding company was the appropriate Federal banking agency;* *`(ii) any savings and loan holding company, and any subsidiary (other than a depository institution) of a savings and loan holding company, as those terms are defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the savings and loan holding company was the appropriate Federal banking agency; and* *`(iii) any organization organized and operated under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.) or operating under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) and any noninsured State member bank, as if such organization or bank was a bank holding company.* *`(B) RULES OF CONSTRUCTION-* *`(i) EFFECT ON OTHER AUTHORITY- Nothing in this paragraph may be construed to alter or affect the authority of an appropriate Federal banking agency to initiate enforcement proceedings, issue directives, or take other remedial action under any other provision of*	

	`(ii) HOLDING COMPANIES- Nothing in this paragraph or subsection (c) may be construed as authorizing any Federal banking agency other than the appropriate Federal banking agency for a bank holding company or a savings and loan holding company to initiate enforcement proceedings, issue directives, or take other remedial action against a bank holding company, a savings and loan holding company, or any subsidiary thereof (other than a depository institution).'. *(B) CONFORMING AMENDMENT- Section 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(9)) is amended to read as follows:* *`(9) [Reserved].'.*	
(c) Transfer of Consumer Financial Protection Functions- Nothing in subsection (a) or (b) shall affect any transfer of consumer financial protection functions of the Comptroller of the Currency and the Director of the Office of Thrift Supervision to the Consumer Financial Protection Agency as provided in the Consumer Financial Protection Agency Act of 2009.	*(d) Consumer Protection- Nothing in this section may be construed to limit or otherwise affect the transfer of powers under title X.*	
(d) Effective Date- Subsections (a) and (b) shall become effective on the transfer date.	*(a) Effective Date- This section, and the amendments made by this section, shall take effect on the transfer date.*	
SEC. 1205. TRANSFER DATE. (a) In General- Except as provided in subsection (b), the date for the transfer of functions to the Office of the Comptroller of the Currency and the Corporation under section 1204 shall be 1 year after the date of enactment of this title. (b) Extension Permitted- (1) NOTICE REQUIRED- The Secretary, in consultation with the Comptroller of the Currency and the Director of the Office of Thrift Supervision, may designate a calendar date for the transfer of functions of the Office of Thrift Supervision to the Office of the Comptroller of the Currency, and the Corporation under section 1204 that is later than 1 year after the date of enactment of this title if the Secretary-- (A) transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives-- (i) a written determination that orderly implementation of this subtitle is not feasible on the date that is 1 year after the date of enactment of this subtitle;	***SEC. 311. TRANSFER DATE.*** *(a) Transfer Date- Except as provided in subsection (b), the term `transfer date' means the date that is 1 year after the date of enactment of this Act.* *(b) Extension Permitted-* *(1) NOTICE REQUIRED- The Secretary, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Corporation, may extend the period under subsection (a) and designate a transfer date that is not later than 18 months after the date of enactment of this Act, if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives--* *(A) a written determination that commencement of the orderly process to implement this title is not feasible by the date that is 1 year after the date of enactment of this Act;* *(B) an explanation of why an extension is necessary to commence the process of orderly implementation of*	

(ii) an explanation of why an extension is necessary for the orderly implementation of this subtitle; and (iii) a description of the steps that will be taken to effect an orderly and timely implementation of this subtitle within the extended time period; and (B) publishes notice of that designated later date in the Federal Register. (2) EXTENSION LIMITED- In no case shall any date designated under paragraph (1) be later than 18 months after the date of enactment of this subtitle. (3) EFFECT ON REFERENCES TO `TRANSFER DATE'- If the Secretary takes the actions provided in paragraph (1) for designating a date for the transfer of functions to the Office of the Comptroller of the Currency, and the Corporation under section 1204, references in this title to `transfer date' shall mean the date designated by the Secretary.	*this title;* *(C) the transfer date designated under this subsection; and* *(D) a description of the steps that will be taken to initiate the process of an orderly and timely implementation of this title within the extended time period.* *(2) PUBLICATION OF NOTICE- Not later than 270 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register notice of any transfer date designated under paragraph (1).*	
SEC. 1206. EXPIRATION OF TERM OF COMPTROLLER. (a) In General- Notwithstanding section 325 of the Revised Statutes of the United States, the term of the person serving as Comptroller on the date of the enactment of this title shall terminate as of such date. (b) Acting Comptroller- Subject to sections 3345, 3346, and 3347 of title 5, United States Code, the President may designate a person to serve as acting Comptroller and perform the functions and duties of the Comptroller until a Comptroller has been appointed and qualified in the manner established in section 325 of the Revised Statutes of the United States.		
SEC. 1207. OFFICE OF THRIFT SUPERVISION ABOLISHED. Effective 90 days after the transfer date, the position of Director of the Office of Thrift Supervision and the Office of Thrift Supervision are abolished.	***SEC. 313. ABOLISHMENT.*** *Effective 90 days after the transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.*	
SEC. 1208. SAVINGS PROVISIONS. (a) Office of Thrift Supervision- (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Sections 1204(a) and 1207 shall not affect the validity of any right, duty, or obligation of the United States, the	***SEC. 316. SAVINGS PROVISIONS.*** *(a) Office of Thrift Supervision-* *(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Sections 312(b) and 313 shall not affect the validity of any right, duty, or obligation of the United States, the*	

Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the transfer date. (2) CONTINUATION OF SUITS- This subtitle shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that-- (A) for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision transferred to the Comptroller of the Currency by this title, the Comptroller of the Currency or the Office of the Comptroller of the Currency shall be substituted for the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, as the case may be, as a party to the action or proceeding as of the transfer date; and (B) for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision transferred to the Corporation by this title, the Chairman of the Corporation shall be substituted for the Director of the Office of Thrift Supervision as a party to the action or proceeding as of the transfer date. (b) Continuation of Existing OTS Orders, Resolutions, Determinations, Agreements, Regulations, etc- All orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions that are transferred by this title and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, and shall be enforceable by or against-- (1) the Office of the Comptroller of the Currency, in the case of a function of the Director of the Office of Thrift Supervision transferred to the Comptroller of the Currency, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency, by any court of competent jurisdiction, or by operation of law; and (2) the Corporation, in the case of a function of the Director of the Office of Thrift Supervision transferred to the Corporation, until modified, terminated, set aside, or superseded in	*(2) CONTINUATION OF SUITS- This title shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that, for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision that is transferred to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors by this subtitle, the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors shall be substituted for the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, as appropriate, as a party to the action or proceeding as of the transfer date.* *(b) Continuation of Existing Orders, Resolutions, Determinations, Agreements, Regulations, and Other Materials- All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions of the Office of Thrift Supervision that are transferred by this subtitle and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those materials, and shall be enforceable by or against the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, by any court of competent jurisdiction, or by operation of law.* *(c) Identification of Regulations Continued-* *(1) BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY- Not later than the transfer date, the Office of the Comptroller of the Currency shall--* *(A) in consultation with the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Office of the Comptroller of the Currency; and*	

accordance with applicable law by the Corporation, by any court of competent jurisdiction, or by operation of law. (c) Continuation of Existing OTS Enforcement Actions- Any formal or informal enforcement action taken by the Director of the Office of Thrift Supervision with respect to a savings and loan holding company, a subsidiary of a savings and loan holding company (other than a savings association) or an institution-affiliated party of a savings and loan holding company or such a subsidiary, that is in effect on the day before the date of the enactment of this title shall continue to be effective and enforceable against such company, subsidiary, or institution-affiliated party after such date as if-- (1) such savings and loan holding company, or the savings and loan holding company related to such subsidiary or institution-affiliated party, had been a bank holding company on the effective date of the final enforcement action; and (2) the action had been taken by the Board, unless otherwise terminated or modified by the Board. (d) Identification of Regulations Continued- (1) BY OFFICE OF THE COMPTROLLER OF THE CURRENCY- Not later than the transfer date, the Comptroller of the Currency shall-- (A) after consultation with the Chairperson of the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Office of the Comptroller of the Currency; and (B) publish a list of such regulations in the Federal Register. (2) BY THE CORPORATION- Not later than the transfer date, the Corporation shall-- (A) after consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (b) that will be enforced by the Corporation; and (B) publish a list of such regulations in the Federal Register. (e) Status of Regulations Proposed or Not Yet Effective- (1) PROPOSED REGULATIONS- Any proposed regulation of the Office of Thrift Supervision, which that agency, in performing functions transferred by this title, has proposed before the transfer date but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency, or the Corporation, as appropriate, according to its terms. (2) REGULATIONS NOT YET EFFECTIVE- Any interim or	*(B) publish a list of such regulations in the Federal Register.* *(2) BY THE CORPORATION- Not later than the transfer date, the Corporation shall--* *(A) in consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (b) that will be enforced by the Corporation; and* *(B) publish a list of such regulations in the Federal Register.* *(3) BY THE BOARD OF GOVERNORS- Not later than the transfer date, the Board of Governors shall--* *(A) in consultation with the Office of the Comptroller of the Currency and the Corporation, identify the regulations continued under subsection (b) that will be enforced by the Board of Governors; and* *(B) publish a list of such regulations in the Federal Register.* *(d) Status of Regulations Proposed or Not Yet Effective-* *(1) PROPOSED REGULATIONS- Any proposed regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has proposed before the transfer date, but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.* *(2) REGULATIONS NOT YET EFFECTIVE- Any interim or final regulation of the Office of Thrift Supervision that the Office of Thrift Supervision, in performing functions transferred by this subtitle, has published before the transfer date, but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency or the Board of Governors, as appropriate, according to its terms.*	

final regulation of the Office of Thrift Supervision, which that agency, in performing functions transferred by this title, has published before the transfer date but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency, or the Corporation, as appropriate, according to its terms.		
	SEC. 315. FEDERAL INFORMATION POLICY. *Section 3502(5) of title 44, United States Code, is amended by inserting `Office of the Comptroller of the Currency,' after `the Securities and Exchange Commission,'.*	
	SEC. 317. REFERENCES IN FEDERAL LAW TO FEDERAL BANKING AGENCIES. *Except as provided in section 312(d)(2), on and after the transfer date, any reference in Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, in connection with any function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision transferred under section 312(b) or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors, as appropriate.*	
SEC. 1209. REGULATIONS AND ORDERS. In addition to any powers transferred to the Comptroller of the Currency by this title, the Comptroller of the Currency may prescribe such regulations and issue such orders as the Comptroller of the Currency determines to be appropriate to carry out this title and the powers and duties transferred to the Comptroller of the Currency by this title.		
SEC. 1210. COORDINATION OF TRANSITION ACTIVITIES. Before the transfer date, the Comptroller of the Currency shall-- (1) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Comptroller of the Currency; (2) determine and redetermine, from time to time-- (A) the amount of funds necessary to pay any expenses		

associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this title and ending on the transfer date; (B) what personnel are appropriate to facilitate the orderly transfer of functions by this title; and (C) what property and administrative services are necessary to support the Office of the Comptroller of the Currency during the period beginning on the date of enactment of this title and ending on the transfer date; and (3) take such actions as may be necessary to provide for the orderly implementation of this title.		
	TITLE III--TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS ***Subtitle B--Transitional Provisions***	
SEC. 1211. INTERIM RESPONSIBILITIES OF OFFICE OF THE COMPTROLLER OF THE CURRENCY AND OFFICE OF THRIFT SUPERVISION. (a) In General- When requested by the Comptroller of the Currency to do so before the transfer date, the Office of Thrift Supervision shall-- (1) pay to the Comptroller of the Currency, from funds obtained by the Office of Thrift Supervision through assessments, fees, or other charges that the Office of Thrift Supervision is authorized by law to impose, such amounts that the Comptroller of the Currency determines to be necessary under section 1210(2)(A); (2) detail to the Office of the Comptroller of the Currency such personnel as the Comptroller of the Currency determines to be appropriate under section 1210(2)(B); and (3) make available to the Office of the Comptroller of the Currency such property and provide the Office of the Comptroller of the Currency such administrative services as the Comptroller of the Currency determines to be necessary under section 1210(2)(C).	***SEC. 321. INTERIM USE OF FUNDS, PERSONNEL, AND PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.*** *(a) In General- Before the transfer date, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall--* *(1) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors in accordance with this title;* *(2) determine jointly, from time to time--* *(A) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the transfer date;* *(B) which personnel are appropriate to facilitate the orderly transfer of functions by this title; and* *(C) what property and administrative services are necessary to support the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors during the period beginning on the date of enactment of this Act and ending on the transfer date; and* *(3) take such actions as may be necessary to provide for the*	

	orderly implementation of this title.	
	(b) Agency Consultation- When requested jointly by the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors to do so before the transfer date, the Office of Thrift Supervision shall-- *(1) pay to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, from funds obtained by the Office of Thrift Supervision through assessments, fees, or other charges that the Office of Thrift Supervision is authorized by law to impose, such amounts as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a);* *(2) detail to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such personnel as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be appropriate under subsection (a); and* *(3) make available to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such property and provide to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such administrative services as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under subsection (a).*	
(b) Notice Required- The Comptroller of the Currency shall give the Office of Thrift Supervision reasonable prior notice of any request that the Office of the Comptroller of the Currency intends to make under subsection (a).	*(c) Notice Required- The Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall jointly give the Office of Thrift Supervision reasonable prior notice of any request that the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly intend to make under subsection (b).*	
SEC. 1212. EMPLOYEES TRANSFERRED. (a) In General- (1) OTS EMPLOYEES- (A) IN GENERAL- All employees of the Office of Thrift Supervision shall be transferred to either the Comptroller of the Currency or the Corporation for employment. (B) ALLOCATING EMPLOYEES FOR TRANSFER TO RECEIVING AGENCIES- The Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation shall--	***SEC. 322. TRANSFER OF EMPLOYEES.*** *(a) In General-* *(1) OFFICE OF THRIFT SUPERVISION EMPLOYEES-* *(A) IN GENERAL- All employees of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation for employment in accordance with this section.* *(B) ALLOCATING EMPLOYEES FOR TRANSFER TO RECEIVING AGENCIES- The Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation shall--* *(i) jointly determine the number of employees*	

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support-- (I) the functions of the Office of Thrift Supervision that are transferred to the Office of the Comptroller of the Currency by this title; and (II) the functions of the Office of Thrift Supervision that are transferred to the Corporation by this title; (ii) consistent with the numbers determined under clause (ii), jointly identify employees of the Office of Thrift Supervision for transfer to the Office of the Comptroller of the Currency or the Corporation in a manner that the Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation, in their discretion, deem equitable.	*of the Office of Thrift Supervision necessary to perform or support the functions that are transferred to the Office of the Comptroller of the Currency or the Corporation by this title; and* *(ii) consistent with the determination under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Office of the Comptroller of the Currency or the Corporation.*	
(2) TRANSFER OF EMPLOYEES PERFORMING CONSUMER FINANCIAL PROTECTION FUNCTIONS- Nothing in paragraph (1) shall affect the transfer of employees performing or supporting consumer financial protection functions of the Comptroller of the Currency and the Director of the Office of Thrift Supervision to the Consumer Financial Protection Agency as provided in the Consumer Financial Protection Agency Act of 2009.		
	(2) EMPLOYEES TRANSFERRED; SERVICE PERIODS CREDITED- For purposes of this section, periods of service with a Federal home loan bank, a joint office of Federal home loan banks, or a Federal reserve bank shall be credited as periods of service with a Federal agency.	
(3) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED- (A) IN GENERAL- In the case of employees occupying positions in the excepted service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).	*(3) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED-* *(A) IN GENERAL- Except as provided in subparagraph (B), any appointment authority of the Office of Thrift Supervision under Federal law that relates to the functions transferred under section 312, including the regulations of the Office of Personnel Management, for filling the positions of employees in*	

(B) DECLINING TRANSFERS ALLOWED- The Office of the Comptroller of the Currency and the Corporation may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.	*the excepted service shall be transferred to the Comptroller of the Currency or the Chairperson of the Corporation, as appropriate.* *(B) DECLINING TRANSFERS ALLOWED- The Office of the Comptroller of the Currency or the Chairperson of the Corporation may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed under that authority) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.*	
	(4) ADDITIONAL APPOINTMENT AUTHORITY- Notwithstanding any other provision of law, the Office of the Comptroller of the Currency and the Corporation may appoint transferred employees to positions in the Office of the Comptroller of the Currency or the Corporation, respectively.	
(b) Timing of Transfers and Position Assignments- Each employee to be transferred under this section shall-- (1) be transferred not later than 90 days after the transfer date; and (2) receive notice of his or her position assignment not later than 120 days after the effective date of his or her transfer.	*(b) Timing of Transfers and Position Assignments- Each employee to be transferred under subsection (a)(1) shall--* *(1) be transferred not later than 90 days after the transfer date; and* *(2) receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer of the employee.*	
(c) Transfer of Function- (1) IN GENERAL- Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code. (2) PRIORITY OF THIS SUBTITLE- If any provision of this subtitle conflicts with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this subtitle shall control.	*(c) Transfer of Functions-* *(1) IN GENERAL- Notwithstanding any other provision of law, the transfer of employees under this subtitle shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.* *(2) PRIORITY- If any provision of this subtitle conflicts with any protection provided to a transferred employee under section 3503 of title 5, United States Code, the provisions of this subtitle shall control.*	
(d) Employees' Status and Eligibility- The transfer of functions and employees under this title, and the abolition of the Office of Thrift Supervision, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.	*(d) Employee Status and Eligibility- The transfer of functions and employees under this subtitle, and the abolishment of the Office of Thrift Supervision under section 313, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.*	
(e) Equal Status and Tenure Positions- Each employee transferred from the Office of Thrift Supervision shall be placed in a position at either the Office of the Comptroller of the Currency or the Corporation with the	*(e) Equal Status and Tenure Positions-* *(1) STATUS AND TENURE- Each transferred employee from the Office of Thrift Supervision shall be placed in a position at*	

same status and tenure as he or she held on the day before the transfer date.	*(2) FUNCTIONS- To the extent practicable, each transferred employee shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.*	
(f) No Additional Certification Requirements- Examiners transferred to the Office of the Comptroller of the Currency or the Corporation shall not be subject to any additional certification requirements before being placed in a comparable examiner's position at the Office of the Comptroller of the Currency or the Corporation examining the same types of institutions as they examined before they were transferred.	*(f) No Additional Certification Requirements- An examiner who is a transferred employee shall not be subject to any additional certification requirements before being placed in a comparable position at the Office of the Comptroller of the Currency or the Corporation, if the examiner carries out examinations of the same type of institutions as an employee of the Office of the Comptroller of the Currency or the Corporation as the employee was responsible for carrying out before the date on which the employee was transferred.*	
(g) Personnel Actions Limited- (1) 3-year PROTECTION- (A) IN GENERAL- Except as provided in paragraph (2), each affected employee shall not, during the 3-year period beginning on the transfer date, be involuntarily separated, or involuntarily reassigned outside his or her locality pay area as defined by the Office of Personnel Management. (B) AFFECTED EMPLOYEES- For purposes of this paragraph, the term `affected employee' means-- (i) an employee transferred from the Office of Thrift Supervision holding a permanent position on the day before the transfer date; and (ii) an employee of the Office of the Comptroller of the Currency holding a permanent position on the day before the transfer date. (2) EXCEPTIONS- Paragraph (1) does not limit the right of the Office of the Comptroller of the Currency or the Corporation to-- (A) separate an employee for cause or for unacceptable performance; or	*(g) Personnel Actions Limited-* *(1) 2-year PROTECTION- Except as provided in paragraph (2), during the 2-year period beginning on the transfer date, an employee holding a permanent position on the day before the date on which the employee was transferred shall not be involuntarily separated or involuntarily reassigned outside the locality pay area (as defined by the Office of Personnel Management) of the employee.* *(2) EXCEPTIONS- The Comptroller of the Currency and the Chairperson of the Corporation, as applicable, may--* *(A) separate a transferred employee for cause, including for unacceptable performance; or* *(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.*	

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.		
(h) Pay- (1) 1-year PROTECTION- Except as provided in paragraph (2), each employee transferred from the Office of Thrift Supervision shall, during the 1-year period beginning on the transfer date, receive pay at a rate not less than the basic rate of pay (including any geographic differential) that the employee received during the 1-year period immediately before the transfer. (2) EXCEPTIONS- Paragraph (1) does not limit the right of the Office of the Comptroller of the Currency or the Corporation to reduce a transferred employee's rate of basic pay-- (A) for cause; (B) for unacceptable performance; or (C) with the employee's consent. (3) PROTECTION ONLY WHILE EMPLOYED- Paragraph (1) applies to a transferred employee only while that employee remains employed by the Office of the Comptroller of the Currency or the Corporation. (4) PAY INCREASES PERMITTED- Paragraph (1) does not limit the authority of the Office of the Comptroller of the Currency or the Corporation to increase a transferred employee's pay.	*(h) Pay-* *(1) 2-year PROTECTION- Except as provided in paragraph (2), during the 2-year period beginning on the date on which the employee was transferred under this subtitle, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred.* *(2) EXCEPTIONS- The Comptroller of the Currency or the Chairman of the Board of Governors may reduce the rate of basic pay of a transferred employee--* *(A) for cause, including for unacceptable performance; or* *(B) with the consent of the transferred employee.* *(3) PROTECTION ONLY WHILE EMPLOYED- This subsection shall apply to a transferred employee only during the period that the transferred employee remains employed by Office of the Comptroller of the Currency or the Corporation.* *(4) PAY INCREASES PERMITTED- Nothing in this subsection shall limit the authority of the Comptroller of the Currency or the Chairperson of the Corporation to increase the pay of a transferred employee.*	
(i) Benefits- (1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES- (A) IN GENERAL- (i) CONTINUATION OF EXISTING RETIREMENT PLAN- Each employee transferred from the Office of Thrift Supervision may remain enrolled in his or her existing retirement plan or plans as long as he or she remains employed by the Office of the Comptroller of the Currency or the Corporation. (ii) Employer'S CONTRIBUTION- The Office of the Comptroller of the Currency or the Corporation shall pay any employer	*(i) Benefits-* *(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES-* *(A) IN GENERAL-* *(i) CONTINUATION OF EXISTING RETIREMENT PLAN- Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by the Office of the Comptroller of the Currency or the Corporation.* *(ii) Employer's CONTRIBUTION- The Comptroller of the Currency or the Chairperson of the Corporation, as appropriate, shall pay any employer*	

contributions to the existing retirement plan of each employee transferred from the Office of Thrift Supervision as required under that plan. (B) DEFINITION- For purposes of this paragraph, the term `existing retirement plan' means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency from which the employee was transferred, which the employee was enrolled in on the day before the transfer date.	*(B) DEFINITION- In this paragraph, the term `existing retirement plan' means, with respect to a transferred employee, the retirement plan (including the Financial Institutions Retirement Fund), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.*	
(2) BENEFITS OTHER THAN RETIREMENT BENEFITS- (A) DURING 1ST YEAR- (i) EXISTING PLANS CONTINUE- Each transferred employee may, for 1 year after the transfer date, retain membership in any other employee benefit program of the Office of Thrift Supervision, including a dental, vision, long term care, or life insurance program, to which the employee belonged on the day before the transfer date. (ii) Employer'S CONTRIBUTION- The Office of the Comptroller of the Currency or the Corporation shall pay any employer cost in continuing to extend coverage in the benefit program to the employee as required under that program or negotiated agreements.	*(2) BENEFITS OTHER THAN RETIREMENT BENEFITS-* *(A) DURING FIRST YEAR-* *(i) EXISTING PLANS CONTINUE- During the 1-year period following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee was transferred under this title, including any dental, vision, long term care, or life insurance program to which the employee belonged on the day before the transfer date.* *(ii) Employer's CONTRIBUTION- The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements.*	
(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation decides not to continue participation in any dental, vision, or life insurance program of the Office of Thrift Supervision, an employee transferred from the Office of Thrift Supervision pursuant to this title who is a member of such a program may, before the decision of the Office of the Comptroller of the Currency or the Corporation takes effect, elect to enroll, without regard to any regularly scheduled open season, in--	*(B) DENTAL, VISION, OR LIFE INSURANCE AFTER FIRST YEAR- If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in--*	

(i) the enhanced dental benefits program established by chapter 89A of title 5, United States Code; (ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; and (iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.	*(i) the enhanced dental benefits program established under chapter 89A of title 5, United States Code;* *(ii) the enhanced vision benefits established under chapter 89B of title 5, United States Code; and* *(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.*	
(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation decides not to continue participation in any long term care insurance program of the Office of Thrift Supervision, an employee transferred from the Office of Thrift Supervision pursuant to this title who is a member of such a program may, before the decision of the Office of the Comptroller of the Currency or the Corporation takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in Part 875, title 5, Code of Federal Regulations).	*(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as appropriate, will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member, as described in part 875 of title 5, Code of Federal Regulations (or any successor thereto).*	
(D) Employee'S CONTRIBUTION- (i) IN GENERAL- Subject to clause (ii), an individual enrolled in the Federal Employees Health Benefits program under this subparagraph shall pay any employee contribution required by the plan. (ii) COST DIFFERENTIAL- The difference in costs between the benefits that the Office of Thrift Supervision is providing on the date of enactment of this title and the benefits provided by this section shall be paid by the Comptroller of the Currency or the Corporation. (iii) FUNDS TRANSFER- The Office of the Comptroller of the Currency or the Corporation shall transfer to the Federal	*(D) CONTRIBUTION OF TRANSFERRED EMPLOYEE-* *(i) IN GENERAL- Subject to clause (ii), a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution required under the plan.* *(ii) COST DIFFERENTIAL- The Office of the Comptroller of the Currency or the Corporation, as applicable, shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred on the date of enactment of this Act and the plan provided by the Office of the Comptroller of the Currency*	

Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency or the Corporation and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (i).	*(iii) FUNDS TRANSFER- The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i).*	
(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS- (i) IN GENERAL- An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by the Office of Thrift Supervision on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, without regard to any regularly scheduled open season and requirement of insurability. (ii) Employee'S CONTRIBUTION- (I) IN GENERAL- Subject to subclause (II), an individual enrolled in a life insurance plan under this clause shall pay any employee contribution required by the plan. (II) COST DIFFERENTIAL- The difference in costs between the benefits that the Office of Thrift	*(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS-* *(i) IN GENERAL- An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability.* *(ii) CONTRIBUTION OF TRANSFERRED EMPLOYEE-* *(I) IN GENERAL- Subject to subclause (II), a transferred employee enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.* *(II) COST DIFFERENTIAL- The*	

	Supervision is providing on the date of enactment of this title and the benefits provided by this section shall be paid by the Comptroller of the Currency or the Corporation. (III) FUNDS TRANSFER- The Office of the Comptroller of the Currency or the Corporation shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency or the Corporation and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under subclause (I). (IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For employees transferred under this section, enrollment in a life insurance plan administered by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Corporation immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.	*(III) FUNDS TRANSFER- The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Federal Employees' Group Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Federal Employees' Group Life Insurance Fund for the cost to the Federal Employees' Group Life Insurance Fund of providing benefits under this subparagraph not otherwise paid for by a transferred employee under subclause (I).* *(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.*	

	(j) Incorporation Into Agency Pay System- Not later than 2 years after the transfer date, the Comptroller of the Currency and the Chairperson of the Corporation shall place each transferred employee into the established pay system and structure of the appropriate employing agency.	
(j) Equitable Treatment- In administering the provisions of this section, the Office of the Comptroller of the Currency and the Corporation-- (1) shall take no action that would unfairly disadvantage transferred employees relative to other employees of the Office of the Comptroller of the Currency or the Corporation based on their prior employment by the Office of Thrift Supervision; (2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to those employees' status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time, for prior periods of service with any Federal agency; (3) shall, jointly with the Director of the Office of Thrift Supervision, develop and adopt procedures and safeguards designed to ensure that the requirements of this subsection are met; and (4) shall conduct a study detailing the position assignments of all employees transferred pursuant to subsection (a), describing the procedures and safeguards adopted pursuant to paragraph (3), and demonstrating that the requirements of this subsection have been met; and shall, not later than 365 days after the transfer date, submit a copy of such study to Congress.	*(k) Equitable Treatment- In administering the provisions of this section, the Comptroller of the Currency and the Chairperson of the Corporation--* *(1) may not take any action that would unfairly disadvantage a transferred employee relative to any other employee of the Office of the Comptroller of the Currency or the Corporation on the basis of prior employment by the Office of Thrift Supervision; and* *(2) may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time for prior periods of service with any Federal agency of the transferred employee.*	
	(l) Reorganization- *(1) IN GENERAL- If the Comptroller of the Currency or the Chairperson of the Corporation determines, during the 2-year period beginning 1 year after the transfer date, that a reorganization of the staff of the Office of the Comptroller of the Currency or the Corporation, respectively, is required, the reorganization shall be deemed a `major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.* *(2) SERVICE CREDIT- For purposes of this subsection, periods of service with a Federal home loan bank or a joint office of Federal home loan banks shall be credited as periods of service with a Federal agency.*	
SEC. 1213. PROPERTY TRANSFERRED.	***SEC. 323. PROPERTY TRANSFERRED.***	

(a) In General- Not later than 90 days after the transfer date, all property of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation, allocated in a manner consistent with section 1212(a).	*(b) Property of the Office of Thrift Supervision- Not later than 90 days after the transfer date, all property of the Office of Thrift Supervision that the Comptroller of the Currency and the Chairperson of the Corporation jointly determine is used, on the day before the transfer date, to perform or support the functions of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Corporation under this title, shall be transferred to the Office of the Comptroller of the Currency or the Corporation in a manner consistent with the transfer of employees under this subtitle.*	
(b) Contracts Related to Property Transferred- All contracts, agreements, leases, licenses, permits, and similar arrangements relating to property transferred to the Office of the Comptroller of the Currency or the Corporation by this section shall be transferred to the Office of the Comptroller of the Currency or the Corporation together with that property.	*(c) Contracts Related to Property Transferred- Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to the Office of the Comptroller of the Currency or the Corporation by this section shall be transferred to the Office of the Comptroller of the Currency or the Corporation, as appropriate, together with the property to which it relates.*	
(c) Preservation of Property- Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.	*(d) Preservation of Property- Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.*	
(d) Property Defined- For purposes of this section, the term `property' includes all real property (including leaseholds) and all personal property (including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers and correspondence related to such reports, and any other information or materials).	*(a) Property Defined- For purposes of this section, the term `property' includes all real property (including leaseholds) and all personal property, including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence related to such reports, and any other information or materials.*	
SEC. 1214. FUNDS TRANSFERRED. Except to the extent needed to dispose of affairs under section 1215, all funds that, on the day before the transfer date, are available to the Director of the Office of Thrift Supervision to pay the expenses of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation, allocated in a manner consistent with section 1212(a), on the transfer date.	***SEC. 324. FUNDS TRANSFERRED.*** *The funds that, on the day before the transfer date, the Director of the Office of Thrift Supervision (in consultation with the Comptroller of the Currency, the Chairperson of the Corporation, and the Chairman of the Board of Governors) determines are not necessary to dispose of the affairs of the Office of Thrift Supervision under section 325 and are available to the Office of Thrift Supervision to pay the expenses of the Office of Thrift Supervision--* *(1) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(B), shall be transferred to the Office of the Comptroller of the Currency on the transfer date;* *(2) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(C), shall be transferred to the Corporation on the transfer date; and* *(3) relating to the functions of the Office of Thrift Supervision*	

	transferred under section 312(b)(1)(A), shall be transferred to the Board of Governors on the transfer date.	
SEC. 1215. DISPOSITION OF AFFAIRS. (a) In General- During the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision-- (1) shall, solely for the purpose of winding up the affairs of the agency related to any function transferred to the Office of the Comptroller of the Currency or the Corporation by this subtitle-- (A) manage any employees of the Office of Thrift Supervision and provide for the payment of the compensation and benefits of any such employees that accrue before the transfer date; and (B) manage any property of the Office of Thrift Supervision until the property is transferred under section 1213; and (2) may take any other action necessary to wind up the affairs of the Office of Thrift Supervision relating to the transferred functions.	***SEC. 325. DISPOSITION OF AFFAIRS.*** *(a) Authority of Director- During the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision--* *(1) shall, solely for the purpose of winding up the affairs of the Office of Thrift Supervision relating to any function transferred to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors under this title--* *(A) manage the employees of the Office of Thrift Supervision who have not yet been transferred and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred under this title; and* *(B) manage any property of the Office of Thrift Supervision, until the date on which the property is transferred under section 323; and* *(2) may take any other action necessary to wind up the affairs of the Office of Thrift Supervision.*	
(b) Authority and Status of Director- (1) IN GENERAL- Notwithstanding the transfers of functions under this subtitle, the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, retain and may exercise any authority vested in the Director on the day before the transfer date that is necessary to carry out the requirements of this subtitle during that period. (2) OTHER PROVISIONS- For purposes of paragraph (1), the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, continue to be-- (A) treated as an officer of the United States; and (B) entitled to receive compensation at the same annual rate of basic pay that he or she was receiving on the day before the transfer date.	*(b) Status of Director-* *(1) IN GENERAL- Notwithstanding the transfer of functions under this subtitle, during the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision shall retain and may exercise any authority vested in the Director of the Office of Thrift Supervision on the day before the transfer date, only to the extent necessary--* *(A) to wind up the Office of Thrift Supervision; and* *(B) to carry out the transfer under this subtitle during such 90-day period.* *(2) OTHER PROVISIONS- For purposes of paragraph (1), the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, continue to be--* *(A) treated as an officer of the United States; and* *(B) entitled to receive compensation at the same annual rate of basic pay that the Director of the Office of Thrift Supervision received on the day before the transfer date.*	
SEC. 1216. CONTINUATION OF SERVICES.	***SEC. 326. CONTINUATION OF SERVICES.***	

Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to the Office of Thrift Supervision in connection with functions to be transferred to the Office of the Comptroller of the Currency or the Corporation, shall-- (1) continue to provide those services, subject to reimbursement, until the transfer of those functions is complete; and (2) consult with any such agency to coordinate and facilitate a prompt and orderly transition.	*Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to the Office of Thrift Supervision in connection with functions transferred to the Office of the Comptroller of the Currency, the Corporation or the Board of Governors under this title, shall--* *(1) continue to provide such services, subject to reimbursement by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, until the transfer of functions under this title is complete; and* *(2) consult with the Comptroller of the Currency, the Chairperson of the Corporation, or the Chairman of the Board of Governors, as appropriate, to coordinate and facilitate a prompt and orderly transition.*	
SEC. 1217. CONTRACTING AND LEASING AUTHORITY. In addition to any powers transferred to the Comptroller of the Currency by this subtitle, the Comptroller of the Currency may-- (1) enter into and perform contracts, execute instruments, and acquire in any lawful manner such goods and services, or real or personal property, or interest in property, as the Comptroller of the Currency determines to be necessary or convenient to carry out the duties and responsibilities of the Comptroller of the Currency; and (2) hold, maintain, sell, lease, or otherwise dispose of any real or personal property or interest in property without regard to title 40, United States Code, title III of the Federal Properties and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and other Federal laws of a similar type governing the procurement of goods and services or the acquisition or disposition of any property or interest in property by Federal agencies.	***SEC. 319. CONTRACTING AND LEASING AUTHORITY.*** *Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Office of the Comptroller of the Currency may--* *(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest) as the Comptroller deems necessary to carry out the duties and responsibilities of the Office of the Comptroller of the Currency; and* *(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).*	
SEC. 1218. TREATMENT OF SAVINGS AND LOAN HOLDING COMPANIES. Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended as follows: (1) In subsection (a)-- (A) in paragraph (1)(A), by striking `Director' and inserting `Board'; (B) in paragraph (1)(D), by striking clause (i) and inserting: `(i) In general- .		

`(i) IN GENERAL- Except as provided in clause (ii), the term `savings and loan holding company' means any company that directly or indirectly controls a savings association or that controls any company that is a savings and loan holding company, and that is either-- `(I) a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986; or `(II) a company that is, together with all of its affiliates on a consolidated basis, predominantly engaged in the business of insurance.'; (C) in paragraph (1)(F), by striking `Director' and inserting `Board'; (D) in paragraph (1), by inserting at the end the following new subparagraph: `(K) BOARD- The term `Board' means the Board of Governors of the Federal Reserve System.'. (E) in paragraph (2)(D), by striking `Director' and inserting `Board'; (F) in paragraph (3)(A), by striking `Director' and inserting `Board'; and (G) in paragraph (4), by striking `Director' and inserting `Board'. (2) In subsection (b), by striking `Director' each place it appears and inserting `Board'. (3) In subsection (c)-- (A) in paragraph, (2)(F)(i)-- (i) by striking `of Governors of the Federal Reserve System'; and (ii) by striking `Director' and inserting `Board'; (B) in paragraph (2)(G), by striking `Director' and inserting `Board'; (C) in paragraph (4)(A), by striking `Director' and inserting `Board'; (D) in paragraph (4)(B)-- (i) in the heading, by striking `director' and inserting `Board'; and (ii) by striking `the Director shall' and inserting `the Board shall'; (E) in paragraph (4)(C)-- (i) in the heading, by striking `director' and		

inserting `Board'; and (ii) by striking `the Director may' and inserting `the Board may'; (F) in paragraph (5), by striking `Director' and inserting `Board'; (G) in paragraph (6)(D)-- (i) in the heading, by striking `director' and inserting `Board'; and (ii) by striking `Director' each place it appears and inserting `Board'; (H) in paragraph (9)(A)(ii), by inserting `, but only if the conditions for engaging in expanded financial activities set forth in section 4(l) of the Bank Holding Company Act of 1956 have been met' after `1956'; and (I) in paragraph (9)(E), by striking `Director' each place it appears and inserting `Board'. (4) In subsection (e)-- (A) in paragraph (1)(A)-- (i) in clause (i), by striking `Director' and inserting `Board'; (ii) in clause (ii), by striking `Director' and inserting `Board'; (iii) in clause (iii), by striking `Director' each place it appears and inserting `Board'; and (iv) in clause (iv), by striking `Director' each place it appears and inserting `Board'; (B) in paragraph (1)(B), by striking `Director' each place it appears and inserting `Board'; (C) in paragraph (2), by striking `Director' each place it appears and inserting `Board'; (D) in paragraph (3), by striking `Director' and inserting `Board'; (E) in paragraph (4)(A), by striking `Director' and inserting `Board'; and (F) in paragraph (5), by striking `Director' each place it appears and inserting `Board'. (5) In subsection (f), by striking `Director' each place it appears and inserting `Board'. (6) In subsection (g), by striking `Director' each place it appears and inserting `Board'. (7) In subsection (h)-- (A) in paragraph (2), by striking `Director' and inserting `Board'; and (B) in paragraph (3), by striking `Director' and		

inserting `Board'. (8) In subsection (i)-- (A) in paragraph (1)(A), by striking `Director' and inserting `Board'; (B) in paragraph (2)(B), by striking `Director' and inserting `Board'; (C) in paragraph (2)(F), by striking `Director' and inserting `Board'; (D) in paragraph (3)(B), by striking `Director' and inserting `Board'; (E) in paragraph (3)(F), by striking `Director' and inserting `Board'; (F) in paragraph (4), by striking `Director' and inserting `Board'; and (G) in paragraph (5), by striking `Director' and inserting `Board'. (9) In subsection (j), by striking `Director' each place it appears and inserting `Board'. (10) In subsection (l)-- (A) in paragraph (1), by striking `Director' and inserting `Board, in consultation with the Comptroller of the Currency,'; and (B) in paragraph (2), by striking `Director' and inserting `Board, in consultation with the Comptroller of the Currency,'. (11) In subsection (m)-- (A) in paragraph (2), by striking `Director' and inserting `Comptroller'; (B) in paragraph (2), by striking `Director may grant' and inserting `Comptroller of the Currency may grant'; (C) in paragraph (2), by striking `the Director deems' and inserting `the Comptroller deems'; (D) in paragraph (2)(A), by striking `Director' and inserting `Comptroller'; (E) in paragraph (2)(B), by striking `Director' and inserting `Comptroller'; (F) in paragraph (2)(B)(iii), by striking `Director' and inserting `Comptroller'; (G) by striking subparagraph (A) of paragraph (3) and inserting the following new subparagraph: `(A) IN GENERAL- A savings association that fails to become or remain a qualified thrift lender shall-- `(i) immediately be subject to the restrictions in subparagraph (B); and		

`(ii) become one or more banks (other than a savings bank) within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, except as provided in subparagraph (C)(i).'; (H) by striking subclause (III) of paragraph (3)(B)(i) and inserting the following new subclause: `(III) DIVIDENDS- The savings association shall be prohibited from paying dividends except for such dividends--  `(aa) as would be permissible for a national bank; `(bb) that are necessary to meet obligations of a company that controls such savings association; and  `(cc) that are specifically approved by the Comptroller and the Board of Governors after prior written request of at least 30 days to the Comptroller and the Board of Governors.'; (I) by striking clause (ii) of paragraph (3)(B); (J) by striking subparagraphs (C) and (D) of paragraph (3) and inserting the following new subparagraphs: `(C) REGULATORY AUTHORITY- A savings association that fails to become or remain a qualified thrift lender shall be deemed to have violated section 5 of the Home Owners' Loan Act and subject to actions authorized by section 5(d) of the Home Owners' Loan Act. `(D) REQUALIFICATIONS- `(i) A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (A)(ii) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on a monthly average basis in 9 out of the preceding 12 months and remains a qualified thrift lender. `(ii) If the savings association referred to in clause (i) (or any savings association that		

acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender it shall immediately be subject to subparagraph (A)(ii) as if the 1-year time period provided for in subparagraph (A)(ii) already has expired, and as if the exception in clause (i) was not applicable or available to such savings association.'; (K) in paragraph (4)(D) by striking `Director' and inserting `Comptroller'; (L) in paragraph (4)(E) by striking `Director' and inserting `Comptroller'; and (M) in paragraph (7)(B) by striking `Director' and inserting `Comptroller'. (12) In subsection (o)-- (A) in paragraph (3) in the heading by striking `DIRECTOR' and inserting `BOARD'; (B) in paragraph (3)(A) by striking `Director' and inserting `Board'; (C) in paragraph (3)(B) by striking `Director' and inserting `Board'; (D) in paragraph (3)(C) by striking `Director' and inserting `Board'; (E) in paragraph (3)(D) by striking `Director' and inserting `Comptroller'; (F) in paragraph (5)(E), by striking `activities described in subsection (c)(2) or (c)(9)(A)(ii)' and inserting `activities otherwise permissible for the company pursuant to, and in accordance with, section 4 of the Bank Holding Company Act of 1956'; (G) in paragraph (7) by striking `chartered by the Director' and inserting `chartered by the Comptroller'; and (H) in paragraph (7) by striking `regulations as the Director may' and inserting `regulations as the Board may'. (13) In subsections (p), (q), (r), and (s), by striking `Director' each place it appears and inserting `Board'.		
SEC. 1219. PRACTICES OF CERTAIN MUTUAL THRIFT HOLDING COMPANIES PRESERVED. (a) Treatment of Dividends by Certain Mutual Holding Companies-		

Section 3(g) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)) is amended by adding at the end the following new paragraphs: `(3) DECLARATION OF DIVIDENDS- Every subsidiary savings association of a mutual holding company shall give the Board not less than 30 days advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Board. Any such dividend declared within such period, or without the giving of such notice to the Board, shall be invalid and shall confer no rights or benefits upon the holder of any such stock. `(4) WAIVER OF DIVIDENDS- Any mutual thrift holding company organized under section 10(b) of the Home Owners' Loan Act shall be permitted to waive such company's right to receive any dividend declared by a subsidiary, if-- `(A) no insider of the mutual holding company, associate of an insider, or tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company holds any share of the stock in the class of stock to which the waiver would apply; or `(B) the mutual holding company provides the Board with written notice of its intent to waive its right to receive dividends 30 days prior to the proposed date of payment of the dividend and the Board does not object. `(5) STANDARDS FOR WAIVER OF DIVIDEND- The Board shall not object to a notice of intent to waive dividends under paragraph (4) if-- `(A) the waiver would not be detrimental to the safe and sound operation of the savings association; and `(B) the board of directors of the mutual holding company expressly determines that a waiver of the dividend by the mutual holding company is consistent with the directors' fiduciary duties to the mutual members of such company. `(6) RESOLUTION INCLUDED IN WAIVER NOTICE- A dividend waiver notice shall include a copy of the resolution of the board of directors of the mutual holding company, in form and substance satisfactory to the Board, together with any supporting materials relied upon by the board of directors, concluding that the proposed dividend waiver is consistent with the board of director's fiduciary duties to the mutual members of the mutual holding company. `(7) VALUATION-		

`(A) IN GENERAL- The Board shall consider waived dividends in determining an appropriate exchange ratio in the event of a full conversion to stock form. `(B) EXCEPTION- In the case of a savings association which has reorganized into a mutual thrift holding company under section 10(b) of the Home Owners' Loan Act and has issued minority stock either from its mid-tier stock holding company or its subsidiary stock savings association prior to December 1, 2009, the Board shall not consider waived dividends in determining an appropriate exchange ratio in the event of a full conversion to stock form.'.		
SEC. 1220. IMPLEMENTATION PLAN AND REPORTS. (a) Plan Submission- Within 90 days of the enactment of the Financial Stability Improvement Act of 2009, the Secretary and the Corporation, in consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, shall jointly submit a plan to the Congress and the Inspectors General of the Department of the Treasury and of the Corporation detailing the steps the Secretary, the Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision will take to implement the provisions of sections 1201 through 1216, and the provisions of the amendments made by such sections. (b) Inspectors General Review of the Plan- Within 60 days of the date on which the Congress receives the plan required under subsection (a), the Inspectors General of the Department of the Treasury and of the Corporation shall jointly provide a written report to the Secretary and the Corporation and shall submit a copy to the Congress detailing whether the plan conforms with the intent of the provisions of sections 1201 through 1216, and the provisions of the amendments made by such sections, including-- (1) whether the plan sufficiently takes into consideration the orderly transfer of personnel; (2) whether the plan describes procedures and safeguards to ensure that the Office of Thrift Supervision employees are not unfairly disadvantaged relative to employees of the Office of the Comptroller of the Currency and the Corporation; (3) whether the plan sufficiently takes into consideration the orderly transfer of authority and responsibilities; (4) whether the plan sufficiently takes into consideration the effective transfer of funds; (5) whether the plan sufficiently takes in consideration the orderly transfer of property; and		

(6) any additional recommendations for an orderly and effective process. (c) Implementation Reports- Not later than 6 months after the date on which the Congress receives the report required under subsection (b), and every 6 months thereafter until all aspects of the plan have been implemented, the Inspectors General of the Department of the Treasury and the Corporation shall jointly provide a written report on the status of the implementation of the plan to the Secretary and the Corporation and shall submit a copy to the Congress.		
SEC. 1221. COMPOSITION OF BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION. Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended-- (1) in subsection (a)(1)-- (A) in subparagraph (B), by striking `Director of the Office of Thrift Supervision' and inserting `Chairman of the Board of Governors of the Federal Reserve System, or such other member of the Board of Governors as the Chairman of the Board of Governors shall designate'; (2) by amending subsection (d)(2) to read as follows: `(2) ACTING OFFICIALS MAY SERVE- In the event of a vacancy in the office of the Comptroller of the Currency and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency, the acting Comptroller of the Currency shall be a member of the Board of Directors in the place of the Comptroller of the Currency.'; and (3) in subsection (f)(2), by striking `or of the Office of Thrift Supervision'.		
SEC. 1222. AMENDMENTS TO SECTION 3. Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended-- (1) in subsection (b)(1)(C) (relating to the definition of the term `savings association'), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (2) in subsection (l)(5) (relating to the definition of the term `deposit'), in the introductory text, by striking `Director of the Office of Thrift Supervision,'; and (3) in subsection (z) (relating to the definition of the term		

`Federal banking agency'), by striking `the Director of the Office of Thrift Supervision,'.		
SEC. 1223. AMENDMENTS TO SECTION 7. Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended-- (1) in paragraph (2)(A)-- (A) in the first sentence, by striking `the Director of the Office of Thrift Supervision'; (B) in the second sentence, by striking `the Director of the Office of Thrift Supervision,'; (2) in paragraph (3), in the first sentence, by striking `, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency and the Chairman of the Board of Governors of the Federal Reserve System'; and (3) in paragraph (7), by striking `, the Director of the Office of Thrift Supervision,'.		
SEC. 1224. AMENDMENTS TO SECTION 8. Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended-- (1) in subsection (a)(8)(B)(ii), in the last sentence-- (A) by striking `Director of the Office of Thrift Supervision' each place it appears and inserting `Comptroller of the Currency'; and (B) by inserting `the Office of Thrift Supervision, as a successor to' after `as a successor to'; (2) in subsection (o), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (3) in subsection (w)(3)(A), by striking `Office of Thrift Supervision' and inserting `Office of the Comptroller of the Currency'. **SEC. 1225. AMENDMENTS TO SECTION 11.** Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended-- (1) in subsection (c)(6)-- (A) in the heading, by striking `DIRECTOR OF THE		

OFFICE OF THRIFT SUPERVISION' and inserting `COMPTROLLER OF THE CURRENCY'; (B) in subparagraph (A), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (C) in subparagraph (B), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (2) in subsection (d)-- (A) in paragraph (17)(A)-- (i) by striking `, or the Director of the Office of Thrift Supervision'; and (ii) by striking `appropriate'; and (B) in paragraph (18)(B), by striking `or the Director of the Office of Thrift Supervision'; and (3) in subsection (n)-- (A) in paragraph (1)(A), by striking `the Director of the Office of Thrift Supervision, with respect to 1 or more insured'; (B) in paragraph (2)(A), by striking `the Director of the Office of Thrift Supervision'; (C) in paragraph (4)(D), by striking `and the Director of the Office of Thrift Supervision, as appropriate,'; (D) in paragraph (4)(G), by striking `and the Director of the Office of Thrift Supervision, as appropriate,'; and (E) in paragraph (12)(B), by striking `or the Director of the Office of Thrift Supervision, as appropriate,'.		
SEC. 1226. AMENDMENTS TO SECTION 13. Section 13(k)(1)(A)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)(1)(A)(iv)) is amended by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'.		
SEC. 1227. AMENDMENTS TO SECTION 18. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended-- (1) in subsection (c)(2)-- (A) in subparagraph (A), by striking `bank;' and inserting `bank or a savings association; and'; (B) in subparagraph (B), by inserting `and' at the end		

after the semicolon; (C) in subparagraph (C), by striking `bank (except a savings bank supervised by the Director of the Office of Thrift Supervision); and' and inserting `bank or State savings association.'; and (D) by striking subparagraph (D); (2) in subsection (i)(2)-- (A) by striking subparagraph (B) and inserting the following new subparagraph: `(B) the Corporation, if the resulting institution is to be a State nonmember insured bank or insured State savings association.'; and (B) by striking subparagraph (C); and (3) in subsection (m)-- (A) in paragraph (1)-- (i) in subparagraph (A), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (ii) in subparagraph (B), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (B) in paragraph (2)-- (i) in subparagraph (A), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (ii) in subparagraph (B)-- (I) by striking `Director of the Office of Thrift Supervision' each place it appears and inserting `Comptroller of the Currency'; and (II) by striking `Director may deem appropriate' and inserting `Comptroller may deem appropriate'; and (C) in paragraph (3)-- (i) in subparagraph (A), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (ii) in subparagraph (B), by striking `Office of Thrift Supervision' and inserting `Comptroller of the Currency'.		
SEC. 1228. AMENDMENTS TO SECTION 28.		

Section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended-- (1) in subsection (e)-- (A) in paragraph (2)-- (i) in subparagraph (A)(ii), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (ii) in subparagraph (C), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (iii) in subparagraph (F), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (B) in paragraph (3)-- (i) in subparagraph (A), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (ii) in subparagraph (B), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (2) in subsection (h)(2), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'.		
SEC. 1229. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982. (a) Amendments to Section 802- Section 802(a)(3) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801(a)(3)) is amended-- (1) by striking `Comptroller of the Currency,' and inserting `Comptroller of the Currency and'; and (2) by striking `, and the Director of the Office of Thrift Supervision'. (b) Amendments to Section 804- Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803(a)) is amended-- (1) by amending paragraph (1) to read as follows: `(1) with respect to banks, savings associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as prescribed by the Comptroller of the Currency to the extent that such regulations are authorized by rulemaking authority granted to the Comptroller of the Currency under laws other than this section; and';		

(2) in paragraph (2), by striking `; and' and inserting a period; and (3) by striking paragraph (3).		
SEC. 1230. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956. Section 4(f)(12)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(12)(A)) is amended striking `the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or' and inserting `the Federal Deposit Insurance Corporation or'.		
SEC. 1231. AMENDMENTS TO THE BANK PROTECTION ACT OF 1968. Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended-- (1) in paragraph (1), by striking `national banks,' and inserting `national banks and federal savings associations,'; (2) in paragraph (2), by inserting `and' at the end; (3) in paragraph (3), by striking `, and' and inserting a period; and (4) by striking paragraph (4).		
SEC. 1232. AMENDMENTS TO THE BANK SERVICE COMPANY ACT. Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended-- (1) in paragraph (4), by striking `insured bank,' and inserting `insured bank or'; (2) by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (3) by striking `, the Federal Savings and Loan Insurance Corporation,'.		
SEC. 1233. AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT OF 1977. Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended-- (1) in paragraph (1)-- (A) in subparagraph (A), by striking `national banks' and inserting `national banks or savings associations (the deposits of which are insured by the Federal		

Deposit Insurance Corporation)'; and (B) in subparagraph (B), by striking `and bank holding companies;' and inserting `, bank holding companies and savings and loan holding companies;'; and (2) by striking the first paragraph (2) (relating to section 8 of the Federal Deposit Insurance Act).		
SEC. 1234. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT. (a) Amendment to Section 207- Section 207 of the Depository Institution Management Interlocks Act (12 U.S.C. 3206) is amended-- (1) in paragraph (1), by striking `national banks,' and inserting `national banks and Federal savings associations (the deposits of which are insured by the Federal Deposit Insurance Corporation),'; (2) in paragraph (2), by striking `and bank holding companies,' and inserting `, bank holding companies, and savings and loan holding companies,'; (3) by striking paragraph (4); and (4) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively. (b) Amendment to Section 209- Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended-- (1) in paragraph (1), by striking `national banks,' and inserting `national banks and Federal savings associations (the deposits of which are insured by the Federal Deposit Insurance Corporation),'; (2) in paragraph (2), by striking `and bank holding companies,' and inserting `, bank holding companies, and savings and loan holding companies,'; (3) at the end of paragraph (3), by inserting `and' after the comma; (4) by striking paragraph (4); and (5) by redesignating paragraph (5) as paragraph (4). (c) Amendment to Section 210- Subsection 210(a) of the Depository Institution Management Interlocks Act (12 U.S.C. 3208(a)) is amended-- (1) by striking `his' and inserting `the'; and (2) by inserting `of the Attorney General' after `enforcement functions'.		
SEC. 1235. AMENDMENTS TO THE EMERGENCY HOMEOWNERS'		

RELIEF ACT. Section 110 of the Emergency Homeowners' Relief Act (12 U.S.C. 2709) is amended-- (1) by striking the `Federal Home Loan Bank Board' and inserting `Federal Housing Finance Agency'; and (2) by striking `the Federal Savings and Loan Insurance Corporation,'.		
SEC. 1236. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT. Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended-- (1) in paragraph (1)(A), by striking `and Federal branches and Federal agencies of foreign banks,' and inserting `Federal branches and Federal agencies of foreign banks, or a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation,'; (2) by striking paragraph (2); and (3) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8).		
SEC. 1237. AMENDMENTS TO THE FEDERAL CREDIT UNION ACT. (a) Amendments to Section 206- Section 206(g)(7) of the Federal Credit Union Act (12 U.S.C. 1786(g)(7)) is amended-- (1) in subparagraph (A)-- (A) in clause (v), by inserting `and' after the semicolon; (B) in clause (vi)-- (i) by striking `Federal Housing Finance Board' and inserting `Federal Housing Finance Agency'; and (ii) by striking `; and' and inserting a period; and (C) by striking clause (vii); and (2) in subparagraph (D)-- (A) in clause (iii), by inserting `and' after the semicolon; (B) in clause (iv), by striking `; and' and inserting a period; and (C) by striking clause (v).		

SEC. 1238. AMENDMENTS TO THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978. (a) Amendment to Section 1002- Section 1002 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301) is amended by striking `Federal Home Loan Bank Board' and inserting `Federal Housing Finance Agency'. (b) Amendment to Section 1003- Section 1003(1) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302(1)) is amended by striking `the Office of Thrift Supervision,'. (c) Amendments to Section 1004- Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended-- (1) by striking paragraph (4); and (2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.		
SEC. 1239. AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT. (a) Amendments to Section 18- Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended-- (1) by striking `Director of the Office of Thrift Supervision' each place it appears and inserting `Comptroller of the Currency'; (2) in paragraph (1)(B), by striking `and the agencies under its administration or supervision'; and (3) in paragraph (5), by striking `and such agencies'. (b) Repeal of Section 21A- Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is hereby repealed.		
SEC. 1240. AMENDMENTS TO THE FEDERAL RESERVE ACT. Section 19(b) of the Federal Reserve Act (12 U.S.C. 461) is amended-- (1) in paragraph (1)(F), by striking `the Director of the Office of Thrift Supervision' and inserting `the Comptroller of the Currency'; and (2) in paragraph (4)(B), by striking `the Director of the Office of Thrift Supervision' and inserting `the Comptroller of the Currency'.		
SEC. 1241. AMENDMENTS TO THE FINANCIAL INSTITUTIONS		

REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989. (a) Amendments to Section 302- Section 302(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'. (b) Amendment to Section 305- Section 305(b)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'. (c) Amendment to Section 308- Section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note) is amended by striking `Director of the Office of Supervision' and inserting `Comptroller of the Currency'. (d) Amendments to Section 402- Section 402 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1437 note) is amended-- (1) in subsection (a), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; (2) in subsection (b), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (3) in subsection (e)-- (A) in paragraph (1), by striking `Office of Thrift Supervision' and inserting `Office of the Comptroller of the Currency'; (B) in paragraph (2), by striking `Director of the Office of Thrift Supervision' each place it appears and inserting `Comptroller of the Currency'; (C) in paragraph (3), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'; and (D) in paragraph (4), by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'. (e) Amendment to Section 1103- Section 1103(a)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)(2)) is amended by striking `and the Resolution Trust Corporation'. (f) Amendments to Section 1205- Subsection 1205(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended-- (1) in paragraph (1)-- (A) in subparagraph (B), by striking `Director of the Office of Thrift Supervision, or the Director's designee'		

and inserting `Comptroller of the Currency, or the Comptroller's designee'; (B) by striking subparagraph (D); and (C) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; (2) in paragraph (2), by striking `paragraph (1)(F)' and inserting `paragraph (1)(E)'; (3) in paragraph (3), by striking `paragraph (1)(F)' and inserting `paragraph (1)(E)'; and (4) in paragraph (5), by striking `through (E)' and inserting `through (D)'. (g) Amendments to Section 1206- Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended-- (1) by striking `the Oversight Board of the Resolution Trust Corporation' and inserting `and'; and (2) by striking `, and the Office of Thrift Supervision,'. (h) Amendments to Section 1216- Section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833e) is amended-- (1) in subsection (a)-- (A) by striking paragraphs (2), (5), and (6); (B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and (C) in paragraph (2) (as redesignated), by adding `and' at the end; (2) in subsection (c)-- (A) by striking `the Director of the Office of Thrift Supervision,' and inserting `and'; and (B) by striking `, the Oversight Board of the Resolution Trust Corporation, and the Resolution Trust Corporation'; and (3) in subsection (d)-- (A) by striking paragraphs (3), (5), and (6); and (B) by redesignating paragraphs (4), (7), and (8) as paragraphs (3), (4), and (5), respectively.		
SEC. 1242. AMENDMENTS TO THE HOUSING ACT OF 1948. Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended in the introductory text by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'.		
SEC. 1243. AMENDMENTS TO THE HOUSING AND COMMUNITY		

DEVELOPMENT ACT OF 1992 AND THE FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992. (a) Amendments to Section 543 of the Housing and Community Development Act of 1992- Section 543 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended-- (1) in subsection (c)(1)-- (A) by striking subparagraphs (D) through (F); and (B) by redesignating subparagraphs (G) and (H) as subparagraphs (D) and (E), respectively; and (2) in subsection (f)-- (A) in paragraph (2)-- (i) by striking `the Office of Thrift Supervision,'; and (ii) in subparagraph (D), by striking `the Office of Thrift Supervision,'; and (B) in paragraph (3)-- (i) by striking `the Office of Thrift Supervision,'; and (ii) in subparagraph (D), by striking `Office of Thrift Supervision,' and inserting `Comptroller of the Currency,'. (b) Amendment to Section 1315 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992- Section 1315(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4515(b)) is amended by striking `the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.' and inserting `and the Federal Deposit Insurance Corporation.'. (c) Amendment to Section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992- Section 1317(c) of the of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517(c)) is amended by striking `the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision' and inserting `or the Federal Deposit Insurance Corporation'.		
SEC. 1244. AMENDMENT TO THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983. Section 469 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701p-1) is amended in the first sentence by striking `Federal Home Loan Bank Board' and inserting `Federal Housing Finance Agency'.		

SEC. 1245. AMENDMENTS TO THE NATIONAL HOUSING ACT. Section 202(f) of the National Housing Act is amended-- (1) by amending paragraph (5) to read as follows: `(5) if the mortgagee is a national bank, a subsidiary or affiliate of such a bank, a Federal savings association or a subsidiary or affiliate of a savings association, the Comptroller of the Currency;'; (2) in paragraph (6), by adding `and' at the end; (3) in paragraph (7)-- (A) by inserting `or State savings association' after `State bank'; and (B) by striking `; and' and inserting a period; and (4) by striking paragraph (8).		
SEC. 1246. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978. Section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7)) is amended by striking subparagraph (B).		
SEC. 1247. AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985. (a) Amendments to Section 255- Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by striking `Office of Thrift Supervision (20-4108-0-3-373);'. (b) Amendments to Section 256- Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(h)(4)) is amended-- (1) by striking subparagraphs (C) and (G); and (2) by redesignating subparagraphs (D), (E), (F), and (H) as subparagraphs (C) through (G), respectively.		
SEC. 1248. AMENDMENTS TO THE CRIME CONTROL ACT OF 1990. (a) Amendments to Section 2539- Section 2539(c)(2) of the Crime Control Act of 1990 (Public Law 101-647) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) through (G), respectively. (b) Amendment to Section 2554- Section 2554(b)(2) of the Crime		

Control Act of 1990 (Public Law 101-647) is amended by striking `Director of the Office of Thrift Supervision' and inserting `Comptroller of the Currency'.		
SEC. 1249. AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973. Section 3(a)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)(5)) is amended by striking `the Office of Thrift Supervision,'.		
SEC. 1250. AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940. Section 6(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(3)) is amended by striking `Federal Savings and Loan Insurance Corporation' and inserting `Comptroller of the Currency'.		
SEC. 1251. AMENDMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION ACT. Section 606(c)(3) of the Neighborhood Reinvestment Corporation Act is amended by striking `Federal Home Loan Bank Board' and inserting `Federal Housing Finance Agency'.		
SEC. 1252. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934. (a) Amendments to Section 3- Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended-- (1) in subparagraph (A)-- (A) in clause (i), by striking `bank;' and inserting `bank, or a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding;'; (B) in clause (iii), by adding `and' at the end; (C) by striking clause (iv); and (D) by redesignating clause (v) as clause (iv); (2) in subparagraph (B)-- (A) in clause (i), by striking `bank;' and inserting `bank, or a savings association (as defined in section		

3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding;'; (B) in clause (iii), by adding `and' at the end; (C) by striking clause (iv); and (D) by redesignating clause (v) as clause (iv); (3) in subparagraph (C)-- (A) in clause (i), by striking `bank;' and inserting `bank, or a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding;'; (B) in clause (iii), by adding `and' at the end; (C) by striking clause (iv); and (D) by redesignating clause (v) as clause (iv); and (4) in subparagraph (F)-- (A) in clause (i), by striking `bank;' and inserting `or a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (b))), the deposits of which are insured by the Federal Deposit Insurance Corporation;'; (B) by striking clause (ii); and (C) redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii) and (iv), respectively. (b) Amendments to Section 15C- Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended in subsection (g)(1) by striking `the Director of the Office of Thrift Supervision, the Federal Savings and Loan Insurance Corporation,'.		
SEC. 1253. AMENDMENTS TO TITLE 18, UNITED STATES CODE. (a) Amendment to Section 212- Section 212(c)(2) of title 18, United States Code, is amended-- (1) by striking subparagraph (C); and (2) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively. (b) Amendment to Section 657- Section 657 of title 18, United States Code, is amended by striking `Office of Thrift Supervision, the Resolution Trust Corporation,'. (c) Amendment to Section 981- Section 981(a)(1)(D) of title 18, United		

States Code, is amended-- (1) by striking `the Resolution Trust Corporation,'; and (2) by striking `or the Office of Thrift Supervision'. (d) Amendment to Section 982- Section 982(a)(3) of title 18, United States Code, is amended-- (1) by striking `the Resolution Trust Corporation,'; and (2) by striking `or the Office of Thrift Supervision'. (e) Amendment to Section 1006- Section 1006 of title 18, United States Code, is amended-- (1) by striking `Office of Thrift Supervision,'; and (2) by striking `the Resolution Trust Corporation,'. (f) Amendment to Section 1014- Section 1014 of title 18, United States Code, is amended-- (1) by striking `the Office of Thrift Supervision,'; and (2) by striking `the Resolution Trust Corporation,'. (g) Amendment to Section 1032- Section 1032(1) of title 18, United States Code, is amended-- (1) by striking `the Resolution Trust Corporation,'; and (2) by striking `or the Director of the Office of Thrift Supervision'.		
SEC. 1254. AMENDMENTS TO TITLE 31, UNITED STATES CODE. (a) Amendment to Section 309- Section 309 of title 31, United States Code, is amended to read as follows: **`Sec. 309. Division of Thrift Supervision** `The Division of Thrift Supervision established under section 3(a) of the Home Owners' Loan Act shall be a division in the Office of the Comptroller of the Currency.'. (b) Amendments to Section 321- Section 321 of title 31, United States Code, is amended-- (1) in subsection (c)-- (A) in paragraph (1), by adding `and' at the end; (B) in paragraph (2), by striking `; and' and inserting a period; and (C) by striking paragraph (3); and (2) by striking subsection (e). (c) Amendments to Section 714- Section 714 of title 31, United States Code, is amended-- (1) in subsection (a), by striking `the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.' and inserting `and the Office of the Comptroller of the Currency.';		

(2) in subsection (b), by striking all after `has consented in writing.' and inserting the following: `Audits of the Federal Reserve Board and Federal reserve banks shall not include unreleased transcripts or minutes of meetings of the Board of Governors or of the Federal Open Market Committee. To the extent that an audit deals with individual market actions, records related to such actions shall only be released by the Comptroller General after 180 days have elapsed following the effective date of such actions.';

(3) in subsection (c)(1), in the first sentence, by striking `subsection,' and inserting `subsection or in the audits or audit reports referring or relating to the Federal Reserve Board or Reserve Banks,'; and

(4) by adding at the end the following:

`(f) Audit and Report of the Federal Reserve System-

`(1) IN GENERAL- An audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed within 12 months of the enactment of the Financial Stability Improvement Act of 2009.

`(2) REPORT-

`(A) REQUIRED- A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to--

`(i) the Speaker of the House of Representatives;

`(ii) the majority and minority leaders of the House of Representatives;

`(iii) the majority and minority leaders of the Senate;

`(iv) the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate; and

`(v) any other Member of Congress who requests it.

`(B) CONTENTS- The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report.

`(3) CONSTRUCTION- Nothing in this subsection shall be construed--

`(A) as interference in or dictation of monetary policy

to the Federal Reserve System by the Congress or the Government Accountability Office; or `(B) to limit the ability of the Government Accountability Office to perform additional audits of the Board of Governors of the Federal Reserve System or of the Federal reserve banks.'.		
SEC. 1255. REQUIREMENT FOR COUNTERCYCLICAL CAPITAL REQUIREMENTS. Section 908(a) of the International Lending Supervision Act of 1983 (12 U.S.C. 3907(a)) is amended by adding at the end the following new paragraph: `(3) Each appropriate Federal banking agency shall, in establishing capital requirements under this Act or other provisions of Federal law for banking institutions, seek to make such requirements countercyclical so that the amount of capital required to be maintained by a banking institution increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the institution.'.		
SEC. 1256. TRANSFER OF AUTHORITY TO THE BOARD WITH RESPECT TO SAVINGS AND LOAN HOLDING COMPANIES. (a) Transfer of Functions- Notwithstanding any other provision of this subtitle, all functions of the Director of the Office of Thrift Supervision with respect to savings and loan holding companies that are a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986, or a company that is, together with all of its affiliates on a consolidated basis, predominantly engaged in the business of insurance are transferred to the Board. (b) Board's Authority- Notwithstanding any other provision of this subtitle, the Board shall succeed to all powers, authorities, rights, and duties with respect to savings and loan holding companies that are a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986, or a company that is, together with all of its affiliates on a consolidated basis, predominantly engaged in the business of insurance that were vested in the Director of the Office of Thrift Supervision under Federal law, including the Home Owners' Loan Act, on the day before the transfer date. (c) Savings and Loan Holding Company Defined- The term `savings and loan holding company' shall have the meaning given such term under		

section 10 of the Home Owners' Loan Act.		
SEC. 1257. EFFECTIVE DATE. Except as otherwise provided in this subtitle, the amendments made by sections 1221 through section 1253 and 1256 and subsections (a), (b), and (c)(1) of section 1254 shall take effect on the transfer date.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle D--Further Improvements to the Regulation of Bank Holding Companies and Depository Institutions	***TITLE VI--IMPROVEMENTS TO REGULATION OF BANK AND SAVINGS ASSOCIATION HOLDING COMPANIES AND DEPOSITORY INSTITUTIONS***	
	SEC. 601. SHORT TITLE. *This title may be cited as the `Bank and Savings Association Holding Company and Depository Institution Regulatory Improvements Act of 2010'.*	
	SEC. 602. DEFINITION. *In this title, the term `commercial firm' means any entity that derives not less than 15 percent of the consolidated annual gross revenues of the entity, including all affiliates of the entity, from engaging in activities that are not financial in nature or incidental to activities that are financial in nature, as provided in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).*	
SEC. 1301. TREATMENT OF INDUSTRIAL LOAN COMPANIES, SAVINGS ASSOCIATIONS, AND CERTAIN OTHER COMPANIES UNDER THE BANK HOLDING COMPANY ACT. (a) Definitions- Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended-- (1) by striking subsection (a)(1) and inserting the following: `(a) Bank Holding Company- `(1) IN GENERAL- Except as provided in paragraph (5), the term `bank holding company' means-- `(A) any company, other than a company described in section 4(p), which has control over any bank or over any company that is or becomes a bank holding company by virtue of this Act; and `(B) any section 6 holding company established by a company described in section 6(a)(1)(C).'. (2) in subsection (a)(5), by adding at the end the following new subparagraph:	***SEC. 603. MORATORIUM AND STUDY ON TREATMENT OF CREDIT CARD BANKS, INDUSTRIAL LOAN COMPANIES, AND CERTAIN OTHER COMPANIES UNDER THE BANK HOLDING COMPANY ACT OF 1956.*** *(a) Moratorium-* *(1) DEFINITIONS- In this subsection--* *(A) the term `credit card bank' means an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));*  *(B) the term `industrial bank' means an institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and* *(C) the term `trust bank' means an institution described*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(G) No company is a bank holding company by virtue of its ownership or control of a section 6 holding company or any subsidiary of a section 6 holding company, so long as the requirements of sections 4(p) and 6 of this Act are met, as applicable, by the section 6 holding company;'; (3) in subsection (c)(1)(A), by striking `insured bank' and inserting `insured depository institution', and by striking `section 3(h) of the Federal Deposit Insurance Act' and inserting `section 3(c)(2) of the Federal Deposit Insurance Act'; (4) in subsection (c)(2)-- (A) in subparagraph (B), by inserting before the period the following: `that is controlled by a company that is a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986, or a company that is, together with all of its affiliates on a consolidated basis, predominantly engaged in the business of insurance'; and (B) in subparagraph (F)(i), by inserting before the semicolon the following: `, including issuing credit cards and other credit devices (including virtual or intangible devices) that function as credit cards'; (C) in subparagraph (F)(v), by inserting before the semicolon the following: `, other than loans that otherwise meet the requirements of this subparagraph and are made to businesses that meet the criteria for a small business concern to be eligible for business loans under regulations established by the Small Business Administration under part 121 of title 13, Code of Federal Regulations'; and (D) by striking subparagraph (H) and inserting the following: `(H) An industrial loan company, industrial bank, or other similar institution which-- `(i) is an institution organized under the laws of a State which, on March 5, 1987, had in effect or had under consideration in such State's legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act; `(ii) either--	*in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).* *(2) MORATORIUM ON PROVISION OF DEPOSIT INSURANCE- The Corporation may not approve an application for deposit insurance under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) that is received after November 10, 2009, for an industrial bank, a credit card bank, or a trust bank that is directly or indirectly owned or controlled by a commercial firm.* *(3) CHANGE IN CONTROL-* *(A) IN GENERAL- Except as provided in subparagraph (B), the appropriate Federal banking agency shall disapprove a change in control, as provided in section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)), of an industrial bank, a credit card bank, or a trust bank if the change in control would result in direct or indirect control of the industrial bank, credit card bank, or trust bank by a commercial firm.* *(B) EXCEPTIONS- Subparagraph (A) shall not apply to a change in control of an industrial bank, credit card bank, or trust bank that--* *(i) is in danger of default, as determined by the appropriate Federal banking agency; or* *(ii) results from the merger or whole acquisition of a commercial firm that directly or indirectly controls the industrial bank, credit card bank, or trust bank in a bona fide merger with or acquisition by another commercial firm, as determined by the appropriate Federal banking agency.* *(4) SUNSET- This subsection shall cease to have effect 3 years after the date of enactment of this Act.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(I) does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties; `(II) has total assets of less than $100,000,000; or `(III) the control of which is not acquired by any company after August 10, 1987; `(iii) predominantly provides financial products and services to current and former members of the military and their families; and `(iv) is controlled by a savings and loan holding company, as defined in section 10(a) of the Home Owners' Loan Act. This subparagraph shall cease to apply to any institution which permits any overdraft (including any intraday overdraft), or which incurs any such overdraft in such institution's account at a Federal Reserve bank, on behalf of an affiliate, if such overdraft is not the result of an inadvertent computer or accounting error that is beyond the control of both the institution and the affiliate, or that is otherwise permissible for a bank controlled by a company described in section 1843(f)(1) of this title.'; and (5) by adding at the end the following new subsection: `(r) Section 6 Holding Companies- The term `section 6 holding company' means a company that is required to be established as an intermediate holding company under section 6 of this Act.'. (b) Nonbanking Activities Exceptions- Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended-- (1) in subsection (f)(1)(B) by striking `for purposes of this Act' and inserting `for purposes of section 4(a)'; and (2) in subsection (f)(2)-- (A) in subparagraph (B)(ii), by striking `; or' and inserting a semicolon; (B) in subparagraph (C), by striking the period and inserting `; or'; and (C) by adding at the end the following new subparagraph: `(D) such company fails to--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(i) establish and register a section 6 holding company pursuant to section 6 of this Act within 180 days after the adoption of rules required by this section; and `(ii) conduct all such activities which are permissible for a financial holding company, as determined under section 4(k), through such section 6 holding company, other than-- `(I) internal financial activities conducted for such company or any affiliate, including, but not limited to internal treasury, investment, and employee benefit functions, provided that with respect to any internal financial activity engaged in for the company or an affiliate and a nonaffiliate during the year prior to date of enactment, the company (or an affiliate not a subsidiary of the section 6 company) may continue to engage in that activity so long as the at least two-thirds of the assets or two-thirds of the revenues generated from the activity are from or attributable to the company or an affiliate, subject to review by the Board to determine whether engaging in such activity presents undue risk to the section 6 company or undue systemic risk; and `(II) financial activities involving the provision of credit for the purchase or lease of products or services from an affiliate or for the purchase or lease of products produced by an affiliate of such section 6 holding company that is not a subsidiary of such section six holding company, in accordance with regulations prescribed by or orders issued by the Board, pursuant to section 6 of this Act.'; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(3) by inserting at the end the following new subsections: `(p) Certain Companies Not Subject to This Act- `(1) IN GENERAL- Except as provided in paragraphs (6) and (7), any company which-- `(A) was-- `(i) on the date of enactment of the Financial Stability Improvement Act of 2009, a unitary savings and loan holding company that continues to control not fewer than one savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office of Thrift Supervision on or before that date, and that became a bank for purposes of the Bank Holding Company Act as a result of the enactment of section 1301(a)(3) of the Financial Stability Improvement Act of 2009; or `(ii) on November 23, 2009-- `(I) controlled an institution which became a bank as a result of the enactment of section 1301(a)(4)(B) of the Financial Stability Improvement Act of 2009; `(II) had an application pending, or approved but not executed, before the Federal Deposit Insurance Corporation, that, if approved, would permit the applicant to control an industrial loan company, industrial bank, or other similar institution--  `(aa) that is a federally insured, State-chartered depository institution; `(bb) that is organized under the laws of a State that on March 5, 1987, had in effect, or had under consideration in the legislature of such State, a statute that required such institution to obtain insurance under the Federal Deposit Insurance Act; and  `(cc) that--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(AA) does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties; or  `(BB) maintains total assets of less than $100,000,000; or `(III) controlled an institution it has continuously controlled since March 5, 1987, which became a bank as a result of the enactment of the Competitive Equality Banking Act of 1987, pursuant to subsection (f); `(B) was not on June 30, 2009-- `(i) a bank holding company; or `(ii) subject to the Bank Holding Company Act of 1956 by reason of section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)); and `(C) on June 30, 2009, directly or indirectly controlled shares or engaged in activities that did not, on the day before the date of enactment of the Financial Stability Act of 2009, comply with the activity or investment restrictions on financial holding companies in section 4 in accordance with regulations prescribed by the Board, shall not be treated as a bank holding company for purposes of this Act solely by virtue of such company's control of such institution and control of a section 6 holding company established pursuant to section 6. `(2) LOSS OF EXEMPTION- A company described in paragraph (1) shall no longer qualify for the exemption provided under that paragraph if-- `(A) such company fails to-- `(i) establish and register a section 6 holding company pursuant to section 6 of this Act within 180 days after adoption of rules required by this section, unless the Board grants an extension of such period for compliance which shall not exceed 180 additional days; and `(ii) maintain a section 6 holding company in compliance with all the requirements for a		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
section 6 holding company under section 6 of this Act. `(B) such company directly or indirectly (including through the section 6 holding company it must form pursuant to this subsection and section 6 of this Act) acquires control of an additional bank or insured depository institution after June 30, 2009, provided that such company directly or indirectly (including through the section 6 holding company) may acquire-- `(i) shares held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares); `(ii) shares held by any person as a bona fide fiduciary solely for the benefit of employees of either the company described in paragraph (1) or any subsidiary of that company and the beneficiaries of those employees; `(iii) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business; `(iv) shares held in an account solely for trading purposes; `(v) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation; `(vi) loans or other accounts receivable acquired from an insured depository institution in the normal course of business; `(vii) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest; `(viii) shares or assets acquired directly or indirectly by a depository institution controlled by such company in a transaction involving an insured depository institution for which the Federal Deposit Insurance Corporation has been appointed as receiver or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
which has been found to be in danger of default (as defined in section 3 of the Federal Deposit Insurance Act) by the appropriate Federal or State authority; `(ix) shares or assets of another industrial loan company meeting the requirements of this Act if such company continuously controlled an industrial loan company since the date of enactment of the Financial Stability Improvement Act of 2009; and `(x) shares or assets of a savings association acquired directly or indirectly by the savings association controlled by such company if such company continuously controlled a savings association since the date of enactment of the Financial Stability Improvement Act of 2009; `(C)(i) the section 6 holding company required to be established by such company, or any subsidiary bank of such company undergoes a change in control after the date of enactment of the Financial Stability Improvement Act of 2009, other than-- `(I) the merger or whole acquisition of such parent company in a bona fide merger or acquisition (as shall be determined by the Board, which is authorized to find that a transaction is not a bona fide merger or acquisition and thus results in the loss of exemption), with a company that is predominantly engaged in activities not permissible for a financial holding company pursuant to section 4(k); `(II) a change of control of an industrial bank, its section 6 holding company, or any entity that directly or indirectly controls the industrial bank, in a transaction other than a merger described in subclause (I), by an acquiring company that is predominately engaged in activities not permissible for a financial holding company pursuant to subsection (k), if-- `(aa) the transaction is approved by		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the appropriate Federal banking agency and the Board; and `(bb) the industrial bank does not thereafter establish a domestic branch as defined in section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)); `(III) an inadvertent acquisition of control, as determined by the Board, if such inadvertent acquisition of control is reversed or rectified within 180 days of its discovery; or `(IV) the acquisition of additional shares by a company that owned or controlled 7.5 percent or more of any class of such parent company's outstanding voting stock on or before June 30, 2009, and continuously owned or controlled at least such 7.5 percent since June 30, 2009. `(ii) Nothing in this subparagraph shall be construed as preventing the Board from requiring compliance with this subsection, section 6 or the requirements of the Change in Bank Control Act, as applicable to a company that is permitted to acquire control without loss of the exemption in this subsection 4(p)(2); or `(D) any subsidiary bank of such company engages in any activity after the date of enactment of the Financial Stability Improvement Act of 2009 which would have caused such institution to be a bank (as defined in section 2(c) of this Act, as in effect before such date) if such activities had been engaged in before such date. `(3) DIVESTITURE IN CASE OF LOSS OF EXEMPTION- If any company described in paragraph (1) fails to qualify for the exemption provided under paragraph (1) by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date on which the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless, before the end of such 180-day period, the company has-- `(A) either-- `(i) corrected the condition or ceased the activity that caused the company to fail to		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
continue to qualify for the exemption; or `(ii) submitted a plan to the Board for approval to cease the activity or correct the condition in a timely manner (which shall not exceed 1 year); and `(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity. `(4) SUBSECTION CEASES TO APPLY UNDER CERTAIN CIRCUMSTANCES- This subsection shall cease to apply to any company described in paragraph (1) if such company-- `(A) registers as a bank holding company under section 2(a) of this Act; `(B) immediately upon such registration, complies with all of the requirements of this chapter, and regulations prescribed by the Board pursuant to this chapter, including the nonbanking restrictions of this section; and `(C) does not, at the time of such registration, control banks in more than one State, the acquisition of which would be prohibited by section 3(d) of this Act if an application for such acquisition by such company were filed under section 3(a) of this Act. `(5) INFORMATION REQUIREMENT- Each company described in paragraph (1) shall, within 60 days after the date of enactment of the Financial Stability Improvement Act of 2009, provide the Board with the name and address of such company, the name and address of each bank such company controls, and a description of each such bank's activities. `(6) EXAMINATIONS AND REPORTS- The Board may, from time to time, examine a company described in paragraph (1) or a bank controlled by such a company, and may require reports under oath from a company described in paragraph (1), and appropriate officers or directors of such company, in each case solely for purposes of assuring compliance with the provisions of this subsection and enforcing such compliance. `(7) LIMITED ENFORCEMENT- `(A) IN GENERAL- In addition to any other power of the Board, the Board may enforce compliance with the provisions of this subsection which are applicable to any company described in paragraph (1), and any bank controlled by such company, under section 8 of the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Federal Deposit Insurance Act, and such company or bank shall be subject to such section (for such purposes) in the same manner and to the same extent as if such company were a bank holding company. `(B) APPLICATION OF OTHER ACT- Any violation of this subsection by any company described in paragraph (1) or any bank controlled by such a company, may also be treated as a violation of the Federal Deposit Insurance Act for purposes of subparagraph (A). `(C) NO EFFECT ON OTHER AUTHORITY- No provision of this paragraph shall be construed as limiting any authority of the Board or any other Federal agency under any other provision of law. `(8) UNITARY SAVINGS AND LOAN HOLDING COMPANY DEFINED- For purposes of this subsection, the term `unitary savings and loan holding company' means a company that was a savings and loan holding company on May 4, 1999 (as then defined), or that became a savings and loan holding company pursuant to an application pending before the Office of Thrift Supervision on or before that date, and-- `(A) that controls-- `(i) only 1 savings association; or `(ii) more than 1 savings association, if all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company pursuant to a supervisory transaction under section 1823(c), 1823(i), or 1823(k) of this title, or section 408(m) of the National Housing Act (12 U.S.C. 1730a(m)); `(B) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under section 10 of the Home Owners' Loan Act); and `(C) that continues to control not fewer than 1 savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office of Thrift Supervision on or before that date. `(q) Preservation of Certain Savings and Loan Holding Company Authorities- Notwithstanding subsection (a), a company that was a savings and loan holding company on June 30, 2009, that became a bank holding company by operation of section 1301 of the Financial Stability		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Improvement Act of 2009 may continue to engage in the following activities in which such company was continuously engaged on June 30, 2009, through the day of enactment of the Financial Stability Improvement Act of 2009: `(1) Furnishing or performing management services for a savings association subsidiary of such company. `(2) Conducting an insurance agency or escrow business. `(3) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company. `(4) Holding or managing properties used or occupied by a savings association subsidiary of such company. `(5) Acting as trustee under deed of trust. `(6) Any other activity in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.'.		
(c) Section 6 Holding Companies- The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 5 the following new section: **`SEC. 6. SPECIAL-PURPOSE HOLDING COMPANIES.**  `(a) Establishment, Purpose and Requirements of Special Purpose Holding Companies- `(1) REQUIREMENT- A special purpose holding company (hereafter in this section referred to as a `section 6 holding company') shall be established and maintained by a company-- `(A) described in section 4(f)(1) as required by section 4(f)(2)(D) of this Act; `(B) described in section 4(p)(1) as required by section 4(p)(2)(A) of this Act; or `(C) that-- `(i) is subject to stricter prudential standards under section 1103 of the Financial Stability Improvement Act of 2009; `(ii) is not-- `(I) a bank holding company; or `(II) subject to the Bank Holding Company Act by reason of section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)); and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(iii) directly or indirectly controlled shares or engaged in activities that did not, on the date the company is first subject to stricter prudential standards pursuant to subtitle B of the Financial Stability Improvement Act of 2009, comply with the activity or investment restrictions on financial holding companies in section 4 in accordance with regulations prescribed by the Board. `(2) PURPOSE- `(A) The purpose of this section is to provide for consolidated supervision of certain financial companies by the Board. `(B) A company that is required to form a section a section 6 holding company shall conduct all such activities which are permissible for a financial holding company, as determined under section 4(k), through such section 6 holding company, other than-- `(i) internal financial activities conducted for such company or any affiliate, including, but not limited to internal treasury, investment, and employee benefit functions, provided that with respect to any internal financial activity engaged in for the company or an affiliate and a nonaffiliate during the year prior to date of enactment, the company (or an affiliate not a subsidiary of the section 6 company) may continue to engage in that activity so long as the at least 2/3 of the assets or 2/3 of the revenues generated from the activity are from or attributable to the company or an affiliate, subject to review by the Board to determine whether engaging in such activity presents undue risk to the section 6 company or undue systemic risk; and `(ii) financial activities involving the provision of credit for the purchase or lease of products or services from an affiliate or for the purchase or lease of products produced by an affiliate of such section 6 holding company that is not a subsidiary of such section 6 holding company, in accordance with		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
regulations prescribed by or orders issued by the Board, pursuant to section 6 of this Act. `(C) A section 6 holding company shall be prohibited from conducting any nonbanking activities or investing in any nonbank companies other than those permissible for a financial holding company under sections 3 and 4, unless the Board specifically determines otherwise in accordance with paragraph (6), and provided that, for purposes of this paragraph, a company designated as a section 6 holding company and described under paragraph (4) (or any permitted successor) is not prohibited from continuing to engage in any impermissible activity in which it was engaged continuously during the 6 months prior to the date of enactment, from owning any shares or types of assets related to such activity, or continuing to own such other shares or assets that it owned on the date of enactment. `(3) REGISTRATION- `(A) A section 6 holding company required to be established by a company described in paragraph (1)(A) shall be established, and such company shall register with the Board as a bank holding company, pursuant to the requirements in section 4(f). `(B) A section 6 holding company required to be established by a company described in paragraph (1)(B) shall be established, and such company shall register with the Board as a bank holding company, pursuant to the requirements in section 4(p). `(C) A section 6 holding company required to be established by a company described in paragraph (1)(C) shall be-- `(i) established, and such company shall register with the Board within 90 days after such company or such company's parent holding company has been notified by the Board that such company is subject to stricter prudential standards under section 1103 of the Financial Stability Improvement Act of 2009, unless the Board grants an extension of such period for compliance which shall not exceed 180 additional days;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(ii) subject to the provisions of this Act and other Federal law as provided in section 1103(g) of the Financial Stability Improvement Act of 2009; and `(iii) subject to the authority of the Board to enforce compliance with the provisions of this section under section 8 of the Federal Deposit Insurance Act in the same manner and to the same extent as if such company were a bank holding company. (4) RULE OF CONSTRUCTION- For purposes of this section, designation of an already established intermediate holding company that will serve as the section 6 holding company shall satisfy the requirement to establish a section 6 holding company, provided that such existing intermediate holding company complies with all other provisions applicable to a section 6 holding company. ``(5) LIMITATIONS ON AUTHORITY OF COMMERCIAL PARENT- A company that is not a bank holding company or treated as a bank holding company pursuant to section 8(a) of the International Bank Act of 1978 that has been notified that it is a financial holding company subject to stricter standards, pursuant to section 1103 of the Financial Stability Improvement Act of 2009, shall-- `(A) not be deemed to be, or treated as, a bank holding company, solely because of its ownership or control of a section 6 holding company; and `(B) not be subject to this Act, except for such provisions as are explicitly made applicable in this section. `(6) BOARD AUTHORITY- `(A) RULES AND EXEMPTIONS- In addition to any other authority of the Board, the Board shall prescribe rules and regulations or issue orders providing for the establishment and registration of section 6 holding companies and shall provide exemptions from the requirements of this Act (including an order in response to a request from an affected company), including, but not limited to, exemptions-- `(i) with respect to the requirement to conduct such activities which are financial in nature, as determined under section 4(k), other than		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial activities conducted for such company or any affiliate, including any financial activity engaged in for both the company or an affiliate and a nonaffiliate as permitted under section 4(f)(2)(D) or section 6(a)(2)(B) and financial activities involving the provision of credit for the purchase or lease of products or services from an affiliate or for the purchase or lease of products produced by an affiliate of such section 6 holding company that is not a subsidiary of such section 6 holding company, through such section 6 holding company, if the Board makes a finding that such exemption-- `(I)(aa) would facilitate the extension of credit to individuals, households, and businesses; or `(bb) would allow for greater efficiency, improved customer service, or other public benefits in the conduct of financial activities by affected companies; `(II) would not threaten the safety and soundness of the section 6 holding company, or of any insured depository institution or other subsidiary of the section 6 holding company; `(III) would not increase systemic risk or threaten the stability of the overall financial system; `(IV) would not, as applied to the activities that are the subject of the rule, order or request, result in substantially lessening competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects are outweighed in the public interest by the probable effect of the exemption in meeting the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
convenience and needs of the community to be served; and `(V) would meet the financial and managerial standards for financial holding companies described in subparagraphs (A) and (B) of section 4(j)(4); and `(ii) from the affiliate transaction requirements of subsection (b), including but not limited to exemptions that would facilitate extensions of credit to unaffiliated persons for the personal, household, or business purposes of such unaffiliated persons, unless the Board makes a finding that such exemption-- `(I) is not consistent with the purposes of section 23A and section 23B of the Federal Reserve Act; `(II) would threaten the safety and soundness of the section 6 holding company, or any insured depository institution or other subsidiary of the section 6 holding company; `(III) would increase systemic risk or threaten the stability of the overall financial system; `(IV) would not, as applied to the activities that are the subject of the rule, order or request result in substantially lessening competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects are outweighed in the public interest by the probable effect of the exemption in meeting the convenience and needs of the community to be served; or `(V) would permit an unfair, deceptive, abusive, or unsafe-and-unsound act or practice. `(B) PARENT COMPANY REPORTS- The Board		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
may, from time to time, require reports under oath from a company that controls a section 6 holding company, and appropriate officers or directors of such company, solely for purposes of ensuring compliance with the provisions of this section (including assessing the company's ability to serve as a source of financial strength pursuant to subsection (g)) and enforcing such compliance. `(C) LIMITED PARENT COMPANY ENFORCEMENT- `(i) IN GENERAL- In addition to any other power of the Board, the Board may enforce compliance with the provisions of this subsection which are applicable to any company described in paragraph (1), and any bank controlled by such company, under section 8 of the Federal Deposit Insurance Act and such company or bank shall be subject to such section (for such purposes) in the same manner and to the same extent as if such company were a bank holding company. `(ii) APPLICATION OF OTHER ACT- Any violation of this subsection by any company that controls a section 6 holding company or any bank controlled by such a company, may also be treated as a violation of the Federal Deposit Insurance Act for purposes of clause (i). `(iii) NO EFFECT ON OTHER AUTHORITY- No provision of this subparagraph shall be construed as limiting any authority of the Board or any other Federal agency under any other provision of law. `(b) Restrictions on Affiliate Transactions- `(1) SECTION 23A AND 23B APPLICABILITY- `(A) IN GENERAL- Transactions between a section 6 holding company (or any nonbank subsidiary thereof) and any affiliate not controlled by the section 6 holding company shall be subject to the restrictions and limitations contained in section 23A and section 23B of the Federal Reserve Act as if the section 6 holding		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
company were a member bank, provided, that a transaction that otherwise would be a covered transaction shall not be a covered transaction if the transaction is in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods or services but shall be subject to review under section 23A(f)(1) of such Act. `(B) COVERED TRANSACTIONS- A depository institution controlled by a section 6 holding company may not engage in a covered transaction (as defined in section 23A(b)(7) of the Federal Reserve Act) with any affiliate that is not the section 6 holding company or a subsidiary of the section 6 holding company; provided that, for purposes of the prohibition, a transaction that otherwise would be a covered transaction shall not be a covered transaction if the transaction is in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods or services, but shall be subject to review under section 23A(f)(1) of the Federal Reserve Act. `(2) RULE OF CONSTRUCTION- No provision of this subsection shall be construed as exempting any subsidiary insured depository institution of a section 6 holding company from compliance with section 23A or 23B of the Federal Reserve Act with respect to each affiliate of such institution (as defined in section 23A or 23B of the Federal Reserve Act), including any affiliate that is the section 6 holding company or subsidiary of the section 6 holding company. `(c) Tying Provisions- A company that directly or indirectly controls a section 6 holding company shall be-- `(1) treated as a bank holding company for purposes of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and any regulation prescribed under any such section; and `(2) subject to the restrictions of section 106 of the Bank Holding Company Act Amendments of 1970, in connection with any transaction involving the products or services of such company or affiliate and those of a bank affiliate, as if such company or affiliate were a bank and such bank were a subsidiary of a bank holding company. `(d) Financial Holding Company Requirements- A section 6 holding company shall be subject to--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) the conditions for engaging in expanded financial activities in section 4(l); and `(2) the provisions applicable to financial holding companies that fail to meet certain requirements in section 4(m). `(e) Independence of Section 6 Holding Company- `(1) No less than 25 percent of the members of the board of directors of a section 6 holding company, and each subsidiary of a section 6 holding company, shall be independent of the parent company of the section 6 holding company and any subsidiary of such parent company. For purposes of this subsection, a director shall be independent of the parent company if such person is not currently serving, and has not within the previous 2-year period served, as a director, officer, or employee of any affiliate of the section 6 holding company that is not a subsidiary of the section 6 holding company. `(2) No executive officer of a section 6 holding company or any subsidiary of a section 6 holding company may serve as a director, officer, or employee of an affiliate of the section 6 holding company that is not a subsidiary of the section 6 holding company. `(3) The Board shall issue regulations that require effective legal and operational separation of the functions of a section 6 holding company from its affiliates that are not subsidiaries of such section 6 holding company, provided, however that such rules shall not require operational separation of internal functions including, but not limited to, human resources management, employee benefit plans, and information technology. `(f) Source of Strength- A company that directly or indirectly controls a section 6 holding company shall serve as a source of financial strength to its subsidiary section 6 holding company.'.		
	(b) Government Accountability Office Study of Exceptions Under the Bank Holding Company Act of 1956- *(1) STUDY REQUIRED- The Comptroller General of the United States shall carry out a study to determine whether it is necessary, in order to strengthen the safety and soundness of institutions or the stability of the financial system, to eliminate*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the exceptions under section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) for institutions described in-- *(A) section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E));* *(B) section 2(a)(5)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(F));* *(C) section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D));* *(D) section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));* *(E) section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and* *(F) section 2(c)(2)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(B)).* *(2) CONTENT OF STUDY-* *(A) IN GENERAL- The study required under paragraph (1), with respect to the institutions referenced in each of subparagraphs (A) through (E) of paragraph (1), shall, to the extent feasible be based on information provided to the Comptroller General by the appropriate Federal or State regulator, and shall--* *(i) identify the types and number of institutions excepted from section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) under each of the subparagraphs described in subparagraphs (A) through (E) of paragraph (1);* *(ii) generally describe the size and geographic locations of the institutions described in clause (i);*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(iii) determine the extent to which the institutions described in clause (i) are held by holding companies that are commercial firms; *(iv) determine whether the institutions described in clause (i) have any affiliates that are commercial firms;* *(v) identify the Federal banking agency responsible for the supervision of the institutions described in clause (i) on and after the transfer date;* *(vi) determine the adequacy of the Federal bank regulatory framework applicable to each category of institution described in clause (i), including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and* *(vii) evaluate the potential consequences of subjecting the institutions described in clause (i) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of each category of institution, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.* *(B) SAVINGS ASSOCIATIONS- With respect to institutions described in paragraph (1)(F), the study required under paragraph (1) shall--* *(i) determine the adequacy of the Federal bank regulatory framework applicable to such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	institutions, including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and *(ii) evaluate the potential consequences of subjecting the institutions described in paragraph (1)(F) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of such institutions, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.* *(3) REPORT- Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under paragraph (1).*	
SEC. 1302. REGISTRATION OF CERTAIN COMPANIES AS BANK HOLDING COMPANIES. Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting at the end the following new subsection: `(h) Conversion to Bank Holding Company by Operation of Law- `(1) CONVERSION BY OPERATION OF LAW- A company that, on the day before the date of enactment of the Financial Stability Improvement Act of 2009, was not a bank holding company but which, by reason of section 1301 of the Financial Stability Improvement Act of 2009 becomes a bank holding company, other than a section 6 holding company, by operation of law, shall register as a bank holding company with the Board in accordance with section 5(a) within 90 days of the date of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
enactment of that Act. `(2) COMPLIANCE WITH BANK HOLDING COMPANY ACT- With respect to any company described in paragraph (1), the Board may grant temporary exemptions or provide other appropriate temporary relief to permit such company to implement measures necessary to comply with the requirements under the Bank Holding Company Act.'.		
SEC. 1303. REPORTS AND EXAMINATIONS OF BANK HOLDING COMPANIES; REGULATION OF FUNCTIONALLY REGULATED SUBSIDIARIES. (a) Reports of Bank Holding Companies- Sections 5(c)(1)(A) and (B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)(A) and (B)) are amended to read as follows: `(A) IN GENERAL- The Board, from time to time, may require a bank holding company and any subsidiary of such company to submit reports under oath that the Board determines are necessary or appropriate for the Board to carry out the purposes of this chapter, prevent evasions thereof, and monitor compliance by the company or subsidiary with the applicable provisions of law. `(B) USE OF EXISTING REPORTS- `(i) IN GENERAL- The Board shall, to the fullest extent possible, use-- `(I) reports that a bank holding company or any subsidiary of such company has been required to provide to other Federal or State regulatory agencies; `(II) information that is otherwise required to be reported publicly; and `(III) externally audited financial statements. `(ii) AVAILABILITY- A bank holding company or a subsidiary of such company shall promptly provide to the Board, at the request of the Board, a report referred to in clause (i)(I).'.	***SEC. 604. REPORTS AND EXAMINATIONS OF HOLDING COMPANIES; REGULATION OF FUNCTIONALLY REGULATED SUBSIDIARIES.*** *(a) Reports by Bank Holding Companies- Sections 5(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)) is amended--* *(1) by striking subparagraph (B) and inserting the following:* *`(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION- The appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, use--*  *`(i) reports and other supervisory information that the bank holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;* *`(ii) externally audited financial statements of the bank holding company or subsidiary;*  *`(iii) information otherwise available from Federal or State regulatory agencies; and* *`(iv) information that is otherwise required to be reported publicly.'; and*  *(2) by adding at the end the following:*  *`(C) AVAILABILITY- Upon the request of the appropriate Federal banking agency for a bank*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	holding company, the bank holding company or a subsidiary of the bank holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).'.	
(b) Functionally Regulated Subsidiary- Section 5(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)) is amended by inserting at the end the following new subparagraph: `(C) DEFINITION- For purposes of this subsection and section 6, the term `functionally regulated subsidiary' means any subsidiary (other than a depository institution) of a bank holding company that is-- `(i) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, for which the Securities and Exchange Commission is the Federal regulatory agency; `(ii) an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, for which the Securities and Exchange Commission is the Federal regulatory agency; `(iii) an investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940, for which the Securities and Exchange Commission is the Federal regulatory agency, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities; and `(iv) a futures commission merchant, commodity trading advisor, and commodity pool operator registered with the Commodity Futures Trading Commission under the Commodity Exchange Act, for which the Commodity Futures Trading Commission is the Federal regulatory agency, with respect to the commodities activities of such entity and activities incidental to such commodities		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
activities.'.		
(c) Examinations of Bank Holding Companies- Sections 5(c)(2)(A) and (B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(2)(A) and (B)) are amended to read as follows: `(A) IN GENERAL- The Board may make examinations of a bank holding company and any subsidiary of such a company to carry out the purposes of this chapter, prevent evasions thereof, and monitor compliance by the company or subsidiary with applicable provisions of law. `(B) FUNCTIONALLY REGULATED AND DEPOSITORY INSTITUTION SUBSIDIARIES- The Board shall, to the fullest extent possible, use reports of examination of functionally regulated subsidiaries and subsidiary depository institutions made by other Federal or State regulatory authorities.'.	*(b) Examinations of Bank Holding Companies- Section 5(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(2)) is amended to read as follows:* *`(2) EXAMINATIONS-* *`(A) IN GENERAL- The appropriate Federal banking agency for a bank holding company may make examinations of the bank holding company and each subsidiary of the bank holding company in order to--* *`(i) inform such appropriate Federal banking agency of--* *`(I) the nature of the operations and financial condition of the bank holding company and the subsidiary;* *`(II) the financial, operational, and other risks within the bank holding company system that may pose a threat to--* *`(aa) the safety and soundness of the bank holding company or of any depository institution subsidiary of the bank holding company; or* *`(bb) the stability of the financial system of the United States; and* *`(III) the systems of the bank holding company for monitoring and controlling the risks described in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	subclause (II); and *`(ii) enforce the compliance of the bank holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the bank holding company or subsidiary.*  *`(B) USE OF REPORTS TO REDUCE EXAMINATIONS- For purposes of this paragraph, the appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, rely on--* *`(i) examination reports made by other Federal or State regulatory agencies relating to the bank holding company and any subsidiary of the bank holding company; and*  *`(ii) the reports and other information required under paragraph (1).* *`(C) COORDINATION WITH OTHER REGULATORS- The appropriate Federal banking agency for a bank holding company shall--*  *`(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and* *`(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(d) Regulation of Financial Holding Companies- Section 5(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended by striking subparagraphs (C), (D), and (E).		
(e) Authority to Regulate Functionally Regulated Subsidiaries of Bank Holding Companies- The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by striking section 10A (12 U.S.C. 1848a).	*(c) Authority To Regulate Functionally Regulated Subsidiaries of Bank Holding Companies- The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended--* *(1) in section 5(c) (12 U.S.C. 1844(c)), by striking paragraphs (3) and (4) and inserting the following:* *`(3) [Reserved]*  *`(4) [Reserved]'; and* *(2) by striking section 10A (12 U.S.C. 1848a).*	
	SEC. 604. *(g) Reports by Savings and Loan Holding Companies- Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) is amended--* *(1) by striking `Each savings' and inserting the following:*  *`(A) IN GENERAL- Each savings'; and* *(2) by adding at the end the following:* *`(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION- The appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, use--*  *`(i) reports and other supervisory information that the savings and loan holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;* *`(ii) externally audited financial statements of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the savings and loan holding company or subsidiary; *`(iii) information that is otherwise available from Federal or State regulatory agencies; and*  *`(iv) information that is otherwise required to be reported publicly.* *`(C) AVAILABILITY- Upon the request of the appropriate Federal banking agency for a savings and loan holding company, the savings and loan holding company or a subsidiary of the savings and loan holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).'.*	
	SEC. 604. *(h) Examination of Savings and Loan Holding Companies-* *(1) DEFINITIONS- Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended by adding at the end the following:* *`(10) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).* *`(11) FUNCTIONALLY REGULATED SUBSIDIARY- The term `functionally regulated subsidiary' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).'.* *(2) EXAMINATION- Section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) is amended by striking paragraph (4) and inserting the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(4) EXAMINATIONS-*  *`(A) IN GENERAL- The appropriate Federal banking agency for a savings and loan holding company may make examinations of the savings and loan holding company and each subsidiary of the savings and loan holding company system, in order to-- *`(i) inform such appropriate Federal banking agency of--*  *`(I) the nature of the operations and financial condition of the savings and loan holding company and the subsidiary;* *`(II) the financial, operational, and other risks within the savings and loan holding company that may pose a threat to--*  *`(aa) the safety and soundness of the savings and loan holding company or of any depository institution subsidiary of the savings and loan holding company; or* *`(bb) the stability of the financial system of the United States; and*  *`(III) the systems of the savings and loan holding company for monitoring and controlling the risks described in subclause (II); and* *`(ii) enforce the compliance of the savings and loan holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the savings and loan holding company or subsidiary.*  *`(B) USE OF REPORTS TO REDUCE EXAMINATIONS- For purposes of this subsection, the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, rely on-- *`(i) the examination reports made by other Federal or State regulatory agencies relating to the savings and loan holding company and any subsidiary; and*  *`(ii) the reports and other information required under paragraph (2).* *`(C) COORDINATION WITH OTHER REGULATORS- The appropriate Federal banking agency for a savings and loan holding company shall--*  *`(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and* *`(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.'.*	
	SEC. 604. *(i) Effective Date- The amendments made by this section shall take effect on the transfer date.*	
	SEC. 605. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES. *Section 6 of the Bank Holding Company Act of 1956 (12 U.S.C. 1845) is*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	amended to read as follows: ***`SEC. 6. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.***  *`(a) Definitions-* *`(1) DEFINITIONS- In this section--*  *`(A) the term `depository institution holding company' has the same meaning as in section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w));*  *`(B) the term `functionally regulated subsidiary' has the same meaning as in section 5(c)(5); and*  *`(C) the term `lead Federal banking agency' means--*  *`(i) the Office of the Comptroller of the Currency, in the case of any depository institution holding company having--* *`(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or*  *`(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and* *`(ii) the Federal Deposit Insurance Corporation, in the case of any depository*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	institution holding company having-- *`(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or*  *`(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions.* *`(2) DETERMINATION OF TOTAL CONSOLIDATED ASSETS- For purposes of paragraph (1)(A), the total consolidated assets of a depository institution shall be determined in the same manner that total consolidated assets of depository institutions are determined for purposes of section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).* *`(b) Lead Agency Supervision-*  *`(1) IN GENERAL- The lead Federal banking agency for each depository institution holding company shall make examinations of the activities of each nondepository institution subsidiary (other than a functionally regulated subsidiary) of the depository institution holding company that are permissible for depository institution subsidiaries of the depository institution holding company, to determine whether the activities--* *`(A) present safety and soundness risks to any depository institution subsidiary of the depository institution holding company;*  *`(B) are conducted in accordance with applicable law; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(C) are subject to appropriate systems for monitoring and controlling the financial, operating, and other risks of the activity and protecting the depository institution subsidiaries of the holding company.*  *`(2) PROCESS FOR EXAMINATION- An examination under paragraph (1) shall be carried out under the authority of the lead Federal banking agency, as if the nondepository institution subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency. *`(c) Coordination- For each depository institution holding company for which the Board of Governors is the appropriate Federal banking agency, the lead Federal banking agency of the depository institution holding company shall coordinate the supervision of the activities of subsidiaries described in subsection (b) with the Board of Governors, in a manner that--* *`(1) avoids duplication;*  *`(2) shares information relevant to the supervision of the depository institution holding company by each agency;* *`(3) achieves the objectives of subsection (b); and*  *`(4) ensures that the depository institution holding company and the subsidiaries of the depository institution holding company are not subject to conflicting supervisory demands by the 2 agencies.* *`(d) Referrals for Enforcement-*  *`(1) RECOMMENDATION OF ACTION BY BOARD OF GOVERNORS- The lead Federal banking agency for a depository institution holding company, based on information obtained pursuant to the responsibilities of the agency under subsection (b), may submit to the Board of Governors, in writing, a recommendation that the Board of Governors take enforcement action against a nondepository institution subsidiary (other than a functionally regulated subsidiary) of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the depository institution holding company, together with an explanation of the concerns giving rise to the recommendation. *`(2) BACK-UP AUTHORITY OF THE LEAD FEDERAL BANKING AGENCY- If, within the 60-day period beginning on the date on which the Board of Governors receives a recommendation under paragraph (1), the Board of Governors does not take enforcement action against a nondepository institution subsidiary or provide a plan for enforcement action that is acceptable to the lead Federal banking agency, the lead Federal banking agency (upon the authorization of the Comptroller, or the Federal Deposit Insurance Corporation, upon a vote of its members, as applicable) may take the recommended enforcement action, in the same manner as if the subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency.'.*	
SEC. 1304. REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES TO REMAIN WELL CAPITALIZED AND WELL MANAGED. Section 4(l)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(l)(1)) is amended-- (1) in subparagraph (B), by striking `and'; (2) by redesignating subparagraph (C) as subparagraph (D); (3) by inserting after subparagraph (B) the following new subparagraph: `(C) the bank holding company is well capitalized and well managed; and'; and (4) in subparagraph (D) (as so redesignated) by amending clause (ii) to read as follows: `(ii) a certification that the company meets the requirements of subparagraphs (A) through (C).'.	***SEC. 606. REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES TO REMAIN WELL CAPITALIZED AND WELL MANAGED.*** *(a) Amendment- Section 4(l)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(l)(1)) is amended--* *(1) in subparagraph (B), by striking `and' at the end;*  *(2) by redesignating subparagraph (C) as subparagraph (D);*  *(3) by inserting after subparagraph (B) the following:*  *`(C) the bank holding company is well capitalized and well managed; and'; and* *(4) in subparagraph (D)(ii), as so redesignated, by striking `subparagraphs (A) and (B)' and inserting `subparagraphs (A), (B), and (C)'.* *(b) Effective Date- The amendments made by this section shall take effect on the transfer date.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 1305. STANDARDS FOR INTERSTATE ACQUISITIONS. (a) Bank Holding Company Act of 1956 Amendment- Section 3(d)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)(1)(A)) is amended-- (1) by striking `adequately capitalized' and inserting `well capitalized'; and (2) by striking `adequately managed' and inserting `well managed'. (b) Federal Deposit Insurance Act Amendment- Section 44(b)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(4)(B)) is amended to read as follows: `(B) the responsible agency determines that the resulting bank will be well capitalized and well managed upon the consummation of the transaction.'.	***SEC. 607. STANDARDS FOR INTERSTATE ACQUISITIONS.*** *(a) Acquisition of Banks- Section 3(d)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)(1)(A)) is amended by striking `adequately capitalized and adequately managed' and inserting `well capitalized and well managed'.* *(b) Interstate Bank Mergers- Section 44(b)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(4)(B)) is amended by striking `will continue to be adequately capitalized and adequately managed' and inserting `will be well capitalized and well managed'.* *(c) Effective Date- The amendments made by this section shall take effect on the transfer date.*	
SEC. 1306. ENHANCING EXISTING RESTRICTIONS ON BANK TRANSACTIONS WITH AFFILIATES. (a) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended-- (1) in subsection (b)(1), by striking subparagraph (D) and inserting the following new subparagraph: `(D) any investment fund with respect to which a member bank or affiliate thereof is an investment adviser; and';	***SEC. 608. ENHANCING EXISTING RESTRICTIONS ON BANK TRANSACTIONS WITH AFFILIATES.*** *(a) Affiliate Transactions- Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended--* *(1) in subsection (b)--* *(A) in paragraph (1), by striking subparagraph (D) and inserting the following:* *`(D) any investment fund with respect to which a member bank or affiliate thereof is an investment adviser; and'; and*	
(2) in subsection (b)(7)(A), by inserting `(including a purchase of assets subject to an agreement to repurchase)' after `affiliate'; (3) in subsection (b)(7)(C), by striking `, including assets subject to an agreement to repurchase,'; (4) in subsection (b)(7)(D)-- (A) by inserting `or other debt obligations' after `acceptance of securities'; and (B) by striking `or' after the semicolon;	*(B) in paragraph (7)--* *(i) in subparagraph (A), by inserting before the semicolon at the end the following: `, including a purchase of assets subject to an agreement to repurchase';*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(5) in subsection (b)(7), by inserting at the end the following new subparagraphs: `(F) any securities borrowing and lending transactions with an affiliate to the extent that the transactions create credit exposure of the member bank to the affiliate; or `(G) current and potential future credit exposure to the affiliate on derivative transactions with the affiliate;';	*(ii) in subparagraph (C), by striking `, including assets subject to an agreement to repurchase,';*  *(iii) in subparagraph (D)--*  *(I) by inserting `or other debt obligations' after `acceptance of securities'; and*  *(II) by striking `or' at the end; and* *(iv) by adding at the end the following:* *`(F) a transaction with an affiliate that involves the borrowing or lending of securities, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate; or*  *`(G) a derivative transaction, as defined in paragraph (3) of section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)), with an affiliate, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate;';*	
(6) in subsection (c)(1), by striking `at the time of the transaction,' and inserting `at all times'; (7) in subsection (c)-- (A) by striking paragraph (2); (B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively; (8) in subsection (c)(3) (as so redesignated by paragraph (7)), by inserting `or other debt obligations' after `securities'; (9) in subsection (f)(2), by inserting at the end the following: `The Board may not, by regulation or order, grant an exemption under this section unless the Board obtains the concurrence of the Chairman of the Federal Deposit Insurance Corporation.'; and (10) in subsection (f)-- (A) by redesignating paragraph (3) as paragraph (4); and	*(2) in subsection (c)--* *(A) in paragraph (1)--* *(i) in the matter preceding subparagraph (A), by striking `subsidiary' and all that follows through `time of the transaction' and inserting `subsidiary, and any credit exposure of a member bank or a subsidiary to an affiliate resulting from a securities borrowing or lending transaction, or a derivative transaction, shall be secured at all times'; and*  *(ii) in each of subparagraphs (A) through (D), by striking `or letter of credit' and inserting*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) and inserting after paragraph (2) the following new paragraph: `(3) CONCURRENCE OF THE COMPTROLLER OF THE CURRENCY- With respect to a transaction or relationship involving a national bank or Federal savings association, the Board may not grant an exemption under this section unless the Board obtains the concurrence of the Comptroller of the Currency (in addition to obtaining the concurrence of the Chairman of the Federal Deposit Insurance Corporation under paragraph (2)).'. (b) Technical and Conforming Amendment- Section 23B(e) of the Federal Reserve Act (12 U.S.C. 371-1(e)), is amended by inserting at the end the following new paragraph: `(3) The Board may not grant an exemption or exclusion under this section unless the Board obtains the concurrence of the Chairman of the Federal Deposit Insurance Corporation.'.	*`letter of credit, or credit exposure';*  *(B) by striking paragraph (2);*  *(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;*  *(D) in paragraph (2), as so redesignated, by inserting before the period at the end `, or credit exposure to an affiliate resulting from a securities borrowing or lending transaction, or derivative transaction'; and* *(E) in paragraph (3), as so redesignated--* *(i) by inserting `or other debt obligations' after `securities'; and* *(ii) by striking `or guarantee' and all that follows through `behalf of,' and inserting `guarantee, acceptance, or letter of credit issued on behalf of, or credit exposure from a securities borrowing or lending transaction, or derivative transaction to,';*  *(3) in subsection (d)(4), in the matter preceding subparagraph (A), by striking `or issuing' and all that follows through `behalf of,' and inserting `issuing a guarantee, acceptance, or letter of credit on behalf of, or having credit exposure resulting from a securities borrowing or lending transaction, or derivative transaction to,'; and* *(4) in subsection (f)--* *(A) in paragraph (2)--* *(i) by striking `or order';*  *(ii) by striking `if it finds' and all that follows through the end of the paragraph and inserting the following: `if--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(i) the Board finds the exemption to be in the public interest and consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding; and*  *`(ii) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under clause (i), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.'; *(iii) by striking the Board and inserting the following:* *`(A) IN GENERAL- The Board'; and*  *(iv) by adding at the end the following:*  *`(B) ADDITIONAL EXEMPTIONS-* *`(i) NATIONAL BANKS- The Comptroller of the Currency may, by order, exempt a transaction of a national bank from the requirements of this section if--*  *`(I) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and* *`(II) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Corporation receives notice of the finding under subclause (I), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund. *`(ii) STATE BANKS- The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State nonmember bank, and the Board may, by order, exempt a transaction of a State member bank, from the requirements of this section if--*  *`(I) the Board and the Federal Deposit Insurance Corporation jointly find that the exemption is in the public interest and consistent with the purposes of this section; and* *`(II) the Federal Deposit Insurance Corporation finds that the exemption does not present an unacceptable risk to the Deposit Insurance Fund.'; and*  *(B) by adding at the end the following:*  *`(4) AMOUNTS OF COVERED TRANSACTIONS- The Board may issue such regulations or interpretations as the Board determines are necessary or appropriate with respect to the manner in which a netting agreement may be taken into account in determining the amount of a covered transaction between a member bank or a subsidiary and an affiliate, including the extent to which netting agreements between a member bank or a subsidiary and an affiliate may be taken into account in determining whether a covered transaction is fully secured for purposes of subsection (d)(4). An interpretation under this paragraph with respect to a specific member bank, subsidiary,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	or affiliate shall be issued jointly with the appropriate Federal banking agency for such member bank, subsidiary, or affiliate.'. *(b) Transactions With Affiliates- Section 23B(e) of the Federal Reserve Act (12 U.S.C. 371c-1(e)) is amended--* *(1) by striking the undesignated matter following subparagraph (B);* *(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;* *(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;* *(4) by striking `The Board' and inserting the following:*  *`(1) IN GENERAL- The Board';* *(5) in paragraph (1)(B), as so redesignated--* *(A) in the matter preceding clause (i), by inserting before `regulations' the following: `subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding,'; and* *(B) in clause (ii), by striking the comma at the end and inserting a period; and* *(6) by adding at the end the following:* *`(2) EXCEPTION- The Board may grant an exemption or exclusion under this subsection only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object, in writing, to such exemption or exclusion, based on a determination that the exemption presents*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	an unacceptable risk to the Deposit Insurance Fund.'. *(c) Home Owners' Loan Act- Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended by adding at the end the following:* *`(d) Exemptions-*  *`(1) FEDERAL SAVINGS ASSOCIATIONS- The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if--* *`(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and*  *`(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.* *`(2) STATE SAVINGS ASSOCIATION- The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that--*  *`(A) the exemption is in the public interest and consistent with the purposes of this section; and* *`(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.'.* *(d) Effective Date- The amendments made by this section shall take effect 1 year after the transfer date.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 1307. ELIMINATING EXCEPTIONS FOR TRANSACTIONS WITH FINANCIAL SUBSIDIARIES. Section 23A(e) of the Federal Reserve Act (12 U.S.C. 371c(e)) is amended-- (1) by striking paragraph (3); and (2) by redesignating paragraph (4) as paragraph (3).	***SEC. 609. ELIMINATING EXCEPTIONS FOR TRANSACTIONS WITH FINANCIAL SUBSIDIARIES.*** *(a) Amendment- Section 23A(e) of the Federal Reserve Act (12 U.S.C. 371c(e)) is amended--* *(1) by striking paragraph (3); and* *(2) by redesignating paragraph (4) as paragraph (3).* *(b) Prospective Application of Amendment- The amendments made by this section shall apply with respect to any covered transaction between a bank and a subsidiary of the bank, as those terms are defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), that is entered into on or after the date of enactment of this Act.* *(c) Effective Date- The amendments made by this section shall take effect 1 year after the transfer date.*	
SEC. 1308. LENDING LIMITS APPLICABLE TO CREDIT EXPOSURE ON DERIVATIVE TRANSACTIONS, REPURCHASE AGREEMENTS, REVERSE REPURCHASE AGREEMENTS, AND SECURITIES LENDING AND BORROWING TRANSACTIONS. Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended-- (1) in subsection (b)(1), by striking `shall include all direct or indirect' and all that follows through `commitment;' and inserting: `shall include-- `(A) all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person; `(B) to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and `(C) credit exposure to a person arising from a	***SEC. 610. LENDING LIMITS APPLICABLE TO CREDIT EXPOSURE ON DERIVATIVE TRANSACTIONS, REPURCHASE AGREEMENTS, REVERSE REPURCHASE AGREEMENTS, AND SECURITIES LENDING AND BORROWING TRANSACTIONS.*** *(a) National Banks- Section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)) is amended--* *(1) in paragraph (1), by striking `shall include' and all that follows through the end of the paragraph and inserting the following: `shall include--* *`(A) all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person;*  *`(B) to the extent specified by the Comptroller of the Currency, any liability of a national banking*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the national banking association and the person;'; (2) in subsection (b)(2) by striking the period at the end and inserting `; and'; (3) in subsection (b), by inserting after paragraph (2) the following new paragraph: `(3) the term `derivative transaction' means any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.'; and (4) in subsection (d), by inserting after paragraph (2) the following new paragraph: `(3) The Comptroller of the Currency shall prescribe rules to administer and carry out the purposes of this section with respect to credit exposures arising from any derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction. Rules required to be prescribed under this paragraph (3) shall take effect, in final form, not later than 180 days after the date of enactment of the Financial Stability Improvement Act of 2009.'.	*association to advance funds to or on behalf of a person pursuant to a contractual commitment; and* *`(C) any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the national banking association and the person;';* *(2) in paragraph (2), by striking the period at the end and inserting `; and'; and*  *(3) by adding at the end the following:*  *`(3) the term `derivative transaction' includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.'.* *(b) Savings Associations- Section 5(u)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(3)) is amended by striking `Director' each place that term appears and inserting `Comptroller of the Currency'.* *(c) Effective Date- The amendments made by this section shall take effect 1 year after the transfer date.*	
SEC. 1309. RESTRICTION ON CONVERSIONS OF TROUBLED BANKS AND THRIFTS. (a) Conversion of a National Banking Association to a State Bank- The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended by redesignating section 7 as section 8 and by inserting after section 6 the following: **`SEC. 7. PROHIBITION ON CERTAIN CONVERSIONS.**  `A national bank may not convert to a State bank during any period of time in which it is subject to a cease and desist order, memorandum of understanding, or other enforcement action entered into with or issued by	***SEC. 612. RESTRICTION ON CONVERSIONS OF TROUBLED BANKS.*** *(a) Conversion of a National Banking Association to a State Bank- The Act entitled `An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes.' (12 U.S.C. 214 et seq.) is amended by adding at the end the following:*  ***SEC. 10. PROHIBITION ON CONVERSION.***  *`A national banking association may not convert to a State bank or State savings association during any period in which the national banking*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Comptroller of the Currency.'. (b) Conversion of a State Bank to a National Bank- Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by adding at the end the following new sentence: `The Comptroller of the Currency shall not approve the conversion of a State bank to a national bank during any period of time in which the State bank is subject to a cease and desist order, memorandum of understanding, or other enforcement action entered into or issued by a State bank supervisor, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or a Federal Reserve Bank.'. (c) Conversion Between a Federal Savings Association and a State Savings Association- Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following new paragraph: `(6) PROHIBITION ON CERTAIN CONVERSIONS- A Federal savings association may not convert to a State savings association, and a State savings association may not convert to a Federal savings association, during any period of time in which such savings association is subject to a cease and desist order, memorandum of understanding, or other enforcement action entered into with or issued by the Director of the Office of Thrift Supervision or a State savings association supervisor.'.	*association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Comptroller of the Currency with respect to a significant supervisory matter.'.* *(b) Conversion of a State Bank to a National Bank- Section 5154 of the Revised Statutes of the United States (12 U.S.C. 35) is amended by adding at the end the following: `The Comptroller of the Currency may not approve the conversion of a State bank or State savings association to a national banking association during any period in which the State bank or State savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, a State bank supervisor or the appropriate Federal banking agency with respect to a significant supervisory matter.'.* *(c) Conversion of a Federal Savings Association to a National or State Bank or State Savings Association- Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following:* *`(6) LIMITATION ON CERTAIN CONVERSIONS BY FEDERAL SAVINGS ASSOCIATIONS- A Federal savings association may not convert to a national bank or State bank or State savings association during any period in which the Federal savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Office of Thrift Supervision or the Comptroller of the Currency with respect to a significant supervisory matter.'.*	
SEC. 1310. LENDING LIMITS TO INSIDERS. Section 22(h)(9)(D)(ii) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(D)(ii)) is amended by inserting `, except that a member bank shall be deemed to have extended credit to a person if the member bank has credit exposure to the person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the member bank and the person' before the period at the end.	***SEC. 614. LENDING LIMITS TO INSIDERS.*** *(a) Extensions of Credit- Section 22(h)(9)(D)(i) of the Federal Reserve Act (12 U.S.C. 375b(9)(D)(i)) is amended--* *(1) by striking the period at the end and inserting `; or';*  *(2) by striking `a person' and inserting `the person';*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(3) by striking `extends credit by making' and inserting the following: `extends credit to a person by-- *`(I) making'; and*  *(4) by adding at the end the following:*  *`(II) having credit exposure to the person arising from a derivative transaction (as defined in section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b))), repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the member bank and the person.'.* *(b) Effective Date- The amendments made by this section shall take effect 1 year after the transfer date.*	
SEC. 1311. LIMITATIONS ON PURCHASES OF ASSETS FROM INSIDERS. (a) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting at the end the following new subsection: `(y) General Prohibition- An insured depository institution shall not purchase an asset from, or sell an asset to, one of its executive officers, directors, or principal shareholders or any related interest of such person (as such terms are defined in section 22(h) of Federal Reserve Act) unless the transaction is on market terms and, if the transaction represents more than 10 percent of the institution's capital stock and surplus, the transaction has been approved in advance by a majority of the institution's board of directors (with interested directors of the insured depository institution not participating in the approval of the transaction).'. (b) FDIC Rulemaking Authority- The Federal Deposit Insurance Corporation may prescribe rules to implement the requirements of subsection (a) and the amendments made by subsection (a).	***SEC. 615. LIMITATIONS ON PURCHASES OF ASSETS FROM INSIDERS.*** *(a) Amendment to the Federal Deposit Insurance Act- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:* *`(z) General Prohibition on Sale of Assets-*  *`(1) IN GENERAL- An insured depository institution may not purchase an asset from, or sell an asset to, an executive officer, director, or principal shareholder of the insured depository institution, or any related interest of such person (as such terms are defined in section 22(h) of Federal Reserve Act), unless--* *`(A) the transaction is on market terms; and*  *`(B) if the transaction represents more than 10 percent*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(c) Amendments to the Federal Reserve Act- Section 22 of the Federal Reserve Act (12 U.S.C. 375) is amended by striking subsection (d).	*of the capital stock and surplus of the insured depository institution, the transaction has been approved in advance by a majority of the members of the board of directors of the insured depository institution who do not have an interest in the transaction.* *`(2) RULEMAKING- The Board of Governors of the Federal Reserve System may issue such rules as may be necessary to define terms and to carry out the purposes this subsection. Before proposing or adopting a rule under this paragraph, the Board of Governors of the Federal Reserve System shall consult with the Comptroller of the Currency and the Corporation as to the terms of the rule.'.* *(b) Amendments to the Federal Reserve Act- Section 22(d) of the Federal Reserve Act (12 U.S.C. 375) is amended to read as follows:* *`(d) [Reserved]'.* *(c) Effective Date- The amendments made by this section shall take effect on the transfer date.*	
SEC. 1312. RULES REGARDING CAPITAL LEVELS OF BANK HOLDING COMPANIES. Section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)) is amended by inserting `, including regulations relating to the capital levels of bank holding companies' before the period at the end.	***SEC. 616. REGULATIONS REGARDING CAPITAL LEVELS OF HOLDING COMPANIES.*** *(a) Capital Levels of Bank Holding Companies- Section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)) is amended by inserting after `regulations' the following: `(including regulations relating to the capital requirements of bank holding companies)'.* *(b) Capital Levels of Savings and Loan Holding Companies- Section 10(g)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(g)(1)) is amended by inserting after `orders' the following: `(including regulations relating to capital requirements for savings and loan holding companies)'.* *(c) Source of Strength- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 38 (12 U.S.C. 1831o)*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the following: ***`SEC. 38A. SOURCE OF STRENGTH.***  *`(a) Holding Companies- The appropriate Federal banking agency for a bank holding company or savings and loan holding company shall require the bank holding company or savings and loan holding company to serve as a source of financial strength for any subsidiary of the bank holding company or savings and loan holding company that is a depository institution.* *`(b) Other Companies- If an insured depository institution is not the subsidiary of a bank holding company or savings and loan holding company, the appropriate Federal banking agency for the insured depository institution shall require any company that directly or indirectly controls the insured depository institution to serve as a source of financial strength for such institution.* *`(c) Reports- The appropriate Federal banking agency for an insured depository institution described in subsection (b) may, from time to time, require the company, or a company that directly or indirectly controls the insured depository institution to submit a report, under oath, for the purposes of--* *`(1) assessing the ability of such company to comply with the requirement under subsection (b); and*  *`(2) enforcing the compliance of such company with the requirement under subsection (b).* *`(d) Rules- Not later than 1 year after the transfer date, as defined in section 311 of the Enhancing Financial Institution Safety and Soundness Act of 2010, the appropriate Federal banking agencies shall jointly issue final rules to carry out this section.*  *`(e) Definition- In this section, the term `source of financial strength' means the ability of a company that directly or indirectly owns or controls an insured depository institution to provide financial assistance to such insured depository institution in the event of the financial distress of the insured depository institution.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(d) Effective Date- The amendments made by this section shall take effect on the transfer date.	
SEC. 1313. ENHANCEMENTS TO FACTORS TO BE CONSIDERED IN CERTAIN ACQUISITIONS. (a) Bank Acquisitions- Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by inserting at the end the following new paragraph: `(7) FINANCIAL STABILITY- `(A) IN GENERAL- In every case, the Board shall take into consideration the extent to which the proposed acquisition, merger, or consolidation may pose risk to the stability of the United States financial system or the economy of the United States, including the resulting scope, nature, size, scale, concentration, or interconnectedness of activities that are financial in nature. `(B) STANDARDS FOR APPROVAL- The Board may in its sole discretion disapprove any acquisition, merger, or consolidation of, or by, a financial holding company subject to stricter standards if the Board determines that the resulting concentration of liabilities on a consolidated basis is likely to pose a great threat to financial stability during times of severe economic distress.'.	***SEC. 604.*** *(d) Acquisitions of Banks- Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following:* *`(7) FINANCIAL STABILITY- In every case, the appropriate Federal banking agency of a bank holding company shall take into consideration the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system.'.*	
(b) Nonbank Acquisitions- (1) Section 4(j)(2)(A) of the Bank Holding Company is amended by-- (A) striking `or' before `unsound banking practices'; and (B) inserting before the period at the end the following: `, or risk to the stability of the United States financial system or the economy of the United States'. (2) Section 4(k)(6) of the Bank Holding Company Act of 1956 is amended by striking subparagraph (B) and inserting the following new subparagraph: `(B) A financial holding company may commence any activity or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the Board,	***SEC. 604.*** *(e) Acquisitions of Nonbanks-* *(1) NOTICE PROCEDURES- Section 4(j)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)(A)) is amended by striking `or unsound banking practices' and inserting `unsound banking practices, or risk to the stability of the United States banking or financial system'.* *(2) ACTIVITIES THAT ARE FINANCIAL IN NATURE- Section 4(k)(6)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)) is amended to read as follows:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
except-- `(i) for a transaction in which the total assets to be acquired by the financial holding company exceed $25 billion; and `(ii) as provided in subsection (j) with regard to the acquisition of a savings association.'. (3) Section 4(j) of the Bank Holding Company Act of 1956 is amended by inserting after paragraph (4) the following new paragraph (and redesignating succeeding paragraphs accordingly): `(5) FINANCIAL STABILITY- `(A) IN GENERAL- In every case, the Board shall take into consideration the extent to which the proposed acquisition, merger, or consolidation may pose risk to the stability of the United States financial system or the economy of the United States, including the resulting scope, nature, size, scale, concentration, or interconnectedness of activities that are financial in nature. `(B) STANDARDS FOR APPROVAL- The Board may, in the sole discretion of the Board, disapprove any acquisition, merger, or consolidation of, or by, a financial holding company subject to stricter standards if the Board determines that the resulting concentration of liabilities on a consolidated basis is likely to pose a great threat to financial stability during times of severe economic distress.'.	*`(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES-*  *`(i) IN GENERAL- Except as provided in clause (ii), a financial holding company may commence any activity or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the appropriate Federal banking agency for the financial holding company.* *`(ii) EXCEPTION- A financial holding company may not acquire a company, without the prior approval of the appropriate Federal banking agency for the financial holding company, in a transaction in which the total consolidated assets to be acquired by the financial holding company exceed $25,000,000,000.'.*	
(c) Bank Merger Act Transactions- Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by-- (1) in paragraph (5), by striking `and' before `the convenience and needs of the community to be served'; (2) in paragraph (5), by inserting before the period at the end the following: `, and the risk to the stability of the United States financial system and the economy of the United States based on, among other things, the scope, nature, size, scale, concentration, or interconnectedness of activities that are financial in nature'; and (3) in paragraph (7)(B), by inserting `subparagraphs (A) and (B) of' before `paragraph'.	***SEC. 604.*** *(f) Bank Merger Act Transactions- Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended, in the matter immediately following subparagraph (B), by striking `and the convenience and needs of the community to be served' and inserting `the convenience and needs of the community to be served, and the risk to the stability of the United States banking or financial system'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 1314. ELIMINATION OF ELECTIVE INVESTMENT BANK HOLDING COMPANY FRAMEWORK. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended-- (1) by striking subsection (i); and (2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.	***SEC. 617. ELIMINATION OF ELECTIVE INVESTMENT BANK HOLDING COMPANY FRAMEWORK.*** *(a) Amendment- Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended--* *(1) by striking subsection (i); and* *(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.* *(b) Effective Date- The amendments made by this section shall take effect on the transfer date.*	
SEC. 1315. EXAMINATION FEES FOR LARGE BANK HOLDING COMPANIES. The Bank Holding Company Act of 1956 is amended by inserting after section 5 the following new section: **`SEC. 5A. EXAMINATION FEES.**  `The Board of Governors of the Federal Reserve System or the Federal Reserve Banks shall assess fees on bank holding companies with total consolidated assets of $10 billion or more. Such fees shall be sufficient to defray the cost of the examination of such bank holding companies.'.		
SEC. 1316. MUTUAL NATIONAL BANKS AND FEDERAL MUTUAL BANK HOLDING COMPANIES AUTHORIZED. (a) In General- Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5133 the following new sections: **`SEC. 5133A. MUTUAL NATIONAL BANKS.**  `(a) In General- Notwithstanding the section designated the `Third' of section 5134, in order to provide mutual institutions for the deposit of funds, the extension of credit, and provision of other services, the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Comptroller of the Currency may charter mutual national banks either de novo or through a conversion of any insured depository institution or any State mutual bank or credit union, subject to regulations prescribed by the Comptroller of the Currency in accordance with this section. The powers conferred by this section are intended to provide for the creation and maintenance of mutual national banks as bodies corporate existing in perpetuity for the benefit of their depositors and the communities in which they operate.		
`(b) Regulations- `(1) REGULATIONS OF THE COMPTROLLER- The Comptroller of the Currency is authorized to prescribe appropriate regulations for the organization, incorporation, examination, operation, and regulation of mutual national banks. Except to the extent that such existing regulations conflict with sections 5133A and 5133B, mutual national banks shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on the date of the enactment of the Wall Street Reform and Consumer Protection Act of 2009, including parts 543, 544, 546, 563b, and 563c of chapter V of title 12, Code of Federal Regulations (as in effect on that date), for up to 3 years beginning on the date of the enactment of the Wall Street Reform and Consumer Protection Act of 2009. `(2) APPLICABILITY OF CAPITAL STOCK REQUIREMENTS- The Comptroller of the Currency shall prescribe regulations regarding the manner in which requirements of this title with respect to capital stock, and limitations imposed on national banks under this title based on capital stock, shall apply to mutual national banks.		
`(c) Conversions- `(1) CONVERSION OF A MUTUAL DEPOSITORY TO A MUTUAL NATIONAL BANK- Subject to such regulations as the Comptroller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any mutual depository may convert to a mutual national bank by filing with the Comptroller of the Currency a notice of its election to convert on a specified date that is not earlier than 30		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
days after the date on which the notice is filed, and the mutual depository shall be converted to a mutual national bank charter on the date specified in the notice. `(2) CONVERSION TO STOCK NATIONAL BANK- Subject to such regulations as the Comptroller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any national bank that is organized in the mutual form under subsection (a) may reorganize as a stock national bank. `(3) CONVERSION TO STATE BANKS- Any national mutual bank may convert to a State bank charter in accordance with regulations prescribed by the Comptroller of the Currency and applicable State law. `(d) Terminating Mutuality- If a mutual national bank elects to terminate mutuality, it must do so by-- `(1) liquidating; or `(2) converting to a national banking association operating in stock form.		
`(e) Status and Rights of Members- `(1) In general, the status of a member is primarily that of a depositor and secondarily that of a holder of a contingent right to participate in the equity of a mutual national bank upon a liquidation or conversion. `(2) Each member of a mutual national bank shall have the following rights: `(A) Such rights as may be agreed upon, by contract, between the member and the mutual national bank. `(B) The right to vote for members of the board of directors of the mutual national bank. `(C) The right to attend any meeting of members properly called by the board of directors of a mutual national bank. `(D) In the event the board of directors, in its sole discretion, determines a conversion of a mutual national bank to a national banking association operating in stock form is in the best interests of the community in which the bank operates and the members approve the conversion through a special proxy, then the members as of a record date set by the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
board of directors shall have the first right to subscribe for and purchase stock in the converted bank. `(E) In the event the board of directors, in its sole discretion, determines a liquidation of the mutual national bank is in the best interests of the community in which the bank operates and the members approve the liquidation, or if for any other reason the bank is liquidated by operation of law, then the members as of the date of liquidation shall have the right to have credited to their accounts, on a pro rata basis, any residual assets left after the liquidation of the mutual national bank. `(3) In the consideration of all questions requiring action by the members of a national mutual bank, the bank may provide in its charter that each member shall be permitted (i) one vote per member, or (ii) to cast one vote for each $100, or fraction thereof, of the withdrawal value of the member's account, but not more than 1,000 votes per member. `(f) Proxies- `(1) A member may give, in writing or electronically, a perpetual proxy to a committee of the board of directors of a mutual depository, provided that the member may revoke such a proxy in writing or electronically, with such revocation to take effect after 6 business days. `(2) Such proxies may be used to vote on any issue requiring approval of the members, including the conversion of a mutual depository into a mutual national bank and the reorganization of a mutual national bank into a Federal mutual bank holding company, except that, without a prior finding by the regulator of the mutual national bank that such action is needed to avoid loss to the Federal Deposit Insurance Corporation's deposit insurance fund or to protect the stability of the United States financial system, such proxies may not be used to vote in favor of-- `(A) terminating mutuality for a mutual national bank or a Federal mutual bank holding company; `(B) permitting the modification of a Federal mutual bank holding company; or `(C) issuing mutual capital certificates (except when used to found a mutual national bank or a Federal mutual bank holding company de novo). `(3) Proxies given by a member, in writing or electronically, to management of, or to a committee of the board of directors of, a		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
mutual depository shall not be deemed to have been revoked solely because of, and shall continue to exist following, a conversion to a mutual national bank and any concurrent or subsequent reorganization to a Federal mutual bank holding company.		
`(g) Definitions- For purposes of this section, the following definitions shall apply: `(1) INSURED DEPOSITORY INSTITUTION- The term `insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act. `(2) MUTUAL NATIONAL BANK- The term `mutual national bank' means a national banking association that operates in mutual form and is chartered by the Comptroller of the Currency under this section. `(3) MUTUAL DEPOSITORY- The term `mutual depository' means a depository institution that is organized in non-stock form, including a Federal non-stock depository and any form of non-stock depository provided for under State law, the deposits of which are insured by an instrumentality of the Federal Government. `(4) MUTUALITY- The term `mutuality' means the quality of being an insured depository institution organized under a Federal or State law providing for the organization of non-stock depository institutions, or a holding company organized under a Federal or State law providing for the organization of non-stock entities that control one or more depository institutions. `(5) MEMBER- The term `member' means each tax-liable depositor in a mutual depository's savings, demand, or other authorized depository accounts and each tax-liable depositor in such an account in a depository subsidiary of a Federal mutual bank holding company. `(6) TAX LIABLE DEPOSITOR- The term `tax liable depositor' means the single person responsible for paying any Federal taxes due on any interest paid on any deposits held within any savings, demand, or other authorized depository account or accounts with any mutual depository. `(7) MEMBERSHIP RIGHTS- The term `membership rights' means the rights of each member under this section.		
`(h) Conforming References- Unless otherwise provided by the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Comptroller of the Currency-- `(1) any reference in any Federal law to a national bank operating in stock form, including a reference to the term `national banking association', `member bank', `national bank', `national association', `bank', `insured bank', `insured depository institution', or `depository institution', shall be deemed to refer also to a mutual national bank; `(2) any reference in any Federal law to the term `board of directors', `director', or `directors' of a national bank operating in stock form shall be deemed to refer also to the board of a mutual national bank; and `(3) any terms in Federal law that may apply only to a national bank operating in stock form, including the terms `stock', `shares', `shares of stock', `capital stock', `common stock', `stock certificate', `stock certificates', `certificates representing shares of stock', `stock dividend', `transferable stock', `each class of stock', `cumulate such shares', `par value', `preferred stock' shall not apply to a mutual national bank, unless the Comptroller of the Currency determines that the context requires otherwise.		
**`SEC. 5133B. FEDERAL MUTUAL BANK HOLDING COMPANIES.**  `(a) Reorganization of Mutual National Bank as a Holding Company- `(1) IN GENERAL- Subject to approval under the Bank Holding Company Act of 1956, a mutual national bank may reorganize so as to become a Federal mutual bank holding company by submitting a reorganization plan to the appropriate bank holding company regulator. `(2) PLAN APPROVAL- Upon the approval of the reorganization plan by the appropriate bank holding company regulator and the issuance of the appropriate charters-- `(A) the substantial part of the mutual national bank's assets and liabilities, including all of the bank's insured liabilities, shall be transferred to a national banking association, a majority of the shares of voting stock of which is owned, directly or indirectly, by the mutual national bank that is to become a Federal mutual bank holding company; and `(B) the mutual national bank shall become a Federal mutual bank holding company. `(b) Directors and Certain Account Holders' Approval of Plan Required-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
This subsection does not authorize a reorganization unless-- `(1) a majority of the mutual national bank's board of directors has approved the plan providing for such reorganization; and `(2) a majority of members has approved the plan at a meeting held at the call of the directors under the procedures prescribed by the bank's charter and bylaws.		
`(c) Ownership of Depository Subsidiaries- To avoid terminating mutuality, a Federal mutual bank holding company must own, directly or indirectly, a majority of the shares of voting stock of each of its depository subsidiaries. `(d) No Termination of Mutuality- Neither a reorganization of a mutual depository nor a modification of a Federal mutual bank holding company shall cause a termination of mutuality. `(e) Retention of Capital- In connection with a transaction described in subsection (a), a mutual national bank may, subject to the approval of the appropriate bank holding company regulator, retain capital at the holding company level to the extent that the capital retained at the holding company level exceeds the amount of capital required for the national banking association chartered as a part of a transaction described in subsection (a) to meet all relevant capital standards established by the Comptroller of the Currency for national banking associations. `(f) Terminating Mutuality- If a Federal mutual bank holding company elects to terminate mutuality, it must do so by either liquidating or converting to a bank holding company operating in stock form. `(g) Membership Rights- Holders of savings, demand, or other authorized depository accounts in a depository subsidiary of a Federal mutual bank holding company shall have the same membership rights with respect to the Federal mutual bank holding company as those holders would have had if the depository subsidiary of the Federal mutual bank holding company had been a mutual national bank.		
`(h) Regulation- A Federal mutual bank holding company shall be-- `(1) chartered by the appropriate bank holding company regulator and shall be subject to such regulations as the appropriate bank holding company regulator shall prescribe; and `(2) regulated under the Bank Holding Company Act of 1956 on the same terms and subject to the same limitations as any other company that controls a bank.		
`(i) Capital Improvement-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) PLEDGE OF STOCK OF NATIONAL BANK SUBSIDIARY- This section shall not prohibit a Federal mutual bank holding company from pledging all or a portion of the stock of the national banking association chartered as part of a transaction described in subsection (a) to raise capital for such national banking association. `(2) ISSUANCE OF NONVOTING SHARES- This section shall not prohibit a national banking association chartered as part of a transaction described in subsection (a) from issuing any nonvoting shares or less than 50 percent of the voting shares of such bank to any person other than the Federal mutual bank holding company.		
`(j) Insolvency and Liquidation- `(1) IN GENERAL- Notwithstanding any other provision of law, the appropriate bank holding company regulator may file a petition under chapter 7 of title 11, United States Code, with respect to a Federal mutual bank holding company upon-- `(A) the default of any national bank-- `(i) the stock of which is owned by the Federal mutual bank holding company; and `(ii) that was chartered in a transaction described in subsection (a); or `(B) a foreclosure on a pledge by the Federal mutual bank holding company described in subsection (i)(1). `(2) DISTRIBUTION OF NET PROCEEDS- Except as provided in paragraph (3), the net proceeds of any liquidation of any Federal mutual bank holding company under paragraph (1) shall be transferred to persons who hold membership interests in such Federal mutual bank holding company. `(3) RECOVERY BY FDIC- If the Federal Deposit Insurance Corporation incurs a loss as a result of the default of any insured bank subsidiary of a Federal mutual bank holding company that is liquidated under paragraph (1), the Federal Deposit Insurance Corporation shall succeed to the interests of the depositors of the bank as members in the Federal mutual bank holding company, to the extent of the Federal Deposit Insurance Corporation's loss.		
`(k) Definitions- `(1) FEDERAL MUTUAL BANK HOLDING COMPANY-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
The term `Federal mutual bank holding company' means a holding company that is organized in mutual form and owns, directly or indirectly, a majority of the shares of voting stock of one or more depository subsidiaries of a Federal mutual bank holding company. `(2) DEPOSITORY SUBSIDIARY OF A FEDERAL MUTUAL BANK HOLDING COMPANY- The term `depository subsidiary of a Federal mutual bank holding company' means a depository institution organized in stock form that is insured by the Federal Deposit Insurance Corporation, the majority of the shares of voting stock of which are owned by the Federal mutual bank holding company or its wholly owned subsidiaries and none of the shares of stock of which are pledged or otherwise subjected to lien except as permitted in subsection (i). `(3) REORGANIZATION OF A MUTUAL DEPOSITORY- The term `reorganization of a mutual depository' means the conversion of a mutual depository into a depository subsidiary of a Federal mutual bank holding company. `(4) MODIFICATION OF A FEDERAL MUTUAL BANK HOLDING COMPANY- The term `modification of a Federal mutual bank holding company' means either: (A) the sale of shares of common or preferred stock in a depository subsidiary of a Federal mutual bank holding company to any party other than the subsidiary's parent Federal mutual bank holding company or a wholly owned subsidiary of that parent; or (B) the voluntary grant of a lien on shares of common or preferred stock in a depository subsidiary of a Federal mutual bank holding company. `(5) DEFAULT- With respect to a national bank, the term `default' means an adjudication or other official determination by any court of competent jurisdiction, the Comptroller of the Currency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for the national bank.		
`(l) Conforming References- Unless otherwise provided by the appropriate bank holding company regulator-- `(1) any reference in any Federal law to a bank holding company operating in stock form shall be deemed to refer also to a Federal mutual bank holding company;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) any reference in any Federal law to the term `board of directors', `director', or `directors' of a national bank operating in stock form shall be deemed to refer also to the board of a Federal mutual bank holding company; and `(3) any terms in Federal law that may apply only to a national bank operating in stock form, including the terms `stock', `shares', `shares of stock', `capital stock', `common stock', `stock certificate', `stock certificates', `certificates representing shares of stock', `stock dividend', `transferable stock', `each class of stock', `cumulate such shares', `par value', `preferred stock' shall not apply to a Federal mutual bank holding company, unless the appropriate bank holding company regulator determines that the context requires otherwise.'.		
(b) Limitation on Federal Regulation of State Banks- Except as otherwise provided in Federal law, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation may not adopt or enforce any regulation that contravenes the corporate governance rules prescribed by State law or regulation for State banks unless the Director, Board, or Corporation finds that the Federal regulation is necessary to assure the safety and soundness of the State banks. (c) Technical Amendment- The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5133 the following new items: `5133A. Mutual national banks. `5133B. Federal mutual bank holding companies.'. (d) Appropriate Federal Banking Agency for Federal Mutual Bank Holding Companies- Section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)) is amended by inserting after subparagraph (F) the following new subparagraph: `(G) supervisory or regulatory proceedings arising from the authority given to the appropriate bank holding company regulator under section 5133B of the Revised Statutes of the United States.'.		
(e) Mutual Holding Company Conversion- (1) IN GENERAL- Any mutual holding company, including any form of mutual depository holding company provided for under State law, may convert to a Federal mutual bank holding		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
company by filing with the appropriate bank holding company regulator a notice of its election to convert on a specified date that is not earlier than 30 days after the date on which the notice is filed, and the mutual holding company shall be converted to a Federal mutual holding company charter on the date specified in the notice. (2) DEFINITIONS- For purposes of this subsection, the following definitions shall apply: (A) FEDERAL MUTUAL BANK HOLDING COMPANY- The term `Federal mutual bank holding company' has the same meaning as in section 5133B of the Revised Statutes of the United States (as added by this section); and (B) MUTUAL HOLDING COMPANY- The term `mutual holding company' has the same meaning as in section 10(o)(10)(A) of the Home Owners Loan Act as in effect on the day before the date of enactment of this Act. (f) Effective Date- This section shall take effect on the date of enactment of this Act.		
SEC. 1317. NATIONWIDE DEPOSIT CAP FOR INTERSTATE ACQUISITIONS. (a) Amendments to the Bank Holding Company Act of 1956- (1) CONCENTRATION LIMIT FOR BANK HOLDING COMPANIES- Section 3(d)(2)(A) of the Bank Holding Company Act (12 U.S.C. 1842(d)(2)(A)) is amended by striking `paragraph (1)(A)' and inserting `subsection (a) of this section'. (2) REMOVAL OF NONBANK SAVINGS ASSOCIATION PROVISION IN LIGHT OF BEING DEFINED AS A BANK- Section 4 of the Bank Holding Company Act is amended by striking subsection (i) and insert the following new subsection: `(i) [Repealed.]'.		
(b) Amendments to the Federal Deposit Insurance Act- (1) IN GENERAL- Section 18(e) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended-- (A) by redesignating paragraph (12) as paragraph (13); and (B) by inserting after paragraph (11), the following new paragraph:		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(12) NATIONWIDE DEPOSIT CAP- The responsible agency may not approve an application for an interstate merger transaction if the resulting insured depository institution (including all insured depository institutions which are affiliates of the resulting insured depository institution), upon consummation of the transaction, would control more than 10 percent of, the total amount of deposits of insured depository institutions in the United States.'. (2) PARALLEL REQUIREMENT- Section 44(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(2)(A) is amended to read as follows: `(A) NATIONWIDE CONCENTRATION LIMITS- The responsible agency may not approve an application for an interstate merger transaction involving two or more insured depository institutions if the resulting insured depository institution (including all insured depository institutions which are affiliates of such institution), upon consummation of the transaction would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.'.		
(c) Amendments to the Home Owners' Loan Act- Section 10(e)(2) of the Home Owners' Loan Act (12 U.S.C. 467a(e)(2)) is amended-- (1) by striking `or' at the end of subparagraph (C); and (2) by striking the period at the end of subparagraph (D), the following new subparagraph: `(E) in the case of an application involving an interstate acquisition, if the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.'.		
SEC. 1318. DE NOVO BRANCHING INTO STATES. (a) National Banks- Section 5155(g)(1)(A) of the Revised Statutes (12 U.S.C. 36(g)(1)(A)) is amended to read as follows: `(A) the law of the State where the branch is located, or	***SEC. 613. DE NOVO BRANCHING INTO STATES.*** *(a) National Banks- Section 5155(g)(1)(A) of the Revised Statutes of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
is to be located, would permit establishment of the branch if the national bank were a state bank chartered by such State;'. (b) State Insured Banks- Section 18(d)(4)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)(i)) is amended to read as follows: `(i) the law of the State where the branch is located, or is to be located, would permit establishment of the branch if the bank were a State bank chartered by such State;'.	*United States (12 U.S.C. 36(g)(1)(A)) is amended to read as follows:* *`(A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State; and'.* *(b) State Insured Banks- Section 18(d)(4)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)(i)) is amended to read as follows:* *`(i) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the bank were a State bank chartered by such State; and'.*	
	SEC. 611. APPLICATION OF NATIONAL BANK LENDING LIMITS TO INSURED STATE BANKS. *(a) Amendment- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:* *`(y) Application of Lending Limits to Insured State Banks- Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) shall apply to each insured State bank, in the same manner and to the same extent as if the insured State bank were a national banking association.'.* *(b) Effective Date- The amendment made by this section shall take effect 1 year after the transfer date.*	

H.R. 4173	S. 3217	Notes
Subtitle E--Improvements to the Federal Deposit Insurance Fund **SEC. 1401. ACCOUNTING FOR ACTUAL RISK TO THE DEPOSIT INSURANCE FUND.** (a) Section 7(b)(1)(C) of the Federal Deposit Insurance Act is amended to read as follows: `(C) `RISK-BASED ASSESSMENT SYSTEM' DEFINED- For purposes of this paragraph, the term `risk-based assessment system' means a system for calculating a depository institution's assessment based on-- `(i) the probability that the Deposit Insurance Fund will incur a loss with respect to the institution; `(ii) the likely amount of any such loss; `(iii) the risks to the Deposit Insurance Fund attributable to such depository institution, including risks posed by its affiliates to the extent the Corporation determines appropriate, taking into account-- `(I) the amount, different categories, and concentrations of assets of the insured depository institution and its affiliates, including both on-balance sheet and off-balance sheet assets; `(II) the amount, different categories, and concentrations of liabilities, both insured and uninsured, contingent and noncontingent, including both on-balance sheet and off-balance sheet liabilities, of the insured depository institution and its affiliates; and `(III) any other factors the Corporation determines are relevant to assessing the risks; and `(iv) the revenue needs of the Deposit Insurance Fund.'. (b) Section 7(b)(2) of the Federal Deposit Insurance Act is amended by		

H.R. 4173	S. 3217	Notes
striking subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).		
	Subtitle C--Federal Deposit Insurance Corporation ***SEC. 331. DEPOSIT INSURANCE REFORMS.*** *(a) Size Distinctions- Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended--* *(1) by striking subparagraph (D); and* *(2) by redesignating subparagraph (C) as subparagraph (D).*	
SEC. 1402. CREATING A RISK-FOCUSED ASSESSMENT BASE. Section 7(b)(2) of such Act, as amended, is further amended by amending subparagraph (C) to read as follows: `(C) ASSESSMENT- The assessment of any insured depository institution imposed under this subsection shall be an amount equal to the product of-- `(i) an assessment rate established by the Corporation; and `(ii) the amount of the insured depository institution's average total assets during the assessment period minus the amount of the insured depository institution's average tangible equity during the assessment period, minus additional deductions or adjustments necessary to establish assessments consistent with the definition under section 7(b)(1)(C) of the Federal Deposit Insurance Act for custodial banks (as defined by the Corporation based on factors including percentage of total revenues generated by custodial businesses and the level of assets under custody) or a bankers' bank (as referred to in section 5136 of the Revised Statutes of the United States).'.	***Subtitle C--Federal Deposit Insurance Corporation*** ***SEC. 331. DEPOSIT INSURANCE REFORMS.*** *(b) Assessment Base- The Corporation shall amend the regulations issued by the Corporation under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) to define the term `assessment base' with respect to an insured depository institution for purposes of that section 7(b)(2), as an amount equal to--* *(1) the average consolidated total assets of the insured depository institution during the assessment period; minus* *(2) the sum of--* *(A) the average tangible equity of the insured depository institution during the assessment period; and* *(B) in the case of an insured depository institution that is a custodial bank (as defined by the Corporation, based on factors including the percentage of total revenues generated by custodial businesses and the level of assets under custody) or a banker's bank (as that term is used in section 5136 of the Revised Statutes (12 U.S.C. 24)), an amount that the Corporation determines is necessary to establish assessments consistent with the definition under section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) for a custodial bank or a banker's bank.*	
SEC. 1403. ELIMINATION OF PROCYCLICAL ASSESSMENTS. Section 7(e) of the Federal Deposit Insurance Act is amended--		

H.R. 4173	S. 3217	Notes
(1) in paragraph (2)-- (A) by amending subparagraph (B) to read as follows: `(B) LIMITATION- The Board of Directors may, in its sole discretion, suspend or limit the declaration of payment of dividends under subparagraph (A).'; (B) by amending subparagraph (C) to read as follows: `(C) NOTICE AND OPPORTUNITY FOR COMMENT- The Corporation shall prescribe, by regulation, after notice and opportunity for comment, the method for the declaration, calculation, distribution, and payment of dividends under this paragraph'; and (C) by striking subparagraphs (D) through (G); and (2) in paragraph (4)(A) by striking `paragraphs (2)(D) and' and inserting `paragraphs (2) and'.		
SEC. 1404. ENHANCED ACCESS TO INFORMATION FOR DEPOSIT INSURANCE PURPOSES. (a) Section 7(a)(2)(B) of the Federal Deposit Insurance Act is amended by striking `, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate,'. (b) Section 7(b)(1)(E) of the Federal Deposit Insurance Act is amended-- (1) in clause (i), by striking `such as' and inserting `including'; and (2) by striking clause (iii).		
SEC. 1405. TRANSITION RESERVE RATIO REQUIREMENTS TO REFLECT NEW ASSESSMENT BASE. (a) Section 7(b)(3)(B) of the Federal Deposit Insurance Act is amended to read as follows: `(B) MINIMUM RESERVE RATIO- The reserve ratio designated by the Board of Directors for any year may not be less than 1.15 percent of estimated insured deposits, or the comparable percentage of the assessment base set forth in paragraph (2)(C).'. (b) Section 3(y)(3) of the Federal Deposit Insurance Act is amended by inserting `, or such comparable percentage of the assessment base set forth in section 7(b)(2)(C)' before the period. (c) For a period of not less than 5 years after the date of the enactment of		

H.R. 4173	S. 3217	Notes
this title, the Federal Deposit Insurance Corporation shall make available to the public the reserve ratio and the designated reserve ratio using both estimated insured deposits and the assessment base under section 7(b)(2)(C) of the Federal Deposit Insurance Act.		
	Subtitle C--Federal Deposit Insurance Corporation ***SEC. 332. MANAGEMENT OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.*** *(a) In General- Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended--* *(1) in subsection (a)(1)(B), by striking `Director of the Office of Thrift Supervision' and inserting `Director of the Consumer Financial Protection Bureau';* *(2) by amending subsection (d)(2) to read as follows:* *`(2) ACTING OFFICIALS MAY SERVE- In the event of a vacancy in the Office of the Comptroller of the Currency and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency, the acting Comptroller of the Currency shall be a member of the Board of Directors in the place of the Comptroller of the Currency.'; and* *(3) in subsection (f)(2), by striking `or of the Office of Thrift Supervision'.* *(b) Effective Date- This section, and the amendments made by this section, shall take effect on the transfer date.*	
	SEC. 987. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE DEPOSIT INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS. *(a) In General- Section 38(k) of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended--* *(1) in paragraph (2), by striking subparagraph (B) and inserting the following:* *`(B) MATERIAL LOSS DEFINED- The term `material loss' means any estimated loss in excess of--* *`(i) $100,000,000, if the loss occurs during the period beginning on September 30, 2009, and ending on December 31, 2010;* *`(ii) $75,000,000, if the loss occurs during the period beginning on January 1, 2011, and*	

H.R. 4173	S. 3217	Notes
	ending on December 31, 2011; and *`(iii) $50,000,000, if the loss occurs on or after January 1, 2012.';* *(2) in paragraph (4)(A) by striking `the report' and inserting `any report on losses required under this subsection,';* *(3) by striking paragraph (6);* *(4) by redesignating paragraph (5) as paragraph (6); and* *(5) by inserting after paragraph (4) the following:* *`(5) LOSSES THAT ARE NOT MATERIAL-* *`(A) SEMIANNUAL REPORT- For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of each Federal banking agency shall--* *`(i) identify losses that the Inspector General estimates have been incurred by the Deposit Insurance Fund during that 6-month period, with respect to the insured depository institutions supervised by the Federal banking agency;* *`(ii) for each loss incurred by the Deposit Insurance Fund that is not a material loss, determine--* *`(I) the grounds identified by the Federal banking agency or State bank supervisor for appointing the Corporation as receiver under section 11(c)(5); and* *`(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and* *`(iii) prepare and submit a written report to the appropriate Federal banking agency and to Congress on the results of any determination by the Inspector General, including--* *`(I) an identification of any loss that warrants an in-depth review, together with the reasons why such review is warranted, or, if the Inspector General determines that no review is warranted, an explanation*	

H.R. 4173	S. 3217	Notes
	of such determination; and *`(II) for each loss identified under subclause (I) that warrants an in-depth review, the date by which such review, and a report on such review prepared in a manner consistent with reports under paragraph (1)(A), will be completed and submitted to the Federal banking agency and Congress.* *`(B) DEADLINE FOR SEMIANNUAL REPORT- The Inspector General of each Federal banking agency shall--* *`(i) submit each report required under paragraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and* *`(ii) provide a copy of the report required under paragraph (A) to any Member of Congress, upon request.'.* *(b) Technical and Conforming Amendment- The heading for subsection (k) of section 38 of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended to read as follows:* *`(k) Reviews Required When Deposit Insurance Fund Incurs Losses- '.*	
	SEC. 988. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE NATIONAL CREDIT UNION SHARE INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS. *(a) In General- Section 216(j) of the Federal Credit Union Act (12 U.S.C. 1790d(j)) is amended to read as follows:* *`(j) Reviews Required When Share Insurance Fund Experiences Losses-* *`(1) IN GENERAL- If the Fund incurs a material loss with respect to an insured credit union, the Inspector General of the Board shall--* *`(A) submit to the Board a written report reviewing the supervision of the credit union by the Administration (including the implementation of this section by the Administration), which shall include--* *`(i) a description of the reasons why the*	

H.R. 4173	S. 3217	Notes
	problems of the credit union resulted in a material loss to the Fund; and *`(ii) recommendations for preventing any such loss in the future; and* *`(B) submit a copy of the report under subparagraph (A) to--* *`(i) the Comptroller General of the United States;* *`(ii) the Corporation;* *`(iii) in the case of a report relating to a State credit union, the appropriate State supervisor; and* *`(iv) to any Member of Congress, upon request.* *`(2) MATERIAL LOSS DEFINED- For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union, a loss is material if it exceeds the sum of--* *`(A) $25,000,000; and* *`(B) an amount equal to 10 percent of the total assets of the credit union on the date on which the Board initiated assistance under section 208 or was appointed liquidating agent.* *`(3) PUBLIC DISCLOSURE REQUIRED-* *`(A) IN GENERAL- The Board shall disclose a report under this subsection, upon request under section 552 of title 5, United States Code, without excising--* *`(i) any portion under section 552(b)(5) of title 5, United States Code; or* *`(ii) any information about the insured credit union (other than trade secrets) under section 552(b)(8) of title 5, United States Code.* *`(B) RULE OF CONSTRUCTION- Subparagraph (A) may not be construed as requiring the agency to disclose the name of any customer of the insured credit union (other than an institution-affiliated party), or information from which the identity of such customer could reasonably be ascertained.* *`(4) LOSSES THAT ARE NOT MATERIAL-* *`(A) SEMIANNUAL REPORT- For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of the Board shall--*	

H.R. 4173	S. 3217	Notes
	`(i) identify any losses that the Inspector General estimates were incurred by the Fund during such 6-month period, with respect to insured credit unions;* *`(ii) for each loss to the Fund that is not a material loss, determine-- *`(I) the grounds identified by the Board or the State official having jurisdiction over a State credit union for appointing the Board as the liquidating agent for any Federal or State credit union; and* *`(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and* *`(iii) prepare and submit a written report to the Board and to Congress on the results of the determinations of the Inspector General that includes--* *`(I) an identification of any loss that warrants an in-depth review, and the reasons such review is warranted, or if the Inspector General determines that no review is warranted, an explanation of such determination; and* *`(II) for each loss identified in subclause (I) that warrants an in-depth review, the date by which such review, and a report on the review prepared in a manner consistent with reports under paragraph (1)(A), will be completed.* *`(B) DEADLINE FOR SEMIANNUAL REPORT- The Inspector General of the Board shall--* *`(i) submit each report required under subparagraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and* *`(ii) provide a copy of the report required under subparagraph (A) to any Member of*	

H.R. 4173	S. 3217	Notes
	Congress, upon request. *`(5) GAO REVIEW- The Comptroller General of the United States shall, under such conditions as the Comptroller General determines to be appropriate--* *`(A) review each report made under paragraph (1), including the extent to which the Inspector General of the Board complied with the requirements under section 8L of the Inspector General Act of 1978 (5 U.S.C. App.) with respect to each such report; and* *`(B) recommend improvements to the supervision of insured credit unions (including improvements relating to the implementation of this section).'.*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
Subtitle F--Improvements to the Asset-backed Securitization Process	***TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES***	
SEC. 1501. SHORT TITLE. This subtitle may be cited as the `Credit Risk Retention Act of 2009'.	***Subtitle D--Improvements to the Asset-Backed Securitization Process*** *SEC. 941. REGULATION OF CREDIT RISK RETENTION.*	
SEC. 1502. CREDIT RISK RETENTION. (a) Amendment- The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 28 the following new section: **`SEC. 29. CREDIT RISK RETENTION.**  `(a) In General- `(1) INTEREST IN LOANS MADE BY CREDITORS- Within 180 days of the date of the enactment of this section, the appropriate agencies shall prescribe regulations to require any creditor that makes a loan to retain an economic interest in a material portion of the credit risk of any such loan that the creditor transfers, sells, or conveys to a third party, including for the purpose of including such loan in a pool of loans backing an issuance of asset-backed securities. `(2) INTEREST IN ASSETS BACKING ASSET-BACKED SECURITIES- The appropriate agencies shall prescribe regulations to require any securitizer of asset-backed securities that are backed by assets not described in paragraph (1) to retain an economic interest in a material portion of any such asset used to back an issuance of securities.	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *(b)* *`(b) In General- Not later than 270 days after the date of enactment of this section, the Federal banking agencies and the Commission shall jointly prescribe regulations to require any securitizer to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party.*	Note: Amending Section 15 G (b) of the Securities Exchange Act of 1934
`(b) Alternative Risk Retention for Credit Securitizers- The appropriate agencies may apply the risk retention requirements of this section to securitizers of loans or particular types of loans in addition to or in substitution for any or all of the requirements that apply to creditors that make such loans or types of loans, if the agencies determine that applying the requirements to such securitizers would-- `(1) be consistent with helping to ensure high quality underwriting standards for creditors, taking into account other applicable laws, regulations, and standards; and	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *`(d) Originators- In determining how to allocate risk retention obligations between a securitizer and an originator under subsection (c)(1)(E)(ii), the Federal banking agencies and the Commission shall--* *`(1) reduce the percentage of risk retention obligations required of the securitizer by the percentage of risk retention obligations required of the originator; and* *`(2) consider--*	Note: Amending Section 15 G (d) of the Securities Exchange Act of 1934

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
`(2) facilitate appropriate risk management practices by such creditors, improve access of consumers to credit on reasonable terms, or otherwise serve the public interest.	*`(A) whether the assets sold to the securitizer have terms, conditions, and characteristics that reflect reduced credit risk;* *`(B) whether the form or volume of transactions in securitization markets creates incentives for imprudent origination of the type of loan or asset to be sold to the securitizer; and* *`(C) the potential impact of the risk retention obligations on the access of consumers and businesses to credit on reasonable terms, which may not include the transfer of credit risk to a third party.*	
`(c) Standards for Regulation- Regulations prescribed under subsections (a) and (b) shall-- `(1) prohibit a creditor or securitizer from directly or indirectly hedging or otherwise transferring the credit risk such creditor or securitizer is required to retain under the regulations;	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *`(c) Standards for Regulations-* *`(1) STANDARDS- The regulations prescribed under subsection (b) shall--* *`(A) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain with respect to an asset;*	Note: Amending Section 15 G (c) (1) (A) of the Securities Exchange Act of 1934
`(2) require a creditor or securitizer to retain 5 percent of the credit risk on any loan that is transferred, sold, or conveyed by such creditor or securitized by such securitizer except-- `(A) an appropriate agency may specify that the percentage of risk may be less than 5 percent of the credit risk, or exempt such creditor or securitizer from the risk retention requirement, if-- `(i) the credit underwriting by the creditor or the due diligence by the securitizer meets such standards as an appropriate agency prescribes; and `(ii) the loan that is transferred, sold, or conveyed by such creditor or securitized by such securitizer meets terms, conditions, and characteristics that are determined by an appropriate agency to reflect loans with reduced credit risk, such as loans that meet certain interest rate thresholds, loans that are fully amortizing, and loans that are included in a securitization in which a third-party purchaser specifically negotiates for the purchase of the first-loss position and provides due diligence on all individual loans in the	*`(B) require a securitizer to retain--* *`(i) not less than 5 percent of the credit risk for any asset--* *`(I) that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or* *`(II) that is a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if 1 or more of the assets that collateralize the asset-backed security are not qualified residential mortgages; or* *`(ii) less than 5 percent of the credit risk for an asset that is not a qualified residential mortgage that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);* *`(C) specify--*	Note: Amending Section 15 G (c) (1) (B) of the Securities Exchange Act of 1934

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
pool prior to the issuance of the asset-backed securities, and retains a first-loss position; and `(B) an appropriate agency may specify that the percentage of risk may be more than 5 percent of the credit risk if the underwriting by the creditor or due diligence by the securitizer is insufficient; `(3) specify that the credit risk retained must be no less at risk for loss than the average of the credit risk not so retained; and `(4) set the minimum duration of the required risk retention.	*`(i) the permissible forms of risk retention for purposes of this section;* *`(ii) the minimum duration of the risk retention required under this section; and* *`(iii) that a securitizer is not required to retain any part of the credit risk for an asset that is transferred, sold or conveyed through the issuance of an asset-backed security by the securitizer, if all of the assets that collateralize the asset-backed security are qualified residential mortgages;* *`(D) apply, regardless of whether the securitizer is an insured depository institution; and* *`(E) with respect to a commercial mortgage, specify the permissible types, forms, and amounts of risk retention that would meet the requirements of subparagraph (B), such as--* *`(i) retention of a specified amount or percentage of the total credit risk of the asset;* *`(ii) retention of the first-loss position by a third-party purchaser that specifically negotiates for the purchase of such first-loss position and provides due diligence on all individual assets in the pool before the issuance of the asset-backed securities;* *`(iii) a determination by a Federal banking agency or the Commission that the underwriting standards and controls for the asset are adequate; and* *`(iv) provision of adequate representations and warranties and related enforcement mechanisms; and`(F) provide for--* *`(i) a total or partial exemption of any securitization, as may be appropriate in the public interest and for the protection of investors; and* *`(ii) the allocation of risk retention obligations between a securitizer and an originator in the case of a securitizer that purchases assets from an originator, as the Federal banking agencies and the Commission jointly determine appropriate.*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
`(d) Exemptions and Adjustments- `(1) IN GENERAL- The appropriate agencies shall have authority to provide exemptions or adjustments to the requirements of this section, including exemptions or adjustments relating to the percentage of risk retention required to be held and the hedging prohibition. `(2) APPLICABLE STANDARDS- Any exemptions or adjustments provided under paragraph (1) shall-- `(A) be consistent with the purpose of ensuring high quality underwriting standards for creditors, taking into account other applicable laws, regulations, or standards; and `(B) facilitate appropriate risk management practices by such creditors, improve access for consumers to credit on reasonable terms, or otherwise serve the public interest.	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *`(e) Exemptions, Exceptions, and Adjustments-* *`(1) IN GENERAL- The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement and the prohibition on hedging under subsection (c)(1).* *`(2) APPLICABLE STANDARDS- Any exemption, exception, or adjustment adopted or issued by the Federal banking agencies and the Commission under this paragraph shall--* *`(A) help ensure high quality underwriting standards for the securitizers and originators of assets that are securitized or available for securitization; and* *`(B) encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors.*	Note: Amending Section 15 G (e) of the Securities Exchange Act of 1934
`(e) Appropriate Agency Defined- For purposes of this section, the term `appropriate agency' means any of the following agencies with regard to the respective loans and asset-backed securities: `(1) BANKING AGENCIES- The Federal banking agencies, the National Credit Union Administration Board, and the Commission, with respect to any loan or asset-backed security for which there is no appropriate agency under paragraph (2). `(2) OTHER AGENCIES- `(A) With regard to any mortgage insured under title II of the National Housing Act, the Secretary of Housing and Urban Development. `(B) With regard to any loan meeting the conforming loan standards of the Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation or any asset-backed security issued by either such corporation, the Federal Housing Finance Agency. `(C) With regard to any loan insured by the Rural Housing Service, the Rural Housing Service. `(f) Joint Appropriate Agency Regulations- All regulations prescribed by the agencies identified in subsection (e)(1) shall be prescribed jointly by such agencies.		

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
`(g) Enforcement- `(1) Compliance with the requirements imposed under this section shall be enforced under-- `(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of-- `(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency; `(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, bank holding companies, and subsidiaries of bank holding companies (other than insured depository institutions), by the Board; and `(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; `(B) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and a savings and loan holding company and to any subsidiary (other than a bank or subsidiary of that bank); and `(C) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the National Credit Union Administration Board with respect to any Federal credit union.	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *`(f) Enforcement- The regulations issued under this section shall be enforced by--* *`(1) the appropriate Federal banking agency, with respect to any securitizer that is an insured depository institution; and*	
`(2) Except to the extent that enforcement of the requirements imposed under this section is specifically committed to some other Federal agency under paragraph (1), the Commission shall enforce such requirements. `(3) The authority of the Commission under this section shall be	*`(2) the Commission, with respect to any securitizer that is not an insured depository institution. `(g) Authority of Commission- The authority of the Commission under this section shall be in addition to the authority of the Commission to otherwise enforce the securities laws.*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
in addition to its existing authority to enforce the securities laws.		
`(h) Exclusions- Notwithstanding any other provision of this section, the requirements of this section shall not apply to any loan-- `(1) insured, guaranteed, or administered by the Secretary of Education, the Secretary of Agriculture, the Secretary of Veterans Affairs, or the Small Business Administration; or `(2) made, insured, guaranteed, or purchased by any person that is subject to the supervision of the Farm Credit Administration, including the Federal Agricultural Mortgage Corporation.	*`(3) FARM CREDIT SYSTEM INSTITUTIONS- A Farm Credit System institution, including the Federal Agricultural Mortgage Corporation, that is chartered and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), shall be exempt from the risk retention provisions of this subsection.*	Note: Amending Section 15 G (e) (3) of the Securities Exchange Act of 1934
`(i) Definitions- For purposes of this section: `(1) The term `asset-backed security' has the meaning given such term in section 229.1101(c) of title 17, Code of Federal Regulations, or any successor thereto. `(2) The term `Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation. `(3) The term `insured depository institution' has the meaning given such term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)). `(4) The term `securitization vehicle' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that-- `(A) is the issuer, or is created by the issuer, of pass-through certificates, participation certificates, asset-backed securities, or other similar securities backed by a pool of assets that includes loans; and `(B) holds such loans.	*SEC. 941. REGULATION OF CREDIT RISK RETENTION* *(a) Definition of Asset-backed Security- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:* *`(77) ASSET-BACKED SECURITY- The term `asset-backed security'--* *`(A) means a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including--* *`(i) a collateralized mortgage obligation;* *`(ii) a collateralized debt obligation;* *`(iii) a collateralized bond obligation;* *`(iv) a collateralized debt obligation of asset-backed securities;* *`(v) a collateralized debt obligation of collateralized debt obligations; and* *`(vi) a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section; and* *`(B) does not include a security issued by a finance subsidiary held by the parent company or a company controlled by the parent company, if none of the securities issued by the finance subsidiary are held by an entity that is not controlled by the parent company.'.* *(b) Credit Risk Retention- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15F, as added by this Act, the following:*	Note: Amending Section 15 G (f) of the Securities Exchange Act of 1934

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
`(5) The term `securitizer' means the person that transfers, conveys, or assigns, or causes the transfer, conveyance, or assignment of, loans, including through a special purpose vehicle, to any securitization vehicle, excluding any trustee that holds such loans for the benefit of the securitization vehicle.'.	*(b) Credit Risk Retention- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15F, as added by this Act, the following:* ***`SEC. 15G. CREDIT RISK RETENTION.***  *`(a) Definitions- In this section--* *`(1) the term `Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;* *`(2) the term `insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));* *`(3) the term `securitizer' means--* *`(A) an issuer of an asset-backed security; or* *`(B) a person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer; and* *`(4) the term `originator' means a person who--* *`(A) through the extension of credit or otherwise, creates a financial asset that collateralizes an asset-backed security; and* *`(B) sells an asset to a securitizer.*	
(b) Study on Risk Retention- (1) STUDY- The Board, in coordination and consultation with the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission, shall conduct a study of the combined impact by each individual class of asset-backed security of-- (A) the new credit risk retention requirements contained in the amendment made by subsection (a); and (B) the Financial Accounting Statements 166 and 167 issued by the Financial Accounting Standards Board. (2) REPORT- Not later than 90 days after the date of enactment of this title, the Board shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include statutory and regulatory recommendations for eliminating any		

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
negative impacts on the continued viability of the asset-backed securitization markets and on the availability of credit for new lending identified by the study conducted under paragraph (1).		
SEC. 1503. PERIODIC AND OTHER REPORTING UNDER THE SECURITIES EXCHANGE ACT OF 1934 FOR ASSET-BACKED SECURITIES. Section 15(d) of Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended-- (1) by inserting `, other than securities of any class of asset-backed security (as defined in section 229.1101(c) of title 17, Code of Federal Regulations, or any successor thereto),' after `securities of each class'; (2) by inserting at the end the following: `The Commission may by rules and regulations provide for the suspension or termination of the duty to file under this subsection for any class of issuer of asset-backed security upon such terms and conditions and for such period or periods as it deems necessary or appropriate in the public interest or for the protection of investors. The Commission may, for the purposes of this subsection, classify issuers and prescribe requirements appropriate for each class of issuer of asset-backed security.'; and (3) by inserting after the fifth sentence the following: `The Commission shall adopt regulations under this subsection requiring each issuer of an asset-backed security to disclose, for each tranche or class of security, information regarding the assets backing that security. In adopting regulations under this subsection, the Commission shall set standards for the format of the data provided by issuers of an asset-backed security, which shall, to the extent feasible, facilitate comparison of such data across securities in similar types of asset classes. The Commission shall require issuers of asset-backed securities at a minimum to disclose asset-level or loan-level data necessary for investors to independently perform due diligence. Asset-level or loan-level data shall include data with unique identifiers relating to loan brokers or originators, the nature and extent of the compensation of the broker or originator of the assets backing the security, and the amount of risk retention of the originator or the securitizer of such assets.'.	***SEC. 942. DISCLOSURES AND REPORTING FOR ASSET-BACKED SECURITIES.*** *(a) Securities Exchange Act of 1934- Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended--* *(1) by striking `(d) Each' and inserting the following:* *`(d) Supplementary and Periodic Information-* *`(1) IN GENERAL- Each';* *(2) in the third sentence, by inserting after `securities of each class' the following: `, other than any class of asset-backed securities,'; and* *(3) by adding at the end the following:* *`(2) ASSET-BACKED SECURITIES-* *`(A) SUSPENSION OF DUTY TO FILE- The Commission may, by rule or regulation, provide for the suspension or termination of the duty to file under this subsection for any class of asset-backed security, on such terms and conditions and for such period or periods as the Commission deems necessary or appropriate in the public interest or for the protection of investors.* *`(B) CLASSIFICATION OF ISSUERS- The Commission may, for purposes of this subsection, classify issuers and prescribe requirements appropriate for each class of issuers of asset-backed securities.'.* *(b) Securities Act of 1933- Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended by adding at the end the following:* *`(c) Disclosure Requirements-* *`(1) IN GENERAL- The Commission shall adopt regulations under this subsection requiring each issuer of an asset-backed security to disclose, for each tranche or class of security, information regarding the assets backing that security.* *`(2) CONTENT OF REGULATIONS- In adopting regulations under this subsection, the Commission shall--* *`(A) set standards for the format of the data provided by issuers of an asset-backed security, which shall, to the extent feasible, facilitate comparison of such data across securities in similar types of asset classes; and*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
	`(B) require issuers of asset-backed securities, at a minimum, to disclose asset-level or loan-level data necessary for investors to independently perform due diligence, including--* *`(i) data having unique identifiers relating to loan brokers or originators; *`(ii) the nature and extent of the compensation of the broker or originator of the assets backing the security; and* *`(iii) the amount of risk retention by the originator and the securitizer of such assets.'.*	
SEC. 1504. REPRESENTATIONS AND WARRANTIES IN ASSET-BACKED OFFERINGS. The Commission shall prescribe regulations on the use of representations and warranties in the asset-backed securities market that-- (1) require credit rating agencies to include in reports accompanying credit ratings a description of the representations, warranties, and enforcement mechanisms available to investors and how they differ from representations, warranties, and enforcement mechanisms in similar issuances; and (2) require disclosure on fulfilled repurchase requests across all trusts aggregated by originator, so that investors may identify asset originators with clear underwriting deficiencies.	***SEC. 943. REPRESENTATIONS AND WARRANTIES IN ASSET-BACKED OFFERINGS.*** *Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations on the use of representations and warranties in the market for asset-backed securities (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934, as added by this subtitle) that--* *(1) require each national recognized statistical rating organization to include in any report accompanying a credit rating a description of--* *(A) the representations, warranties, and enforcement mechanisms available to investors; and* *(B) how they differ from the representations, warranties, and enforcement mechanisms in issuances of similar securities; and* *(2) require any securitizer (as that term is defined in section 15G(a) of the Securities Exchange Act of 1934, as added by this subtitle) to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by the securitizer, so that investors may identify asset originators with clear underwriting deficiencies.*	
SEC. 1505. EXEMPTED TRANSACTIONS UNDER THE SECURITIES ACT OF 1933. (a) In General- Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended-- (1) by striking paragraph (5); and (2) by redesignating paragraph (6) as paragraph (5).	***SEC. 944. EXEMPTED TRANSACTIONS UNDER THE SECURITIES ACT OF 1933.*** *(a) Exemption Eliminated- Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended--* *(1) by striking paragraph (5); and* *(2) by striking `(6) transactions' and inserting the following:*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
(b) Conforming Amendment- Section 3(a)(4)(B)(vii)(I) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)(vii)(I)) is amended by striking `4(6)' and inserting `4(5)'.	*`(5) transactions'.* *(b) Conforming Amendment- Section 3(a)(4)(B)(vii)(I) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)(vii)(I)) is amended by striking `4(6)' and inserting `4(5)'.*	
SEC. 1506. STUDY ON THE MACROECONOMIC EFFECTS OF RISK RETENTION REQUIREMENTS. (a) Study Required- The Chairman of the Financial Services Oversight Council shall carry out a study on the macroeconomic effects of the risk retention requirements under this subtitle, and the amendments made by this subtitle, with emphasis placed on potential beneficial effects with respect to stabilizing the real estate market. Such study shall include-- (1) an analysis of the effects of risk retention on real estate asset price bubbles, including a retrospective estimate of what fraction of real estate losses may have been averted had such requirements been in force in recent years; (2) an analysis of the feasibility of minimizing real estate price bubbles by proactively adjusting the percentage of risk retention that must be borne by creditors and securitizers of real estate debt, as a function of regional or national market conditions; (3) a comparable analysis for proactively adjusting mortgage origination requirements; (4) an assessment of whether such proactive adjustments should be made by an independent regulator, or in a formulaic and transparent manner; (5) an assessment of whether such adjustments should take place independently or in concert with monetary policy; and (6) recommendations for implementation and enabling legislation. (b) Report- Not later than the end of the 180-day period beginning on the date of the enactment of this title, the Chairman of the Financial Services Oversight Council shall issue a report to the Congress containing any findings and determinations made in carrying out the study required under subsection (a).		
	`(2) ASSET CLASSES-* *`(A) ASSET CLASSES- The regulations prescribed under subsection (b) shall establish asset classes with separate rules for securitizers of different classes of assets, including residential mortgages, commercial mortgages, commercial loans, auto loans, and any other class of assets that the Federal banking agencies	Note: Amending Section 15 G (f) (2) of the Securities Exchange Act of 1934

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
	and the Commission deem appropriate. *`(B) CONTENTS- For each asset class established under subparagraph (A), the regulations prescribed under subsection (b) shall establish underwriting standards that specify the terms, conditions, and characteristics of a loan within the asset class that indicate a reduced credit risk with respect to the loan.*	
	`(4) EXEMPTION FOR QUALIFIED RESIDENTIAL MORTGAGES-* *`(A) IN GENERAL- The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from the risk retention requirements of this subsection. *`(B) QUALIFIED RESIDENTIAL MORTGAGE- The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term `qualified residential mortgage' for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as--* *`(i) documentation and verification of the financial resources relied upon to qualify the mortgagor;* *`(ii) standards with respect to--* *`(I) the residual income of the mortgagor after all monthly obligations;* *`(II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;* *`(III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;* *`(iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;* *`(iv) mortgage guarantee insurance obtained*	Note: Amending Section 15 G (e) (4) of the Securities Exchange Act of 1934

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
	at the time of origination for loans with combined loan-to-value ratios of greater than 80 percent; and *`(v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.* *`(5) CONDITION FOR QUALIFIED RESIDENTIAL MORTGAGE EXEMPTION- The regulations issued under paragraph (4) shall provide that an asset-backed security that is collateralized by tranches of other asset-backed securities shall not be exempt from the risk retention requirements of this subsection.* *`(6) CERTIFICATION- The Commission shall require an issuer to certify, for each issuance of an asset-backed security collateralized exclusively by qualified residential mortgages, that the issuer has evaluated the effectiveness of the internal supervisory controls of the issuer with respect to the process for ensuring that all assets that collateralize the asset-backed security are qualified residential mortgages.*	
	SEC. 945. DUE DILIGENCE ANALYSIS AND DISCLOSURE IN ASSET-BACKED SECURITIES ISSUES. *Section 7 of the Securities Act of 1933 (15 U.S.C. 77g), as amended by this subtitle, is amended by adding at the end the following:* *`(d) Registration Statement for Asset-backed Securities- Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules relating to the registration statement required to be filed by any issuer of an asset-backed security (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934) that require any issuer of an asset-backed security--* *`(1) to perform a due diligence analysis of the assets underlying the asset-backed security; and* *`(2) to disclose the nature of the analysis under paragraph (1).'.*	
	SEC. 932. ENHANCED REGULATION, ACCOUNTABILITY, AND TRANSPARENCY OF NATIONALLY RECOGNIZED STATISTICAL	Note: Adding 15 U.S.C. 780-7(s)

H.R. 4173 as passed by the House	H.R. 4173 as passed by the Senate (S. 3217 as amended)	Notes
	RATING ORGANIZATIONS. *`(s) Transparency of Credit Rating Methodologies and Information Reviewed-*  *`(4) DUE DILIGENCE SERVICES FOR ASSET-BACKED SECURITIES-* *`(A) FINDINGS- The issuer or underwriter of any asset-backed security shall make publicly available the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter.*	
	`(h) Effective Date of Regulations- The regulations issued under this section shall become effective--* *`(1) with respect to securitizers and originators of asset-backed securities backed by residential mortgages, 1 year after the date on which final rules under this section are published in the Federal Register; and *`(2) with respect to securitizers and originators of all other classes of asset-backed securities, 2 years after the date on which final rules under this section are published in the Federal Register.'*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle G--Enhanced Dissolution Authority **SEC. 1601. SHORT TITLE; PURPOSE.** (a) Short Title- This subtitle may be cited as the `Dissolution Authority for Large, Interconnected Financial Companies Act of 2009'. (b) Purpose- The purpose of this subtitle is to protect the financial system of the United States in times of severe crisis by providing for the orderly resolution of large, interconnected financial companies whose failure could create, or increase, the risk of significant liquidity, credit, or other financial problems spreading among financial institutions or markets and thereby threaten the stability of the overall financial system of the United States. There shall be a strong presumption that resolution under the bankruptcy laws will remain the primary method of resolving financial companies, and the authorities contained in this subtitle will only be used in the most exigent circumstances.	***TITLE II--ORDERLY LIQUIDATION AUTHORITY*** ***SEC. 204. ORDERLY LIQUIDATION.*** *(a) Purpose of Orderly Liquidation Authority- It is the purpose of this title to provide the necessary authority to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard. The authority provided in this title shall be exercised in the manner that best fulfills such purpose, so that--* *(1) creditors and shareholders will bear the losses of the financial company;* *(2) management responsible for the condition of the financial company will not be retained; and* *(3) the Corporation and other appropriate agencies will take all steps necessary and appropriate to assure that all parties, including management and third parties, having responsibility for the condition of the financial company bear losses consistent with their responsibility, including actions for damages, restitution, and recoupment of compensation and other gains not compatible with such responsibility.*	
SEC. 1602. DEFINITIONS. For purposes of this subtitle, the following definitions shall apply: (1) APPROPRIATE REGULATORY AGENCY- (A) CORPORATION AND COMMISSION- The term `appropriate regulatory agency' means-- (i) the Corporation; (ii) the Commission, if the financial company, or an affiliate thereof, is a broker or dealer registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b) (other than an insured depository institution)); and (iii) if the financial company or an affiliate of the financial company is an insurance company (other than an insured depository institution), the applicable	***SEC. 201. DEFINITIONS.*** *(a) In General- In this title, the following definitions shall apply:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
State insurance authority of the State in which the insurance company is domiciled. (B) RULES OF CONSTRUCTION- More than 1 agency may be an appropriate regulatory agency with respect to any given financial company. In such instances, the Commission shall be the appropriate regulatory agency for purposes of section 1603 if the largest subsidiary of the financial company is a broker or dealer as measured by total assets as of the end of the previous calendar quarter, the applicable State insurance authority of the State in which the insurance company is domiciled shall be the appropriate regulatory agency for purposes of section 1603 if the financial company is an insurance company or if the largest subsidiary of the financial company is an insurance company as measured by total assets as of the end of the previous calendar quarter, and otherwise the Corporation shall be the appropriate regulatory agency for purposes of section 1603.		
	(2) BANKRUPTCY CODE- The term `Bankruptcy Code' means title 11, United States Code.	
(2) BRIDGE FINANCIAL COMPANY- The term `bridge financial company' means a new financial company organized in accordance with section 1609(h) by the Corporation.	*(3) BRIDGE FINANCIAL COMPANY- The term `bridge financial company' means a new financial company organized by the Corporation in accordance with section 210(h) for the purpose of resolving a covered financial company.*	
	(4) CLAIM- The term `claim' means any right of payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.	
(3) COMMISSION- The term `Commission' means the Securities and Exchange Commission.		
	(5) COMPANY- The term `company' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)), except that such term includes any company described in paragraph (11), the majority of the securities of which are owned by the United States or any State.	
(4) CORPORATION- The term `Corporation' means the Federal Deposit Insurance Corporation.		
	(6) COVERED BROKER OR DEALER- The term `covered broker or dealer' means a covered financial company that is a broker or dealer that--	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) is registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)); and *(B) is a member of SIPC.*	
(5) COVERED FINANCIAL COMPANY- The term `covered financial company' means a financial company for which a determination has been made pursuant to and in accordance with section 1603(b).	*(7) COVERED FINANCIAL COMPANY- The term `covered financial company'--* *(A) means a financial company for which a determination has been made under section 203(b); and* *(B) does not include an insured depository institution.*	
(6) COVERED SUBSIDIARY- The term `covered subsidiary' means a subsidiary covered in paragraph (9)(B)(v).	*(8) COVERED SUBSIDIARY- The term `covered subsidiary' means a subsidiary of a covered financial company, other than--* *(A) an insured depository institution;* *(B) an insurance company; or* *(C) a covered broker or dealer.*	
	(15) COURT- The term `Court' means the United States District Court for the District of Columbia.	
(7) CUSTOMER PROPERTY- The term `customer property' has the meaning ascribed to it in the Securities Investor Protection Act of 1970.	*(9) DEFINITIONS RELATING TO COVERED BROKERS AND DEALERS- The terms `customer', `customer name securities', `customer property', and `net equity' in the context of a covered broker or dealer, have the same meanings as in section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll).*	
(8) FEDERAL RESERVE BOARD- The term `Federal Reserve Board' means the Board of Governors of the Federal Reserve System.		
(9) FINANCIAL COMPANY- The term `financial company' means any company that-- (A) is incorporated or organized under Federal law or the laws of any State; (B) is-- (i) any bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)); (ii) any company that has been subjected to stricter prudential regulation under section 1103; (iii) any insurance company; (iv) any company predominantly engaged in activities that are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) or activities that have been identified for stricter prudential standards under section 1103 of this title;	*(10) FINANCIAL COMPANY- The term `financial company' means any company that--* *(A) is incorporated or organized under any provision of Federal law or the laws of any State;* *(B) is--* *(i) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)), and including any company described in paragraph (5);* *(ii) a nonbank financial company supervised by the Board of Governors;* *(iii) any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or (v) any subsidiary of companies described in clauses (i) through (iv) (other than an insured depository institution or any broker or dealer registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) that is a member of the Securities Investor Protection Corporation); (C) that is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.); (D) that is not a Federal home loan bank, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and (E) is not an insured depository institution (as defined in section 3(c) of the Federal Deposit Insurance act), a Federal credit union or a State-chartered credit union (as such terms are defined in section 101 of the Federal Credit Union Act), or a government-sponsored enterprise (as such term is defined in section 1004(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 1811 note)).	*(iv) any subsidiary of any company described in any of clauses (i) through (iii) that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) (other than a subsidiary that is an insured depository institution or an insurance company); and* *(C) is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), a governmental entity, or a regulated entity, as defined under section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(20)).* ***SEC. 201. DEFINITIONS.*** *(b) Definitional Criteria- For purpose of the definition of the term `financial company' under subsection (a)(10), no company shall be deemed to be predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)), if the consolidated revenues of such company from such activities constitute less than 85 percent of the total consolidated revenues of such company, as the Corporation, in consultation with the Secretary, shall establish by regulation. In determining whether a company is a financial company under this title, the consolidated revenues derived from the ownership or control of a depository institution shall be included.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(10) FUND- The term `Fund' means the Systemic Dissolution Fund established in accordance with section 1609(n).	*(11) FUND- The term `Fund' means the Orderly Liquidation Fund established under section 210(n).*	
(11) INSURANCE COMPANY- The term `insurance company' means any entity covered by a State law designed specifically to deal with the rehabilitation, liquidation, or insolvency of an insurance company.	*(12) INSURANCE COMPANY- The term `insurance company' means any entity that is--* *(A) engaged in the business of insurance;* *(B) subject to regulation by a State insurance regulator; and* *(C) covered by a State law that is designed to specifically deal with the rehabilitation, liquidation, or insolvency of an insurance company.*	
	(13) NONBANK FINANCIAL COMPANY- The term `nonbank financial company' has the same meaning as in section 102(a)(4)(C).	
	(14) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS- The term `nonbank financial company supervised by the Board of Governors' has the same meaning as in section 102(a)(3)(D).	
(12) SECRETARY- The term `Secretary' shall mean the Secretary of the Treasury.		
	(16) SIPC- The term `SIPC' means the Securities Investor Protection Corporation.	
(13) STATE- The term `State' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.		
(14) CERTAIN OTHER TERMS- The terms `affiliate', `company', `control', `deposit', `depository institution', `foreign bank', `insured depository institution', and `subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).		
SEC. 1603. SYSTEMIC RISK DETERMINATION. (a) Written Recommendation of the Federal Reserve Board and the Appropriate Regulatory Agency- (1) VOTE REQUIRED- (A) IN GENERAL- At the request of the Secretary, the Chairman of the Federal Reserve Board, or the appropriate regulatory agency, the Board and the appropriate regulatory agency shall, or on their own initiative the Board and the appropriate regulatory agency may, consider whether to make the written recommendation provided for in paragraph (2) with	***SEC. 203. SYSTEMIC RISK DETERMINATION.*** *(a) Written Recommendation and Determination-* *(1) VOTE REQUIRED-* *(A) IN GENERAL- On their own initiative, or at the request of the Secretary, the Corporation and the Board of Governors shall consider whether to make a written recommendation described in paragraph (2) with respect to whether the Secretary should appoint the Corporation as receiver for a financial company. Such recommendation shall be made upon*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
respect to a financial company. (B) TWO-THIRDS AGREEMENT- Any recommendation under subparagraph (A) shall be made upon a vote of not less than two-thirds of the members of the Federal Reserve Board then serving and not less than two thirds of any members of the board or commission then serving of the appropriate regulatory agency, as applicable.	*a vote of not fewer than 2/3 of the members of the Board of Governors then serving and 2/3 of the members of the board of directors of the Corporation then serving.* *(B) CASES INVOLVING COVERED BROKERS OR DEALERS- In the case of a covered broker or dealer, or in which the largest United States subsidiary (as measured by total assets as of the end of the previous calendar quarter) of a financial company is a covered broker or dealer, the Commission and the Board of Governors, at the request of the Secretary, or on their own initiative, shall consider whether to make the written recommendation described in paragraph (2) with respect to the financial company. Subject to the requirements in paragraph (2), such recommendation shall be made upon a vote of not fewer than 2/3 of the members of the Board of Governors then serving and the members of the Commission then serving, and in consultation with the Corporation.*	
(2) RECOMMENDATION REQUIRED- Any written recommendations made by the Federal Reserve Board and the appropriate regulatory agency under paragraph (1) shall contain the following:	*(2) RECOMMENDATION REQUIRED- Any written recommendation pursuant to paragraph (1) shall contain--*	
(A) A description of the effect that the default of the financial company would have on economic conditions or financial stability in the United States.	*(A) an evaluation of whether the financial company is in default or in danger of default;*	
(B) A description of the effect that the default of the financial company would have on economic conditions or financial stability for low-income, minority, or underserved communities.	*(B) a description of the effect that the default of the financial company would have on financial stability in the United States;*	
(C) A recommendation regarding the nature and the extent of actions that the Board and the appropriate regulatory agency recommend be taken under section 1604 regarding the financial company.	*(C) a recommendation regarding the nature and the extent of actions to be taken under this title regarding the financial company;*	
	(D) an evaluation of the likelihood of a private sector alternative to prevent the default of the financial company; *(E) an evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(F) an evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants; and *(G) an evaluation of whether the company satisfies the definition of a financial company under section 201.*	
(b) Determination by the Secretary- Notwithstanding any other provision of Federal law or the law of any State, if, upon the written recommendation of the Federal Reserve Board and the appropriate regulatory agency as provided for in subsection (a)(1), the Secretary (in consultation with the President) determines that-- (1) the financial company is in default or is in danger of default; (2) the failure of the financial company and its dissolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability or economic conditions in the United States; and (3) any action under section 1604 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system or economic conditions, the cost to the general fund of the Treasury, and the potential to increase moral hazard on the part of creditors, counterparties, and shareholders in the financial company, then the Secretary must take action under section 1604(a), the Corporation must act in accordance with section 1604(b), and the Corporation may take 1 or more actions specified in section 1604(c) in accordance with the requirements of that subsection, except that, prior to the Secretary or Corporation taking any action under section 1604, the Federal Reserve Board or the appropriate Federal regulatory agency shall take action to avoid or mitigate potential adverse effects	*(b) Determination by the Secretary- Notwithstanding any other provision of Federal or State law, the Secretary shall take action in accordance with section 202(a)(1)(A), if, upon the written recommendation under subsection (a), the Secretary (in consultation with the President) determines that--* *(1) the financial company is in default or in danger of default;* *(2) the failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;* *(3) no viable private sector alternative is available to prevent the default of the financial company;* *(4) any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions to be taken under this title is appropriate, given the impact that any action taken under this title would have on financial stability in the United States;* *(5) any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties, and shareholders in the financial company;* *(6) a Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order; and* *(7) the company satisfies the definition of a financial company under section 201.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
on low-income, minority, or underserved communities affected by the failure of such financial company. (c) Documentation and Review- (1) IN GENERAL- The Secretary shall-- (A) document any determination under subsection (b); and (B) retain the documentation for review under paragraph (2). (2) GAO REVIEW- The Comptroller General of the United States shall review and report to the Congress on any determination under subsection (b), including— (A) the basis for the determination; (B) the purpose for which any action was taken pursuant thereto; and (C) the likely effect of the determination and such action on the incentives and conduct of financial companies and their creditors, counterparties, and shareholders. (3) REPORT TO CONGRESS- Within 48 hours after a determination is made under subsection (b), the Secretary shall provide written notice of the determination to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives. The notice shall include a description of the basis for the determination.	*(c) Documentation and Review-* *(1) IN GENERAL- The Secretary shall--* *(A) document any determination under subsection (b);* *(B) retain the documentation for review under paragraph (2); and* *(C) notify the covered financial company and the Corporation of such determination.* *(5) GAO REVIEW- The Comptroller General of the United States shall review and report to Congress on any determination under subsection (b), that results in the appointment of the Corporation as receiver, including--* *(A) the basis for the determination;* *(B) the purpose for which any action was taken pursuant thereto;* *(C) the likely effect of the determination and such action on the incentives and conduct of financial companies and their creditors, counterparties, and shareholders; and* *(D) the likely disruptive effect of the determination and such action on the reasonable expectations of creditors, counterparties, and shareholders, taking into account the impact any action under this title would have on financial stability in the United States, including whether the rights of such parties will be disrupted.* *(2) REPORT TO CONGRESS- Not later than 24 hours after the date of appointment of the Corporation as receiver for a covered financial company, the Secretary shall provide written notice of the recommendations and determinations reached in accordance with subsections (a) and (b) to the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, which shall consist of a summary of the basis for the determination, including, to the extent available at the time of the determination--* *(A) the size and financial condition of the covered financial company;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(B) the sources of capital and credit support that were available to the covered financial company; *(C) the operations of the covered financial company that could have had a significant impact on financial stability, markets, or both;* *(D) identification of the banks and financial companies which may be able to provide the services offered by the covered financial company;* *(E) any potential international ramifications of resolution of the covered financial company under other applicable insolvency law;* *(F) an estimate of the potential effect of the resolution of the covered financial company under other applicable insolvency law on the financial stability of the United States;* *(G) the potential effect of the appointment of a receiver by the Secretary on consumers;* *(H) the potential effect of the appointment of a receiver by the Secretary on the financial system, financial markets, and banks and other financial companies; and* *(I) whether resolution of the covered financial company under other applicable insolvency law would cause banks or other financial companies to experience severe liquidity distress.* *(3) REPORTS TO CONGRESS AND THE PUBLIC-* *(A) IN GENERAL- Not later than 60 days after the date of appointment of the Corporation as receiver for a covered financial company, the Corporation shall file a report with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives--* *(i) setting forth information on the financial condition of the covered financial company as of the date of the appointment, including a description of its assets and liabilities;* *(ii) describing the plan of, and actions taken by, the Corporation to wind down the covered financial company;* *(iii) explaining each instance in which the Corporation waived any applicable requirements of part 366 of title 12, Code of Federal Regulations (or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	any successor thereto) with respect to conflicts of interest by any person in the private sector who was retained to provide services to the Corporation in connection with such receivership; *(iv) describing the reasons for the provision of any funding to the receivership out of the Fund;* *(v) setting forth the expected costs of the orderly liquidation of the covered financial company;* *(vi) setting forth the identity of any claimant that is treated in a manner different from other similarly situated claimants under subsection (b)(4), (d)(4), or (h)(5)(E), the amount of any additional payment to such claimant under subsection (d)(4), and the reason for any such action; and* *(vii) which report the Corporation shall publish on an online website maintained by the Corporation, subject to maintaining appropriate confidentiality.* *(B) AMENDMENTS- The Corporation shall, on a timely basis, not less frequently than quarterly, amend or revise and resubmit the reports prepared under this paragraph, as necessary.* *(C) CONGRESSIONAL TESTIMONY- The Corporation and the primary financial regulatory agency, if any, of the financial company for which the Corporation was appointed receiver under this title shall appear before Congress, if requested, not later than 30 days after the date on which the Corporation first files the reports required under subparagraph (A).*	
(d) Default or in Danger of Default- For purposes of subsection (b), a financial company shall be considered to be in default or in danger of default if any of the following conditions exist, as determined in accordance with that subsection:	*(4) DEFAULT OR IN DANGER OF DEFAULT- For purposes of this title, a financial company shall be considered to be in default or in danger of default if, as determined in accordance with subsection (b)--*	
(1) A case has been, or likely will promptly be, commenced with respect to the financial company under title 11, United States Code.	*(A) a case has been, or likely will promptly be, commenced with respect to the financial company under the Bankruptcy Code;*	
(2) The financial company is critically undercapitalized, as such term has been or may be defined by the Federal Reserve Board.		
(3) The financial company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion without	*(B) the financial company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
assistance under section 1604. (4) The assets of the financial company are, or are likely to be, less than its obligations to creditors and others. (5) The financial company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.	*such depletion;* *(C) the assets of the financial company are, or are likely to be, less than its obligations to creditors and others; or* *(D) the financial company is, or is likely to be, unable to pay its obligations (other than those subject to a bona fide dispute) in the normal course of business.*	
	SEC. 202. JUDICIAL REVIEW. *(a) Commencement of Orderly Liquidation-* *(1) PETITION TO DISTRICT COURT-* *(A) DISTRICT COURT REVIEW-* *(i) PETITION TO DISTRICT COURT- Subsequent to a determination by the Secretary under section 203 that a financial company satisfies the criteria in section 203(b), the Secretary shall notify the Corporation and the covered financial company. If the board of directors (or body performing similar functions) of the covered financial company acquiesces or consents to the appointment of the Corporation as a receiver, the Secretary shall appoint the Corporation as a receiver. If the board of directors (or body performing similar functions) of the covered financial company does not acquiesce or consent to the appointment of the Corporation as receiver, the Secretary shall petition the United States District Court for the District of Columbia for an order authorizing the Secretary to appoint the Corporation as a receiver.* *(ii) FORM AND CONTENT OF ORDER- The Secretary shall present all relevant findings and the recommendation made pursuant to section 203(a) to the Court. The petition shall be filed under seal.* *(iii) DETERMINATION- On a strictly confidential basis, and without any prior public disclosure, the Court, after notice to the covered financial company and a hearing in which the covered financial company may oppose the petition, shall determine whether the determination of the Secretary that the covered financial company is in default or in danger*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious. *(iv) ISSUANCE OF ORDER- If the Court determines that the determination of the Secretary that the covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10)--* *(I) is not arbitrary and capricious, the Court shall issue an order immediately authorizing the Secretary to appoint the Corporation as receiver of the covered financial company; or* *(II) is arbitrary and capricious, the Court shall immediately provide to the Secretary a written statement of each reason supporting its determination, and afford the Secretary an immediate opportunity to amend and refile the petition under clause (i).* *(v) PETITION GRANTED BY OPERATION OF LAW- If the Court does not make a determination within 24 hours of receipt of the petition--* *(I) the petition shall be granted by operation of law;* *(II) the Secretary shall appoint the Corporation as receiver; and* *(III) liquidation under this title shall automatically and without further notice or action be commenced and the Corporation may immediately take all actions authorized under this title.* *(B) EFFECT OF DETERMINATION- The determination of the Court under subparagraph (A) shall be final, and shall be subject to appeal only in accordance with paragraph (2). The decision shall not be subject to any stay or injunction pending appeal. Upon conclusion of its proceedings under subparagraph (A), the Court shall provide immediately for the record a written statement of each reason supporting the decision of the Court, and shall provide copies thereof to the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Secretary and the covered financial company. *(C) CRIMINAL PENALTIES- A person who recklessly discloses a determination of the Secretary under section 203(b) or a petition of the Secretary under subparagraph (A), or the pendency of court proceedings as provided for under subparagraph (A), shall be fined not more than $250,000, or imprisoned for not more than 5 years, or both.* *(2) APPEAL OF DECISIONS OF THE DISTRICT COURT-* *(A) APPEAL TO COURT OF APPEALS-* *(i) IN GENERAL- Subject to clause (ii), the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction of an appeal of a final decision of the Court filed by the Secretary or a covered financial company, through its board of directors, notwithstanding section 210(a)(1)(A)(i), not later than 30 days after the date on which the decision of the Court is rendered or deemed rendered under this subsection.* *(ii) CONDITION OF JURISDICTION- The Court of Appeals shall have jurisdiction of an appeal by a covered financial company only if the covered financial company did not acquiesce or consent to the appointment of a receiver by the Secretary under paragraph (1)(A).* *(iii) EXPEDITION- The Court of Appeals shall consider any appeal under this subparagraph on an expedited basis.* *(iv) SCOPE OF REVIEW- For an appeal taken under this subparagraph, review shall be limited to whether the determination of the Secretary that a covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious.* *(B) APPEAL TO THE SUPREME COURT-* *(i) IN GENERAL- A petition for a writ of certiorari to review a decision of the Court of Appeals under subparagraph (A) may be filed by the Secretary or the covered financial company, through its board of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	directors, notwithstanding section 210(a)(1)(A)(i), with the Supreme Court of the United States, not later than 30 days after the date of the final decision of the Court of Appeals, and the Supreme Court shall have discretionary jurisdiction to review such decision. *(ii) WRITTEN STATEMENT- In the event of a petition under clause (i), the Court of Appeals shall immediately provide for the record a written statement of each reason for its decision.* *(iii) EXPEDITION- The Supreme Court shall consider any petition under this subparagraph on an expedited basis.* *(iv) SCOPE OF REVIEW- Review by the Supreme Court under this subparagraph shall be limited to whether the determination of the Secretary that the covered financial company is in default or in danger of default and satisfies the definition of a financial company under section 201(10) is arbitrary and capricious.* *(b) Establishment and Transmittal of Rules and Procedures-* *(1) IN GENERAL- Not later than 6 months after the date of enactment of this Act, the Court shall establish such rules and procedures as may be necessary to ensure the orderly conduct of proceedings, including rules and procedures to ensure that the 24-hour deadline is met and that the Secretary shall have an ongoing opportunity to amend and refile petitions under subsection (a)(1).* *(2) PUBLICATION OF RULES- The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded and shall be transmitted to--* *(A) the Committee on the Judiciary of the Senate;* *(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;* *(C) the Committee on the Judiciary of the House of Representatives; and* *(D) the Committee on Financial Services of the House of Representatives.* *(c) Provisions Applicable to Financial Companies-* *(1) BANKRUPTCY CODE- Except as provided in this subsection, the provisions of the Bankruptcy Code and rules issued thereunder, and not*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the provisions of this title, shall apply to financial companies that are not covered financial companies for which the Corporation has been appointed as receiver. *(2) THIS TITLE- The provisions of this title shall exclusively apply to and govern all matters relating to covered financial companies for which the Corporation is appointed as receiver, and no provisions of the Bankruptcy Code or the rules issued thereunder shall apply in such cases.*	
SEC. 1604. DISSOLUTION; STABILIZATION. (a) Appointment of Receiver- (1) IN GENERAL- Upon the Secretary making a determination in accordance with section 1603(b), the Secretary shall appoint the Corporation as receiver for the covered financial company. (2) TIME LIMIT ON RECEIVERSHIP AUTHORITY- Any appointment of the Corporation as receiver under paragraph (1) shall terminate on the date that is the end of the 1-year period beginning on the date such appointment is made. (3) EXTENSION OF TIME LIMIT- The time limit established in paragraph (2) may be extended by the Secretary for up to 1 additional year if-- (A) the Corporation has not completed the dissolution of the company within the time provided in paragraph (2); and (B) the Secretary certifies in writing that continuation of the receivership is necessary-- (i) to protect the best interests of the taxpayers of the United States; and (ii) to protect the stability of the financial system and the economy of the United States. (4) FURTHER EXTENSION- The time limit, as extended in paragraph	***SEC. 204. ORDERLY LIQUIDATION.*** *(b) Corporation as Receiver- Upon the appointment of the Corporation under section 202, the Corporation shall act as the receiver for the covered financial company, with all of the rights and obligations set forth in this title.* ***SEC. 202. JUDICIAL REVIEW.*** *(d) Time Limit on Receivership Authority-* *(1) BASELINE PERIOD- Any appointment of the Corporation as receiver under this section shall terminate at the end of the 3-year period beginning on the date on which such appointment is made.* *(2) EXTENSION OF TIME LIMIT- The time limit established in paragraph (1) may be extended by the Corporation for up to 1 additional year, if the Chairperson of the Corporation determines and certifies in writing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that continuation of the receivership is necessary--* *(A) to--* *(i) maximize the net present value return from the sale or other disposition of the assets of the covered financial company; or* *(ii) minimize the amount of loss realized upon the sale or other disposition of the assets of the covered financial company; and* *(B) to protect the stability of the financial system of the United States.* *(3) SECOND EXTENSION OF TIME LIMIT-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(3), may be extended for up to 1 additional year if-- (A) the conditions of paragraph (3) are met; and (B) the Corporation submits a report to the Congress, no later than 60 days before the receivership will expire under the extended limit under paragraph (3), that describes in detail-- (i) the basis for the determination by the Corporation that a second extension is necessary; and (ii) the specific plan of the Corporation for concluding the receivership before the end of the proposed additional year.	*(A) IN GENERAL- The time limit under this subsection, as extended under paragraph (2), may be extended for up to 1 additional year, if the Chairperson of the Corporation, with the concurrence of the Secretary, submits the certifications described in paragraph (2).* *(B) ADDITIONAL REPORT REQUIRED- Not later than 30 days after the date of commencement of the extension under subparagraph (A), the Corporation shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the need for the extension and the specific plan of the Corporation to conclude the receivership before the end of the second extension.* *(4) ONGOING LITIGATION- The time limit under this subsection, as extended under paragraph (3), may be further extended solely for the purpose of completing ongoing litigation in which the Corporation as receiver is a party, provided that the appointment of the Corporation as receiver shall terminate not later than 90 days after the date of completion of such litigation, if--* *(A) the Council determines that the Corporation used its best efforts to conclude the receivership in accordance with its plan before the end of the time limit described in paragraph (3);* *(B) the Council determines that the completion of longer-term responsibilities in the form of ongoing litigation justifies the need for an extension; and* *(C) the Corporation submits a report approved by the Council not later than 30 days after the date of the determinations by the Council under subparagraphs (A) and (B) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, describing--* *(i) the ongoing litigation justifying the need for an extension; and* *(ii) the specific plan of the Corporation to complete the litigation and conclude the receivership.* *(5) REGULATIONS- The Corporation may issue regulations governing the termination of receiverships under this title.* *(6) NO LIABILITY- The Corporation and the Deposit Insurance Fund*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	shall not be liable for unresolved claims arising from the receivership after the termination of the receivership.	
(b) Dissolution Limitations- (1) IN GENERAL- An insolvent financial company may be dissolved under this subtitle only if the failure and dissolution of such company under title 11, United States Code, would be systemically destabilizing, as determined by the appropriate Federal regulatory agencies and the Secretary of the Treasury (in consultation with the President) in accordance with section 1603(b). (2) LIQUIDATION- A financial company that comes within coverage of this subtitle for dissolution shall be placed in liquidation, and the associated liquidation costs shall be paid from the company's assets and borne by the shareholders and unsecured creditors of such company. (3) ASSESSMENT FOR EXCESS LIQUIDATION COSTS- Any liquidation costs that exceed the amount of liquidated assets of the company shall be paid through assessments on large financial companies.	***SEC. 203. SYSTEMIC RISK DETERMINATION.*** *(d) Corporation Policies and Procedures- As soon as is practicable after the date of enactment of this Act, the Corporation shall establish policies and procedures that are acceptable to the Secretary governing the use of funds available to the Corporation to carry out this title, including the terms and conditions for the provision and use of funds under sections 204(d), 210(h)(2)(G)(iv), and 210(h)(9).* ***SEC. 210. POWERS AND DUTIES OF THE CORPORATION.*** *(n) Orderly Liquidation Fund-* *(10) IMPLEMENTATION EXPENSES-* *(A) IN GENERAL- Reasonable implementation expenses of the Corporation incurred after the date of enactment of this Act shall be treated as expenses of the Council.* *(B) REQUESTS FOR REIMBURSEMENT- The Corporation shall periodically submit a request for reimbursement for implementation expenses to the Chairperson of the Council, who shall arrange for prompt reimbursement to the Corporation of reasonable implementation expenses.* *(C) DEFINITION- As used in this paragraph, the term `implementation expenses'--* *(i) means costs incurred by the Corporation beginning on the date of enactment of this Act, as part of its efforts to implement this title that do not relate to a particular covered financial company; and* *(ii) includes the costs incurred in connection with the development of policies, procedures, rules, and regulations and other planning activities of the Corporation consistent with carrying out this title.* *(s) Recoupment of Compensation From Senior Executives and Directors-* *(1) IN GENERAL- The Corporation, as receiver of a covered financial company, may recover from any current or former senior executive or director substantially responsible for the failed condition of the covered*	*** These provisions would impose general limitations on the bills' dissolution funds. The provisions that deal more directly with the funds are provided below.***

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	financial company any compensation received during the 2-year period preceding the date on which the Corporation was appointed as the receiver of the covered financial company, except that, in the case of fraud, no time limit shall apply. *(2) COST CONSIDERATIONS- In seeking to recover any such compensation, the Corporation shall weigh the financial and deterrent benefits of such recovery against the cost of executing the recovery.* *(3) RULEMAKING- The Corporation shall promulgate regulations to implement the requirements of this subsection, including defining the term `compensation' to mean any financial remuneration, including salary, bonuses, incentives, benefits, severance, deferred compensation, or golden parachute benefits, and any profits realized from the sale of the securities of the covered financial company.* ***SEC. 212. PROHIBITION OF CIRCUMVENTION AND PREVENTION OF CONFLICTS OF INTEREST.*** *(a) No Other Funding- Funds for the orderly liquidation of any covered financial company under this title shall only be provided as specified under this title.* *(b) Limit on Governmental Actions- No governmental entity may take any action to circumvent the purposes of this title.* *(c) Conflict of Interest- In the event that the Corporation is appointed receiver for more than 1 covered financial company or is appointed receiver for a covered financial company and receiver for any insured depository institution that is an affiliate of such covered financial company, the Corporation shall take appropriate action, as necessary to avoid any conflicts of interest that may arise in connection with multiple receiverships.* ***SEC. 214. PROHIBITION ON TAXPAYER FUNDING.*** *(a) Liquidation Required- All financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.* *(b) Recovery of Funds- All funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(c) No Losses to Taxpayers- Taxpayers shall bear no losses from the exercise of any authority under this title.	
(c) Consultation- The Corporation, as receiver-- (1) shall consult with the regulators of the covered financial company and its covered subsidiaries for purposes of ensuring an orderly dissolution of the covered financial company; (2) may consult with, or under section 1609(a)(1)(B)(v) or section 1609(a)(1)(K) acquire services of, any outside experts as appropriate to inform and aid the Corporation in the dissolution process; and (3) shall consult with the primary regulators of any subsidiaries of the covered financial company that are not covered subsidiaries as described in section 1602(9)(B)(v) and coordinate with such regulators regarding the treatment of such solvent subsidiaries and the separate dissolution of any such insolvent subsidiaries under other governmental authority, as appropriate.	***SEC. 204. ORDERLY LIQUIDATION.*** *(c) Consultation- The Corporation, as receiver--* *(1) shall consult with the primary financial regulatory agency or agencies of the covered financial company and its covered subsidiaries for purposes of ensuring an orderly liquidation of the covered financial company;* *(2) may consult with, or under subsection (a)(1)(B)(v) or (a)(1)(L) of section 210, acquire the services of, any outside experts, as appropriate to inform and aid the Corporation in the orderly liquidation process;* *(3) shall consult with the primary financial regulatory agency or agencies of any subsidiaries of the covered financial company that are not covered subsidiaries, and coordinate with such regulators regarding the treatment of such solvent subsidiaries and the separate resolution of any such insolvent subsidiaries under other governmental authority, as appropriate; and* *(4) shall consult with the Commission and the Securities Investor Protection Corporation in the case of any covered financial company for which the Corporation has been appointed as receiver that is a broker or dealer registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) and is a member of the Securities Investor Protection Corporation, for the purpose of determining whether to transfer to a bridge financial company organized by the Corporation as receiver, without consent of any customer, customer accounts of the covered financial company.*	
(d) Emergency Stabilization After Appointment of Receiver- Upon the Secretary appointing the Corporation as receiver under subsection (a), the Corporation may, in its corporate capacity and as an agency of the United States, with the approval of the Secretary and subject to the conditions in subsections (f) through (g), take the following actions under such terms and conditions that the Corporation and the Secretary jointly deem appropriate: (1) Making loans to, or purchasing any debt obligation of, the covered	***SEC. 204. ORDERLY LIQUIDATION.*** *(d) Funding for Orderly Liquidation- Upon its appointment as receiver for a covered financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or appropriate, the Corporation may make available to the receivership, subject to the conditions set forth in section 206 and subject to the plan described in section 210(n)(11), funds for the orderly liquidation of the covered financial company. All funds provided by the Corporation under this subsection shall have a priority of claims under subparagraph (A) or (B) of section 210(b)(1), as applicable, including funds used for--* *(1) making loans to, or purchasing any debt obligation of, the covered*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial company or any covered subsidiary. (2) Purchasing assets of the covered financial company or any covered subsidiary directly or through an entity established by the Corporation for such purpose. (3) Assuming or guaranteeing the obligations of the covered financial company or any covered subsidiary to one or more third parties. (4) Taking a lien on any or all assets of the covered financial company or any covered subsidiary, including a first priority lien on all unencumbered assets of the company or any covered subsidiary to secure repayment of any transactions conducted under this subsection. (5) Selling or transferring all, or any part thereof, of such acquired assets, liabilities, or obligations of the covered financial company or any covered subsidiary.	*financial company or any covered subsidiary;* *(2) purchasing or guaranteeing against loss the assets of the covered financial company or any covered subsidiary, directly or through an entity established by the Corporation for such purpose;* *(3) assuming or guaranteeing the obligations of the covered financial company or any covered subsidiary to 1 or more third parties;* *(4) taking a lien on any or all assets of the covered financial company or any covered subsidiary, including a first priority lien on all unencumbered assets of the covered financial company or any covered subsidiary to secure repayment of any transactions conducted under this subsection;* *(5) selling or transferring all, or any part, of such acquired assets, liabilities, or obligations of the covered financial company or any covered subsidiary; and* *(6) making payments pursuant to subsections (b)(4), (d)(4), and (h)(5)(E) of section 210.*	
(e) Treatment of Insurance Companies and Insurance Company Subsidiaries- (1) IN GENERAL- Notwithstanding subsection (a), if an insurance company covered by a State law designed specifically to deal with the rehabilitation, liquidation or insolvency of an insurance company is a covered financial company or a subsidiary of a covered financial company, resolution of such insurance company, and any subsidiary of such company, will be conducted as provided under such State law. (2) EXCEPTION FOR COVERED SUBSIDIARIES- The requirement of paragraph (1) shall not apply with respect to any covered subsidiary of such an insurance company, that is not itself an insurance company. (3) BACKUP AUTHORITY- Notwithstanding paragraph (1), with respect to a covered financial company described under paragraph (1), if, after the end of the 60-day period beginning on the date a determination is made under section 1603(b) with respect to such company, the appropriate regulatory agency has not filed the appropriate judicial action in the appropriate State court to place such company into dissolution under the State's laws and requirements, the Corporation shall have the authority to stand in the place of the	***SEC. 203. SYSTEMIC RISK DETERMINATION.*** *(e) Treatment of Insurance Companies and Insurance Company Subsidiaries-* *(1) IN GENERAL- Notwithstanding subsection (b), if an insurance company is a covered financial company or a subsidiary or affiliate of a covered financial company, the liquidation or rehabilitation of such insurance company, and any subsidiary or affiliate of such company that is not excepted under paragraph (2), shall be conducted as provided under such State law.* *(2) EXCEPTION FOR SUBSIDIARIES AND AFFILIATES- The requirement of paragraph (1) shall not apply with respect to any subsidiary or affiliate of an insurance company that is not itself an insurance company.* *(3) BACKUP AUTHORITY- Notwithstanding paragraph (1), with respect to a covered financial company described in paragraph (1), if, after the end of the 60-day period beginning on the date on which a determination is made under section 202(a) with respect to such company, the appropriate regulatory agency has not filed the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State, the Corporation shall have the authority to stand in the place*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appropriate regulatory agency and file the appropriate judicial action in the appropriate State court to place such company into dissolution under the State's laws and requirements.	*of the appropriate regulatory agency and file the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State.*	
(f) Mandatory Terms and Conditions for All Stabilization Actions- The Corporation as receiver is authorized to take the stabilization actions listed in subsection (d) only if— (1) the Secretary and the Corporation determine that such action is necessary for the purpose of financial stability and not for the purpose of preserving the covered financial company; (2) the Corporation ensures that the shareholders of a covered financial company do not receive payment until after all other claims are fully paid; (3) the Corporation ensures that any funds from taxpayers shall be repaid as part of the resolution process before payments are made to creditors; (4) the Corporation ensures that unsecured creditors bear losses; (5) the Corporation ensures that management responsible for the failed condition of the covered financial company is removed (if such management has not already been removed at the time the Corporation is appointed as receiver); and (6) the Corporation ensures that the members of the board of directors (or body performing similar functions) responsible for the failed condition of the covered financial company are removed (if such members have not already been removed at the time the Corporation is appointed as receiver).	***SEC. 206. MANDATORY TERMS AND CONDITIONS FOR ALL ORDERLY LIQUIDATION ACTIONS.*** *In taking action under this title, the Corporation shall--* *(1) determine that such action is necessary for purposes of the financial stability of the United States, and not for the purpose of preserving the covered financial company;* *(2) ensure that the shareholders of a covered financial company do not receive payment until after all other claims and the Fund are fully paid;* *(3) ensure that unsecured creditors bear losses in accordance with the priority of claim provisions in section 210;* *(4) ensure that management responsible for the failed condition of the covered financial company is removed (if such management has not already been removed at the time at which the Corporation is appointed receiver); and* *(5) not take an equity interest in or become a shareholder of any covered financial company or any covered subsidiary.*	
(g) Recoupment of Funds Expended for Systemic Stabilization Purposes- Amounts expended from the Fund by the Corporation under this section shall be repaid in full to the Fund only from the following sources: (1) DISSOLUTION PROCESS- Amounts attributable to the proceeds of the sale of, or income from, the assets of the covered financial company. (2) INDUSTRY ASSESSMENTS- If the sources described in paragraph (1) are insufficient to repay the amount of the stabilization action in full, the difference shall be recouped through assessments on financial companies in accordance with section 1609(o).		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 205. ORDERLY LIQUIDATION OF COVERED BROKERS AND DEALERS. *(a) Appointment of SIPC as Trustee for Protection of Customer Securities and Property- Upon the appointment of the Corporation as receiver for any covered broker or dealer, the Corporation shall appoint, without any need for court approval, the Securities Investor Protection Corporation to act as trustee for liquidation under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) of the covered broker or dealer.* *(b) Powers and Duties of SIPC-* *(1) IN GENERAL- Except as provided in this section, upon its appointment as trustee for the liquidation of a covered broker or dealer, SIPC shall have all of the powers and duties provided by the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), including, without limitation, all rights of action against third parties, but shall have no powers or duties with respect to assets and liabilities transferred by the Corporation from the covered broker or dealer to any bridge financial company established in accordance with this title.* *(2) LIMITATION OF POWERS- The exercise by SIPC of powers and functions as trustee under subsection (a) shall not impair or impede the exercise of the powers and duties of the Corporation with regard to--* *(A) any action, except as otherwise provided in this title--* *(i) to make funds available under section 204(d);* *(ii) to organize, establish, operate, or terminate any bridge financial company;* *(iii) to transfer assets and liabilities;* *(iv) to enforce or repudiate contracts; or* *(v) to take any other action relating to such bridge financial company under section 210; or* *(B) determining claims under subsection (d).* *(3) QUALIFIED FINANCIAL CONTRACTS- Notwithstanding any provision of the Securities Investor Protection Act of 1970 to the contrary (including section 5(b)(2)(C) of that Act (15 U.S.C. 78eee(b)(2)(C))), the rights and obligations of any party to a qualified financial contract (as that term is defined in section 210(c)(8)) to which a covered broker or dealer described in subsection (a) is a party shall be governed exclusively by section 210, including the limitations and restrictions contained in section 210(c)(10)(B).* *(c) Limitation on Court Action- Except as otherwise provided in this title, no court may take any action, including any action pursuant to the Securities*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Investor Protection Act of 1970 or the Bankruptcy Code, to restrain or affect the exercise of powers or functions of the Corporation as receiver for a covered broker or dealer and any claims against the Corporation as such receiver shall be determined in accordance with subsection (e) and such claims shall be limited to money damages. *(d) Actions by Corporation as Receiver-* *(1) IN GENERAL- Notwithstanding any other provision of this title, no action taken by the Corporation, as receiver with respect to a covered broker or dealer, shall--* *(A) adversely affect the rights of a customer to customer property or customer name securities;* *(B) diminish the amount or timely payment of net equity claims of customers; or* *(C) otherwise impair the recoveries provided to a customer under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).* *(2) NET PROCEEDS- The net proceeds from any transfer, sale, or disposition of assets by the Corporation as receiver for the covered broker or dealer shall be for the benefit of the estate of the covered broker or dealer, as provided in this title.* *(e) Claims Against the Corporation as Receiver- Any claim against the Corporation as receiver for a covered broker or dealer for assets transferred to a bridge financial company established with respect to such covered broker or dealer--* *(1) shall be determined in accordance with section 210(a)(2); and* *(2) may be reviewed by the appropriate district or territorial court of the United States in accordance with section 210(a)(5).* *(f) Satisfaction of Customer Claims-* *(1) OBLIGATIONS TO CUSTOMERS- Notwithstanding any other provision of this title, all obligations of a covered broker or dealer or of any bridge financial company established with respect to such covered broker or dealer to a customer relating to, or net equity claims based upon, customer property shall be promptly discharged by the delivery of securities or the making of payments to or for the account of such customer, in a manner and in an amount at least as beneficial to the customer as would have been the case had the covered broker or dealer been subject to a proceeding under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the Corporation is appointed as receiver. *(2) SATISFACTION OF CLAIMS BY SIPC- SIPC, as trustee for a covered broker or dealer, shall satisfy customer claims in the manner and amount provided under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), as if the appointment of the Corporation as receiver had not occurred, and with a filing date as of the date on which the Corporation is appointed as receiver. The Corporation shall satisfy customer claims, to the extent that a customer would have received more securities or cash with respect to the allocation of customer property had the covered financial company been subject to a proceeding under the Securities Investor Protection Act (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which the Corporation is appointed as receiver.* *(g) Priorities-* *(1) CUSTOMER PROPERTY- As trustee for a covered broker or dealer, SIPC shall allocate customer property and deliver customer name securities in accordance with section 8(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-2(c)).* *(2) OTHER CLAIMS- All claims other than those described in paragraph (1) (including any unpaid claim by a customer for the allowed net equity claim of such customer from customer property) shall be paid in accordance with the priorities in section 210(b).* *(h) Rulemaking- The Commission and the Corporation, after consultation with SIPC, shall jointly issue rules to implement this section.*	
SEC. 1606. DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF RECEIVER. The members of the board of directors (or body performing similar functions) of a covered financial company shall not be liable to the covered financial company's shareholders or creditors for acquiescing in or consenting in good faith to-- (1) the Secretary's appointment of the Corporation as receiver for the covered financial company under section 1604; or (2) an acquisition, combination, or transfer of assets or liabilities under section 1609.	***SEC. 207. DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF RECEIVER.*** *The members of the board of directors (or body performing similar functions) of a covered financial company shall not be liable to the shareholders or creditors thereof for acquiescing in or consenting in good faith to the appointment of the Corporation as receiver for the covered financial company under section 203.*	
SEC. 1607. TERMINATION AND EXCLUSION OF OTHER ACTIONS.	***SEC. 208. DISMISSAL AND EXCLUSION OF OTHER ACTIONS.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(a) Termination and Exclusion of Bankruptcy- The Corporation's acting as receiver for a covered financial company under this subtitle shall immediately, and by operation of law, terminate any case commenced with respect to the covered financial company under title 11, United States Code, or any proceeding under any State insolvency law with respect to the covered financial company, and no such case or proceeding may be commenced with respect to the covered financial company at any time while the Corporation acts as receiver for the covered financial company.	*(a) In General- Effective as of the date of the appointment of the Corporation as receiver for the covered financial company under section 202 or the appointment of SIPC as trustee for a covered broker or dealer under section 205, as applicable, any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code or the Securities Investor Protection Act of 1970 shall be dismissed, upon notice to the Bankruptcy Court (with respect to a case commenced under the Bankruptcy Code), and upon notice to SIPC (with respect to a covered broker or dealer) and no such case or proceeding may be commenced with respect to a covered financial company at any time while the orderly liquidation is pending.*	
(b) Conversion to Bankruptcy- (1) CONVERSION- The Corporation may at any time, with the approval of the Secretary and after consulting with the Council, convert the receivership of a covered financial company to a proceeding under chapter 7 or 11 of title 11, United States Code, by filing a petition against the covered financial company under section 303(m) of such title. The Corporation may serve as the trustee for the covered financial company in bankruptcy. (2) BRIDGE FINANCIAL COMPANY- The Corporation's exercise of authority under paragraph (1) shall not affect any powers or duties of the Corporation with regard to any bridge financial company established under section 1609(h).	*(b) Revesting of Assets- Effective as of the date of appointment of the Corporation as receiver, the assets of a covered financial company shall, to the extent they have vested in any entity other than the covered financial company as a result of any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code, the Securities Investor Protection Act of 1970, or any similar provision of State liquidation or insolvency law applicable to the covered financial company, revest in the covered financial company.* *(c) Limitation- Notwithstanding subsections (a) and (b), any order entered or other relief granted by a bankruptcy court prior to the date of appointment of the Corporation as receiver shall continue with the same validity as if an orderly liquidation had not been commenced.*	
(c) Reporting to the Congress- (1) IN GENERAL- (A) INITIAL REPORT- Upon the appointment of the Corporation as receiver under section 1604(a), the Corporation		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall issue a report on the issue described under paragraph (3)(A). (B) CONTINUING REPORTS- At the end of each 180-day period after the appointment of the Corporation as receiver under section 1604(a), and continuing while the Corporation is acting as receiver, the Corporation shall issue a report on the issues described under subparagraphs (A) through (C) of paragraph (3). (2) COMMITTEES TO RECEIVE REPORTS- Reports issued under this subsection shall be issued to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives. (3) REPORTING ISSUES- (A) Why the receivership should continue instead of converting the receivership into a proceeding under chapter 7 or 11 of title 11, United States Code. (B) The extent to which unsecured creditors are likely to receive at least as much as they would receive if the receivership of the covered financial company was converted to a case under chapter 7 of title 11, United States Code. (C) An explanation of each instance where the Corporation as receiver of a covered financial company waived the requirement of 12 CFR Part 366 with respect to conflicts of interest by any person in the private sector who was retained to provide services to the Corporation in connection with such receivership.		
SEC. 1608. RULEMAKING. The Corporation may, after following the notice and comment rulemaking requirements under the Administrative Procedure Act, prescribe such regulations as the Corporation considers necessary or appropriate to implement the provisions of this title.	***SEC. 209. RULEMAKING; NON-CONFLICTING LAW.*** *The Corporation shall, in consultation with the Council, prescribe such rules or regulations as the Corporation considers necessary or appropriate to implement this title, including rules and regulations with respect to the rights, interests, and priorities of creditors, counterparties, security entitlement holders, or other persons with respect to any covered financial company or any assets or other property of or held by such covered financial company, and address the potential for conflicts of interest between or among individual receiverships established under this title or under the Federal Deposit Insurance Act. To the extent possible, the Corporation shall seek to harmonize applicable rules and regulations promulgated under this section with the insolvency laws that would*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	otherwise apply to a covered financial company.	
SEC. 1609. POWERS AND DUTIES OF CORPORATION.	***SEC. 210. POWERS AND DUTIES OF THE CORPORATION.***	
(a) Powers and Authorities-	*(a) Powers and Authorities-*	
(1) GENERAL POWERS-	*(1) GENERAL POWERS-*	
(A) SUCCESSOR TO COVERED FINANCIAL COMPANY- The Corporation shall, upon appointment as receiver for a covered financial company under section 1604, and by operation of law, succeed to--	*(A) SUCCESSOR TO COVERED FINANCIAL COMPANY- The Corporation shall, upon appointment as receiver for a covered financial company under this title, succeed to--*	
(i) all rights, titles, powers, and privileges of the covered financial company, and of any stockholder, member, officer, or director of such institution with respect to the covered financial company and the assets of the covered financial company; and	*(i) all rights, titles, powers, and privileges of the covered financial company and its assets, and of any stockholder, member, officer, or director of such company; and*	
(ii) title to the books, records, and assets of any previous receiver or other legal custodian of such covered financial company.	*(ii) title to the books, records, and assets of any previous receiver or other legal custodian of such covered financial company.*	
(B) OPERATE THE COVERED FINANCIAL COMPANY- The Corporation as receiver for a covered financial company may--	*(B) OPERATION OF THE COVERED FINANCIAL COMPANY DURING THE PERIOD OF ORDERLY LIQUIDATION- The Corporation, as receiver for a covered financial company, may--*	
(i) take over the assets of and operate the covered financial company with all the powers of the members or shareholders, the directors, and the officers of the covered financial company and conduct all business of the covered financial company;	*(i) take over the assets of and operate the covered financial company with all of the powers of the members or shareholders, the directors, and the officers of the covered financial company, and conduct all business of the covered financial company;*	
(ii) collect all obligations and money due the covered financial company;	*(ii) collect all obligations and money owed to the covered financial company;*	
(iii) perform all functions of the covered financial company in the name of the covered financial company;	*(iii) perform all functions of the covered financial company, in the name of the covered financial company;*	
(iv) preserve and conserve the assets and property of the covered financial company; and	*(iv) manage the assets and property of the covered financial company, consistent with maximization of the value of the assets in the context of the orderly liquidation; and*	
(v) provide by contract for assistance in fulfilling any	*(v) provide by contract for assistance in fulfilling any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
function, activity, action, or duty of the Corporation as receiver. (C) FUNCTIONS OF COVERED FINANCIAL COMPANY'S OFFICERS, DIRECTORS, AND SHAREHOLDERS- (i) IN GENERAL- The Corporation may provide for the exercise of any function by any member or stockholder, director, or officer of any covered financial company for which the Corporation has been appointed as receiver under this section. (ii) PRESUMPTION- There shall be a strong presumption that the Corporation, as receiver, will remove management responsible for the failed condition of the covered financial company (if such management has not already been removed at the time the Corporation is appointed as receiver). (D) ADDITIONAL POWERS AS RECEIVER- The Corporation may, as receiver, and subject to all legally enforceable and perfected security interests, place the covered financial company in liquidation and proceed to realize upon the assets of the covered financial company in such manner as the Corporation deems appropriate, including through the sale of assets, the transfer of assets to a bridge financial company established under subsection (h), or the exercise of any other rights or privileges granted to the receiver under this section.	*function, activity, action, or duty of the Corporation as receiver.* *(C) FUNCTIONS OF COVERED FINANCIAL COMPANY OFFICERS, DIRECTORS, AND SHAREHOLDERS-* *(i) IN GENERAL- The Corporation may provide for the exercise of any function by any member or stockholder, director, or officer of any covered financial company for which the Corporation has been appointed as receiver under this title.* *(ii) PRESUMPTION- There shall be a strong presumption that the Corporation, as receiver for a covered financial company, will remove management responsible for the failed condition of the covered financial company.* *(D) ADDITIONAL POWERS AS RECEIVER- The Corporation shall, as receiver for a covered financial company, and subject to all legally enforceable and perfected security interests and all legally enforceable security entitlements in respect of assets held by the covered financial company, liquidate, and wind-up the affairs of a covered financial company, including taking steps to realize upon the assets of the covered financial company, in such manner as the Corporation deems appropriate, including through the sale of assets, the transfer of assets to a bridge financial company established under subsection (h), or the exercise of any other rights or privileges granted to the receiver under this section.* *(E) ADDITIONAL POWERS WITH RESPECT TO FAILING SUBSIDIARIES OF A COVERED FINANCIAL COMPANY-* *(i) IN GENERAL- In any case in which a receiver is appointed for a covered financial company under section 202, the Corporation may appoint itself as receiver of any subsidiary (other than an insured depository institution, any covered broker or dealer, or an insurance company) of the covered financial company that is organized under Federal law or the laws of any State, if the Corporation and the Secretary jointly determine that--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(I) the subsidiary is in default or in danger of default; *(II) such action would avoid or mitigate serious adverse effects on the financial stability or economic conditions of the United States; and* *(III) such action would facilitate the orderly liquidation of the covered financial company.* *(ii) TREATMENT AS COVERED FINANCIAL COMPANY- If the Corporation is appointed as receiver of a subsidiary of a covered financial company under clause (i), the subsidiary shall thereafter be considered a covered financial company under this title, and the Corporation shall thereafter have all the powers and rights with respect to that subsidiary as it has with respect to a covered financial company under this title.*	
(E) ORGANIZATION OF NEW COMPANIES- The Corporation as receiver may organize a bridge financial company under subsection (h).	*(F) ORGANIZATION OF BRIDGE COMPANIES- The Corporation, as receiver for a covered financial company, may organize a bridge financial company under subsection (h).*	
(F) MERGER; TRANSFER OF ASSETS AND LIABILITIES- (i) IN GENERAL- Subject to clause (ii), the Corporation as receiver may— (I) merge the covered financial company with another company; or (II) transfer any asset or liability of the covered financial company (including assets and liabilities associated with any trust or custody business) without obtaining any approval, assignment, or consent with respect to such transfer.	*(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES-* *(i) IN GENERAL- Subject to clauses (ii) and (iii), the Corporation, as receiver for a covered financial company, may--* *(I) merge the covered financial company with another company; or* *(II) transfer any asset or liability of the covered financial company (including any assets and liabilities held by the covered financial company for security entitlement holders, any customer property, or any assets and liabilities associated with any trust or custody business) without obtaining any approval, assignment, or consent with respect to such transfer.*	
(ii) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW-	*(ii) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW- With respect to a transaction described in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(I) IN GENERAL- If a transaction described in clause (i) requires approval by a Federal agency, the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval with respect thereto. If, in connection with any such approval, a report on competitive factors is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the proposed transaction and the Attorney General shall provide the required report within 10 days of the request. If notification under section 7A of the Clayton Act is required with respect to such transaction, then the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under subsection (b)(2) of such section, or is extended pursuant to subsection (e)(2) of such section. (II) EMERGENCY- If the Secretary in consultation with the Chairman of the Federal Reserve Board has found that the Corporation must act immediately to prevent the probable failure of the covered financial company involved, the approval and prior notification referred to in subclause (I) shall not be required and the transaction may be consummated immediately by the Corporation. The preceding sentence shall not otherwise modify, impair, or supercede the operation of any of the antitrust laws (as defined in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade	*clause (i)(I) that requires approval by a Federal agency--* *(I) the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval;* *(II) if, in connection with any such approval, a report on competitive factors is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the United States of the proposed transaction, and the Attorney General shall provide the required report not later than 10 days after the date of the request; and* *(III) if notification under section 7A of the Clayton Act is required with respect to such transaction, then the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under subsection (b)(2) of such section 7A, or is extended pursuant to subsection (e)(2) of such section 7A.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission Act to the extent that such section 5 relates to unfair methods of competition).		
	(iii) SETOFF- Subject to the other provisions of this title, any transferee of assets from a receiver, including a bridge financial company, shall be subject to such claims or rights as would prevail over the rights of such transferee in such assets under applicable noninsolvency law.	
(G) PAYMENT OF VALID OBLIGATIONS- The Corporation, as receiver, shall, to the extent funds are available, pay all valid obligations of the covered financial company that are due and payable at the time of the appointment of the Corporation as receiver in accordance with the prescriptions and limitations of this title.	*(H) PAYMENT OF VALID OBLIGATIONS- The Corporation, as receiver for a covered financial company, shall, to the extent that funds are available, pay all valid obligations of the covered financial company that are due and payable at the time of the appointment of the Corporation as receiver, in accordance with the prescriptions and limitations of this title.*	
	(I) APPLICABLE NONINSOLVENCY LAW- Except as may otherwise be provided in this title, the applicable noninsolvency law shall be determined by the noninsolvency choice of law rules otherwise applicable to the claims, rights, titles, persons, or entities at issue.	
(H) SUBPOENA AUTHORITY-	*(J) SUBPOENA AUTHORITY-*	
(i) IN GENERAL- The Corporation may, for purposes of carrying out any power, authority, or duty with respect to a covered financial company (including determining any claim against the covered financial company and determining and realizing upon any asset of any person in the course of collecting money due the covered financial company), exercise any power established under section 8(n) of the Federal Deposit Insurance Act as if the covered financial company were an insured depository institution.	*(i) IN GENERAL- The Corporation, as receiver for a covered financial company, may, for purposes of carrying out any power, authority, or duty with respect to the covered financial company (including determining any claim against the covered financial company and determining and realizing upon any asset of any person in the course of collecting money due the covered financial company), exercise any power established under section 8(n) of the Federal Deposit Insurance Act, as if the Corporation were the appropriate Federal banking agency for the covered financial company, and the covered financial company were an insured depository institution.*	
(ii) RULE OF CONSTRUCTION- This section shall not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have to exercise any powers described in clause (i) under any other provision of law.	*(ii) RULE OF CONSTRUCTION- This subparagraph may not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have to exercise any powers described in clause (i) or under any other provision of law.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(I) INCIDENTAL POWERS- The Corporation, as receiver, may-- (i) exercise all powers and authorities specifically granted to receivers under this section and such incidental powers as shall be necessary to carry out such powers; and (ii) take any action authorized by this section, which the Corporation determines is in the best interests of the covered financial company, its customers, its creditors, its counterparties, or the stability of the financial system.	*(K) INCIDENTAL POWERS- The Corporation, as receiver for a covered financial company, may exercise all powers and authorities specifically granted to receivers under this title, and such incidental powers as shall be necessary to carry out such powers under this title.*	
(J) UTILIZATION OF PRIVATE SECTOR- In carrying out its responsibilities in the management and disposition of assets from a covered financial company, the Corporation, as receiver, may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable, efficient, and cost effective.	*(L) UTILIZATION OF PRIVATE SECTOR- In carrying out its responsibilities in the management and disposition of assets from the covered financial company, the Corporation, as receiver for a covered financial company, may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, if such services are available in the private sector, and the Corporation determines that utilization of such services is practicable, efficient, and cost effective.*	
(K) SHAREHOLDERS AND CREDITORS OF COVERED FINANCIAL COMPANY- Notwithstanding any other provision of law, the Corporation as receiver for a covered financial company pursuant to this section and its succession, by operation of law, to the rights, titles, powers, and privileges described in subparagraph (A) shall terminate all rights and claims that the stockholders and creditors of the covered financial company may have against the assets of the covered financial company or the Corporation arising out of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under this section. The Corporation shall ensure that shareholders and unsecured creditors bear losses, consistent with the priority of claims provisions in section 1609(b).	*(M) SHAREHOLDERS AND CREDITORS OF COVERED FINANCIAL COMPANY- Notwithstanding any other provision of law, the Corporation, as receiver for a covered financial company, shall succeed by operation of law to the rights, titles, powers, and privileges described in subparagraph (A), and shall terminate all rights and claims that the stockholders and creditors of the covered financial company may have against the assets of the covered financial company or the Corporation arising out of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under this section. The Corporation shall ensure that shareholders and unsecured creditors bear losses, consistent with the priority of claims provisions under this section.*	
(L) COORDINATION WITH FOREIGN FINANCIAL AUTHORITIES- The Corporation as receiver for a covered financial company shall coordinate with the appropriate foreign financial authorities regarding the dissolution of	*(N) COORDINATION WITH FOREIGN FINANCIAL AUTHORITIES- The Corporation, as receiver for a covered financial company, shall coordinate, to the maximum extent possible, with the appropriate foreign financial authorities*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
subsidiaries of the covered financial company that are established in a country other than the United States. (M) APPOINTMENT OF CONSUMER PRIVACY ADVISOR- (i) APPOINTMENT- Upon the appointment of the Corporation as receiver under section 1604(a), the Corporation shall appoint a Consumer Privacy Advisor. (ii) DUTIES- The Consumer Privacy Advisor appointed under clause (i) shall advise the Corporation with respect to-- (I) the covered financial company's consumer privacy policies; (II) the potential losses or gains of privacy to consumers upon any sale, lease, or other transfer of material assets of the covered financial company; (III) the potential costs or benefits to consumers upon any sale, lease, or other transfer of material assets of the covered financial company; and (IV) the potential alternatives that would mitigate potential privacy loses or potential costs to consumers.	*regarding the orderly liquidation of any covered financial company that has assets or operations in a country other than the United States.* *(O) RESTRICTION ON TRANSFERS TO BRIDGE FINANCIAL COMPANY-* *(i) SECTION OF ACCOUNTS FOR TRANSFER- If the Corporation establishes one or more bridge financial companies with respect to a covered broker or dealer, the Corporation shall transfer to a bridge financial company, all customer accounts of the covered financial company, unless the Corporation, after consulting with the Commission and SIPC, determines that--* *(I) the customer accounts are likely to be promptly transferred to another covered broker or dealer; or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(II) the transfer of the accounts to a bridge financial company would materially interfere with the ability of the Corporation to avoid or mitigate serious adverse effects on financial stability or economic conditions in the United States. *(ii) TRANSFER OF PROPERTY- SIPC, as trustee for the liquidation of the covered broker or dealer, and the Commission, shall provide any and all reasonable assistance necessary to complete such transfers by the Corporation.* *(iii) CUSTOMER CONSENT AND COURT APPROVAL NOT REQUIRED- Neither customer consent nor court approval shall be required to transfer any customer accounts and associated customer property to a bridge financial company in accordance with this section.* *(iv) NOTIFICATION OF SIPC AND SHARING OF INFORMATION- The Corporation shall identify to SIPC the customer accounts and associated customer property transferred to the bridge financial company. The Corporation and SIPC shall cooperate in the sharing of any information necessary for each entity to discharge its obligations under this title and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) including by providing access to the books and records of the covered financial company and any bridge financial company established in accordance with this title.*	
(2) AUTHORITY OF CORPORATION TO DETERMINE CLAIMS- (A) IN GENERAL- The Corporation may, as receiver, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (3). (B) NOTICE REQUIREMENTS- The receiver, in any case involving the liquidation or winding up of the affairs of a covered financial company, shall--	*(2) DETERMINATION OF CLAIMS-* *(A) IN GENERAL- The Corporation, as receiver for a covered financial company, shall report on claims, as set forth in section 203(c)(3). Subject to paragraph (4) of this subsection, the Corporation, as receiver for a covered financial company, shall determine claims in accordance with the requirements of this subsection and regulations prescribed under section 209.* *(B) NOTICE REQUIREMENTS- The Corporation, as receiver for a covered financial company, in any case involving the liquidation or winding up of the affairs of a covered financial*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(i) promptly publish a notice to the covered financial company's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and (ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i). (C) MAILING REQUIRED- The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the covered financial company's books— (i) at the creditor's last address appearing in such books; or (ii) upon discovery of the name and address of a claimant not appearing on the covered financial company's books, within 30 days after the discovery of such name and address.	*company, shall--* *(i) promptly publish a notice to the creditors of the covered financial company to present their claims, together with proof, to the receiver by a date specified in the notice, which shall be not earlier than 90 days after the date of publication of such notice; and* *(ii) republish such notice 1 month and 2 months, respectively, after the date of publication under clause (i).* *(C) MAILING REQUIRED- The Corporation as receiver shall mail a notice similar to the notice published under clause (i) or (ii) of subparagraph (B), at the time of such publication, to any creditor shown on the books and records of the covered financial company--* *(i) at the last address of the creditor appearing in such books;* *(ii) in any claim filed by the claimant; or* *(iii) upon discovery of the name and address of a claimant not appearing on the books and records of the covered financial company, not later than 30 days after the date of the discovery of such name and address.*	
(3) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS- (A) IN GENERAL- Subject to subsection (b), the Corporation shall, after following the notice and comment rulemaking requirements under the Administrative Procedure Act, prescribe rules and regulations regarding the allowance or disallowance of claims by the Corporation and providing for administrative determination of claims and review of such determination. (B) EXISTING RULES- The Corporation may elect to use the regulations adopted pursuant to the provisions of section 11 of the Federal Deposit Insurance Act with respect to the determination of claims for a covered financial company as if the covered financial company were an insured depository institution.		
(4) PROCEDURES FOR DETERMINATION OF CLAIMS-	*(3) PROCEDURES FOR RESOLUTION OF CLAIMS-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) DETERMINATION PERIOD- (i) IN GENERAL- Before the end of the 180-day period beginning on the date any claim against a covered financial company is filed with the Corporation as receiver, the Corporation shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim. (ii) EXTENSION OF TIME- The period described in clause (i) may be extended by a written agreement between the claimant and the Corporation. (iii) MAILING OF NOTICE SUFFICIENT- The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears-- (I) on the covered financial company's books; (II) in the claim filed by the claimant; or (III) in documents submitted in proof of the claim. (iv) CONTENTS OF NOTICE OF DISALLOWANCE- If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain— (I) a statement of each reason for the disallowance; and (II) the procedures available for obtaining agency review of the determination to	*(A) DECISION PERIOD-* *(i) IN GENERAL- Prior to the 180th day after the date on which a claim against a covered financial company is filed with the Corporation as receiver, or such later date as may be agreed as provided in clause (ii), the Corporation shall notify the claimant whether it accepts or objects to the claim, in accordance with subparagraphs (B), (C), and (D).* *(ii) EXTENSION OF TIME- By written agreement executed not later than 180 days after the date on which a claim against a covered financial company is filed with the Corporation, the period described in clause (i) may be extended by written agreement between the claimant and the Corporation. Failure to notify the claimant of any disallowance within the time period set forth in clause (i), as it may be extended by agreement under this clause, shall be deemed to be a disallowance of such claim, and the claimant may file or continue an action in court, as provided in paragraph (4).* *(iii) MAILING OF NOTICE SUFFICIENT- The requirements of clause (i) shall be deemed to be satisfied if the notice of any decision with respect to any claim is mailed to the last address of the claimant which appears--* *(I) on the books, records, or both of the covered financial company;* *(II) in the claim filed by the claimant; or* *(III) in documents submitted in proof of the claim.* *(iv) CONTENTS OF NOTICE OF DISALLOWANCE- If the Corporation as receiver objects to any claim filed under clause (i), the notice to the claimant shall contain--* *(I) a statement of each reason for the disallowance; and* *(II) the procedures required to file or continue an action in court, as provided in paragraph (4).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
disallow the claim or judicial determination of the claim. (B) ALLOWANCE OF PROVEN CLAIM- The Corporation shall allow any claim received on or before the date specified in the notice published under paragraph (2)(B)(i) by the Corporation from any claimant which is proved to the satisfaction of the Corporation. (C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD- (i) IN GENERAL- Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (2)(B)(i) shall be disallowed and such disallowance shall be final. (ii) CERTAIN EXCEPTIONS- Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (2)(B)(i) and such claim may be considered by the receiver if-- (I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and (II) such claim is filed in time to permit payment of such claim. (D) AUTHORITY TO DISALLOW CLAIMS- (i) IN GENERAL- The Corporation may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the Corporation. (ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS- In the case of a claim of a creditor against a covered financial company which is secured by any property or other asset of such covered financial company, the receiver-- (I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the covered financial company; and	*(B) ALLOWANCE OF PROVEN CLAIM- The receiver shall allow any claim received by the receiver on or before the date specified in the notice under paragraph (2)(B)(i), which is proved to the satisfaction of the receiver.* *(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD-* *(i) IN GENERAL- Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (2)(B)(i) shall be disallowed, and such disallowance shall be final.* *(ii) CERTAIN EXCEPTIONS- Clause (i) shall not apply with respect to any claim filed by a claimant after the date specified in the notice published under paragraph (2)(B)(i), and such claim may be considered by the receiver under subparagraph (B), if--* *(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and* *(II) such claim is filed in time to permit payment of such claim.* *(D) AUTHORITY TO DISALLOW CLAIMS-* *(i) IN GENERAL- The Corporation may object to any portion of any claim by a creditor or claim of a security, preference, setoff, or priority which is not proved to the satisfaction of the Corporation.* *(ii) PAYMENTS TO UNDERSECURED CREDITORS- In the case of a claim against a covered financial company that is secured by any property or other asset of such covered financial company, the receiver--* *(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the covered financial company. (iii) EXCEPTIONS- No provision of this paragraph shall apply with respect to-- (I) any extension of credit from any Federal Reserve bank, or the Corporation, to any covered financial company; or (II) subject to clause (ii), any legally enforceable or perfected security interest in the assets of the covered financial company securing any such extension of credit. (iv) PAYMENTS TO FULLY SECURED CREDITORS- Notwithstanding any other provision of law, in any receivership of a covered financial company in which amounts realized from the dissolution are insufficient to satisfy completely any amounts owed to the United States or to the Fund, as determined in the receiver's sole discretion, an allowed claim under a legally enforceable or perfected security interest in assets of the covered financial company arising under a qualified financial contract (as defined under subsection (c)(8)(D)(i)) with an original term of 30 days or less (except that, for a contract for a term linked to a calendar month, the original term must be less than 1 calendar month), secured by collateral other than securities issued by the United States Treasury, the Board of Governors of the Federal Reserve System, any agency of the United States, any Federal Reserve bank, or any Government Sponsored Enterprise, that became a legally enforceable or perfected security interest after the date of the enactment of this clause, and that is not a security interest of the Federal Government in any of the assets of the covered financial company in receivership may be treated as an unsecured claim in	*(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the covered financial company.* *(iii) EXCEPTIONS- No provision of this paragraph shall apply with respect to--* *(I) any extension of credit from any Federal reserve bank, or the Corporation, to any covered financial company; or* *(II) subject to clause (ii), any legally enforceable and perfected security interest in the assets of the covered financial company securing any such extension of credit.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the amount specified under clause (v) as necessary to satisfy any amounts owed to the United States or to the Fund. Any balance of such claim that is treated as an unsecured claim under this subparagraph shall be paid as a general liability of the covered financial company. This clause shall not apply with respect to debt obligations secured by real property. This clause may only be implemented with respect to secured creditors if, as a result of the dissolution of the covered financial company, no funds are available to satisfy, in whole or in part, any claims of unsecured creditors or shareholders. (v) AMOUNT SPECIFIED- For purposes of clause (iv), the amount specified under this clause, in the case of a secured creditor, is the amount of up to 10 percent. (E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D)- No court may review the Corporation determination pursuant to subparagraph (D) to disallow a claim. (F) LEGAL EFFECT OF FILING- (i) STATUTE OF LIMITATION TOLLED- For purposes of any applicable statute of limitations, the filing of a claim with the Corporation shall constitute a commencement of an action. (ii) NO PREJUDICE TO OTHER ACTIONS- Subject to paragraph (9), the filing of a claim with the Corporation shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the Corporation as receiver for the covered financial company.	*(E) LEGAL EFFECT OF FILING-* *(i) STATUTE OF LIMITATIONS TOLLED- For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.* *(ii) NO PREJUDICE TO OTHER ACTIONS- Subject to paragraph (8), the filing of a claim with the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of appointment of the receiver for the covered financial company.	
(5) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS- (A) IN GENERAL- Before the end of the 60-day period beginning on the earlier of— (i) the end of the period described in paragraph (4)(A)(i) (or, if extended by agreement of the Corporation and the claimant, the period described in paragraph (4)(A)(ii)) with respect to any claim against a covered financial company for which the Corporation is receiver; or (ii) the date of any notice of disallowance of such claim pursuant to paragraph (4)(A)(i), the claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the covered financial company's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim). (B) STATUTE OF LIMITATIONS- If any claimant fails to file suit on such claim (or continue an action commenced before the appointment of the receiver) before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.	*(4) JUDICIAL DETERMINATION OF CLAIMS-* *(B) TIMING- A claim under subparagraph (A) may be filed before the end of the 60-day period beginning on the earlier of--* *(i) the end of the period described in paragraph (3)(A)(i) (or, if extended by agreement of the Corporation and the claimant, the period described in paragraph (3)(A)(ii)) with respect to any claim against a covered financial company for which the Corporation is receiver; or* *(ii) the date of any notice of disallowance of such claim pursuant to paragraph (3)(A)(i).* *(A) IN GENERAL- Subject to subparagraph (B), a claimant may file suit on a claim (or continue an action commenced before the date of appointment of the Corporation as receiver) in the district or territorial court of the United States for the district within which the principal place of business of the covered financial company is located (and such court shall have jurisdiction to hear such claim).* *(C) STATUTE OF LIMITATIONS- If any claimant fails to file suit on such claim (or to continue an action on such claim commenced before the date of appointment of the Corporation as receiver) prior to the end of the 60-day period described in subparagraph (B), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.*	
(6) EXPEDITED DETERMINATION OF CLAIMS- (A) ESTABLISHMENT REQUIRED- The Corporation shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (4) for claimants who-- (i) allege the existence of legally valid and	*(5) EXPEDITED DETERMINATION OF CLAIMS-* *(A) PROCEDURE REQUIRED- The Corporation shall establish a procedure for expedited relief outside of the claims process established under paragraph (3), for any claimant that alleges--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
enforceable or perfected security interests in assets of any covered financial company for which the Corporation has been appointed as receiver; and	*(i) the existence of a legally valid and enforceable or perfected security interest in property of a covered financial company, or is an entitlement holder that has obtained control of any legally valid and enforceable security entitlement in respect of any asset held by the covered financial company for which the Corporation has been appointed receiver; and*	
(ii) allege that irreparable injury will occur if the routine claims procedure is followed.	*(ii) that irreparable injury will occur if the claims procedure established under paragraph (3) is followed.*	
(B) DETERMINATION PERIOD- Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall--	*(B) DETERMINATION PERIOD- Prior to the end of the 90-day period beginning on the date on which a claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall--*	
(i) determine--	*(i) determine--*	
(I) whether to allow or disallow such claim; or	*(I) whether to allow or disallow such claim, or any portion thereof; or*	
(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (4); and	*(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (3);*	
(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining judicial determination.	*(ii) notify the claimant of the determination; and*	
	(iii) if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining a judicial determination.	
(C) PERIOD FOR FILING OR RENEWING SUIT- Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue such a suit filed before the appointment of the Corporation as receiver, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—	*(C) PERIOD FOR FILING OR RENEWING SUIT- Any claimant who files a request for expedited relief shall be permitted to file suit (or continue a suit filed before the date of appointment of the Corporation as receiver seeking a determination of the rights of the claimant with respect to such security interest (or such security entitlement) after the earlier of--*	
(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or	*(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or*	
(ii) the date the Corporation denies the claim.	*(ii) the date on which the Corporation denies the claim or a portion thereof.*	
(D) STATUTE OF LIMITATIONS- If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day	*(D) STATUTE OF LIMITATIONS- If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim. (E) LEGAL EFFECT OF FILING- (i) STATUTE OF LIMITATION TOLLED- For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action. (ii) NO PREJUDICE TO OTHER ACTIONS- Subject to paragraph (9), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the Corporation as receiver for the covered financial company.	*period beginning on the date on which such action or motion may be filed in accordance with subparagraph (C), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.* *(E) LEGAL EFFECT OF FILING-* *(i) STATUTE OF LIMITATIONS TOLLED- For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.* *(ii) NO PREJUDICE TO OTHER ACTIONS- Subject to paragraph (8), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the Corporation as receiver for the covered financial company.*	
(7) AGREEMENTS AGAINST INTEREST OF THE RECEIVER- No agreement that tends to diminish or defeat the interest of the Corporation as receiver in any asset acquired by the receiver under this section shall be valid against the receiver unless such agreement is in writing and executed by an authorized officer or representative of the covered financial company.	*(6) AGREEMENTS AGAINST INTEREST OF THE RECEIVER- No agreement that tends to diminish or defeat the interest of the Corporation as receiver in any asset acquired by the receiver under this section shall be valid against the receiver, unless such agreement--* *(A) is in writing;* *(B) was executed by an authorized officer or representative of the covered financial company, or confirmed in the ordinary course of business by the covered financial company; and* *(C) has been, since the time of its execution, an official record of the company or the party claiming under the agreement provides documentation, acceptable to the receiver, of such agreement and its authorized execution or confirmation by the covered financial company.*	
(8) PAYMENT OF CLAIMS- (A) IN GENERAL- The Corporation as receiver may, in its discretion and to the extent funds are available, pay creditor claims, in such manner and amounts as are authorized under this section, which are-- (i) allowed by the receiver; (ii) approved by the Corporation pursuant to a final determination pursuant to paragraph (6); or	*(7) PAYMENT OF CLAIMS-* *(A) IN GENERAL- Subject to subparagraph (B), the Corporation as receiver may, in its discretion and to the extent that funds are available, pay creditor claims, in such manner and amounts as are authorized under this section, which are--* *(i) allowed by the receiver;* *(ii) approved by the receiver pursuant to a final determination pursuant to paragraph (3) or (5), as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(iii) determined by the final judgment of any court of competent jurisdiction. (B) PAYMENT OF DIVIDENDS ON CLAIMS- The receiver may, in the receiver's sole discretion and to the extent otherwise permitted by this section, pay dividends on proven claims at any time, and no liability shall attach to the Corporation (in the Corporation's capacity as receiver), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. (C) RULEMAKING AUTHORITY OF CORPORATION- The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish a single uniform interest rate for, or to make payments of post insolvency interest to creditors holding proven claims against the receivership estates of a covered financial company following satisfaction by the receiver of the principal amount of all creditor claims.	*applicable; or* *(iii) determined by the final judgment of a court of competent jurisdiction.* *(B) LIMITATION- A creditor shall, in no event, receive less than the amount that the creditor is entitled to receive under paragraphs (2) and (3) of subsection (d), as applicable.* *(C) PAYMENT OF DIVIDENDS ON CLAIMS- The Corporation as receiver may, in its sole discretion, and to the extent otherwise permitted by this section, pay dividends on proven claims at any time, and no liability shall attach to the Corporation as receiver, by reason of any such payment or for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.* *(D) RULEMAKING BY THE CORPORATION- The Corporation may prescribe such rules, including definitions of terms, as the Corporation deems appropriate to establish an interest rate for or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estate of a covered financial company, except that no such interest shall be paid until the Corporation as receiver has satisfied the principal amount of all creditor claims.*	
(9) SUSPENSION OF LEGAL ACTIONS- (A) IN GENERAL- After the appointment of the Corporation as receiver for a covered financial company, the Corporation may request a stay for a period not to exceed 90 days in any noncriminal judicial action or proceeding to which such covered financial company is or becomes a party. (B) GRANT OF STAY BY ALL COURTS REQUIRED- Upon receipt of a request by the Corporation pursuant to subparagraph (A) for a stay of any non-criminal judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.	*(8) SUSPENSION OF LEGAL ACTIONS-* *(A) IN GENERAL- After the appointment of the Corporation as receiver for a covered financial company, the Corporation may request a stay in any judicial action or proceeding in which such covered financial company is or becomes a party, for a period of not to exceed 90 days.* *(B) GRANT OF STAY BY ALL COURTS REQUIRED- Upon receipt of a request by the Corporation pursuant to subparagraph (A), the court shall grant such stay as to all parties.*	
(10) ADDITIONAL RIGHTS AND DUTIES- (A) PRIOR FINAL ADJUDICATION- The Corporation shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Corporation as receiver.	*(9) ADDITIONAL RIGHTS AND DUTIES-* *(A) PRIOR FINAL ADJUDICATION- The Corporation shall abide by any final, non-appealable judgment of any court of competent jurisdiction that was rendered before the appointment of the Corporation as receiver.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) RIGHTS AND REMEDIES OF RECEIVER- In the event of any appealable judgment, the Corporation as receiver shall-- (i) have all the rights and remedies available to the covered financial company (before the appointment of the receiver under section 1604) and the Corporation, including but not limited to removal to Federal court and all appellate rights; and (ii) not be required to post any bond in order to pursue such remedies.	*(B) RIGHTS AND REMEDIES OF RECEIVER- In the event of any appealable judgment, the Corporation as receiver shall--* *(i) have all the rights and remedies available to the covered financial company (before the date of appointment of the Corporation as receiver under section 202) and the Corporation, including removal to Federal court and all appellate rights; and* *(ii) not be required to post any bond in order to pursue such remedies.*	
(C) NO ATTACHMENT OR EXECUTION- No attachment or execution may issue by any court upon assets in the possession of the receiver.	*(C) NO ATTACHMENT OR EXECUTION- No attachment or execution may be issued by any court upon assets in the possession of the Corporation as receiver for a covered financial company.*	
(D) LIMITATION ON JUDICIAL REVIEW- Except as otherwise provided in this subsection, no court shall have jurisdiction over-- (i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any covered financial company for which the Corporation has been appointed receiver, including any assets which the Corporation may acquire from itself as such receiver; or (ii) any claim relating to any act or omission of such covered financial company or the Corporation as receiver.	*(D) LIMITATION ON JUDICIAL REVIEW- Except as otherwise provided in this title, no court shall have jurisdiction over--* *(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any covered financial company for which the Corporation has been appointed receiver, including any assets which the Corporation may acquire from itself as such receiver; or* *(ii) any claim relating to any act or omission of such covered financial company or the Corporation as receiver.*	
(E) DISPOSITION OF ASSETS- In exercising any right, power, privilege, or authority as receiver in connection with any covered financial company for which the Corporation is acting as receiver under this section, the Corporation shall, to the greatest extent practicable, conduct its operations in a manner which-- (i) maximizes the net present value return from the sale or disposition of such assets; (ii) minimizes the amount of any loss realized in the resolution of cases; (iii) minimizes the cost to the general fund of the Treasury; (iv) mitigates the potential for serious adverse effects to the financial system and the United States	*(E) DISPOSITION OF ASSETS- In exercising any right, power, privilege, or authority as receiver in connection with any covered financial company for which the Corporation is acting as receiver under this section, the Corporation shall, to the greatest extent practicable, conduct its operations in a manner that--* *(i) maximizes the net present value return from the sale or disposition of such assets;* *(ii) minimizes the amount of any loss realized in the resolution of cases;* *(iii) mitigates the potential for serious adverse effects to the financial system;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
economy; (v) ensures timely and adequate competition and fair and consistent treatment of offerors; and (vi) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers.	*(iv) ensures timely and adequate competition and fair and consistent treatment of offerors; and* *(v) prohibits discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.*	
(11) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY RECEIVER- (A) IN GENERAL- Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as receiver shall be— (i) in the case of any contract claim, the longer of-- (I) the 6-year period beginning on the date the claim accrues; or (II) the period applicable under State law; and (ii) in the case of any tort claim, the longer of-- (I) the 3-year period beginning on the date the claim accrues; or (II) the period applicable under State law. (B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES- For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of-- (i) the date of the appointment of the Corporation as receiver under this title; or (ii) the date on which the cause of action accrues. (C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION- (i) IN GENERAL- In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as receiver, the Corporation may bring an action as receiver on such claim without regard to the expiration of the statute of limitation applicable under State law. (ii) CLAIMS DESCRIBED- A tort claim referred to	*(10) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY RECEIVER-* *(A) IN GENERAL- Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as receiver for a covered financial company shall be--* *(i) in the case of any contract claim, the longer of--* *(I) the 6-year period beginning on the date on which the claim accrues; or* *(II) the period applicable under State law; and* *(ii) in the case of any tort claim, the longer of--* *(I) the 3-year period beginning on the date on which the claim accrues; or* *(II) the period applicable under State law.* *(B) DATE ON WHICH A CLAIM ACCRUES- For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in subparagraph (A) shall be the later of--* *(i) the date of the appointment of the Corporation as receiver under this title; or* *(ii) the date on which the cause of action accrues.* *(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION-* *(i) IN GENERAL- In the case of any tort claim described in clause (ii) for which the applicable statute of limitations under State law has expired not more than 5 years before the date of appointment of the Corporation as receiver for a covered financial company, the Corporation may bring an action as receiver on such claim without regard to the expiration of the statute of limitations.* *(ii) CLAIMS DESCRIBED- A tort claim referred to in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the covered financial company.	*clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the covered financial company.*	
(12) FRAUDULENT TRANSFERS- (A) IN GENERAL- The Corporation, as receiver for any covered financial company, may avoid a transfer of any interest of an institution affiliated party, or any person who the Corporation determines is a debtor of the covered financial company, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the covered financial company or the Corporation.	*(11) AVOIDABLE TRANSFERS-* *(A) FRAUDULENT TRANSFERS- The Corporation, as receiver for any covered financial company, may avoid a transfer of any interest of the covered financial company in property, or any obligation incurred by the covered financial company, that was made or incurred at or within 2 years before the time of commencement, if--* *(i) the covered financial company voluntarily or involuntarily--* *(I) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the covered financial company was or became, on or after the date on which such transfer was made or such obligation was incurred, indebted; or* *(II) received less than a reasonably equivalent value in exchange for such transferor obligation; and* *(ii) the covered financial company voluntarily or involuntarily--* *(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;* *(II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the covered financial company was an unreasonably small capital;* *(III) intended to incur, or believed that the covered financial company would incur, debts that would be beyond the ability of the covered financial company to pay as such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	debts matured; or *(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.*	
(B) PREFERENTIAL TRANSFERS- The Corporation as receiver for any covered financial company may avoid a transfer of an interest of the covered financial company in property that-- (i) was made to or for the benefit of a creditor; (ii) was made for or on account of an antecedent debt that was owed by the covered financial company before the transfer was made; (iii) was made while the covered financial company was insolvent; (iv) was made-- (I) on or within 90 days before the date on which the Corporation was appointed receiver; or (II) between 90 days and one year before the date that the Corporation was appointed receiver, if such creditor at the time of the transfer was an insider, as that term is defined in section 101(31) of title 11, United States Code; and (v) enables such creditor to receive more than such creditor would receive in the liquidation of the covered financial company if-- (I) the transfer had not been made; and (II) such creditor received payment of such debt to the extent provided by the provisions of this subtitle.	*(B) PREFERENTIAL TRANSFERS- The Corporation as receiver for any covered financial company may avoid a transfer of an interest of the covered financial company in property--* *(i) to or for the benefit of a creditor;* *(ii) for or on account of an antecedent debt that was owed by the covered financial company before the transfer was made;* *(iii) that was made while the covered financial company was insolvent;* *(iv) that was made--* *(I) 90 days or less before the date on which the Corporation was appointed receiver; or* *(II) more than 90 days, but less than 1 year before the date on which the Corporation was appointed receiver, if such creditor at the time of the transfer was an insider; and* *(v) that enables the creditor to receive more than the creditor would receive if--* *(I) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code;* *(II) the transfer had not been made; and* *(III) the creditor received payment of such debt to the extent provided by the provisions of chapter 7 of the Bankruptcy Code.*	
(C) POST-RECEIVERSHIP TRANSACTIONS- The Corporation as receiver for any covered financial company may avoid a transfer of property of the receivership that	*(C) POST-RECEIVERSHIP TRANSACTIONS- The Corporation as receiver for any covered financial company may avoid a transfer of property of the receivership that*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
occurred after the Corporation was appointed receiver that was not authorized under this title. (D) RIGHT OF RECOVERY- To the extent that a transfer is avoided under subparagraph (A), (B) or (C), the Corporation may recover, for the benefit of the covered financial company, the property transferred or, if a court so orders, the value of such property from— (i) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or (ii) any immediate or mediate transferee of any such initial transferee. (E) RIGHTS OF TRANSFEREE OR OBLIGEE- The Corporation may not recover under subparagraph (D)(ii)— (i) from a transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the violability of the transfer avoided; or (ii) any immediate or mediate good faith transferee of such transferee. (F) DEFENSES- A transferee or obligee from whom the Corporation seeks to recover a transfer or avoid an obligation under subparagraph (A), (B) or (C) shall have the same affirmative defenses and rights to liens on the property transferred to the extent they would be available to a transferee or obligee from whom a trustee under title 11 seeks to recover a transfer under sections 547, 548, and 549 of title 11, United States Code. (G) LIMITATIONS ON AVOIDING POWERS- The rights of the Corporation under subparagraph (A), (B) or (C) are restricted to the same extent as the rights of a trustee in bankruptcy under section 546(b)(1) of the Bankruptcy Code. (H) PRESUMPTION OF INSOLVENCY- For purposes of subparagraph (B), the covered financial company is presumed to have been insolvent on and during the 90 days immediately	*occurred after the Corporation was appointed receiver that was not authorized under this title by the Corporation as receiver.* *(D) RIGHT OF RECOVERY- To the extent that a transfer is avoided under subparagraph (A), (B), or (C), the Corporation may recover, for the benefit of the covered financial company, the property transferred or, if a court so orders, the value of such property (at the time of such transfer) from--* *(i) the initial transferee of such transfer or the person for whose benefit such transfer was made; or* *(ii) any immediate or mediate transferee of any such initial transferee.* *(E) RIGHTS OF TRANSFEREE OR OBLIGEE- The Corporation may not recover under subparagraph (D)(ii) from--* *(i) any transferee that takes for value, including in satisfaction of or to secure a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or* *(ii) any immediate or mediate good faith transferee of such transferee.* *(F) DEFENSES- Subject to the other provisions of this title--* *(i) a transferee or obligee from which the Corporation seeks to recover a transfer or to avoid an obligation under subparagraph (A), (B), (C), or (D) shall have the same defenses available to a transferee or obligee from which a trustee seeks to recover a transfer or avoid an obligation under; and* *(ii) the authority of the Corporation to recover a transfer or avoid an obligation shall be subject to subsections (b) and (c) of section 546, section 547(c), and section 548(c) of the Bankruptcy Code.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
preceding the date on which the Corporation is appointed as receiver. (I) RIGHTS UNDER THIS SUBSECTION- The rights of the Corporation as receiver for a covered financial company under this subsection shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency of a Federal Home Loan Bank) under title 11, United States Code. (J) RIGHT OF RECOVERY- To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the covered financial company, the property transferred or, if a court so orders, the value of such property (at the time of such transfer) from-- (i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or (ii) any immediate or mediate transferee of any such initial transferee. (K) RIGHTS OF TRANSFEREE OR OBLIGEE- The Corporation may not recover under subparagraph (B)-- (i) any transfer that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or (ii) any immediate or mediate good faith transferee of such transferee.		
(L) RIGHTS UNDER THIS SUBSECTION- The rights of the Corporation as receiver of a covered financial company under this subsection shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code. (M) DEFINITION- For purposes of this subsection, the term `institution affiliated party' means-- (i) any director, officer, employee, or controlling stockholder of, or agent for, a covered financial company; (ii) any shareholder, consultant, joint venture partner, and any other person as determined by the Corporation (by regulation or otherwise) who participates in the conduct of the affairs of a covered	*(G) RIGHTS UNDER THIS SECTION- The rights of the Corporation as receiver under this section shall be superior to any rights of a trustee or any other party (other than a Federal agency) under the Bankruptcy Code.* *(H) RULES OF CONSTRUCTION; DEFINITIONS- For purposes of--* *(i) subparagraphs (A) and (B)--* *(I) the term `insider' has the same meaning as in section 101(31) of the Bankruptcy Code;* *(II) a transfer is made when such transfer is so perfected that a bona fide purchaser from the covered financial company against*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial company; and (iii) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in-- (I) any violation of any law or regulation; (II) any breach of fiduciary duty; or (III) any unsafe or unsound practice, which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the covered financial company.	*whom applicable law permits such transfer to be perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the date on which the Corporation is appointed as receiver for the covered financial company, such transfer is made immediately before the date of such appointment; and* *(III) the term `value' means property, or satisfaction or securing of a present or antecedent debt of the covered financial company, but does not include an unperformed promise to furnish support to the covered financial company; and* *(ii) subparagraph (B)--* *(I) the covered financial company is presumed to have been insolvent on and during the 90-day period immediately preceding the date of appointment of the Corporation as receiver; and* *(II) the term `insolvent' has the same meaning as in section 101(32) of the Bankruptcy Code.*	
	(12) SETOFF- *(A) GENERALLY- Except as otherwise provided in this title, any right of a creditor to offset a mutual debt owed by the creditor to any covered financial company that arose before the Corporation was appointed as receiver for the covered financial company against a claim of such creditor may be asserted if enforceable under applicable noninsolvency law, except to the extent that--* *(i) the claim of the creditor against the covered financial company is disallowed;* *(ii) the claim was transferred, by an entity other than the covered financial company, to the creditor--* *(I) after the Corporation was appointed as receiver of the covered financial company;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	or *(II)(aa) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company; and* *(bb) while the covered financial company was insolvent (except for a setoff in connection with a qualified financial contract); or* *(iii) the debt owed to the covered financial company was incurred by the covered financial company--* *(I) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company;* *(II) while the covered financial company was insolvent; and* *(III) for the purpose of obtaining a right of setoff against the covered financial company (except for a setoff in connection with a qualified financial contract).* *(B) INSUFFICIENCY-* *(i) IN GENERAL- Except with respect to a setoff in connection with a qualified financial contract, if a creditor offsets a mutual debt owed to the covered financial company against a claim of the covered financial company on or within the 90-day period preceding the date on which the Corporation is appointed as receiver for the covered financial company, the Corporation may recover from the creditor the amount so offset, to the extent that any insufficiency on the date of such setoff is less than the insufficiency on the later of--* *(I) the date that is 90 days before the date on which the Corporation is appointed as receiver for the covered financial company; or* *(II) the first day on which there is an insufficiency during the 90-day period*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	preceding the date on which the Corporation is appointed as receiver for the covered financial company. *(ii) DEFINITION OF INSUFFICIENCY- In this subparagraph, the term `insufficiency' means the amount, if any, by which a claim against the covered financial company exceeds a mutual debt owed to the covered financial company by the holder of such claim.* *(C) INSOLVENCY- The term `insolvent' has the same meaning as in section 101(32) of the Bankruptcy Code.* *(D) PRESUMPTION OF INSOLVENCY- For purposes of this paragraph, the covered financial company is presumed to have been insolvent on and during the 90-day period preceding the date of appointment of the Corporation as receiver.* *(E) LIMITATION- Nothing in this paragraph (12) shall be the basis for any right of setoff where no such right exists under applicable noninsolvency law.* *(F) PRIORITY CLAIM- Except as otherwise provided in this title, the Corporation as receiver for the covered financial company may sell or transfer any assets free and clear of the setoff rights of any party, except that such party shall be entitled to a claim, subordinate to the claims payable under subparagraphs (A), (B), (C), and (D) of subsection (b)(1), but senior to all other unsecured liabilities defined in subsection (b)(1)(E), in an amount equal to the value of such setoff rights.*	
(13) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF- Subject to paragraph (14), any court of competent jurisdiction may, at the request of the Corporation, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation under the control of the court and appointing a trustee to hold such assets.	*(13) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF- Subject to paragraph (14), any court of competent jurisdiction may, at the request of the Corporation as receiver for a covered financial company, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation under the control of the court and appointing a trustee to hold such assets.*	
(14) STANDARDS- (A) SHOWING- Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (13) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is	*(14) STANDARDS-* *(A) SHOWING- Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (13), without regard to the requirement that the applicant show that the injury, loss, or damage is irreparable*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
irreparable and immediate. (B) STATE PROCEEDING- If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation pursuant to paragraph (14) may be requested under the laws of such State.	*and immediate.* *(B) STATE PROCEEDING- If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of the State provide substantially similar protections of the right of the parties to due process as provided under Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation pursuant to paragraph (14) may be requested under the laws of such State.*	
(15) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CORPORATION AS RECEIVER- Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against the Corporation as receiver for a covered financial company for the breach of an agreement executed or approved by the Corporation after the date of its appointment shall be paid as an administrative expense of the receiver. Nothing in this paragraph shall be construed to limit the power of a receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.	*(15) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CORPORATION AS RECEIVER- Notwithstanding any other provision of this title, any final and non-appealable judgment for monetary damages entered against the Corporation as receiver for a covered financial company for the breach of an agreement executed or approved by the Corporation after the date of its appointment shall be paid as an administrative expense of the receiver. Nothing in this paragraph shall be construed to limit the power of a receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.*	
(16) ACCOUNTING AND RECORDKEEPING REQUIREMENTS- (A) IN GENERAL- The Corporation as receiver shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each receivership or other disposition of any covered financial company. (B) ANNUAL ACCOUNTING OR REPORT- With respect to each receivership to which the Corporation was appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary and the Comptroller General of the United States. (C) AVAILABILITY OF REPORTS- Any report prepared pursuant to subparagraph (B) shall be made available by the Corporation upon request to any member of the public. (D) RECORDKEEPING REQUIREMENT- (i) IN GENERAL- Except as provided in clause (ii), after the end of the 6-year period beginning on the date the Corporation is appointed as receiver of a covered financial company the Corporation may	*(16) ACCOUNTING AND RECORDKEEPING REQUIREMENTS-* *(A) IN GENERAL- The Corporation as receiver for a covered financial company shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each receivership or other disposition of any covered financial company.* *(B) ANNUAL ACCOUNTING OR REPORT- With respect to each receivership to which the Corporation is appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary and the Comptroller General of the United States.* *(C) AVAILABILITY OF REPORTS- Any report prepared pursuant to subparagraph (B) and section 203(c)(3) shall be made available to the public by the Corporation.* *(D) RECORDKEEPING REQUIREMENT-* *(i) IN GENERAL- The Corporation shall prescribe such regulations and establish such retention schedules as are necessary to maintain the documents and records of the Corporation generated in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
destroy any records of such covered financial company which the Corporation, in the Corporation's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law. (ii) OLD RECORDS- Notwithstanding clause (i), the Corporation may destroy records of a covered financial company which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such company in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).	*exercising the authorities of this title and the records of a covered financial company for which the Corporation is appointed receiver, with due regard for--* *(I) the avoidance of duplicative record retention; and* *(II) the expected evidentiary needs of the Corporation as receiver for a covered financial company and the public regarding the records of covered financial companies.* *(ii) RETENTION OF RECORDS- Unless otherwise required by applicable Federal law or court order, the Corporation may not, at any time, destroy any records that are subject to clause (i).* *(iii) RECORDS DEFINED- As used in this subparagraph, the terms `records' and `records of a covered financial company' mean any document, book, paper, map, photograph, microfiche, microfilm, computer or electronically-created record generated or maintained by the covered financial company in the course of and necessary to its transaction of business.*	
(b) Priority of Expenses and Unsecured Claims- (1) IN GENERAL- Unsecured claims against a covered financial company, or the receiver for such covered financial company under this section, that are proven to the satisfaction of the receiver shall have priority in the following order: (A) Administrative expenses of the receiver. (B) Any amounts owed to the United States, unless the United States agrees or consents otherwise. (C) Wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual (other than management responsible for the failed condition of the covered financial company who have been removed), subject to the limitations for such payments contained in title 11,	*(b) Priority of Expenses and Unsecured Claims-* *(1) IN GENERAL- Unsecured claims against a covered financial company, or the Corporation as receiver for such covered financial company under this section, that are proven to the satisfaction of the receiver shall have priority in the following order:* *(A) Administrative expenses of the receiver.* *(B) Any amounts owed to the United States, unless the United States agrees or consents otherwise.* *(C) Wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual (other than an individual described in subparagraph (G)), but only to the extent of $11,725 for each individual (as indexed for inflation, by regulation of the Corporation) earned not later*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
United States Code, including the amount (11 U.S.C. 507(a)(4)) and restrictions on severance payments to insiders (11 U.S.C. 503(c)).	*than 180 days before the date of appointment of the Corporation as receiver.*	
(D) Contributions to employee benefit plans, subject to the limitations in title 11, United States Code (11 U.S.C. 507(a)(5)).	*(D) Contributions owed to employee benefit plans arising from services rendered not later than 180 days before the date of appointment of the Corporation as receiver, to the extent of the number of employees covered by each such plan, multiplied by $11,725 (as indexed for inflation, by regulation of the Corporation), less the aggregate amount paid to such employees under subparagraph (C), plus the aggregate amount paid by the receivership on behalf of such employees to any other employee benefit plan.*	
(E) Any other general or senior liability of the covered financial company (which is not a liability described under subparagraph (F) or (G)).	*(E) Any other general or senior liability of the covered financial company (which is not a liability described under subparagraph (F), (G), or (H)).*	
(F) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (G)).	*(F) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (G) or (H)).*	
	(G) Any wages, salaries, or commissions including vacation, severance, and sick leave pay earned, owed to senior executives and directors of the covered financial company.	
(G) Any obligation to shareholders, members, general partners, limited partners or other persons with interests in the equity of the covered financial company arising as a result of their status as shareholders, members, general partners, limited partners or other persons with interests in the equity of the covered financial company.	*(H) Any obligation to shareholders, members, general partners, limited partners, or other persons, with interests in the equity of the covered financial company arising as a result of their status as shareholders, members, general partners, limited partners, or other persons with interests in the equity of the covered financial company.*	
(2) POST-RECEIVERSHIP FINANCING PRIORITY- In the event that the Corporation as receiver is unable to obtain unsecured credit for the covered financial company from commercial sources, the Corporation as receiver may obtain credit or incur debt on the part of the covered financial company which shall have priority over any or all administrative expenses of the receiver under paragraph (1)(A).	*(2) POST-RECEIVERSHIP FINANCING PRIORITY- In the event that the Corporation, as receiver for a covered financial company, is unable to obtain unsecured credit for the covered financial company from commercial sources, the Corporation as receiver may obtain credit or incur debt on the part of the covered financial company, which shall have priority over any or all administrative expenses of the receiver under paragraph (1)(A).*	
(3) CLAIMS OF THE UNITED STATES- Unsecured claims of the United States shall, at a minimum, have a higher priority than liabilities of the covered financial company that count as regulatory capital.	*(3) CLAIMS OF THE UNITED STATES- Unsecured claims of the United States shall, at a minimum, have a higher priority than liabilities of the covered financial company that count as regulatory capital.*	
(4) CREDITORS SIMILARLY SITUATED- Subject to the priorities established under paragraphs (2) and (3), all claimants of a covered	*(4) CREDITORS SIMILARLY SITUATED- All claimants of a covered financial company that are similarly situated under paragraph (1) shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial company that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this subsection, if-- (A) the Corporation determines that such action is necessary to maximize the value of the assets of the covered financial company, to maximize the present value return from the sale or other disposition of the assets of the covered financial company, to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company, or to contain or address serious adverse effects on financial stability or the U.S. economy; and (B) all claimants that are similarly situated under paragraph (1) receive not less than the amount provided in subsection (d)(2).	*be treated in a similar manner, except that the Corporation as receiver may take any action (including making payments, subject to subsection (o)(1)(E)(ii)) that does not comply with this subsection, if--* *(A) the Corporation determines that such action is necessary--* *(i) to maximize the value of the assets of the covered financial company;* *(ii) to initiate and continue operations essential to implementation of the receivership or any bridge financial company;* *(iii) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or* *(iv) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and* *(B) all claimants that are similarly situated under paragraph (1) receive not less than the amount provided in paragraphs (2) and (3) of subsection (d).*	
(5) SECURED CLAIMS UNAFFECTED- This subsection shall not affect secured claims, except to the extent that the security is insufficient to satisfy the claim and then only with regard to the difference between the claim and the amount realized from the security.	*(5) SECURED CLAIMS UNAFFECTED- This section shall not affect secured claims or security entitlements in respect of assets or property held by the covered financial company, except to the extent that the security is insufficient to satisfy the claim, and then only with regard to the difference between the claim and the amount realized from the security.*	
	SEC. 201. DEFINITIONS. *(a) In General- In this title, the following definitions shall apply:*	
(6) DEFINITIONS- As used in this subsection, the term `administrative expenses of the receiver' includes-- (A) the actual, necessary costs and expenses incurred by the receiver in preserving the assets of a covered financial company or liquidating or otherwise dissolving the affairs of a covered financial company for which the Corporation has been appointed as receiver; and (B) any obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation	*(1) ADMINISTRATIVE EXPENSES OF THE RECEIVER- The term `administrative expenses of the receiver' includes--* *(A) the actual, necessary costs and expenses incurred by the Corporation as receiver for a covered financial company in liquidating a covered financial company; and* *(B) any obligations that the Corporation as receiver for a covered financial company determines are necessary and appropriate to facilitate the smooth and orderly liquidation of the covered financial company.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or other dissolution of the covered financial company. (7) RULEMAKING- The Corporation shall, after following the notice and comment rulemaking requirements under the Administrative Procedure Act, prescribe rules to carry out this section.	***SEC. 210. POWERS AND DUTIES OF THE CORPORATION.*** *(b) Priority of Expenses and Unsecured Claims-* *(6) PRIORITY OF EXPENSES AND UNSECURED CLAIMS IN THE ORDERLY LIQUIDATION OF SIPC MEMBER- Where the Corporation is appointed as receiver for a covered broker or dealer, unsecured claims against such covered broker or dealer, or the Corporation as receiver for such covered broker or dealer under this section, that are proven to the satisfaction of the receiver under section 205(e), shall have the priority prescribed in paragraph (1), except that--* *(A) SIPC shall be entitled to recover administrative expenses incurred in performing its responsibilities under section 205 on an equal basis with the Corporation, in accordance with paragraph (1)(A);* *(B) the Corporation shall be entitled to recover any amounts paid to customers or to SIPC pursuant to section 205(f), in accordance with paragraph (1)(B);* *(C) SIPC shall be entitled to recover any amounts paid out of the SIPC Fund to meet its obligations under section 205 and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), which claim shall be subordinate to the claims payable under subparagraphs (A) and (B) of paragraph (1), but senior to all other claims; and* *(D) the Corporation may, after paying any proven claims to customers under section 205 and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), and as provided above, pay dividends on other proven claims, in its discretion, and to the extent that funds are available, in accordance with the priorities set forth in paragraph (1).*	
(c) Provisions Relating to Contracts Entered Into Before Appointment of	*(c) Provisions Relating to Contracts Entered Into Before Appointment of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Receiver- (1) AUTHORITY TO REPUDIATE CONTRACTS- In addition to any other rights a receiver may have, the Corporation as receiver for any covered financial company may disaffirm or repudiate any contract or lease-- (A) to which the covered financial company is a party; (B) the performance of which the receiver, in the receiver's discretion, determines to be burdensome; and (C) the disaffirmance or repudiation of which the receiver determines, in the receiver's discretion, will promote the orderly administration of the covered financial company's affairs.	*Receiver-* *(1) AUTHORITY TO REPUDIATE CONTRACTS- In addition to any other rights that a receiver may have, the Corporation as receiver for any covered financial company may disaffirm or repudiate any contract or lease--* *(A) to which the covered financial company is a party;* *(B) the performance of which the Corporation as receiver, in the discretion of the Corporation, determines to be burdensome; and* *(C) the disaffirmance or repudiation of which the Corporation as receiver determines, in the discretion of the Corporation, will promote the orderly administration of the affairs of the covered financial company.*	
(2) TIMING OF REPUDIATION- The receiver appointed for any covered financial company under section 1604 shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.	*(2) TIMING OF REPUDIATION- The Corporation, as receiver for any covered financial company, shall determine whether or not to exercise the rights of repudiation under this section within a reasonable period of time.*	
(3) CLAIMS FOR DAMAGES FOR REPUDIATION- (A) IN GENERAL- Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be— (i) limited to actual direct compensatory damages; and (ii) determined as of-- (I) the date of the appointment of the receiver; or (II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement. (B) NO LIABILITY FOR OTHER DAMAGES- For purposes of subparagraph (A), the term `actual direct compensatory damages' does not include-- (i) punitive or exemplary damages; (ii) damages for lost profits or opportunity; or (iii) damages for pain and suffering.	*(3) CLAIMS FOR DAMAGES FOR REPUDIATION-* *(A) IN GENERAL- Except as provided in paragraphs (4), (5), and (6) and in subparagraphs (C), (D), and (E) of this paragraph, the liability of the Corporation as receiver for a covered financial company for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be--* *(i) limited to actual direct compensatory damages; and* *(ii) determined as of--* *(I) the date of the appointment of the Corporation as receiver; or* *(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.* *(B) NO LIABILITY FOR OTHER DAMAGES- For purposes of subparagraph (A), the term `actual direct compensatory damages' does not include--* *(i) punitive or exemplary damages;* *(ii) damages for lost profits or opportunity; or* *(iii) damages for pain and suffering.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(C) MEASURE OF DAMAGES FOR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS- In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be-- (i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and (ii) paid in accordance with this subsection and subsection (d) except as otherwise specifically provided in this subsection.	*(C) MEASURE OF DAMAGES FOR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS- In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be--* *(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and* *(ii) paid in accordance with this paragraph and subsection (d), except as otherwise specifically provided in this subsection.* *(D) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF DEBT OBLIGATION- In the case of any debt for borrowed money or evidenced by a security, actual direct compensatory damages shall be no less than the amount lent plus accrued interest plus any accreted original issue discount as of the date the Corporation was appointed receiver of the covered financial company and, to the extent that an allowed secured claim is secured by property the value of which is greater than the amount of such claim and any accrued interest through the date of repudiation or disaffirmance, such accrued interest pursuant to paragraph (1).* *(E) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF CONTINGENT OBLIGATION- In the case of any contingent obligation of a covered financial company consisting of any obligation under a guarantee, letter of credit, loan commitment, or similar credit obligation, the Corporation may, by rule or regulation, prescribe that actual direct compensatory damages shall be no less than the estimated value of the claim as of the date the Corporation was appointed receiver of the covered financial company, as such value is measured based on the likelihood that such contingent claim would become fixed and the probable magnitude thereof.*	
(4) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSEE- (A) IN GENERAL- If the receiver disaffirms or repudiates a lease under which the covered financial company was the	*(4) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSEE-* *(A) IN GENERAL- If the Corporation as receiver disaffirms or repudiates a lease under which the covered financial company*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
lessee, the receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease. (B) PAYMENTS OF RENT- Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall— (i) be entitled to the contractual rent accruing before the later of the date-- (I) the notice of disaffirmance or repudiation is mailed; or (II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease; (ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and (iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (d).	*is the lessee, the receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.* *(B) PAYMENTS OF RENT- Notwithstanding subparagraph (A), the lessor under a lease to which subparagraph (A) would otherwise apply shall--* *(i) be entitled to the contractual rent accruing before the later of the date on which--* *(I) the notice of disaffirmance or repudiation is mailed; or* *(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;* *(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and* *(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this paragraph and subsection (d).*	
(5) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSOR- (A) IN GENERAL- If the receiver repudiates an unexpired written lease of real property of the covered financial company under which the covered financial company is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either— (i) treat the lease as terminated by such repudiation; or (ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation. (B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION- If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph-- (i) the lessee--	*(5) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSOR-* *(A) IN GENERAL- If the Corporation as receiver for a covered financial company repudiates an unexpired written lease of real property of the covered financial company under which the covered financial company is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either--* *(i) treat the lease as terminated by such repudiation; or* *(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.* *(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION- If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of subparagraph (A)--* *(i) the lessee--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; (II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the covered financial company under the lease after such date; and (ii) the receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).	*(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and* *(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the covered financial company under the lease after such date; and* *(ii) the Corporation as receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).*	
(6) CONTRACTS FOR THE SALE OF REAL PROPERTY- (A) IN GENERAL- If the receiver repudiates any contract (which meets the requirements of subsection (a)(7)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either-- (i) treat the contract as terminated by such repudiation; or (ii) remain in possession of such real property. (B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION- If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph-- (i) the purchaser-- (I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and (II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the covered financial company under the contract; and (ii) the receiver shall-- (I) not be liable to the purchaser for any	*(6) CONTRACTS FOR THE SALE OF REAL PROPERTY-* *(A) IN GENERAL- If the receiver repudiates any contract (which meets the requirements of subsection (a)(6)) for the sale of real property, and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either--* *(i) treat the contract as terminated by such repudiation; or* *(ii) remain in possession of such real property.* *(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION- If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of subparagraph (A)--* *(i) the purchaser--* *(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and* *(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the covered financial company under the contract; and* *(ii) the Corporation as receiver shall--* *(I) not be liable to the purchaser for any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II); (II) deliver title to the purchaser in accordance with the provisions of the contract; and (III) have no obligation under the contract other than the performance required under subclause (II). (C) ASSIGNMENT AND SALE ALLOWED- (i) IN GENERAL- No provision of this paragraph shall be construed as limiting the right of the receiver to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph. (ii) NO LIABILITY AFTER ASSIGNMENT AND SALE- If an assignment and sale described in clause (i) is consummated, the receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.	*damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);* *(II) deliver title to the purchaser in accordance with the provisions of the contract; and* *(III) have no obligation under the contract other than the performance required under subclause (II).* *(C) ASSIGNMENT AND SALE ALLOWED-* *(i) IN GENERAL- No provision of this paragraph shall be construed as limiting the right of the Corporation as receiver to assign the contract described in subparagraph (A) and sell the property, subject to the contract and the provisions of this paragraph.* *(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE- If an assignment and sale described in clause (i) is consummated, the Corporation as receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.*	
(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS- (A) SERVICES PERFORMED BEFORE APPOINTMENT- In the case of any contract for services between any person and any covered financial company for which the Corporation has been appointed receiver, any claim of such person for services performed before the appointment of the receiver shall be-- (i) a claim to be paid in accordance with subsections (a), (b), and (d); and (ii) deemed to have arisen as of the date the receiver was appointed. (B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION- If, in the case of any contract for services described in subparagraph (A), the receiver accepts performance by the other person before the receiver makes any determination to exercise the right of repudiation of such contract under this section--	*(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS-* *(A) SERVICES PERFORMED BEFORE APPOINTMENT- In the case of any contract for services between any person and any covered financial company for which the Corporation has been appointed receiver, any claim of such person for services performed before the date of appointment shall be—* *(i) a claim to be paid in accordance with subsections (a), (b), and (d); and* *(ii) deemed to have arisen as of the date on which the receiver was appointed.* *(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION- If, in the case of any contract for services described in subparagraph (A), the Corporation as receiver accepts performance by the other person before making any determination to exercise the right of repudiation of such contract under this section--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(i) the other party shall be paid under the terms of the contract for the services performed; and (ii) the amount of such payment shall be treated as an administrative expense of the receivership. (C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION- The acceptance by any receiver of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the receiver to repudiate such contract under this section at any time after such performance.	*(i) the other party shall be paid under the terms of the contract for the services performed; and* *(ii) the amount of such payment shall be treated as an administrative expense of the receivership.* *(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION- The acceptance by the Corporation as receiver for services referred to in subparagraph (B) in connection with a contract described in subparagraph (B) shall not affect the right of the Corporation as receiver to repudiate such contract under this section at any time after such performance.*	
(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS- (A) RIGHTS OF PARTIES TO CONTRACTS- Subject to paragraphs (9) and (10) of this subsection and notwithstanding any other provision of this section (other than subsection (a)(7)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising— (i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a covered financial company which arises upon the appointment of the Corporation as receiver for such covered financial company at any time after such appointment; (ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); (iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements. (B) APPLICABILITY OF OTHER PROVISIONS- Subsection (a)(9) shall apply in the case of any judicial action or proceeding brought against any receiver referred to in subparagraph (A), or the covered financial company for which	*(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS-* *(A) RIGHTS OF PARTIES TO CONTRACTS- Subject to subsection (a)(8) and paragraphs (9) and (10) of this subsection, and notwithstanding any other provision of this section, any other provision of Federal law, or the law of any State, no person shall be stayed or prohibited from exercising--* *(i) any right that such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a covered financial company which arises upon the date of appointment of the Corporation as receiver for such covered financial company at any time after such appointment;* *(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); or* *(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts or agreements described in clause (i), including any master agreement for such contracts or agreements.* *(B) APPLICABILITY OF OTHER PROVISIONS- Subsection (a)(8) shall apply in the case of any judicial action or proceeding brought against the Corporation as receiver referred to in subparagraph (A), or the subject covered*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
such receiver was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such company.	*financial company, by any party to a contract or agreement described in subparagraph (A)(i) with such covered financial company.*	
(C) CERTAIN TRANSFERS NOT AVOIDABLE-	*(C) CERTAIN TRANSFERS NOT AVOIDABLE-*	
(i) IN GENERAL- Notwithstanding paragraph (11), section 5242 of the Revised Statutes of the United States or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Corporation, whether acting as such or as receiver of a covered financial company, may not avoid any transfer of money or other property in connection with any qualified financial contract with a covered financial company.	*(i) IN GENERAL- Notwithstanding subsection (a)(11), (a)(12), or (c)(12), section 5242 of the Revised Statutes of the United States, or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Corporation, whether acting as the Corporation or as receiver for a covered financial company, may not avoid any transfer of money or other property in connection with any qualified financial contract with a covered financial company.*	
(ii) EXCEPTION FOR CERTAIN TRANSFERS- Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a covered financial company if the Corporation determines that the transferee had actual intent to hinder, delay, or defraud such company, the creditors of such company, or any receiver appointed for such company.	*(ii) EXCEPTION FOR CERTAIN TRANSFERS- Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a covered financial company if the transferee had actual intent to hinder, delay, or defraud such company, the creditors of such company, or the Corporation as receiver appointed for such company.*	
(D) CERTAIN CONTACTS AND AGREEMENTS DEFINED- For purposes of this subsection, the following definitions shall apply:	*(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED- For purposes of this subsection, the following definitions shall apply:*	
(i) QUALIFIED FINANCIAL CONTRACT- The term `qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.	*(i) QUALIFIED FINANCIAL CONTRACT- The term `qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.*	
(ii) SECURITIES CONTRACT- The term `securities contract'--	*(ii) SECURITIES CONTRACT- The term `securities contract'--*	
(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities,	*(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a `repurchase agreement,' as defined in clause (v)); (II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term; (III) means any option entered into on a national securities exchange relating to foreign currencies; (IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II));	*certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a `repurchase agreement', as defined in clause (v));* *(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;* *(III) means any option entered into on a national securities exchange relating to foreign currencies;* *(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit or mortgage loans or interests therein (including any interest therein or based on the value thereof) or an option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	subclause (II)));	
(V) means any margin loan;	*(V) means any margin loan;*	
(VI) means any extension of credit for the clearance or settlement of securities transactions;	*(VI) means any extension of credit for the clearance or settlement of securities transactions;*	
(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;	*(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;*	
(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;	*(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;*	
(IX) means any combination of the agreements or transactions referred to in this clause;	*(IX) means any combination of the agreements or transactions referred to in this clause;*	
(X) means any option to enter into any agreement or transaction referred to in this clause;	*(X) means any option to enter into any agreement or transaction referred to in this clause;*	
(XI) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), (VIII), (IX), or (X); and	*(XI) means a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (X), other than subclause (II), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (X), other than subclause (II); and*	
(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in	*(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
connection with any agreement or transaction referred to in this clause. (iii) COMMODITY CONTRACT- The term `commodity contract' means-- (I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade; (II) with respect to a foreign futures commission merchant, a foreign future; (III) with respect to a leverage transaction merchant, a leverage transaction; (IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization; (V) with respect to a commodity options dealer, a commodity option; (VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause; (VII) any combination of the agreements or transactions referred to in this clause; (VIII) any option to enter into any agreement or transaction referred to in this clause; (IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or	*connection with any agreement or transaction referred to in this clause.* *(iii) COMMODITY CONTRACT- The term `commodity contract' means--* *(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;* *(II) with respect to a foreign futures commission merchant, a foreign future;* *(III) with respect to a leverage transaction merchant, a leverage transaction;* *(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;* *(V) with respect to a commodity options dealer, a commodity option;* *(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;* *(VII) any combination of the agreements or transactions referred to in this clause;* *(VIII) any option to enter into any agreement or transaction referred to in this clause;* *(IX) a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or (X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause. (iv) FORWARD CONTRACT- The term `forward contract' means-- (I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a `repurchase agreement', as defined in clause (v)), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement; (II) any combination of agreements or transactions referred to in subclauses (I) and (III); (III) any option to enter into any agreement or transaction referred to in subclause (I) or	*contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (VIII); or* *(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.* *(iv) FORWARD CONTRACT- The term `forward contract' means--* *(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date that is more than 10 days after the date on which the contract is entered into, including a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a `repurchase agreement', as defined in clause (v)), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;* *(II) any combination of agreements or transactions referred to in subclauses (I) and (III);* *(III) any option to enter into any agreement or transaction referred to in subclause (I) or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(II); (IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or (V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause. (v) REPURCHASE AGREEMENT- The term `repurchase agreement' (which definition also applies to a reverse repurchase agreement)-- (I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (which for purposes of this clause shall mean a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development as	*(II);* *(IV) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or* *(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.* *(v) REPURCHASE AGREEMENT- The term `repurchase agreement' (which definition also applies to a reverse repurchase agreement)--* *(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (which, for purposes of this clause, means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
determined by regulation or order adopted by the Federal Reserve Board) or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement; (II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term; (III) means any combination of agreements or transactions referred to in subclauses (I) and (IV); (IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III); (V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a	*and Development, as determined by regulation or order adopted by the Board of Governors), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;* *(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Corporation determines, by regulation, resolution, or order to include any such participation within the meaning of such term;* *(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);* *(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);* *(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and (VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause. (vi) SWAP AGREEMENT- The term `swap agreement' means-- (I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement; (II) any agreement or transaction that is similar to any other agreement or transaction	*a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and* *(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.* *(vi) SWAP AGREEMENT- The term `swap agreement' means--* *(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;* *(II) any agreement or transaction that is similar to any other agreement or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value; (III) any combination of agreements or transactions referred to in this clause; (IV) any option to enter into any agreement or transaction referred to in this clause; (V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and (VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement	*transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;* *(III) any combination of agreements or transactions referred to in this clause;* *(IV) any option to enter into any agreement or transaction referred to in this clause;* *(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and* *(VI) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any of clauses (I) through (V), including any guarantee or reimbursement obligation in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
obligation in connection with any agreement or transaction referred to in any such subclause. (vii) DEFINITIONS RELATING TO DEFAULT- When used in this paragraph and paragraph (10)-- (I) The term `default' shall mean, with respect to a covered financial company, any adjudication or other official determination by any court of competent jurisdiction, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed; and (II) The term `in danger of default' shall mean a covered financial company with respect to which the Corporation or appropriate State authority has determined that--	*connection with any agreement or transaction referred to in any such clause.* *(vii) DEFINITIONS RELATING TO DEFAULT- When used in this paragraph and paragraph (10)--* *(I) the term `default' means, with respect to a covered financial company, any adjudication or other official decision by any court of competent jurisdiction, or other public authority pursuant to which the Corporation has been appointed receiver; and* *(II) the term `in danger of default' means a covered financial company with respect to which the Corporation or appropriate State authority has determined that--*	
(aa) in the opinion of the Corporation or such authority--	*(aa) in the opinion of the Corporation or such authority--*	
(AA) the covered financial company is not likely to be able to pay its obligations in the normal course of business; and	*(AA) the covered financial company is not likely to be able to pay its obligations in the normal course of business; and*	
(BB) there is no reasonable prospect that the covered financial company will be able to pay such obligations without Federal assistance; or	*(BB) there is no reasonable prospect that the covered financial company will be able to pay such obligations without Federal assistance; or*	
(CC) in the opinion of the Corporation or such authority--	*(bb) in the opinion of the Corporation or such authority--*	
(bb) the covered financial company has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and	*(AA) the covered financial company has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and*	
(cc) there is no reasonable prospect that the capital will be replenished without Federal assistance.	*(BB) there is no reasonable prospect that the capital will be replenished without Federal assistance.*	
(viii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT- Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement	*(viii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT- Any master agreement for any contract or agreement described in any of clauses (i) through (vi) (or any master agreement for such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contact. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts. (ix) TRANSFER- The term `transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the covered financial company's equity of redemption. (x) PERSON- The term `person' includes any governmental entity in addition to any entity included in the definition of such term in section 1, title 1, United States Code.	*master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contact. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.* *(ix) TRANSFER- The term `transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the covered financial company.* *(x) PERSON- The term `person' includes any governmental entity in addition to any entity included in the definition of such term in section 1, title 1, United States Code.*	
(E) CLARIFICATION- No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.	*(E) CLARIFICATION- No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1).*	
(F) WALKAWAY CLAUSES NOT EFFECTIVE- (i) IN GENERAL- Notwithstanding the provisions of subparagraph (A) and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a covered financial company in default. (ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS- In the case of a qualified financial contract referred to in clause (i), any payment or	*(F) WALKAWAY CLAUSES NOT EFFECTIVE-* *(i) IN GENERAL- Notwithstanding the provisions of subparagraph (A) of this paragraph and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a covered financial company in default.* *(ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS- In the case of a qualified financial contract referred to in clause (i), any payment or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time the receiver is appointed until the earlier of-- (I) the time such party receives notice that such contract has been transferred pursuant to paragraph (10)(A); or (II) 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver. (iii) WALKAWAY CLAUSE DEFINED- For purposes of this subparagraph, the term `walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of such party's status as a nondefaulting party in connection with the insolvency of a covered financial company that is a party to the contract or the appointment of or the exercise of rights or powers by a receiver of such covered financial company, and not as a result of a party's exercise of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.	*delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time at which the Corporation is appointed as receiver until the earlier of--* *(I) the time at which such party receives notice that such contract has been transferred pursuant to paragraph (10)(A); or* *(II) 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment of the Corporation as receiver.* *(iii) WALKAWAY CLAUSE DEFINED- For purposes of this subparagraph, the term `walkaway clause' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of the status of such party as a nondefaulting party in connection with the insolvency of a covered financial company that is a party to the contract or the appointment of or the exercise of rights or powers by the Corporation as receiver for such covered financial company, and not as a result of the exercise by a party of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.* *(iv) CERTAIN OBLIGATIONS TO CLEARING ORGANIZATIONS- In the event that the Corporation has been appointed as receiver for a covered financial company which is a party to any qualified financial contract cleared by or subject to the rules of a clearing organization (as defined in subsection (c)(9)(D)), the receiver shall use its best efforts to meet all margin, collateral, and settlement obligations of the covered financial company that arise under qualified financial contracts (other than any margin, collateral, or settlement obligation that is not enforceable against the receiver under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	paragraph (8)(F)(i) or paragraph (10)(B)), as required by the rules of the clearing organization when due, and such obligations shall not be suspended pursuant to paragraph (8)(F)(ii). Notwithstanding paragraph (8)(F)(ii) or (10)(B), if the receiver fails to satisfy any such margin, collateral, or settlement obligations under the rules of the clearing organization, the clearing organization shall have the immediate right to exercise, and shall not be stayed from exercising, all of its rights and remedies under its rules and applicable law with respect to any qualified financial contract of the covered financial company, including, without limitation, the right to liquidate all positions and collateral of such covered financial company under the company's qualified financial contracts, and suspend or cease to act for such covered financial company, all in accordance with the rules of the clearing organization.	
(G) RECORDKEEPING- The Corporation, in consultation with the Federal Reserve Board, may prescribe regulations requiring that the covered financial company maintain such records with respect to qualified financial contracts (including market valuations) as the Corporation determines to be necessary or appropriate in order to assist the receiver of the covered financial company in being able to exercise its rights and fulfill its obligations under this paragraph or paragraph (9) or (10).	*(G) RECORDKEEPING-* *(i) JOINT RULEMAKING- The Federal primary financial regulatory agencies shall jointly prescribe regulations requiring that financial companies maintain such records with respect to qualified financial contracts (including market valuations) that the Federal primary financial regulatory agencies determine to be necessary or appropriate in order to assist the Corporation as receiver for a covered financial company in being able to exercise its rights and fulfill its obligations under this paragraph or paragraph (9) or (10).* *(ii) TIMEFRAME- The Federal primary financial regulatory agencies shall prescribe joint final or interim final regulations not later than 24 months after the date of enactment of this Act.* *(iii) BACK-UP RULEMAKING AUTHORITY- If the Federal primary financial regulatory agencies do not prescribe joint final or interim final regulations within the time frame in clause (ii), the Chairperson*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of the Council shall prescribe, in consultation with the Corporation, the regulations required by clause (i). *(iv) CATEGORIZATION AND TIERING- The joint regulations prescribed under clause (i) shall, as appropriate, differentiate among financial companies by taking into consideration their size, risk, complexity, leverage, frequency and dollar amount of qualified financial contracts, interconnectedness to the financial system, and any other factors deemed appropriate.*	
(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS- (A) IN GENERAL- In making any transfer of assets or liabilities of a covered financial company in default which includes any qualified financial contract, the receiver for such covered financial company shall either-- (i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding— (I) all qualified financial contracts between any person or any affiliate of such person and the covered financial company in default; (II) all claims of such person or any affiliate of such person against such covered financial company under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such company); (III) all claims of such covered financial company against such person or any affiliate of such person under any such contract; and (IV) all property securing or any other credit enhancement for any contract described in	*(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS-* *(A) IN GENERAL- In making any transfer of assets or liabilities of a covered financial company in default, which includes any qualified financial contract, the Corporation as receiver for such covered financial company shall either--* *(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding--* *(I) all qualified financial contracts between any person or any affiliate of such person and the covered financial company in default;* *(II) all claims of such person or any affiliate of such person against such covered financial company under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such company);* *(III) all claims of such covered financial company against such person or any affiliate of such person under any such contract; and* *(IV) all property securing or any other credit enhancement for any contract*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
subclause (I) or any claim described in subclause (II) or (III) under any such contract; or (ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person). (B) TRANSFER TO FOREIGN BANK, FINANCIAL INSTITUTION, OR BRANCH OR AGENCY THEREOF- In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the receiver for the covered financial company shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section. (C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION- In the event that a receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer. (D) DEFINITIONS- For purposes of this paragraph, the term `financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a bridge financial company, or any other institution determined by the Corporation by regulation to be a financial institution, and the term `clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation	*described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or* *(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).* *(B) TRANSFER TO FOREIGN BANK, FINANCIAL INSTITUTION, OR BRANCH OR AGENCY THEREOF- In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the Corporation as receiver for the covered financial company shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.* *(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION- In the event that the Corporation as receiver for a financial institution transfers any qualified financial contract and related claims, property, or credit enhancement pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.* *(D) DEFINITIONS- For purposes of this paragraph--* *(i) the term `financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a bridge financial company, or any other institution determined by the Corporation, by regulation, to be a financial institution; and* *(ii) the term `clearing organization' has the same*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Improvement Act of 1991.	*meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.*	
(10) NOTIFICATION OF TRANSFER- (A) IN GENERAL- If-- (i) the receiver for a covered financial company in default or in danger of default transfers any assets and liabilities of the covered financial company; and (ii) the transfer includes any qualified financial contract, the receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver.	*(10) NOTIFICATION OF TRANSFER-* *(A) IN GENERAL-* *(i) NOTICE- The Corporation shall provide notice in accordance with clause (ii), if--* *(I) the Corporation as receiver for a covered financial company in default or in danger of default transfers any assets or liabilities of the covered financial company; and* *(II) the transfer includes any qualified financial contract.* *(ii) TIMING- The Corporation as receiver for a covered financial company shall notify any person who is a party to any contract described in clause (i) of such transfer not later than 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment of the Corporation as receiver.*	
(B) CERTAIN RIGHTS NOT ENFORCEABLE- (i) RECEIVERSHIP- A person who is a party to a qualified financial contract with a covered financial company may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection solely by reason of or incidental to the appointment under this section of a receiver for the covered financial company (or the insolvency or financial condition of the covered financial company for which the receiver has been appointed)-- (I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or (II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A). (ii) NOTICE- For purposes of this paragraph, the receiver for a covered financial company shall be deemed to have notified a person who is a party to a qualified financial contract with such covered	*(B) CERTAIN RIGHTS NOT ENFORCEABLE-* *(i) RECEIVERSHIP- A person who is a party to a qualified financial contract with a covered financial company may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) solely by reason of or incidental to the appointment under this section of the Corporation as receiver for the covered financial company (or the insolvency or financial condition of the covered financial company for which the Corporation has been appointed as receiver)--* *(I) until 5:00 p.m. (eastern time) on the 3rd business day following the date of the appointment; or* *(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).* *(ii) NOTICE- For purposes of this paragraph, the Corporation as receiver for a covered financial company shall be deemed to have notified a person who is a party to a qualified financial contract with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial company if the receiver has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A). (C) TREATMENT OF BRIDGE FINANCIAL COMPANY- For purposes of paragraph (9), a bridge financial company shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding. (D) BUSINESS DAY DEFINED- For purposes of this paragraph, the term `business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.	*such covered financial company, if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).* *(C) TREATMENT OF BRIDGE FINANCIAL COMPANY- For purposes of paragraph (9), a bridge financial company shall not be considered to be a covered financial company for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.* *(D) BUSINESS DAY DEFINED- For purposes of this paragraph, the term `business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.*	
(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS- In exercising the rights of disaffirmance or repudiation of a receiver with respect to any qualified financial contract to which a covered financial company is a party, the receiver for such covered financial shall either-- (A) disaffirm or repudiate all qualified financial contracts between-- (i) any person or any affiliate of such person; and (ii) the covered financial company in default; or (B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).	*(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS- In exercising the rights of disaffirmance or repudiation of the Corporation as receiver with respect to any qualified financial contract to which a covered financial company is a party, the Corporation shall either--* *(A) disaffirm or repudiate all qualified financial contracts between--* *(i) any person or any affiliate of such person; and* *(ii) the covered financial company in default; or* *(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).*	
(12) CERTAIN SECURITY AND CUSTOMER INTERESTS NOT AVOIDABLE- No provision of this subsection shall be construed as permitting the avoidance of any-- (A) legally enforceable or perfected security interest in any of the assets of any covered financial company except where such an interest is taken in contemplation of the company's insolvency or with the intent to hinder, delay, or defraud the company or the creditors of such company; or (B) legally enforceable interest in customer property.	*(12) CERTAIN SECURITY AND CUSTOMER INTERESTS NOT AVOIDABLE- No provision of this subsection shall be construed as permitting the avoidance of any--* *(A) legally enforceable or perfected security interest in any of the assets of any covered financial company, except in accordance with subsection (a)(11); or* *(B) legally enforceable interest in customer property, security entitlements in respect of assets or property held by the covered financial company for any security entitlement holder.*	
(13) AUTHORITY TO ENFORCE CONTRACTS-	*(13) AUTHORITY TO ENFORCE CONTRACTS-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) IN GENERAL- The receiver may enforce any contract, other than a director's or officer's liability insurance contract or a financial institution bond, entered into by the covered financial company notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of or the exercise of rights or powers by a receiver.	*(A) IN GENERAL- The Corporation, as receiver for a covered financial company, may enforce any contract, other than a liability insurance contract of a director or officer, a financial institution bond entered into by the covered financial company, notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency, the appointment of or the exercise of rights or powers by the Corporation as receiver, the filing of the petition pursuant to section 202(a)(1), or the issuance of the recommendations or determination, or any actions or events occurring in connection therewith or as a result thereof, pursuant to section 203.*	
(B) CERTAIN RIGHTS NOT AFFECTED- No provision of this paragraph may be construed as impairing or affecting any right of the receiver to enforce or recover under a director's or officer's liability insurance contract or financial institution bond under other applicable law.	*(B) CERTAIN RIGHTS NOT AFFECTED- No provision of this paragraph may be construed as impairing or affecting any right of the Corporation as receiver to enforce or recover under a liability insurance contract of a director or officer or financial institution bond under other applicable law.*	
(C) CONSENT REQUIREMENT-	*(C) CONSENT REQUIREMENT AND IPSO FACTO CLAUSES-*	
(i) IN GENERAL- Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the covered financial company is a party, or to obtain possession of or exercise control over any property of the covered financial company or affect any contractual rights of the covered financial company, without the consent of the receiver, as appropriate, of the covered financial company during the 90-day period beginning on the date of the appointment of the receiver, as applicable.	*(i) IN GENERAL- Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the covered financial company is a party (and no provision in any such contract providing for such default, termination, or acceleration shall be enforceable), or to obtain possession of or exercise control over any property of the covered financial company or affect any contractual rights of the covered financial company, without the consent of the Corporation as receiver for the covered financial company during the 90 day period beginning from the appointment of the Corporation as receiver.*	
(ii) CERTAIN EXCEPTIONS- No provision of this subparagraph shall apply to a director or officer liability insurance contract or a financial institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the	*(ii) EXCEPTIONS- No provision of this subparagraph shall apply to a director or officer liability insurance contract or a financial institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the receiver to fail to comply with otherwise enforceable provisions of such contract.	*the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the Corporation as receiver to fail to comply with otherwise enforceable provisions of such contract.* *(D) CONTRACTS TO EXTEND CREDIT- Notwithstanding any other provision in this title, if the Corporation as receiver enforces any contract to extend credit to the covered financial company or bridge financial company, any valid and enforceable obligation to repay such debt shall be paid by the Corporation as receiver, as an administrative expense of the receivership.*	
(14) EXCEPTION FOR FEDERAL RESERVE BANKS AND CORPORATION SECURITY INTEREST- No provision of this subsection shall apply with respect to-- (A) any extension of credit from any Federal Reserve bank or the Corporation to any covered financial company; or (B) any security interest in the assets of the covered financial company securing any such extension of credit.	*(14) EXCEPTION FOR FEDERAL RESERVE BANKS AND CORPORATION SECURITY INTEREST- No provision of this subsection shall apply with respect to--* *(A) any extension of credit from any Federal reserve bank or the Corporation to any covered financial company; or* *(B) any security interest in the assets of the covered financial company securing any such extension of credit.*	
(15) SAVINGS CLAUSE- The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including, but not limited, to the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.	*(15) SAVINGS CLAUSE- The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.*	
(16) AUTHORITY REGARDING COLLECTIVE BARGAINING AGREEMENTS- The Corporation as receiver for any covered financial company shall not disaffirm or repudiate any collective bargaining agreement to which the covered financial company is a party unless the Corporation determines that repudiation is necessary for the orderly resolution of the covered financial company after taking into consideration the cost to taxpayers and the financial stability of the United States.		
	(16) ENFORCEMENT OF CONTRACTS GUARANTEED BY THE COVERED FINANCIAL COMPANY-	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) IN GENERAL- The Corporation, as receiver for a covered financial company or as receiver for a subsidiary of a covered financial company (including an insured depository institution) shall have the power to enforce contracts of subsidiaries or affiliates of the covered financial company, the obligations under which are guaranteed or otherwise supported by or linked to the covered financial company, notwithstanding any contractual right to cause the termination, liquidation, or acceleration of such contracts based solely on the insolvency, financial condition, or receivership of the covered financial company, if-- *(i) such guaranty or other support and all related assets and liabilities are transferred to and assumed by a bridge financial company or a third party (other than a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding) within the same period of time as the Corporation is entitled to transfer the qualified financial contracts of such covered financial company; or* *(ii) the Corporation, as receiver, otherwise provides adequate protection with respect to such obligations.* *(B) RULE OF CONSTRUCTION- For purposes of this paragraph, a bridge financial company shall not be considered to be a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.*	
(d) Valuation of Claims in Default- (1) IN GENERAL- Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Corporation determines to utilize with respect to a covered financial company, including transactions authorized under subsection (h), this subsection shall govern the rights of the creditors of such covered financial company. (2) MAXIMUM LIABILITY- The maximum liability of the Corporation, acting as receiver or in any other capacity, to any person having a claim against the receiver or the covered financial company	*(d) Valuation of Claims in Default-* *(1) IN GENERAL- Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method utilized by the Corporation for a covered financial company, including transactions authorized under subsection (h), this subsection shall govern the rights of the creditors of any such covered financial company.* *(2) MAXIMUM LIABILITY- The maximum liability of the Corporation, acting as receiver for a covered financial company or in any other capacity, to any person having a claim against the Corporation as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for which such receiver is appointed shall equal the amount such claimant would have received if— (A) a determination had not been made under section 1603(b) with respect to the covered financial company; and (B) the covered financial company had been liquidated under title 11, United States Code, or any case related to title 11, United States Code (including a case initiated by the Securities Investor Protection Corporation with respect to a financial company subject to the Securities Investor Protection Act of 1970), or any State insolvency law.	*receiver or the covered financial company for which the Corporation is appointed shall equal the amount that such claimant would have received if--* *(A) the Corporation had not been appointed receiver with respect to the covered financial company; and* *(B) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code, or any similar provision of State insolvency law applicable to the covered financial company.*	
	(3) SPECIAL PROVISION FOR ORDERLY LIQUIDATION BY SIPC- The maximum liability of the Corporation, acting as receiver or in its corporate capacity for any covered broker or dealer to any customer of such covered broker or dealer, with respect to customer property of such customer, shall be-- *(A) equal to the amount that such customer would have received with respect to such customer property in a case initiated by SIPC under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); and* *(B) determined as of the close of business on the date on which the Corporation is appointed as receiver.*	
(3) ADDITIONAL PAYMENTS AUTHORIZED- (A) IN GENERAL- The Corporation may, as receiver and with the approval of the Secretary, make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants of a covered financial company if the Corporation determines that such payments or credits are necessary or appropriate to-- (i) minimize losses to the receiver from the dissolution of the covered financial company under this section; or (ii) prevent or mitigate serious adverse effects to financial stability or the United States economy.	*(4) ADDITIONAL PAYMENTS AUTHORIZED-* *(A) IN GENERAL- Subject to subsection (o)(1)(E)(ii), the Corporation, with the approval of the Secretary, may make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants of the covered financial company, if the Corporation determines that such payments or credits are necessary or appropriate to minimize losses to the Corporation as receiver from the orderly liquidation of the covered financial company under this section.* *(B) LIMITATIONS-* *(i) PROHIBITION- The Corporation shall not make any payments or credit amounts to any claimant or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	category of claimants that would result in any claimant receiving more than the face value amount of any claim that is proven to the satisfaction of the Corporation. *(ii) NO OBLIGATION- Notwithstanding any other provision of Federal or State law, or the Constitution of any State, the Corporation shall not be obligated, as a result of having made any payment under subparagraph (A) or credited any amount described in subparagraph (A) to or with respect to, or for the account, of any claimant or category of claimants, to make payments to any other claimant or category of claimants.*	
(B) MANNER OF PAYMENT- The Corporation may make payments or credit amounts under subparagraph (A) directly to the claimants or may make such payments or credit such amounts to a company other than a covered financial company or a bridge financial company established with respect thereto in order to induce such other company to accept liability for such claims.	*(C) MANNER OF PAYMENT- The Corporation may make payments or credit amounts under subparagraph (A) directly to the claimants or may make such payments or credit such amounts to a company other than a covered financial company or a bridge financial company established with respect thereto in order to induce such other company to accept liability for such claims.*	
(e) Limitation on Court Action- Except as provided in this section or at the request of the receiver appointed for a covered financial company, no court may take any action to restrain or affect the exercise of powers or functions of the receiver hereunder.	*(e) Limitation on Court Action- Except as provided in this title, no court may take any action to restrain or affect the exercise of powers or functions of the receiver hereunder, and any remedy against the Corporation or receiver shall be limited to money damages determined in accordance with this title.*	
(f) Liability of Directors and Officers- (1) IN GENERAL- A director or officer of a covered financial company may be held personally liable for monetary damages in any civil action described in paragraph (2) by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation-- (A) acting as receiver of such covered financial company; (B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver; or (C) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by a covered financial company or its affiliate in connection with assistance provided under section 1604. (2) ACTIONS COVERED- Paragraph (1) shall apply with respect to	*(f) Liability of Directors and Officers-* *(1) IN GENERAL- A director or officer of a covered financial company may be held personally liable for monetary damages in any civil action described in paragraph (2) by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation--* *(A) acting as receiver for such covered financial company;* *(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by the Corporation as receiver; or* *(C) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by a covered financial company or its affiliate in connection with assistance provided under this title.* *(2) ACTIONS COVERED- Paragraph (1) shall apply with respect to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
actions for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. (3) SAVINGS CLAUSE- Nothing in this subsection shall impair or affect any right of the Corporation under other applicable law.	*actions for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law.* *(3) SAVINGS CLAUSE- Nothing in this subsection shall impair or affect any right of the Corporation under other applicable law.*	
(g) Damages- In any proceeding related to any claim against a covered financial company's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a covered financial company, recoverable damages determined to result from the improvident or otherwise improper use or investment of any covered financial company's assets shall include principal losses and appropriate interest.	*(g) Damages- In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial company, or any other party employed by or providing services to a covered financial company, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the covered financial company shall include principal losses and appropriate interest.*	
(h) Bridge Financial Companies- (1) ORGANIZATION- (A) PURPOSE- The Corporation, as receiver of one or more covered financial companies may organize one or more bridge financial companies in accordance with this subsection. (B) AUTHORITIES- Upon the creation of a bridge financial company under subparagraph (A) with respect to a covered financial company, such bridge financial company may-- (i) assume such liabilities (including liabilities associated with any trust or custody business but excluding any liabilities that count as regulatory capital) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate; (ii) purchase such assets (including assets associated with any trust or custody business) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate; and (iii) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this section.	*(h) Bridge Financial Companies-* *(1) ORGANIZATION-* *(A) PURPOSE- The Corporation, as receiver for one or more covered financial companies or in anticipation of being appointed receiver for one or more covered financial companies, may organize one or more bridge financial companies in accordance with this subsection.* *(B) AUTHORITIES- Upon the creation of a bridge financial company under subparagraph (A) with respect to a covered financial company, such bridge financial company may--* *(i) assume such liabilities (including liabilities associated with any trust or custody business, but excluding any liabilities that count as regulatory capital) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate;* *(ii) purchase such assets (including assets associated with any trust or custody business) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate; and* *(iii) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this section.*	
(2) CHARTER AND ESTABLISHMENT- (A) ESTABLISHMENT- If the Corporation is appointed as receiver for a covered financial company, the Corporation may	*(2) CHARTER AND ESTABLISHMENT-* *(A) ESTABLISHMENT- Except as provided in subparagraph (H), where the covered financial company is a covered broker*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
grant a Federal charter to and approve articles of association for one or more bridge financial company or companies with respect to such covered financial company which shall, by operation of law and immediately upon issuance of its charter and approval of its articles of association, be established and operate in accordance with, and subject to, such charter, articles, and this section. (B) MANAGEMENT- Upon its establishment, a bridge financial company shall be under the management of a board of directors appointed by the Corporation. (C) ARTICLES OF ASSOCIATION- The articles of association and organization certificate of a bridge financial shall have such terms as the Corporation may provide, and shall be executed by such representatives as the Corporation may designate. (D) TERMS OF CHARTER; RIGHTS AND PRIVILEGES- Subject to and in accordance with the provisions of this subsection, the Corporation shall-- (i) establish the terms of the charter of a bridge financial company and the rights, powers, authorities and privileges of a bridge financial company granted by the charter or as an incident thereto; and (ii) provide for, and establish the terms and conditions governing, the management (including, but not limited to, the bylaws and the number of directors of the board of directors) and operations of the bridge financial company. (E) TRANSFER OF RIGHTS AND PRIVILEGES OF COVERED FINANCIAL COMPANY- (i) IN GENERAL- Notwithstanding any other provision of Federal law or the law of any State, the Corporation may provide for a bridge financial company to succeed to and assume any rights, powers, authorities or privileges of the covered financial company with respect to which the bridge financial company was established and, upon such determination by the Corporation, the bridge financial	*or dealer, the Corporation, as receiver for a covered financial company, may grant a Federal charter to and approve articles of association for one or more bridge financial company or companies, with respect to such covered financial company which shall, by operation of law and immediately upon issuance of its charter and approval of its articles of association, be established and operate in accordance with, and subject to, such charter, articles, and this section.* *(B) MANAGEMENT- Upon its establishment, a bridge financial company shall be under the management of a board of directors appointed by the Corporation.* *(C) ARTICLES OF ASSOCIATION- The articles of association and organization certificate of a bridge financial company shall have such terms as the Corporation may provide, and shall be executed by such representatives as the Corporation may designate.* *(D) TERMS OF CHARTER; RIGHTS AND PRIVILEGES- Subject to and in accordance with the provisions of this subsection, the Corporation shall--* *(i) establish the terms of the charter of a bridge financial company and the rights, powers, authorities, and privileges of a bridge financial company granted by the charter or as an incident thereto; and* *(ii) provide for, and establish the terms and conditions governing, the management (including the bylaws and the number of directors of the board of directors) and operations of the bridge financial company.* *(E) TRANSFER OF RIGHTS AND PRIVILEGES OF COVERED FINANCIAL COMPANY-* *(i) IN GENERAL- Notwithstanding any other provision of Federal or State law, the Corporation may provide for a bridge financial company to succeed to and assume any rights, powers, authorities, or privileges of the covered financial company with respect to which the bridge financial company was established and, upon such determination by the Corporation, the bridge*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
company shall immediately and by operation of law succeed to and assume such rights, powers, authorities and privileges. (ii) EFFECTIVE WITHOUT APPROVAL- Any succession to or assumption by a bridge financial company of rights, powers, authorities or privileges of a covered financial company under clause (i) or otherwise shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto. (F) CORPORATE GOVERNANCE AND ELECTION AND DESIGNATION OF BODY OF LAW- To the extent permitted by the Corporation and consistent with this section and any rules, regulations or directives issued by the Corporation under this section, a bridge financial company may elect to follow the corporate governance practices and procedures as are applicable to a corporation incorporated under the general corporation law of the State of Delaware, or the State of incorporation or organization of the covered financial company with respect to which the bridge financial company was established, as such law may be amended from time to time. (G) CAPITAL- (i) CAPITAL NOT REQUIRED- Notwithstanding any other provision of Federal or State law, a bridge financial company may, if permitted by the Corporation, operate without any capital or surplus, or with such capital or surplus as the Corporation may in its discretion determine to be appropriate. (ii) NO CONTRIBUTION BY THE CORPORATION REQUIRED- The Corporation is not required to pay capital into a bridge financial company or to issue any capital stock on behalf of a bridge financial company established under this subsection. (iii) AUTHORITY- If the Corporation determines that such action is advisable, the Corporation may cause capital stock or other securities of a bridge financial company established with respect to a	*financial company shall immediately and by operation of law succeed to and assume such rights, powers, authorities, and privileges.* *(ii) EFFECTIVE WITHOUT APPROVAL- Any succession to or assumption by a bridge financial company of rights, powers, authorities, or privileges of a covered financial company under clause (i) or otherwise shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.* *(F) CORPORATE GOVERNANCE AND ELECTION AND DESIGNATION OF BODY OF LAW- To the extent permitted by the Corporation and consistent with this section and any rules, regulations, or directives issued by the Corporation under this section, a bridge financial company may elect to follow the corporate governance practices and procedures that are applicable to a corporation incorporated under the general corporation law of the State of Delaware, or the State of incorporation or organization of the covered financial company with respect to which the bridge financial company was established, as such law may be amended from time to time.* *(G) CAPITAL-* *(i) CAPITAL NOT REQUIRED- Notwithstanding any other provision of Federal or State law, a bridge financial company may, if permitted by the Corporation, operate without any capital or surplus, or with such capital or surplus as the Corporation may in its discretion determine to be appropriate.* *(ii) NO CONTRIBUTION BY THE CORPORATION REQUIRED- The Corporation is not required to pay capital into a bridge financial company or to issue any capital stock on behalf of a bridge financial company established under this subsection.* *(iii) AUTHORITY- If the Corporation determines that such action is advisable, the Corporation may cause capital stock or other securities of a bridge financial company established with respect to a covered*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
covered financial company to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.	*financial company to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.* *(iv) OPERATING FUNDS IN LIEU OF CAPITAL AND IMPLEMENTATION PLAN- Upon the organization of a bridge financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge financial company, subject to the plan described in subsection (n)(11), funds for the operation of the bridge financial company in lieu of capital.* *(H) BRIDGE BROKERS OR DEALERS-* *(i) IN GENERAL- The Corporation, as receiver for a covered broker or dealer, may approve articles of association for one or more bridge financial companies with respect to such covered broker or dealer, which bridge financial company or companies shall, by operation of law and immediately upon approval of its articles of association--* *(I) be established and deemed registered with the Commission under the Securities Exchange Act of 1934 and a member of SIPC;* *(II) operate in accordance with such articles and this section; and* *(III) succeed to any and all registrations and memberships of the covered financial company with or in any self-regulatory organizations.* *(ii) OTHER REQUIREMENTS- Except as provided in clause (i), and notwithstanding any other provision of this section, the bridge financial company shall be subject to the Federal securities laws and all requirements with respect to being a member of a self-regulatory organization, unless exempted from any such requirements by the Commission, as is necessary or appropriate in the public interest or for*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the protection of investors. *(iii) TREATMENT OF CUSTOMERS- Except as otherwise provided by this title, any customer of the covered broker or dealer whose account is transferred to a bridge financial company shall have all the rights, privileges, and protections under section 205(f) and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), that such customer would have had if the account were not transferred from the covered financial company under this subparagraph.* *(iv) OPERATION OF BRIDGE BROKERS OR DEALERS- Notwithstanding any other provision of this title, the Corporation shall not operate any bridge financial company created by the Corporation under this title with respect to a covered broker or dealer in such a manner as to adversely affect the ability of customers to promptly access their customer property in accordance with applicable law.*	
(3) INTERESTS IN AND ASSETS AND OBLIGATIONS OF COVERED FINANCIAL COMPANY- Notwithstanding paragraph (1) or (2) or any other provision of law-- (A) a bridge financial company shall assume, acquire, or succeed to the assets or liabilities of a covered financial company (including the assets or liabilities associated with any trust or custody business) only to the extent that such assets or liabilities are transferred by the Corporation to the bridge financial company in accordance with, and subject to the restrictions set forth in, paragraph (1)(B); and (B) a bridge financial company shall not assume, acquire, or succeed to any obligation that a covered financial company for which a receiver has been appointed may have to any shareholder, member, general partner, limited partner, or other person with an interest in the equity of the covered financial company that arises as a result of the status of that person having an equity claim in the covered financial company.	*(3) INTERESTS IN AND ASSETS AND OBLIGATIONS OF COVERED FINANCIAL COMPANY- Notwithstanding paragraph (1) or (2) or any other provision of law--* *(A) a bridge financial company shall assume, acquire, or succeed to the assets or liabilities of a covered financial company (including the assets or liabilities associated with any trust or custody business) only to the extent that such assets or liabilities are transferred by the Corporation to the bridge financial company in accordance with, and subject to the restrictions set forth in, paragraph (1)(B); and* *(B) a bridge financial company shall not assume, acquire, or succeed to any obligation that a covered financial company for which the Corporation has been appointed receiver may have to any shareholder, member, general partner, limited partner, or other person with an interest in the equity of the covered financial company that arises as a result of the status of that person having an equity claim in the covered financial company. (4) BRIDGE FINANCIAL COMPANY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES- A bridge financial company shall be treated as a covered financial company in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	default at such times and for such purposes as the Corporation may, in its discretion, determine.	
(4) BRIDGE FINANCIAL COMPANY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES- A bridge financial company shall be treated as a covered financial company in default at such times and for such purposes as the Corporation may, in its discretion, determine.	*(4) BRIDGE FINANCIAL COMPANY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES- A bridge financial company shall be treated as a covered financial company in default at such times and for such purposes as the Corporation may, in its discretion, determine.*	
(5) TRANSFER OF ASSETS AND LIABILITIES- (A) TRANSFER OF ASSETS AND LIABILITIES- The Corporation, as receiver, may transfer any assets and liabilities of a covered financial company (including any assets or liabilities associated with any trust or custody business) to one or more bridge financial companies in accordance with and subject to the restrictions of paragraph (1)(B). (B) SUBSEQUENT TRANSFERS- At any time after the establishment of a bridge financial company with respect to a covered financial company, the Corporation, as receiver, may transfer any assets and liabilities of such covered financial company as the Corporation may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1)(B). (C) TREATMENT OF TRUST OR CUSTODY BUSINESS- For purposes of this paragraph, the trust or custody business, including fiduciary appointments, held by any covered financial company is included among its assets and liabilities. (D) EFFECTIVE WITHOUT APPROVAL- The transfer of any assets or liabilities, including those associated with any trust or custody business of a covered financial company to a bridge financial company shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto. (E) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS- The Corporation shall treat all creditors of a covered financial company that are similarly situated under subsection (b)(1) in a similar manner in exercising the authority of the Corporation under this subsection to transfer any assets or liabilities of the covered financial company to one or more bridge financial companies	*(5) TRANSFER OF ASSETS AND LIABILITIES-* *(A) AUTHORITY OF CORPORATION- The Corporation, as receiver for a covered financial company, may transfer any assets and liabilities of a covered financial company (including any assets or liabilities associated with any trust or custody business) to one or more bridge financial companies, in accordance with and subject to the restrictions of paragraph (1).* *(B) SUBSEQUENT TRANSFERS- At any time after the establishment of a bridge financial company with respect to a covered financial company, the Corporation, as receiver, may transfer any assets and liabilities of such covered financial company as the Corporation may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).* *(C) TREATMENT OF TRUST OR CUSTODY BUSINESS- For purposes of this paragraph, the trust or custody business, including fiduciary appointments, held by any covered financial company is included among its assets and liabilities.* *(D) EFFECTIVE WITHOUT APPROVAL- The transfer of any assets or liabilities, including those associated with any trust or custody business of a covered financial company, to a bridge financial company shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.* *(E) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS- The Corporation shall treat all creditors of a covered financial company that are similarly situated under subsection (b)(1), in a similar manner in exercising the authority of the Corporation under this subsection to transfer any assets or liabilities of the covered financial company to one or more bridge financial companies established with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
established with respect to such covered financial company, except that the Corporation may take actions (including making payments) that do not comply with this subparagraph, if— (i) the Corporation determines that such actions are necessary to maximize the value of the assets of the covered financial company, to maximize the present value return from the sale or other disposition of the assets of the covered financial company, to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company, or to contain or address serious adverse effects to financial stability or the United States economy; and (ii) all creditors that are similarly situated under subsection (b)(1) receive not less than the amount provided in subsection (d)(2). (F) LIMITATION ON TRANSFER OF LIABILITIES- Notwithstanding any other provision of law, the aggregate amount of liabilities of a covered financial company that are transferred to, or assumed by, a bridge financial company from a covered financial company may not exceed the aggregate amount of the assets of the covered financial company that are transferred to, or purchased by, the bridge financial company from the covered financial company.	*respect to such covered financial company, except that the Corporation may take any action (including making payments, subject to subsection (o)(1)(D)(ii)) that does not comply with this subparagraph, if--* *(i) the Corporation determines that such action is necessary--* *(I) to maximize the value of the assets of the covered financial company;* *(II) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or* *(III) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and* *(ii) all creditors that are similarly situated under subsection (b)(1) receive not less than the amount provided under paragraphs (2) and (3) of subsection (d).* *(F) LIMITATION ON TRANSFER OF LIABILITIES- Notwithstanding any other provision of law, the aggregate amount of liabilities of a covered financial company that are transferred to, or assumed by, a bridge financial company from a covered financial company may not exceed the aggregate amount of the assets of the covered financial company that are transferred to, or purchased by, the bridge financial company from the covered financial company.*	
(6) STAY OF JUDICIAL ACTION- Any judicial action to which a bridge financial company becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a covered financial company shall be stayed from further proceedings for a period of up to 45 days (or such longer period as may be agreed to upon the consent of all parties) at the request of the bridge financial company.	*(6) STAY OF JUDICIAL ACTION- Any judicial action to which a bridge financial company becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a covered financial company shall be stayed from further proceedings for a period of not longer than 45 days (or such longer period as may be agreed to upon the consent of all parties) at the request of the bridge financial company.*	
(7) AGREEMENTS AGAINST INTEREST OF THE BRIDGE FINANCIAL COMPANY- No agreement that tends to diminish or defeat the interest of the bridge financial company in any asset of a covered financial company acquired by the bridge financial company shall be valid against the bridge financial company unless such	*(7) AGREEMENTS AGAINST INTEREST OF THE BRIDGE FINANCIAL COMPANY- No agreement that tends to diminish or defeat the interest of the bridge financial company in any asset of a covered financial company acquired by the bridge financial company shall be valid against the bridge financial company, unless such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
agreement is in writing and executed by an authorized officer or representative of the covered financial company.	*agreement--* *(A) is in writing;* *(B) was executed by an authorized officer or representative of the covered financial company or confirmed in the ordinary course of business by the covered financial company; and* *(C) has been on the official record of the company, since the time of its execution, or with which, the party claiming under the agreement provides documentation of such agreement and its authorized execution or confirmation by the covered financial company that is acceptable to the receiver.*	
(8) NO FEDERAL STATUS- (A) AGENCY STATUS- A bridge financial company is not an agency, establishment, or instrumentality of the United States. (B) EMPLOYEE STATUS- Representatives for purposes of paragraph (1)(B), directors, officers, employees, or agents of a bridge financial company are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), director, officer, employee, or agent of a bridge financial company shall not-- (i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or (ii) receive any salary or benefits for service in any such capacity with respect to a bridge financial company in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.	*(8) NO FEDERAL STATUS-* *(A) AGENCY STATUS- A bridge financial company is not an agency, establishment, or instrumentality of the United States.* *(B) EMPLOYEE STATUS- Representatives for purposes of paragraph (1)(B), directors, officers, employees, or agents of a bridge financial company are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), director, officer, employee, or agent of a bridge financial company shall not--* *(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or* *(ii) receive any salary or benefits for service in any such capacity with respect to a bridge financial company in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.*	
(9) EXEMPT TAX STATUS- (A) EXEMPTION FROM FEDERAL INCOME TAX- Subsection (l) of section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph: `(4) Any bridge financial company organized under section 1609(h) of the Financial Stability Improvement Act of 2009.'.	*(10) EXEMPT TAX STATUS- Notwithstanding any other provision of Federal or State law, a bridge financial company, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) EXEMPTION FROM CERTAIN OTHER TAXES- Notwithstanding any other provision of Federal or State law, a bridge financial company, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by any territory, dependency, or possession of the United States, or by any State, county, municipality, or local taxing authority.		
(10) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW- (A) IN GENERAL- If a transaction involving the merger or sale of a bridge financial company requires approval by a Federal agency, the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval with respect thereto. If, in connection with any such approval a report on competitive factors from the Attorney General is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the proposed transaction and the Attorney General shall provide the required report within 10 days of the request. If notification under section 7A of the Clayton Act is required with respect to such transaction, then the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under subsection (b)(2) of such section, or is extended pursuant to subsection (e)(2) of such section. (B) EMERGENCY- If the Secretary, in consultation with the Chairman of the Federal Reserve Board, has found that the Corporation must act immediately to prevent the probable failure of the covered financial company involved, the approval and prior notification referred to in subparagraph (A) shall not be required and the transaction may be consummated immediately by the Corporation. The preceding sentence shall not otherwise modify, impair, or supercede the operation of any of the antitrust laws (as defined in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition).	*(11) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW- If a transaction involving the merger or sale of a bridge financial company requires approval by a Federal agency, the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval with respect thereto. If, in connection with any such approval a report on competitive factors from the Attorney General is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the proposed transaction and the Attorney General shall provide the required report within 10 days of the request. If a notification is required under section 7A of the Clayton Act with respect to such transaction, the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under section 7A(b)(2) of the Clayton Act, or extended under section 7A(e)(2) of that Act.*	
(11) DURATION OF BRIDGE FINANCIAL COMPANY- Subject to paragraphs (12), (13), and (14), the status of a bridge financial company	*(12) DURATION OF BRIDGE FINANCIAL COMPANY- Subject to paragraphs (13) and (14), the status of a bridge financial company as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
as such shall terminate at the end of the 2-year period following the date it was granted a charter. The Corporation may, in its discretion, extend the status of the bridge financial company as such for 3 additional 1-year periods.	*such shall terminate at the end of the 2-year period following the date on which it was granted a charter. The Corporation may, in its discretion, extend the status of the bridge financial company as such for no more than 3 additional 1-year periods.*	
(12) TERMINATION OF BRIDGE FINANCIAL COMPANY STATUS- The status of any bridge financial company as such shall terminate upon the earliest of-- (A) the merger or consolidation of the bridge financial company with a company that is not a bridge financial company; (B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge financial company to a company other than the Corporation and other than another bridge financial company; (C) the sale of 80 percent, or more, of the capital stock of the bridge financial company to a person other than the Corporation and other than another bridge financial company; (D) at the election of the Corporation, either the assumption of all or substantially all of the liabilities of the bridge financial company by a company that is not a bridge financial company, or the acquisition of all or substantially all of the assets of the bridge financial company by a company that is not a bridge financial company, or other entity as permitted under applicable law; and (E) the expiration of the period provided in paragraph (11), or the earlier dissolution of the bridge financial company as provided in paragraph (14).	*(13) TERMINATION OF BRIDGE FINANCIAL COMPANY STATUS- The status of any bridge financial company as such shall terminate upon the earliest of--* *(A) the date of the merger or consolidation of the bridge financial company with a company that is not a bridge financial company;* *(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge financial company to a company other than the Corporation and other than another bridge financial company;* *(C) the sale of 80 percent, or more, of the capital stock of the bridge financial company to a person other than the Corporation and other than another bridge financial company;* *(D) at the election of the Corporation, either the assumption of all or substantially all of the liabilities of the bridge financial company by a company that is not a bridge financial company, or the acquisition of all or substantially all of the assets of the bridge financial company by a company that is not a bridge financial company, or other entity as permitted under applicable law; and* *(E) the expiration of the period provided in paragraph (12), or the earlier dissolution of the bridge financial company, as provided in paragraph (15).*	
(13) EFFECT OF TERMINATION EVENTS- (A) MERGER OR CONSOLIDATION- A merger or consolidation as provided in paragraph (12)(A) shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law. For the purpose of effecting such a merger or consolidation, the bridge financial company shall be treated as a corporation organized under the laws of the State of Delaware (unless the law of another State has been selected by the bridge financial company in accordance with paragraph (2)(F)), and the Corporation shall be treated as the sole shareholder thereof,	*(14) EFFECT OF TERMINATION EVENTS-* *(A) MERGER OR CONSOLIDATION- A merger or consolidation, described in paragraph (12)(A) shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law. For the purpose of effecting such a merger or consolidation, the bridge financial company shall be treated as a corporation organized under the laws of the State of Delaware (unless the law of another State has been selected by the bridge financial company in accordance with paragraph (2)(F)), and the Corporation shall be treated as the sole shareholder thereof,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
notwithstanding any other provision of State or Federal law. (B) CHARTER CONVERSION- Following the sale of a majority of the capital stock of the bridge financial company as provided in paragraph (12)(B), the Corporation may amend the charter of the bridge financial company to reflect the termination of the status of the bridge financial company as such, whereupon the company shall have all of the rights, powers, and privileges under its constituent documents and applicable State or Federal law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of State or Federal law, such State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State. (C) SALE OF STOCK- Following the sale of 80 percent or more of the capital stock of a bridge financial company as provided in paragraph (12)(C), the company shall have all of the rights, powers, and privileges under its constituent documents and applicable State or Federal law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of State or Federal law, the State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State. (D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS- Following the assumption of all or substantially all of the liabilities of the bridge financial company, or the sale of all or substantially all of the assets of the bridge financial company, as provided in paragraph (12)(D), at the election of	*notwithstanding any other provision of State or Federal law.* *(B) CHARTER CONVERSION- Following the sale of a majority of the capital stock of the bridge financial company, as provided in paragraph (13)(B), the Corporation may amend the charter of the bridge financial company to reflect the termination of the status of the bridge financial company as such, whereupon the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, such State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers, and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.* *(C) SALE OF STOCK- Following the sale of 80 percent or more of the capital stock of a bridge financial company, as provided in paragraph (13)(C), the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, the State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.* *(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS- Following the assumption of all or substantially all of the liabilities of the bridge financial company, or the sale of all or substantially all of the assets of the bridge financial company, as provided in paragraph (13)(D), at the election of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Corporation the bridge financial company may retain its status as such for the period provided in paragraph (11) or may be dissolved at the election of the Corporation. (E) AMENDMENTS TO CHARTER- Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (12), the charter of the resulting company shall be amended to reflect the termination of bridge financial company status, if appropriate.	*Corporation, the bridge financial company may retain its status as such for the period provided in paragraph (12) or may be dissolved at the election of the Corporation.* *(E) AMENDMENTS TO CHARTER- Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13), the charter of the resulting company shall be amended to reflect the termination of bridge financial company status, if appropriate.*	
(14) DISSOLUTION OF BRIDGE FINANCIAL COMPANY- (A) IN GENERAL- Notwithstanding any other provision of State or Federal law, if a bridge financial company's status as such has not previously been terminated by the occurrence of an event specified in subparagraph (A), (B), (C), or (D) of paragraph (12)-- (i) the Corporation may, in its discretion, dissolve the bridge financial company in accordance with this paragraph at any time; and (ii) the Corporation shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date the bridge financial company was chartered, or any extension thereof, as provided in paragraph (11). (B) PROCEDURES- The Corporation shall remain the receiver of a bridge financial company for the purpose of dissolving the bridge financial company. The Corporation as such receiver shall wind up the affairs of the bridge financial company in conformity with the provisions of law relating to the liquidation of covered financial companies. With respect to any such bridge financial company, the Corporation as receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to a receiver of a covered financial company and, notwithstanding any other provision of law, in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.	*(15) DISSOLUTION OF BRIDGE FINANCIAL COMPANY-* *(A) IN GENERAL- Notwithstanding any other provision of Federal or State law, if the status of a bridge financial company as such has not previously been terminated by the occurrence of an event specified in subparagraph (A), (B), (C), or (D) of paragraph (13)--* *(i) the Corporation may, in its discretion, dissolve the bridge financial company in accordance with this paragraph at any time; and* *(ii) the Corporation shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date on which the bridge financial company was chartered, or any extension thereof, as provided in paragraph (12).* *(B) PROCEDURES- The Corporation shall remain the receiver for a bridge financial company for the purpose of dissolving the bridge financial company. The Corporation as receiver for a bridge financial company shall wind up the affairs of the bridge financial company in conformity with the provisions of law relating to the liquidation of covered financial companies under this title. With respect to any such bridge financial company, the Corporation as receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to the Corporation as receiver for a covered financial company under this title and, notwithstanding any other provision of law, in the exercise of such rights, powers, and privileges, the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(15) AUTHORITY TO OBTAIN CREDIT-	*(16) AUTHORITY TO OBTAIN CREDIT-*	
(A) IN GENERAL- A bridge financial company may obtain unsecured credit and issue unsecured debt.	*(A) IN GENERAL- A bridge financial company may obtain unsecured credit and issue unsecured debt.*	
(B) INABILITY TO OBTAIN CREDIT- If a bridge financial company is unable to obtain unsecured credit or issue unsecured debt, the Corporation may authorize the obtaining of credit or the issuance of debt by the bridge financial company--	*(B) INABILITY TO OBTAIN CREDIT- If a bridge financial company is unable to obtain unsecured credit or issue unsecured debt, the Corporation may authorize the obtaining of credit or the issuance of debt by the bridge financial company--*	
(i) with priority over any or all of the obligations of the bridge financial company;	*(i) with priority over any or all of the obligations of the bridge financial company;*	
(ii) secured by a lien on property of the bridge financial company that is not otherwise subject to a lien; or	*(ii) secured by a lien on property of the bridge financial company that is not otherwise subject to a lien; or*	
(iii) secured by a junior lien on property of the bridge financial company that is subject to a lien.	*(iii) secured by a junior lien on property of the bridge financial company that is subject to a lien.*	
(C) LIMITATIONS-	*(C) LIMITATIONS-*	
(i) IN GENERAL- The Corporation, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a bridge financial company that is secured by a senior or equal lien on property of the bridge financial company that is subject to a lien only if--	*(i) IN GENERAL- The Corporation, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a bridge financial company that is secured by a senior or equal lien on property of the bridge financial company that is subject to a lien, only if--*	
(I) the bridge financial company is unable to otherwise obtain such credit or issue such debt; and	*(I) the bridge financial company is unable to otherwise obtain such credit or issue such debt; and*	
(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.	*(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.*	
	(ii) HEARING- The hearing required pursuant to this subparagraph shall be before a court of the United States, which shall have jurisdiction to conduct such hearing.	
(D) BURDEN OF PROOF- In any hearing under this subsection, the Corporation has the burden of proof on the issue of adequate protection.	*(D) BURDEN OF PROOF- In any hearing under this paragraph, the Corporation has the burden of proof on the issue of adequate protection.*	
	(E) QUALIFIED FINANCIAL CONTRACTS- No credit or debt obtained or issued by a bridge financial company may contain terms that impair the rights of a counterparty to a	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	qualified financial contract upon a default by the bridge financial company, other than the priority of such counterparty's unsecured claim (after the exercise of rights) relative to the priority of the bridge financial company's obligations in respect of such credit or debt, unless such counterparty consents in writing to any such impairment.	
(16) EFFECT ON DEBTS AND LIENS- The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.	*(17) EFFECT ON DEBTS AND LIENS- The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.*	
	(9) FUNDING AUTHORIZED- The Corporation may, subject to the plan described in subsection (n)(11), provide funding to facilitate any transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13) with respect to any bridge financial company, or facilitate the acquisition by a bridge financial company of any assets, or the assumption of any liabilities, of a covered financial company for which the Corporation has been appointed receiver.	
(i) Sharing Records- Whenever the Corporation has been appointed as receiver for a covered financial company, the Federal Reserve Board and the company's primary appropriate regulatory agency, if any, shall each make all records relating to the company available to the receiver which may be used by the receiver in any manner the receiver determines to be appropriate.	*(i) Sharing Records- If the Corporation has been appointed as receiver for a covered financial company, other Federal regulators shall make all records relating to the covered financial company available to the Corporation, which may be used by the Corporation in any manner that the Corporation determines to be appropriate.*	
(j) Expedited Procedures for Certain Claims- (1) TIME FOR FILING NOTICE OF APPEAL- The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against a covered financial company's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to a covered financial company shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be held not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal. (2) SCHEDULING- A court of the United States shall expedite the consideration of any case brought by the Corporation against a covered financial company's director, officer, employee, agent, attorney,	*(j) Expedited Procedures for Certain Claims-* *(1) TIME FOR FILING NOTICE OF APPEAL- The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of the covered financial company, or any other person employed by or providing services to a covered financial company, shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be held not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.* *(2) SCHEDULING- The court shall expedite the consideration of any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
accountant, or appraiser or any other person employed by or providing services to a covered financial company. As far as practicable, the court shall give such case priority on its docket. (3) JUDICIAL DISCRETION- The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.	*company or any other person employed by or providing services to a covered financial company. As far as practicable, the court shall give such case priority on its docket.* *(3) JUDICIAL DISCRETION- The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.*	
(k) Foreign Investigations- The Corporation, as receiver of any covered financial company and for purposes of carrying out any power, authority, or duty with respect to a covered financial company-- (1) may request the assistance of any foreign financial authority and provide assistance to any foreign financial authority in accordance with section 8(v) of the Federal Deposit Insurance Act as if the covered financial company were an insured depository institution, the Corporation were the appropriate Federal banking agency for the company and any foreign financial authority were the foreign banking authority; and (2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign financial authorities.	*(k) Foreign Investigations- The Corporation, as receiver for any covered financial company, and for purposes of carrying out any power, authority, or duty with respect to a covered financial company--* *(1) may request the assistance of any foreign financial authority and provide assistance to any foreign financial authority in accordance with section 8(v) of the Federal Deposit Insurance Act, as if the covered financial company were an insured depository institution, the Corporation were the appropriate Federal banking agency for the company, and any foreign financial authority were the foreign banking authority; and* *(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign financial authorities.*	
(l) Prohibition on Entering Secrecy Agreements and Protective Orders- The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as receiver for a covered financial company.	*(l) Prohibition on Entering Secrecy Agreements and Protective Orders- The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as receiver for a covered financial company.*	
(m) Liquidation of Certain Covered Financial Companies or Bridge Financial Companies- Notwithstanding any other provision of law (other than a conflicting provision of this section), the Corporation, in connection with the liquidation of any covered financial company or bridge financial company with respect to which the Corporation has been appointed as receiver, shall— (1) in the case of any covered financial company or bridge financial company that is or has a subsidiary that is a stockbroker (as that term is defined in section 101 of title 11 of the United States Code) but is not a member of the Securities Investor Protection Corporation, apply the provisions of subchapter III of chapter 7 of title 11 of the United States Code in respect of the distribution to any `customer' of all `customer name securities' and `customer property' (as such terms are defined in	*(m) Liquidation of Certain Covered Financial Companies or Bridge Financial Companies-* *(1) IN GENERAL- Except as specifically provided in this section, and notwithstanding any other provision of law, the Corporation, in connection with the liquidation of any covered financial company or bridge financial company with respect to which the Corporation has been appointed as receiver, shall--* *(A) in the case of any covered financial company or bridge financial company that is or has a subsidiary that is a stockbroker, but is not a member of the Securities Investor Protection Corporation, apply the provisions of subchapter III of chapter 7 of the Bankruptcy Code, in respect of the distribution to any customer of all customer name securities and customer property, as if such covered financial company*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
section 741 of such title 11) as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter; or (2) in the case of any covered financial company or bridge financial company that is a commodity broker (as that term is defined in section 101 of title 11 of the United States Code), apply the provisions of subchapter IV of chapter 7 of title 11 of the United States Code in respect of the distribution to any `customer' of all `customer property' (as such terms are defined in section 761 of such title 11) as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter.	*or bridge financial company were a debtor for purposes of such subchapter; or* *(B) in the case of any covered financial company or bridge financial company that is a commodity broker, apply the provisions of subchapter IV of chapter 7 the Bankruptcy Code, in respect of the distribution to any customer of all customer property, as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter.* *(2) DEFINITIONS- For purposes of this subsection--* *(A) the terms `customer', `customer name securities', and `customer property' have the same meanings as in section 741 of title 11, United States Code; and* *(B) the terms `commodity broker' and `stockbroker' have the same meanings as in section 101 of the Bankruptcy Code.*	
(n) Systemic Dissolution Fund- (1) ESTABLISHMENT AND PURPOSE- (A) IN GENERAL- There is established in the Treasury a separate fund to be known as the `Systemic Dissolution Fund'-- (i) to facilitate and provide for the orderly and complete dissolution of any failed financial company or companies that pose a systemic threat to the financial markets or economy, as determined under 1603(b); and (ii) to ensure that any taxpayer funds utilized to facilitate such liquidations are fully repaid from assessments levied on financial companies that have assets of $50,000,000,000, adjusted for inflation, or more. (B) ADJUSTMENT OF THRESHOLD- The threshold referred to in subparagraph (A)(ii) shall be adjusted on an annual basis, based on the growth of assets owned or managed by financial companies (as defined in section 1602(9)).	*(n) Orderly Liquidation Fund-* *(1) ESTABLISHMENT- There is established in the Treasury of the United States a separate fund to be known as the `Orderly Liquidation Fund', which shall be available to the Corporation to carry out the authorities contained in this title, for the cost of actions authorized by this title, including the orderly liquidation of covered financial companies, payment of administrative expenses, the payment of principal and interest by the Corporation on obligations issued under paragraph (6), and the exercise of the authorities of the Corporation under this title.* *(6) MAXIMUM OBLIGATION LIMITATION- The Corporation may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection for each covered financial company would exceed--* *(A) an amount that is equal to 10 percent of the total consolidated assets of the covered financial company, based on the most recent financial statement available, during the 30-day period immediately following the date of appointment of the Corporation as receiver (or a shorter time period if the Corporation has calculated the amount described under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	subparagraph (B)); and *(B) the amount that is equal to 90 percent of the fair value of the total consolidated assets of each covered financial company that are available for repayment, after the time period described in subparagraph (A).*	
(2) AUTHORITY- The Systemic Dissolution Fund shall be administered by the Corporation, which shall have exclusive authority to-- (A) impose assessments on covered financial companies in accordance with paragraphs (6) through (8); (B) maintain and administer the Fund in a manner so as to make clear to the general public that such Fund is unrelated to any other Fund maintained and administered by the Corporation, including the Deposit Insurance Fund; (C) utilize the Fund to facilitate the dissolution of a covered financial company (as defined by section 1602(5)) as provided in paragraph (3), or take such other actions as are authorized by this subtitle; (D) invest the Fund in accordance with section 13(a) of the Federal Deposit Insurance Act; and (E) exercise borrowing authority as prescribed in subsection (o).	*(n) Orderly Liquidation Fund-* *(3) MANAGEMENT- The Corporation shall manage the Fund in accordance with this subsection and the policies and procedures established under section 203(d).* *(4) INVESTMENTS- At the request of the Corporation, the Secretary may invest such portion of amounts held in the Fund that are not, in the judgment of the Corporation, required to meet the current needs of the Corporation, in obligations of the United States having suitable maturities, as determined by the Corporation. The interest on and the proceeds from the sale or redemption of such obligations shall be credited to the Fund.*	
(3) USES- (A) The Fund shall be available to the Corporation for use with respect to the dissolution of a covered financial company to-- (i) cover the costs incurred by the Corporation, including as receiver, in exercising its rights, authorities, and powers and fulfilling its obligations and responsibilities under this section; (ii) repay such funds in accordance with subsection (o)(6); and (iii) cover the costs of systemic stabilization actions, pursuant to subsections (d) and (f) of section 1604. (B) The Fund shall not be used in any manner to benefit any officer or director of such company removed pursuant to section 1604(f)(6).	*(n) Orderly Liquidation Fund-* *(9) ORDERLY LIQUIDATION PLAN- Amounts in the Fund shall be available to the Corporation with regard to a covered financial company for which the Corporation is appointed receiver after the Corporation has developed an orderly liquidation plan that is acceptable to the Secretary with regard to such covered financial company, including the provision and use of funds, including taking any actions specified under section 204(d) and subsection (h)(2)(G)(iv) and (h)(9) of this section, and payments to third parties. The Corporation may, at any time, amend any orderly liquidation plan approved by the Secretary with the concurrence of the Secretary.*	
(4) DEPOSITS TO FUND- All amounts assessed against a financial	*(n) Orderly Liquidation Fund-* *(2) PROCEEDS- Amounts received by the Corporation, including*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
company under this section shall be deposited into the Fund.	*assessments received under subsection (o), proceeds of obligations issued under paragraph (6), interest and other earnings from investments, and repayments to the Corporation by covered financial companies, shall be deposited into the Fund.*	
(5) SIZE OF FUND- The Corporation shall, by rule, establish the minimum size of the Fund consistent with subparagraphs (C) and (D) of paragraph (6).	*(n) Orderly Liquidation Fund-* *(7) RULEMAKING- The Corporation and the Secretary shall jointly, in consultation with the Council, prescribe regulations governing the calculation of the maximum obligation limitation defined in this paragraph.*	
(6) ASSESSMENTS- (A) ASSESSMENTS TO MAINTAIN FUND- The Corporation shall impose risk-based assessments on financial companies in such amount and manner and subject to such terms and conditions that the Corporation determines, by regulation and in consultation with the Council, are necessary for the amount in the Fund to at least equal the minimum size established pursuant to paragraph (5). (B) ASSESSMENTS TO REPLENISH THE FUND- If the Fund falls below the minimum size established pursuant to paragraph (5), the Corporation shall impose assessments on financial companies in such amounts and manner and subject to such terms and conditions as the Corporation determines, by regulation and in consultation with the Council, are necessary to replenish the fund subject to the limitations in subparagraph (D). (C) MINIMUM ASSESSMENT THRESHOLD- (i) IN GENERAL- The Corporation shall not assess financial companies with less than $50,000,000,000, adjusted for inflation, of assets on a consolidated basis, subject to any differentiation as permitted in paragraph (8) and shall assess financial companies with $50,000,000,000, adjusted for inflation, or more in assets in accordance with paragraphs (7) and (8). (ii) HEDGE FUNDS- The Corporation shall not assess financial companies that manage hedge funds (as defined by the Corporation for the purpose of this section, in consultation with the Securities and Exchange Commission) with less than $10,000,000,000, adjusted for inflation, of assets,	*(o) Assessments-* *(1) RISK-BASED ASSESSMENTS-* *(A) ELIGIBLE FINANCIAL COMPANIES DEFINED- For purposes of this subsection, the term `eligible financial company' means any bank holding company with total consolidated assets equal to or greater than $50,000,000,000 and any nonbank financial company supervised by the Board of Governors.* *(B) ASSESSMENTS- The Corporation shall charge one or more risk-based assessments in accordance with the provisions of subparagraph (D), if such assessments are necessary to pay in full the obligations issued by the Corporation to the Secretary within 60 months of the date of issuance of such obligations.* *(C) EXTENSIONS AUTHORIZED- The Corporation may, with the approval of the Secretary, extend the time period under subparagraph (C)(iii), if the Corporation determines that an extension is necessary to avoid a serious adverse effect on the financial system of the United States.* *(D) APPLICATION OF ASSESSMENTS- To meet the requirements of subparagraph (C), the Corporation shall--* *(i) impose assessments, as soon as practicable, on any claimant that received additional payments or amounts from the Corporation pursuant to subsection (b)(4), (d)(4), or (h)(5)(E), except for payments or amounts necessary to initiate and continue operations essential to implementation of the receivership or any bridge financial company, to recover on a cumulative basis, the entire difference between--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
under management on a consolidated basis, subject to any differentiation as permitted in paragraph (8) and shall assess any financial companies that manage hedge funds with $10,000,000,000 or more of assets under management in accordance with paragraphs (7) and (8). (D) MAXIMUM SIZE OF FUND VIA ASSESSMENTS- (i) IN GENERAL- The Corporation shall suspend assessments on financial companies on the day after the date on which the total of the assessments, excluding interest or other earnings from investments made pursuant to paragraph (2)(D), equals $150,000,000,000. (ii) EXCEPTIONS- Any suspension of assessments under clause (i)-- (I) may be set aside if the Fund falls below $150,000,000,000; and (II) shall be set aside if the Fund falls below the minimum level established in subparagraph (C). (E) ADDITIONAL AUTHORIZED ASSESSMENTS- The Corporation is authorized to conduct risk-based assessments on financial companies in such amount and manner and subject to terms and conditions that the Corporation determines, with the concurrence of the Secretary of the Treasury and the Federal Reserve Board, are necessary to pay any shortfall in the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008 that would add to the deficit or national debt, as identified by the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office pursuant to section 134 of such Act (12 U.S.C. 5239).	*(I) the aggregate value the claimant received from the Corporation on a claim pursuant to this title (including pursuant to subsection (b)(4), (d)(4), and (h)(5)(E)), as of the date on which such value was received; and* *(II) the value the claimant was entitled to receive from the Corporation on such claim solely from the proceeds of the liquidation of the covered financial company under this title; and* *(ii) if the amounts to be recovered on a cumulative basis under clause (i) are insufficient to meet the requirements of subparagraph (C), after taking into account the considerations set forth in paragraph (4), impose assessments on--* *(I) eligible financial companies; and* *(II) financial companies with total consolidated assets equal to or greater than $50,000,000,000 that are not eligible financial companies.* *(E) PROVISION OF FINANCING- Payments or amounts necessary to initiate and continue operations essential to implementation of the receivership or any bridge financial company described in subparagraph (E)(i) shall not include the provision of financing, as defined by rule of the Corporation, to third parties.* *(2) GRADUATED ASSESSMENT RATE- The Corporation shall impose assessments on a graduated basis, with financial companies having greater assets being assessed at a higher rate.* *(3) NOTIFICATION AND PAYMENT- The Corporation shall notify each financial company of that company's assessment under this subsection. Any financial company subject to assessment under this subsection shall pay such assessment in accordance with the regulations prescribed pursuant to paragraph (6).* *(5) COLLECTION OF INFORMATION- The Corporation may impose on covered financial companies such collection of information requirements as the Corporation deems necessary to carry out this subsection after the appointment of the Corporation as receiver under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	this title.	
(7) FACTORS- The Corporation, in consultation with the Council shall establish a risk matrix to be used in establishing assessments that takes into account-- (A) the actual or expected risk of losses to the Fund; (B) economic conditions generally affecting financial companies so as to allow assessments and the Fund to increase during more favorable economic conditions and to decrease during less favorable economic conditions; (C) any assessments imposed on a financial company or an affiliate of a financial company that-- (i) is an insured depository institution, assessed pursuant to section 7 or 13(c)(4)(G) of the Federal Deposit Insurance Act; (ii) is a member of the Securities Investor Protection Corporation, assessed pursuant to section 4 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd); (iii) is an insured credit union, assessed pursuant to section 202(c)(1)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1782(c)(1)(A)(i)); or (iv) is an insurance company, assessed pursuant to applicable State law to cover (or reimburse payments made to cover) the costs of the rehabilitation, liquidation or other State insolvency proceeding with respect to 1 or more insurance companies; (D) the risks presented by the financial company to the financial system and the extent to which the financial company has benefitted, or likely would benefit, from the dissolution of a financial company under this title, including--	*(o) Assessments-* *(4) RISK-BASED ASSESSMENT CONSIDERATIONS- In imposing assessments under this subsection, the Corporation shall--* *(A) take into account economic conditions generally affecting financial companies, so as to allow assessments to be lower during less favorable economic conditions;* *(B) take into account any assessments imposed on--* *(i) an insured depository institution subsidiary of a financial company pursuant to section 7 or section 13(c)(4)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1823(c)(4)(G));* *(ii) a financial company or subsidiary of such company that is a member of SIPC pursuant to section 4 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd); and* *(iii) a financial company or subsidiary of such company that is an insurance company pursuant to applicable State law to cover (or reimburse payments made to cover) the costs of rehabilitation, liquidation, or other State insolvency proceeding with respect to one or more insurance companies;* *(C) take into account the financial condition of the financial company, including the extent and type of off-balance-sheet exposures of the financial company;* *(D) take into account the risks presented by the financial company to the financial stability of the United States economy;* *(E) take into account the extent to which the financial company or group of financial companies has benefitted, or likely would benefit, from the orderly liquidation of a covered financial company and the use of the Fund under this title;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(i) the amount, different categories, and concentrations of assets of the financial company and its affiliates, including both on-balance sheet and off-balance sheet assets; (ii) the activities of the financial company and its affiliates; (iii) the relevant market share of the financial company and its affiliates; (iv) the extent to which the financial company is leveraged; (v) the potential exposure to sudden calls on liquidity precipitated by economic distress; (vi) the amount, maturity, volatility, and stability of the company's financial obligations to, and relationship with, other financial companies; (vii) the amount, maturity, volatility, and stability of the company's liabilities, including the degree of reliance on short-term funding, taking into consideration existing systems for measuring a company's risk-based capital; (viii) the stability and variety of the company's sources of funding; (ix) the company's importance as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the financial system; (x) the extent to which assets are simply managed and not owned by the financial company and the extent to which ownership of assets under management is diffuse; and (xi) the amount, different categories, and concentrations of liabilities, both insured and uninsured, contingent and noncontingent, including both on-balance sheet and off-balance sheet liabilities, of the financial company and its affiliates; and	*(F) distinguish among different classes of assets or different types of financial companies (including distinguishing among different types of financial companies, based on their levels of capital and leverage) in order to establish comparable assessment bases among financial companies subject to this subsection;*	
	(G) establish the parameters for the graduated assessment requirement in paragraph (2); and	
(E) such other factors as the Corporation, in consultation with	*(H) take into account such other factors as the Corporation, in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Council, may determine to be appropriate.	*consultation with the Secretary, deems appropriate.*	
(8) REQUIREMENT FOR EQUITABLE TREATMENT IN ASSESSMENTS- In establishing the assessment system for the Fund, the Corporation, by regulation and in consultation with the Council, shall differentiate among financial companies based on complexity of operations or organization, interconnectedness, size, direct or indirect activities, and any other factors the Corporation or the Council may deem appropriate to ensure that the assessments charged equitably reflect the risk posed to the Fund by particular classes of financial companies. (9) MINIMUM COMMENT PERIOD- In order to ensure sufficient opportunity for public and congressional review and evaluation of any assessment system, any proposed regulations regarding the implementation of the assessment system under this subtitle shall provide an opportunity for public comment during a period of not less than 60 days.	*(o) Assessments-* *(6) RULEMAKING-* *(A) IN GENERAL- The Corporation shall prescribe regulations to carry out this subsection. The Corporation shall consult with the Secretary in the development and finalization of such regulations.* *(B) EQUITABLE TREATMENT- The regulations prescribed under subparagraph (A) shall take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, and the different bases for other assessments that such financial companies may be required to pay, to ensure that assessed financial companies are treated equitably and that assessments under this subsection reflect such differences.*	
(o) Borrowing Authority- (1) BORROWING FROM TREASURY- (A) IN GENERAL- Subject to paragraphs (3), (4), and (5), the Corporation may borrow from the Treasury, and the Secretary of the Treasury is authorized to lend to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Board of Directors of the Corporation are required, in addition to the funds available in the Systemic Dissolution Fund, to permit the orderly dissolution of 1 or more covered systemically significant financial companies, covered affiliates, or covered subsidiaries under this title. (B) RATE OF INTEREST- The rate of interest to be charged in connection with any loan made pursuant to this subsection shall not be less than an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United	*(n) Orderly Liquidation Fund-* *(5) AUTHORITY TO ISSUE OBLIGATIONS-* *(A) CORPORATION AUTHORIZED TO ISSUE OBLIGATIONS- Upon appointment by the Secretary of the Corporation as receiver for a covered financial company, the Corporation is authorized to issue obligations to the Secretary.* *(B) SECRETARY AUTHORIZED TO PURCHASE OBLIGATIONS- The Secretary may, under such terms and conditions as the Secretary may require, purchase or agree to purchase any obligations issued under subparagraph (A), and for such purpose, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include such purchases.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
States of comparable maturities. (2) PUBLIC DEBT ISSUANCES- For the purposes described in subsection (1), the Secretary of the Treasury may use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include such loans. All loans and repayments under this subsection shall be treated as public-debt transactions of the United States. (3) BORROWING AUTHORITY WHEN FUND ASSETS ARE LESS THAN $150,000,000,000- (A) Subject to paragraph (B), the borrowing authority granted in paragraph (1) shall be available to the Corporation where-- (i) the value of the Fund is less than $150,000,000,000; (ii) the Corporation determines that the immediate dissolution of a financial company or financial companies requires more funds than are available in the Fund; and (iii) the Corporation has provided a specific plan for repayment under paragraph (7)(A).	*(C) INTEREST RATE- Each purchase of obligations by the Secretary under this paragraph shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity, plus an interest rate surcharge to be determined by the Secretary, which shall be greater than the difference between--* *(i) the current average rate on an index of corporate obligations of comparable maturity; and* *(ii) the current average rate on outstanding marketable obligations of the United States of comparable maturity.* *(D) SECRETARY AUTHORIZED TO SELL OBLIGATIONS- The Secretary may sell, upon such terms and conditions as the Secretary shall determine, any of the obligations acquired under this paragraph.* *(E) PUBLIC DEBT TRANSACTIONS- All purchases and sales by the Secretary of such obligations under this paragraph shall be treated as public debt transactions of the United States, and the proceeds from the sale of any obligations acquired by the Secretary under this paragraph shall be deposited into the Treasury of the United States as miscellaneous receipts.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) The Corporation may borrow, and the Secretary may lend, any amount of funds that, when added to the amount available in the Fund on the date the Corporation makes a request to borrow funds, would not exceed $150,000,000,000. (C) For purposes of paragraph (1), the Corporation's total debt may not exceed $150,000,000,000 (not including any funds borrowed pursuant to subsection (s)). (4) ADDITIONAL BORROWING AUTHORITY- (A) If at any time the Corporation anticipates that the dissolution of any financial company or financial companies will require funds in excess of $150,000,000,000-- (i) the Corporation shall submit to the Secretary and the President a written request for additional borrowing authority subject to the limitation in subparagraph (5), which shall be accompanied by a certification indicating the anticipated amount needed, the basis on which such amount was determined, and any such information as the Secretary may deem necessary; and (ii) the President shall transmit a request to the House of Representatives and the Senate requesting the additional borrowing authority, which shall include the certification referred to in clause (i) and which includes a repayment schedule as outlined in paragraph (7). (B) Any request for borrowing authority under paragraph (A) shall be effective only if approved by affirmative vote of the House of Representatives and the Senate in accordance with subsection (s). (5) LIMITATIONS ON ADDITIONAL BORROWING AUTHORITY- (A) No request for borrowing authority is permitted under paragraph (4) unless the President, in consultation with the Council, certifies to the House of Representatives and the Senate that the borrowing authority is necessary to avoid or mitigate an imminent financial emergency. (B) The amount of borrowing authority requested under subparagraph (A)(i) may not exceed $50,000,000,000. (6) PROCEEDS FROM LIQUIDATION, REPAYMENT OF FUNDS-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) IN GENERAL- The Corporation shall take such measures as may be appropriate to maximize the amount of funds from any dissolution that may be available for repayment under subparagraph (B) consistent with systemic concerns. (B) REPAYMENT PRIORITY- Amounts realized from the dissolution of any financial company under this subtitle that are not otherwise utilized by the Corporation to dissolve a financial company under subsection (n)(3)(A) shall be paid-- (i) first, to repay any costs incurred in exercising the borrowing authority granted in paragraph (1); and (ii) second, to recapitalize the Fund, subject to the requirements of section 1604(g), to such level as the Corporation deems necessary, but not to exceed $150,000,000,000. (7) REPAYMENT PLAN AND SCHEDULES REQUIRED FOR ANY BORROWING- (A) IN GENERAL- No amount may be provided by the Secretary of the Treasury to the Corporation under paragraph (1) unless an agreement is in effect between the Secretary and the Corporation which-- (i) provides a specific plan and schedule for assessments under (n)(6) to achieve the repayment of the outstanding amount of any borrowing under such subsection; and (ii) demonstrates that income to the Corporation from assessments under this section will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance. (B) CONSULTATION WITH AND REPORT TO CONGRESS- The Secretary of the Treasury and the Corporation shall-- (i) consult with the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement; and (ii) submit a copy of each repayment schedule agreement to the Committee on Financial Services of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under paragraph (1).	*(8) RULE OF CONSTRUCTION-* *(A) IN GENERAL- Nothing in this section shall be construed to affect the authority of the Corporation under subsection (a) or (b) of section 14 or section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1824, 1825(c)(5)), the management of the Deposit Insurance Fund by the Corporation, or the resolution of insured depository institutions, provided that--* *(i) the authorities of the Corporation contained in this title shall not be used to assist the Deposit Insurance Fund or to assist any financial company under applicable law other than this Act;* *(ii) the authorities of the Corporation relating to the Deposit Insurance Fund, or any other responsibilities of the Corporation under applicable law other than this title, shall not be used to assist a covered financial company pursuant to this title; and* *(iii) the Deposit Insurance Fund may not be used in any manner to otherwise circumvent the purposes of this title.* *(B) VALUATION- For purposes of determining the amount of obligations under this subsection--* *(i) the Corporation shall include as an obligation any contingent liability of the Corporation pursuant to this title; and* *(ii) the Corporation shall value any contingent liability at its expected cost to the Corporation.*	
(p) Information Gathering and Verification; Payments- (1) IN GENERAL- The Corporation may require each financial company to make available such information as the Corporation may require-- (A) for purposes of-- (i) determining the financial company's assessment under this section;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(ii) verifying the accuracy of information; and (iii) preparing for dissolution, including a dissolution plan as required by this section; and (B) for such other purposes as may be appropriate and necessary to promote the orderly dissolution of the financial company. (2) USE OF EXISTING REPORTS- The Corporation shall, to the fullest extent possible, accept-- (A) reports that a financial company has provided or been required to provide to other Federal or State supervisors or to appropriate self-regulatory organizations; (B) information that is otherwise required to be reported publicly; and (C) externally audited financial statements. (3) AUTHORITY FOR ON-SITE INSPECTION- The Corporation may make on-site inspections of a financial company's books and records as necessary to carry out the purposes of this subsection. (4) RULEMAKING- The Corporation may promulgate such rules or regulations as are necessary or appropriate to implement this subsection. (5) PAYMENTS OF ASSESSMENTS REQUIRED- (A) IN GENERAL- Any financial company subject to an assessment under this section shall pay to the Corporation such assessment. (B) FORM OF PAYMENT- The payments required under this section shall be made in such manner and at such time or times as the Corporation, in consultation with the Council, shall prescribe by regulation. (6) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS- Any financial company that fails or refuses to pay any assessment under this section shall be subject to a penalty under section 18(h) of the Federal Deposit Insurance Act, as if that financial company were an insured depository institution.		
(q) Assessment Actions- (1) IN GENERAL- The Corporation, in any court of competent jurisdiction, shall be entitled to recover from any financial company the amount of any unpaid assessment lawfully payable by such company. (2) STATUTE OF LIMITATIONS- Notwithstanding any other provision in Federal law, or the law of any State--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) any action by a financial company to recover from the Corporation the overpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to subparagraph (C); (B) any action by the Corporation to recover from a financial company the underpaid amount of any assessment shall be brought within 3 years after the date the assessment payment was due, subject to subparagraph (C); and (C) if a financial company has made a false or fraudulent statement with intent to evade any or all of its assessment, the Corporation shall have until 3 years after the date of discovery of the false or fraudulent statement in which to bring an action to recover the underpaid amount.		
(r) Requirement to Maintain Systemic Dissolution Fund as Separate Fund- The Systemic Dissolution Fund shall at all times be administered in a manner that is separate and distinct from the Deposit Insurance Fund, and the Corporation shall take such actions as may be necessary to ensure that such distinction is made with respect to internal processes and procedures as well as with regard to any public information, discussion or other communications involving either Fund.		
(s) Congressional Approval of Additional Borrowing Authority- (1) INTRODUCTION- On the day on which the request of the President is received by the House of Representatives and the Senate under subsection (o)(4)(A)(ii), a joint resolution specified in paragraph (5) shall be introduced in the House by the majority leader of the House and in the Senate by the majority leader of the Senate. If either House is not in session on the day on which such a request is received, the joint resolution with respect to such request shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. (2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES- (A) REPORTING AND DISCHARGE- Any committee of the House of Representatives to which a joint resolution introduced under paragraph (1) is referred shall report such joint resolution to the House not later than 5 calendar days after the applicable date of introduction of the joint resolution. If a committee fails to report such joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) PROCEEDING TO CONSIDERATION- After all committees authorized to consider a joint resolution have reported such joint resolution to the House or have been discharged from its consideration, it shall be in order, not later than the sixth day after the applicable date of introduction of the joint resolution, for the majority leader to move to proceed to consider the joint resolution in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution and shall not be in order if the House has received a message from the Senate under paragraph (4)(C). The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order. (C) CONSIDERATION- The joint resolution shall be considered in the House and shall be considered as read. All points of order against a joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of a joint resolution shall not be in order. (3) CONSIDERATION IN THE SENATE- (A) PLACEMENT ON CALENDAR- Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar. (B) FLOOR CONSIDERATION- (i) IN GENERAL- Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the fourth day after the applicable date of introduction in the Senate and ending on the sixth day after the applicable date of introduction in the Senate (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of. (ii) DEBATE- Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. (iii) VOTE ON PASSAGE- The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate. (iv) RULINGS OF THE CHAIR ON PROCEDURE- Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate. (4) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES- (A) COORDINATION WITH ACTION BY OTHER HOUSE- If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply: (i) The joint resolution of the other House shall not be referred to a committee. (ii) With respect to the joint resolution of the House receiving the resolution, the procedure in that House shall be the same as if no such joint resolution had been received from the other House; but the vote on		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
passage shall be on the joint resolution of the other House. (B) TREATMENT OF COMPANION MEASURES- If, following passage of a joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable. (C) FAILURE OF JOINT RESOLUTION IN THE SENATE- (i) If, in the Senate, the motion to proceed to the consideration of the joint resolution fails on adoption, the Secretary of the Senate shall transmit a message to that effect to the House of Representatives. (ii) If, in the Senate, the joint resolution fails on passage, the Secretary of the Senate shall transmit a message to that effect to the House of Representatives. (D) RULES OF HOUSE OF REPRESENTATIVES AND SENATE- This paragraph and the preceding paragraphs are enacted by Congress-- (i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and (ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House. (5) DEFINITION- In this section, the term `joint resolution' means only a joint resolution-- (A) which does not have a preamble; (B) the title of which is as follows: `Joint resolution relating to the approval of request for borrowing authority under the Financial Stability Improvement Act of 2009.'; and (C) the sole matter after the resolving clause of which is as		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
follows: `That the Congress approves the request for additional borrowing authority transmitted to the Congress on **XXX** by the President under section 1609(o)(4)(A)(ii) of the Financial Stability Improvement Act of 2009.', the blank space being filled with the appropriate date.		
(t) No Federal Status- (1) AGENCY STATUS- A covered financial company (or any covered subsidiary thereof) that is placed into receivership is not a department, agency, or instrumentality of the United States for purposes of statutes that confer powers on or impose obligations on government entities. (2) EMPLOYEE STATUS- Interim directors, directors, officers, employees, or agents of a covered financial company that is placed into receivership are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation, acting as receiver or of any Federal agency who serves at the request of the receiver as an interim director, director, officer, employee, or agent of a covered financial company that is placed into receivership shall not-- (A) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law, or; (B) receive any salary or benefits for service in any such capacity with respect to a covered financial company that is placed into receivership in addition to such salary or benefits as are obtained through employment with the Corporation or other Federal agency.		
(u) Study of Payment of Consumer Claims- Not later than 6 months following the dissolution of a covered financial company under section 1603(b), the Comptroller General of the United States shall carry out a study, and report on such study to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives, regarding the satisfaction of claims arising from violations of the provisions of the Truth in Lending Act, if any, in instances where any assets were transferred from such covered financial company.		
SEC. 1610. CLARIFICATION OF PROHIBITION REGARDING CONCEALMENT OF ASSETS FROM RECEIVER OR LIQUIDATING AGENT.	***SEC. 211. MISCELLANEOUS PROVISIONS.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(a) In General- Section 1032 of title 18, United States Code, is amended in paragraph (1) by deleting `or' before `the National Credit Union Administration Board,' and by inserting immediately thereafter `or the Corporation, as defined in section 1602 of the Dissolution Authority for Large, Interconnected Financial Companies Act of 2009,'.  (b) Conforming Change- The heading of section 1032 of title 18, United States Code, is amended by striking **`of financial institution**'.	*(a) Clarification of Prohibition Regarding Concealment of Assets From Receiver or Liquidating Agent- Section 1032(1) of title 18, United States Code, is amended by inserting `the Federal Deposit Insurance Corporation acting as receiver for a covered financial company, in accordance with title II of the Restoring American Financial Stability Act of 2010,' before `or the National Credit'.* *(b) Conforming Amendment- Section 1032 of title 18, United States Code, is amended in the section heading, by striking **`of financial institution**'.* *(c) Federal Deposit Insurance Corporation Improvement Act of 1991- Section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403(a)) is amended by inserting `section 210(c) of the Restoring American Financial Stability Act of 2010, section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(d)),' after `section 11(e) of the Federal Deposit Insurance Act,'.*	
SEC. 1611. OFFICE OF DISSOLUTION. (a) Trigger of and Plan for Establishment- (1) TRIGGER- If the Secretary appoints the Corporation as receiver for a financial company under section 1604, the Inspector General of the Corporation shall, as soon as possible after such appointment, establish in accordance with this section the Office of Dissolution as an office within the Office of the Inspector General of the Corporation. (2) PLAN- The Inspector General of the Corporation shall, in consultation with the Council of Inspectors General on Financial Oversight established under section 1702, formulate and maintain a plan to allow for the timely establishment of an Office of Dissolution in accordance with paragraph (1). The Inspector General of the Corporation shall make such plan available to the Financial Services Oversight Council established under section 1001. (b) Special Deputy Inspector General- The head of the Office of Dissolution is the Special Deputy Inspector General for Dissolution (in this section referred to as the `Special Deputy Inspector General'), who shall be appointed by and report to the Inspector General of the Corporation. (c) Duties- (1) AUDITS AND INVESTIGATIONS- It shall be the duty of the Special Deputy Inspector General, in consultation with and subject to the approval of the Inspector General of the Corporation, to conduct, supervise, and coordinate audits and investigations of the activities of the Corporation in its capacity as receiver for a financial company	***SEC. 211. MISCELLANEOUS PROVISIONS.*** *(d) FDIC Inspector General Reviews-* *(1) SCOPE- The Inspector General of the Corporation shall conduct, supervise, and coordinate audits and investigations of the liquidation of any covered financial company by the Corporation as receiver under this title, including collecting and summarizing--* *(A) a description of actions taken by the Corporation as receiver;* *(B) a description of any material sales, transfers, mergers, obligations, purchases, and other material transactions entered into by the Corporation;* *(C) an evaluation of the adequacy of the policies and procedures of the Corporation under section 203(d) and orderly liquidation plan under section 210(n)(14);* *(D) an evaluation of the utilization by the Corporation of the private sector in carrying out its functions, including the adequacy of any conflict-of-interest reviews; and* *(E) an evaluation of the overall performance of the Corporation in liquidating the covered financial company, including administrative costs, timeliness of liquidation process, and impact on the financial system.* *(2) FREQUENCY- Not later than 6 months after the date of appointment of the Corporation as receiver under this title and every 6 months thereafter, the Inspector General of the Corporation shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
under section 1604, including by collecting the following information: (A) A description of each financial company for which the Corporation has been appointed as receiver under section 1604. (B) A description of the activities and future plans of the Corporation with respect to each financial company for which it has been appointed as receiver, and an analysis of whether such activities and plans conform to the requirements of this subtitle and other applicable law and are in the best interest of the overall stability of the financial system. (C) Such other information as the Special Deputy Inspector General considers appropriate, in consultation with and subject to the approval of the Inspector General of the Corporation. (2) ADDITIONAL DUTIES- (A) SYSTEMS, PROCEDURES, AND CONTROLS- The Special Deputy Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Deputy Inspector General considers appropriate, in consultation with and subject to the approval of the Inspector General of the Corporation, to discharge the duties under paragraph (1). (B) REPORTING OF CRIMINAL VIOLATIONS TO ATTORNEY GENERAL- If the Special Deputy Inspector General, in carrying out this section, discovers facts that give the Special Deputy Inspector General reasonable grounds to believe there has been a violation of Federal criminal law, the Special Deputy Inspector General shall expeditiously report such facts to the Attorney General. (C) MINIMIZING DUPLICATION OF EFFORT- The Inspector General of the Corporation and the Special Deputy Inspector General shall coordinate to minimize duplication of effort in the oversight of the Corporation's activities as receiver for financial companies under section 1604. (3) DUTIES UNDER THE INSPECTOR GENERAL ACT OF 1978- In addition to the duties specified in paragraphs (1) and (2), the Special Deputy Inspector General shall assist the Inspector General of the Corporation in carrying out such duties and responsibilities of inspectors general under the Inspector General Act of 1978 as the Inspector General of the Corporation considers appropriate.	*conduct the audit and investigation described in paragraph (1).* *(3) REPORTS AND TESTIMONY- The Inspector General of the Corporation shall include in the semiannual reports required by section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), a summary of the findings and evaluations under paragraph (1), and shall appear before the appropriate committees of Congress, if requested, to present each such report.* *(4) FUNDING-* *(A) INITIAL FUNDING- The expenses of the Inspector General of the Corporation in carrying out this subsection shall be considered administrative expenses of the receivership.* *(B) ADDITIONAL FUNDING- If the maximum amount available to the Corporation as receiver under this title is insufficient to enable the Inspector General of the Corporation to carry out the duties under this subsection, the Corporation shall pay such additional amounts from assessments imposed under section 210.* *(5) TERMINATION OF RESPONSIBILITIES- The duties and responsibilities of the Inspector General of the Corporation under this subsection shall terminate 1 year after the date of termination of the receivership under this title.* *(e) Treasury Inspector General Reviews-* *(1) SCOPE- The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of actions taken by the Secretary related to the liquidation of any covered financial company under this title, including collecting and summarizing--* *(A) a description of actions taken by the Secretary under this title;* *(B) an analysis of the approval by the Secretary of the policies and procedures of the Corporation under section 203 and acceptance of the orderly liquidation plan of the Corporation under section 210; and* *(C) an assessment of the terms and conditions underlying the purchase by the Secretary of obligations of the Corporation under section 210.* *(2) FREQUENCY- Not later than 6 months after the date of appointment of the Corporation as receiver under this title and every 6*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(d) Authorities Under the Inspector General Act of 1978- The Inspector General of the Corporation may confer on the Special Deputy Inspector General such authorities provided to the Inspector General of the Corporation in section 6 of the Inspector General Act of 1978 as the Inspector General of the Corporation considers necessary to enable the Special Deputy Inspector General to carry out the duties specified in subsection (c). (e) Personnel, Facilities, and Other Resources- (1) IN GENERAL- The Special Deputy Inspector General may, in consultation with and subject to the approval of the Inspector General of the Corporation, expend such amounts from the fund established under section 1609(n) as are necessary to carry out the duties described in subsection (c) and to submit the reports required by subsection (h). (2) ADDITIONAL FUNDS- If the fund established under section 1609(n) is insufficient to enable the Special Deputy Inspector General to begin carrying out the duties of the Special Deputy Inspector General in a timely fashion or later becomes insufficient to enable the Special Deputy Inspector General to carry out such duties, the Inspector General of the Corporation shall detail the necessary personnel, facilities, or other resources to the Special Deputy Inspector General. (f) Corrective Responses to Audit Problems- The Chairman of the Corporation shall-- (1) take action to address deficiencies identified by a report or investigation of the Special Deputy Inspector General; or (2) certify to the appropriate committees of Congress that no action is necessary or appropriate. (g) Cooperation and Coordination With Other Entities- In carrying out the duties, responsibilities, and authorities of the Special Deputy Inspector General under this section, the Special Deputy Inspector General shall work with each of the inspectors general who is a member of the Council of Inspectors General on Financial Oversight established under section 1703(a)(1), in order to avoid duplication of effort and ensure comprehensive oversight of the Corporation's activities as a receiver appointed under section 1604. (h) Reports- (1) IN GENERAL- In lieu of the semiannual reports required by section 5(a) of the Inspector General Act of 1978, the Special Deputy Inspector General shall submit to the appropriate committees of Congress at the following times a report prepared in consultation with and approved by the Inspector General of the Corporation: (A) Not later than 30 days after the appointment of the Special	*months thereafter, the Inspector General of the Department of the Treasury shall conduct the audit and investigation described in paragraph (1).* *(3) REPORTS AND TESTIMONY- The Inspector General of the Department of the Treasury shall include in the semiannual reports required by section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), a summary of the findings and assessments under paragraph (1), and shall appear before the appropriate committees of Congress, if requested, to present each such report.* *(4) TERMINATION OF RESPONSIBILITIES- The duties and responsibilities of the Inspector General of the Department of the Treasury under this subsection shall terminate 1 year after the date on which the obligations purchased by the Secretary from the Corporation under section 210 are fully redeemed.* *(f) Primary Financial Regulatory Agency Inspector General Reviews-* *(1) SCOPE- Upon the appointment of the Corporation as receiver for a covered financial company supervised by a Federal primary financial regulatory agency or the Board of Governors under section 165, the Inspector General of the agency or the Board of Governors shall make a written report reviewing the supervision by the agency or the Board of Governors of the covered financial company, which shall--* *(A) evaluate the effectiveness of the agency or the Board of Governors in carrying out its supervisory responsibilities with respect to the covered financial company;* *(B) identify any acts or omissions on the part of agency or Board of Governors officials that contributed to the covered financial company being in default or in danger of default;* *(C) identify any actions that could have been taken by the agency or the Board of Governors that would have prevented the company from being in default or in danger of default; and* *(D) recommend appropriate administrative or legislative action.* *(2) REPORTS AND TESTIMONY- Not later than 1 year after the date of appointment of the Corporation as receiver under this title, the Inspector General of the Federal primary financial regulatory agency or the Board of Governors shall provide the report required by paragraph (1) to such agency or the Board of Governors, and along with such agency or the Board of Governors, as applicable, shall appear before the appropriate committees of Congress, if requested, to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Deputy Inspector General. (B) During the first 3 years after such appointment, not later than 30 days after the end of each fiscal quarter during which the Corporation acts as receiver for a financial company under section 1604. (C) During the 4th year after such appointment and each year thereafter, not later than 30 days after the end of the 2nd and the 4th fiscal quarters, if the Corporation acts as receiver for a financial company under section 1604 during such semiannual period. (2) CONTENT OF REPORTS- Each report required by paragraph (1) shall include a summary, for the period since the last required report (or, in the case of the first report, for the period since the Corporation was first appointed as a receiver under section 1604) of-- (A) the activities of the Special Deputy Inspector General; and (B) the activities and future plans of the Corporation with respect to each financial company for which it served as receiver. (i) Termination- The Office of Dissolution shall terminate 6 months after the Corporation ceases to serve as a receiver for any financial company under section 1604, subject to reestablishment pursuant to subsection (a)(1).	*present the report required by paragraph (1). Not later than 90 days after the date of receipt of the report required by paragraph (1), such agency or the Board of Governors, as applicable, shall provide a written report to Congress describing any actions taken in response to the recommendations in the report, and if no such actions were taken, describing the reasons why no actions were taken.*	
SEC. 1612. MISCELLANEOUS PROVISIONS. (a) Bankruptcy Code Amendments- (1) Section 109(b)(2) of title 11 of the United States Code is amended by inserting `covered financial company (as that term is defined in section 1602(5) of the Dissolution Authority for Large, Interconnected Financial Companies Act of 2009),' after `a domestic insurance company,'. (2) Section 303 of title 11, United States Code, is amended-- (A) in subsection (h)-- (i) by striking `or' at the end of paragraph (1); (ii) by striking the period at the end of paragraph (2) and inserting `; or'; and (iii) by adding at the end the following new paragraph: `(3) an involuntary case is filed against a covered financial company, as defined in section 1602(5) of the Dissolution Authority for Large, Interconnected Financial Companies Act of 2009, by the Federal		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Deposit Insurance Corporation under section 1607 of that Act.'; and (B) by adding at the end the following new subsection: `(m) Notwithstanding subsections (a) and (b) of this section and section 109(b)(2), an involuntary case may be commenced by the Federal Deposit Insurance Corporation against a covered financial company (as defined in section 1602(5) of the Dissolution Authority for Large, Interconnected Financial Companies Act of 2009). Such involuntary case may be commenced by the Federal Deposit Insurance Corporation in accordance with section 1607 of that Act.'. (3) Title 11, United States Code, is amended by inserting after section 303 the following new section: **`SEC. 304. CASES INVOLVING FDIC DISSOLUTION AUTHORITY.**  `(a) Appointment- In any case commenced by the Federal Deposit Insurance Corporation under section 303(m), on the request of the Federal Deposit Insurance Corporation, such Corporation shall be appointed to serve as trustee in such case, notwithstanding any other provision of this title. `(b) Qualification- Sections 321, 322, 324, and 326 shall not apply with respect to the appointment or service of such Corporation as trustee in any case so commenced.'. (b) Federal Deposit Insurance Act and Federal Deposit Insurance Corporation Improvement Act of 1991- (1) Section 18(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) is amended by inserting at the end the following new sentence: `The determination with regard to the Corporation's exercise of authority under this subparagraph shall apply to only an insured depository institution except when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions.'. (2) Section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403(a)) is amended by inserting `section 1609(c) of the Dissolution Authority for Large, Interconnected Financial Companies Act of 2009, section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(d)),' after `section 11(e) of the Federal Deposit Insurance Act,'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 1613. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 11A the following new section: **`SEC. 11B. SYSTEMIC DISSOLUTION AUTHORITY AND FUND.**  `(a) Systemic Dissolution Authority- The Corporation shall establish a Systemic Dissolution Authority, which shall function as a subsidiary of the Corporation. `(b) Systemic Dissolution Fund- Any fund established for the purpose of facilitating the dissolution of a financial company under subtitle G of the Financial Stability Improvement Act shall be called the Systemic Dissolution Fund, which shall be managed by the Corporation, through the Systemic Dissolution Authority. `(c) Management of Fund- `(1) SEPARATE MAINTENANCE- The Systemic Dissolution Fund shall be separately maintained and not commingled with any other fund of the Corporation. `(2) TREATMENT OF AND ACCOUNTING FOR ASSETS- The assets and liabilities of the Systemic Dissolution Fund-- `(A) shall be the assets and liabilities of the Fund and not of the Corporation; and `(B) shall not be consolidated with the assets and liabilities of the Deposit Insurance Fund or the Corporation for accounting, reporting, or any other purpose. `(d) Rights, Powers, and Duties- `(1) IN GENERAL- The Corporation, in addition to any rights, powers, and duties under this Act or any other law, shall, through the Systemic Dissolution Authority, have all rights, powers, and duties necessary to implement and maintain the Systemic Dissolution Fund in accordance with subtitle G of the Financial Stability Improvement Act of 2009. `(2) POWERS AS RECEIVER FOR COVERED FINANCIAL COMPANY- When acting as receiver with respect to any covered financial company, as defined in subtitle G of the Financial Stability Improvement Act of 2009, the Corporation, through the Systemic Dissolution Authority, shall have all rights, powers, and duties that the Corporation has as receiver under such subtitle. `(3) SPECIFIC AND INCIDENTAL POWERS- The Corporation,		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
through the Systemic Dissolution Authority, or any duly authorized officer or agent of the Authority, may exercise all powers specifically granted by the provisions of this Act and subtitle G of the Financial Stability Improvement Act and such incidental powers as shall be necessary to carry out the powers so granted and accomplish the purposes of subtitle G of the Financial Stability Improvement Act. `(e) Staff and Resources- `(1) IN GENERAL- The Corporation shall assign such staff, and provide such administrative and other support services to the Systemic Dissolution Authority as is necessary to fulfill the statutory responsibilities of the Authority. `(2) ADMINISTRATIVE EXPENSES- The cost of all personnel, services, and resources provided on behalf of the Systemic Dissolution Authority shall be paid from the Systemic Dissolution Fund.'.		
SEC. 1614. APPLICATION OF EXECUTIVE COMPENSATION LIMITATIONS. At any time that the Corporation has borrowed from the Treasury pursuant to section 1609(o) to resolve a covered financial company, the Corporation shall apply the executive compensation limits under section 111 of the Emergency Economic Stabilization Act of 2008 to such company for so long as such company is in receivership.	***SEC. 213. BAN ON SENIOR EXECUTIVES AND DIRECTORS.*** *(a) Prohibition Authority- The Board of Governors or, if the covered financial company was not supervised by the Board of Governors, the Corporation, may exercise the authority provided by this section.* *(b) Authority To Issue Order- The appropriate agency described in subsection (a) may take any action authorized by subsection (c), if the agency determines that--* *(1) a senior executive or a director of the covered financial company, prior to the appointment of the Corporation as receiver, has, directly or indirectly--* *(A) violated--* *(i) any law or regulation;* *(ii) any cease-and-desist order which has become final;* *(iii) any condition imposed in writing by a Federal agency in connection with any action on any application, notice, or request by such company or senior executive; or* *(iv) any written agreement between such company and such agency;* *(B) engaged or participated in any unsafe or unsound practice in connection with any financial company; or* *(C) committed or engaged in any act, omission, or practice which constitutes a breach of the fiduciary duty of such senior*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	executive or director; *(2) by reason of the violation, practice, or breach described in any clause of paragraph (1), such senior executive or director has received financial gain or other benefit by reason of such violation, practice, or breach and such violation, practice, or breach contributed to the failure of the company; and* *(3) such violation, practice, or breach--* *(A) involves personal dishonesty on the part of such senior executive or director; or* *(B) demonstrates willful or continuing disregard by such senior executive or director for the safety or soundness of such company.* *(c) Authorized Actions-* *(1) IN GENERAL- The appropriate agency for a financial company, as described in subsection (a), may serve upon a senior executive or director described in subsection (b) a written notice of the intention of the agency to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any financial company for a period of time determined by the appropriate agency to be commensurate with such violation, practice, or breach, provided such period shall be not less than 2 years.* *(2) PROCEDURES- The due process requirements and other procedures under section 8(e) of the Federal Deposit Insurance Act shall apply to actions under this section as if the covered financial company were an insured depository institution and the senior executive or director were an institution-affiliated party, as those terms are defined in that Act.* *(d) Regulations- The Corporation and the Board of Governors, in consultation with the Council, shall jointly prescribe rules or regulations to administer and carry out this section, including rules, regulations, or guidelines to further define the term senior executive for the purposes of this section.*	
SEC. 1615. STUDY ON THE EFFECT OF SAFE HARBOR PROVISIONS IN INSOLVENCY CASES. (a) Study- The Comptroller General of the United States shall conduct a study of the safe harbor provisions under Federal law for derivatives, swaps, and securities transactions addressing-- (1) how the safe harbor provisions have been applied in insolvency cases;	***SEC. 202. JUDICIAL REVIEW.*** *(e) Study of Bankruptcy and Orderly Liquidation Process for Financial Companies-* *(1) STUDY-* *(A) IN GENERAL- The Administrative Office of the United States Courts and the Comptroller General of the United*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) how such provisions impact the rights of parties in interest in insolvency cases; (3) whether these provisions impede or interfere with allowing a debtor a reasonable period of time to pursue rehabilitation and reorganization; and (4) whether these provisions had an adverse impact on the financial marketplace. (b) Report to the Congress- Not later than 180 days after the date of the enactment of this title, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any adverse impacts presented by the Federal safe harbor provisions. **SEC. 1616. TREASURY STUDY.** (a) Study Required- The Secretary shall carry out a study analyzing how the resolution authority provided under this subtitle should be funded. Such study shall consider the following factors: (1) The consequences of any assessments on the overall recovery of the economy of the United States. (2) Any immediate or continuing consequences of assessments on other aspects of the economy of the United States, including job creation, public and private investments, small business loans, and general credit availability. (3) The consequences of any assessments on individual sectors of the financial services industry. (4) The consequences of any assessments on the financial integrity on individual firms within each sector of the financial services industry. (5) The appropriateness and effect of assessments on firms that are subject to separate assessments under existing State or Federal depositor, policyholder, or investor protection mechanisms and the consequences of any such assessments on these mechanisms themselves. (6) The implications of assessments on all relevant stakeholders, including taxpayers, depositors, insurance policyholders, investors, counterparties, and creditors. (7) Evaluation of the appropriate assessment base, including but not limited to factors such as assets and liabilities, assets under	*States shall each monitor the activities of the Court, and each such Office shall conduct separate studies regarding the bankruptcy and orderly liquidation process for financial companies under the Bankruptcy Code.* *(B) ISSUES TO BE STUDIED- In conducting the study under subparagraph (A), the Administrative Office of the United States Courts and the Comptroller General of the United States each shall evaluate--* *(i) the effectiveness of chapter 7 or chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies;* *(ii) ways to maximize the efficiency and effectiveness of the Court; and* *(iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.* *(2) REPORTS- Not later than 1 year after the date of enactment of this Act, in each successive year until the third year, and every fifth year after that date of enactment, the Administrative Office of the United States Courts and the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives separate reports summarizing the results of the studies conducted under paragraph (1).* *(f) Study of International Coordination Relating to Bankruptcy Process for Financial Companies-* *(1) STUDY-* *(A) IN GENERAL- The Comptroller General of the United States shall conduct a study regarding international coordination relating to the orderly liquidation of financial companies under the Bankruptcy Code.* *(B) ISSUES TO BE STUDIED- In conducting the study under subparagraph (A), the Comptroller General of the United States shall evaluate, with respect to the bankruptcy process for financial companies--* *(i) the extent to which international coordination currently exists;* *(ii) current mechanisms and structures for facilitating*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
management, policyholder reserves, other reserves, statutory and regulatory capital requirements, trusteed assets, and deposits and inflationary factors. (b) Report- Not later than the end of the 6-month period beginning on the date of the enactment of this subtitle, the Secretary shall issue a report to the Congress containing all determinations and conclusions made by the Secretary in carrying out the study required under subsection (a).	*international cooperation;* *(iii) barriers to effective international coordination; and* *(iv) ways to increase and make more effective international coordination.* *(2) REPORT- Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives and the Secretary a report summarizing the results of the study conducted under paragraph (1).* *(g) Study of Prompt Corrective Action Implementation by the Appropriate Federal Agencies-* *(1) STUDY- The Comptroller General of the United States shall conduct a study regarding the implementation of prompt corrective action by the appropriate Federal banking agencies.* *(2) ISSUES TO BE STUDIED- In conducting the study under paragraph (1), the Comptroller General shall evaluate--* *(A) the effectiveness of implementation of prompt corrective action by the appropriate Federal banking agencies and the resolution of insured depository institutions by the Corporation; and* *(B) ways to make prompt corrective action a more effective tool to resolve the insured depository institutions at the least possible long-term cost to the Deposit Insurance Fund.* *(3) REPORT TO COUNCIL- Not later than 1 years after the date of enactment of this Act, the Comptroller General shall submit a report to the Council on the results of the study conducted under this subsection.* *(4) COUNCIL REPORT OF ACTION- Not later than 6 months after the date of receipt of the report from the Comptroller General under paragraph (3), the Council shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on actions taken in response to the report, including any recommendations made to the Federal primary financial regulatory agencies under section 120.*	
SEC. 1617. PRIORITY OF CLAIMS IN FEDERAL DEPOSIT INSURANCE ACT. Section 11(d)(11)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)(A)) is amended--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) by redesignating clauses (iii) through (v) as clauses (iv) through (vi), respectively; and (2) by inserting after clause (ii) the following new clause (iii): `(iii) Any obligation of the institution owed to the Corporation as a result of the institution's default on a Corporation-guaranteed debt.'.		
	SEC. 211. MISCELLANEOUS PROVISIONS. *(p) Unenforceability of Certain Agreements-* *(1) IN GENERAL- No provision described in paragraph (2) shall be enforceable against or impose any liability on any person, as such enforcement or liability shall be contrary to public policy.* *(2) PROHIBITED PROVISIONS- A provision described in this paragraph is any term contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly--* *(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire;* *(B) prohibits any person from offering to acquire or acquiring; or* *(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of,* *all or part of any covered financial company, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under this title.* *(q) Other Exemptions-* *(1) IN GENERAL- When acting as a receiver under this title--* *(A) the Corporation, including its franchise, its capital, reserves and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed;* *(B) no property of the Corporation shall be subject to levy,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation; and *(C) the Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due; and* *(D) the Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the covered financial company, or persons acting on behalf of the covered financial company, prior to the appointment of the Corporation as receiver.* *(2) LIMITATION- Paragraph (1) shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.* *(r) Certain Sales of Assets Prohibited-* *(1) PERSONS WHO ENGAGED IN IMPROPER CONDUCT WITH, OR CAUSED LOSSES TO, COVERED FINANCIAL COMPANIES- The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a covered financial company by the Corporation to--* *(A) any person who--* *(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations, the aggregate amount of which exceeds $1,000,000, to such covered financial company;* *(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and* *(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any covered financial company;* *(B) any person who participated, as an officer or director of such covered financial company or of any affiliate of such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	company, in a material way in any transaction that resulted in a substantial loss to such covered financial company; or *(C) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such covered financial company.* *(2) CONVICTED DEBTORS- Except as provided in paragraph (3), a person may not purchase any asset of such institution from the receiver, if that person--* *(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any covered financial company; and* *(B) is in default on any loan or other extension of credit from such covered financial company which, if not paid, will cause substantial loss to the Fund or the Corporation.* *(3) SETTLEMENT OF CLAIMS- Paragraphs (1) and (2) shall not apply to the sale or transfer by the Corporation of any asset of any covered financial company to any person, if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of 1 or more claims that have been, or could have been, asserted by the Corporation against the person.* *(4) DEFINITION OF DEFAULT- For purposes of this subsection, the term `default' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
Subtitle H--Additional Improvements for Financial Crisis Management **SEC. 1701. ADDITIONAL IMPROVEMENTS FOR FINANCIAL CRISIS MANAGEMENT.** Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended by striking the 3rd undesignated paragraph and inserting the following new subsection: `(c) Financial Crisis Management- `(1) IN GENERAL- In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, upon the written determination, pursuant to section 1109 of the Financial Stability Improvement Act of 2009, of the Financial Stability Oversight Council, that a liquidity event exists that could destabilize the financial system (which determination shall be made upon a vote of not less than two-thirds of the members of such Council then serving), and with the written consent of the Secretary of the Treasury (after certification by the President that an emergency exists), may authorize any Federal reserve bank, during such periods as the Board may determine and at rates established in accordance with the provision designated as (d) of section 14, to discount for an individual, partnership, or corporation, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal reserve bank and in conformance with regulations or guidelines issued by the Board of Governors regarding the quality of notes, drafts, and bills of exchange available for discount and of the security for those notes, drafts and bills of exchange, unless a joint resolution (as defined in paragraph (5)) is adopted. Upon making any determination under this paragraph, with the consent of the Secretary of the Treasury, the Financial Stability Oversight Council shall promptly submit a notice of such determination to the House of Representatives and the Senate. The amounts made available under this subsection shall not exceed $4,000,000,000,000.	***TITLE XI--FEDERAL RESERVE SYSTEM PROVISIONS*** ***SEC. 1151(a)(6). FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY*** *adding (B)(i) to 12 USC Sec. 343:* *`As soon as is practicable after the date of enactment of this subparagraph, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the collateral for emergency loans is sufficient to protect taxpayers from and that any such program is terminated in a timely and orderly fashion losses. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph.* *adding (B)(iv) to 12 USC Sec. 343:* *The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.*	Sections 1151(a)(6)(B)(ii) and (a)(6)(B)(iii) in the Senate bill appear below.

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
`(2) CLARIFICATION OF `SECURED TO THE SATISFACTION OF THE FEDERAL RESERVE BANK'- No member of the Board of Governors of the Federal Reserve System shall vote to authorize any action permitted under paragraph (1) and the Secretary of the Treasury shall not provide the written consent required by paragraph (1) unless that member believes and the Secretary of the Treasury believes: `(A) that there is at least a 99 percent likelihood that all funds disbursed or put at risk by such action will be repaid to the Federal Reserve System; and `(B) that there is at least a 99 percent likelihood that all interest due on any funds disbursed will also be paid to the Federal Reserve System.		
`(3) LOW QUALITY ASSETS EXCLUDED- The notes, drafts, and bills of exchange available for discount for purposes of paragraph (1), and the security for those notes, drafts and bills of exchange may only include any of the following assets if such asset is used to further enhance the security for those notes, drafts and bills of exchange which shall be fully secured with assets that are not any of the following assets: `(A) An asset (including a security) that would be classified as `substandard,' `doubtful,' or `loss,' or treated as `special mention' or `other transfer risk problems,' in a report of examination or inspection of bank or an affiliate of a bank prepared by either a Federal or State supervisory agency or in any internal classification system used by such individual, partnership or corporation. `(B) An asset in a nonaccrual status. `(C) An asset on which principal or interest payments are more than 30 days past due. `(D) An asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor unless such asset has been performing for at least 6 months since the renegotiation.		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
`(4) NO SINGLE OR SPECIFIC BENEFICIARIES- The Board of Governors of the Federal Reserve System may authorize a Federal reserve bank to discount notes, drafts, or bills of exchange under this section only as part of a broadly available credit or other facility and may not authorize a Federal Reserve bank to discount notes, drafts, or bills of exchange for only a single and specific individual, partnership, or corporation.	***SEC. 1151. FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY.*** *(a) Federal Reserve Act- The third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority) is amended--* *(1) by inserting `(3)(A)' before `In unusual';* *(2) by striking `individual, partnership, or corporation' the first place that term appears and inserting the following: `participant in any program or facility with broad-based eligibility';* *(3) by striking `exchange for an individual or a partnership or corporation' and inserting `exchange,';* *(4) by striking `such individual, partnership, or corporation' and inserting the following: `such participant in any program or facility with broad-based eligibility';* *(5) by striking `for individuals, partnerships, corporations' and inserting `for any participant in any program or facility with broad-based eligibility';*	
`(5) EVIDENCE OF UNAVAILABILITY OF CREDIT- Before discounting any note, draft, or bill of exchange under this subsection for an individual, a partnership or corporation as part of a broadly available credit or other facility the Federal reserve bank shall obtain evidence that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All discounts under this subsection for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.		
`(6) CONGRESSIONAL DISAPPROVAL OF ADDITIONAL BORROWING AUTHORITY- `(A) INTRODUCTION- Within 90 days of the day on		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
which notice from the Financial Stability Oversight Council is received by the House of Representatives and the Senate under paragraph (1), a joint resolution specified in subparagraph (E) may be introduced in the House by the majority leader and in the Senate by the majority leader. `(B) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES- `(i) REPORTING AND DISCHARGE- Any committee of the House of Representatives to which a joint resolution introduced under subparagraph (A) is referred shall report such joint resolution to the House not later than 5 calendar days after the applicable date of introduction of the joint resolution. If a committee fails to report such joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar. `(ii) PROCEEDING TO CONSIDERATION- After all committees authorized to consider a joint resolution have reported such joint resolution to the House or have been discharged from its consideration, it shall be in order, not later than the sixth day after the applicable date of introduction of the joint resolution, for the majority leader to move to proceed to consider the joint resolution in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution and shall not be in order if the House has received a message from the Senate under subparagraph (D)(iii)(I). The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
motion is disposed of shall not be in order. `(iii) CONSIDERATION- The joint resolution shall be considered in the House and shall be considered as read. All points of order against a joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of a joint resolution shall not be in order. `(C) CONSIDERATION IN THE SENATE- `(i) PLACEMENT ON CALENDAR- Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar. `(ii) FLOOR CONSIDERATION- `(I) IN GENERAL- Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the fourth day after the applicable date of introduction of the joint resolution in the Senate and ending on the sixth day after the applicable date of introduction in the Senate (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of. `(II) DEBATE- Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. `(III) VOTE ON PASSAGE- The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate. `(IV) RULINGS OF THE CHAIR ON PROCEDURE- Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate. `(D) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES-		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
`(i) COORDINATION WITH ACTION BY OTHER HOUSE- If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply: `(I) The joint resolution of the other House shall not be referred to a committee. `(II) With respect to the joint resolution of the House receiving the resolution, the procedure in that House shall be the same as if no such joint resolution had been received from the other House; but the vote on passage shall be on the joint resolution of the other House. `(ii) TREATMENT OF COMPANION MEASURES- If, following passage of a joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable. `(iii) FAILURE OF JOINT RESOLUTION IN THE SENATE- `(I) If, in the Senate, the motion to proceed to the consideration of the joint resolution fails on adoption, the Secretary of the Senate shall transmit a message to that effect to the House of Representatives. `(II) If, in the Senate, the joint resolution fails on passage, the Secretary of the Senate shall transmit a message to that effect to the House of Representatives. `(iv) RULES OF HOUSE OF REPRESENTATIVES AND SENATE- This		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
paragraph and the preceding paragraphs are enacted by Congress-- `(I) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and `(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House. `(E) DEFINITION- In this paragraph, the term `joint resolution' means only a joint resolution-- `(i) which does not have a preamble; `(ii) the title of which is as follows: `Joint resolution relating to the use of authority relevant to section 13(c) of the Federal Reserve Act under the Financial Stability Improvement Act of 2009.'; and `(iii) the sole matter after the resolving clause of which is as follows: `That the Congress disapproves the use of authority pursuant to section 13(c) of the Federal Reserve Act transmitted to the Congress on **XXX** by the Board of Governors of the Federal Reserve System', the blank space being filled with the appropriate date. `(F) NONSCORING OF JOINT RESOLUTIONS OF DISAPPROVAL- A		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
joint resolution of disapproval shall be treated as having no budgetary effect by the Congressional Budget Office and the Office of Management and Budget for any purpose under the Rules of the House of Representatives, the Standing Rules of the Senate, the Congressional Budget Act of 1974, or any statutory pay-as-you-go requirement.'.		
SEC. 1702. CERTAIN RESTRICTIONS RELATED TO FOREIGN CURRENCY SWAP AUTHORITY. Section 14 of the Federal Reserve Act is amended by adding at the end the following new subsection: `(h) Certain Restrictions Related to Foreign Currency Swap Authority- A Federal reserve bank may not take any action pursuant to the authority provided under this section with respect to foreign currency swaps unless-- `(1) such action is approved in advance by the affirmative vote of not less than five members of the Board of Governors of the Federal Reserve System; and `(2) such action is taken with the written concurrence of the Secretary of the Treasury.'.		
SEC. 1703. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM. (a) Council of Inspectors General on Financial Oversight- (1) ESTABLISHMENT AND MEMBERSHIP- There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the `Council of Inspectors General') chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following: (A) The Board of Governors of the Federal Reserve System.	***SEC. 989E. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.*** *(a) Council of Inspectors General on Financial Oversight-* *(1) ESTABLISHMENT AND MEMBERSHIP- There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the `Council of Inspectors General') chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:* *(A) The Board of Governors of the Federal Reserve System.*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
(B) The Commodity Futures Trading Commission. (C) The Department of Housing and Urban Development. (D) The Department of the Treasury. (E) The Federal Deposit Insurance Corporation. (F) The Federal Housing Finance Agency. (G) The National Credit Union Administration. (H) The Securities and Exchange Commission. (I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(h) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(h))). (2) DUTIES- (A) MEETINGS- The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight. (B) ANNUAL REPORT- The Council of Inspectors General shall, each year within a timeframe that permits consideration by the Financial Services Oversight Council (in this section referred to as the `Oversight Council') prior to the submission of its report for such year under section 1006, submit to the Oversight Council and to Congress a report including-- (i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector;	*(B) The Commodity Futures Trading Commission.* *(C) The Department of Housing and Urban Development.* *(D) The Department of the Treasury.* *(E) The Federal Deposit Insurance Corporation.* *(F) The Federal Housing Finance Agency.* *(G) The National Credit Union Administration.* *(H) The Securities and Exchange Commission.* *(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).* *(2) DUTIES-* *(A) MEETINGS- The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.* *(B) ANNUAL REPORT- Each year the Council of Inspectors General shall submit to the Council and to Congress a report including--* *(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and* *(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
and (ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight. (3) COUNCIL OF INSPECTORS GENERAL WORKING GROUPS- (A) WORKING GROUPS TO EVALUATE OVERSIGHT COUNCIL- (i) CONVENING A WORKING GROUP- The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Oversight Council. (ii) PERSONNEL AND RESOURCES- The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this subparagraph to enable it to carry out its duties. (iii) REPORTS- A Council of Inspectors General Working Group established under this subparagraph shall submit regular reports to the Oversight Council and to Congress on its evaluations pursuant to this subparagraph. (B) WORKING GROUPS FOR FINANCIAL COMPANIES UNDERGOING RESOLUTION- (i) CONVENING A WORKING GROUP- The Council of Inspectors General shall convene a Council of Inspectors General Working Group for each financial company for which the Secretary of the Treasury appoints the Federal Deposit Insurance Corporation as receiver under section 1604.	*as required by clause (i), with a focus on measures that should be taken to improve financial oversight.* *(3) WORKING GROUPS TO EVALUATE COUNCIL-* *(A) CONVENING A WORKING GROUP- The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.* *(B) PERSONNEL AND RESOURCES- The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.* *(C) REPORTS- A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.* *(b) Response to Report by Council- The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
(ii) PERSONNEL AND RESOURCES- The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this subparagraph to enable it to carry out its duties. (iii) REPORTS- Not later than 270 days after the appointment of the Federal Deposit Insurance Corporation as receiver for the financial company for which a Council of Inspectors General Working Group is convened under clause (i), such Working Group shall submit to the primary financial regulatory agency and to Congress a report that includes-- (I) the reasons for such financial company's failure; (II) the reasons for the Secretary of the Treasury's appointment of the Federal Deposit Insurance Corporation as receiver for such financial company; and (III) recommendations for preventing future failures of financial companies. (b) Response to Report by Oversight Council- The Oversight Council shall include in its annual report under section 1006 responses to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.		
	SEC. 1151(a)(6). FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY. *adding (B)(ii) and (B)(iii) to 12 USC Sec. 343:* *(B)(ii) The Board shall establish procedures to prohibit*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	borrowing from programs and facilities by borrowers that are insolvent. Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent. A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Restoring American Financial Stability Act of 2010, or any other Federal or State insolvency proceeding. *`(B)(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Restoring American Financial Stability Act of 2010, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.*	
	SEC. 1151(a)(6). FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY. *adding (C), (D), and (E) to 12 USC Sec. 343:* *(C)The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives--* *`(i) not later than 7 days after providing any loan or other financial assistance under this paragraph, a report that includes--* *`(I) the justification for the exercise of authority to provide such*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	assistance; *`(II) the identity of the recipients of such assistance;* *`(III) the date and amount of the assistance, and form in which the assistance was provided; and* *`(IV) the material terms of the assistance, including--*  *`(aa) duration;* *`(bb) collateral pledged and the value thereof;*  *`(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;* *`(dd) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and*  *`(ee) the expected costs to the taxpayers of such assistance; and* *`(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on--* *`(I) the value of collateral;* *`(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and* *`(III) the expected or final cost to the taxpayers of such assistance.* *`(D) The information submitted to Congress under subparagraph (C) related to--* *`(i) the identity of the participants in an emergency lending program or facility*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	commenced under this paragraph; *`(ii) the amounts borrowed by each participant in any such program or facility;* *`(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,* *shall be kept confidential, upon the written request of the Chairman of the Board, in which case such information shall be made available only to the Chairpersons and Ranking Members of the Committees described in subparagraph (C).* *`(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 203 of the Restoring American Financial Stability Act of 2010, at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under sections 210(n) and 210(o) of the Restoring American Financial Stability Act of 2010.'.*	
	SEC. 1151. FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY. *(b) Conforming Amendment- Section 507(a)(2) of title 11, United States Code, is amended by inserting `claims of any Federal reserve bank related to loans made through programs or facilities authorized under the third undesignated paragraph of the Federal Reserve Act (12 U.S.C. 343),' after `this title,'.*	
	SEC. 1153. PUBLIC ACCESS TO INFORMATION. *Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended by*	Section 1152 of the Senate bill appears next to Title I Subtitle C Section 1254(c) of the House bill.

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	adding at the end the following: *`(c) Public Access to Information- The Board shall place on its home Internet website, a link entitled `Audit', which shall link to a webpage that shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including--* *`(1) the reports prepared by the Comptroller General under section 714 of title 31, United States Code;* *`(2) the annual financial statements prepared by an independent auditor for the Board in accordance with section 11B;* *`(3) the reports to the Committee on Banking, Housing, and Urban Affairs of the Senate required under the third undesignated paragraph of section 13 (relating to emergency lending authority); and* *`(4) such other information as the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.'.*	Sections 1154 and 1155 of the Senate bill appears next to Title I Subtitle B Section 1109 of the House bill. Section 1156 of the Senate bill appears next to Title I Subtitle B Section 1110 of the House bill.
	SEC. 1157. FEDERAL RESERVE ACT AMENDMENTS ON FEDERAL RESERVE BANK GOVERNANCE. *The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended in section 4 by adding at the end the following:* *`(25) SELECTION OF THE PRESIDENT OF THE FEDERAL RESERVE BANK OF NEW YORK- Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, the president of the Federal Reserve Bank of New York shall be appointed by the President, by and with the advice and consent of the Senate, for terms of 5 years.* *`(26) LIMITATION ON ELIGIBILITY TO VOTE FOR OR SERVE AS A FEDERAL RESERVE BANK DIRECTOR- Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, no company, or subsidiary or affiliate of a company that is supervised by the Board, may vote for members of the board of directors of a Federal reserve bank, and no past or*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	current officer, director, or employee of such company, or subsidiary or affiliate of such company, may serve as a member of the board of directors of a Federal reserve bank.'.	
	SEC. 1158. AMENDMENTS TO THE FEDERAL RESERVE ACT RELATING TO SUPERVISION AND REGULATION POLICY. *(a) Establishment of the Position of Vice Chairman for Supervision-* *(1) POSITION ESTABLISHED- The second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) (relating to the Chairman and Vice Chairman of the Board) is amended by striking the third sentence and inserting the following: `Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms.'.* *(2) EFFECTIVE DATE- The amendment made by subsection (a) takes effect on the date of enactment of this title and applies to individuals who are designated by the President on or after that date to serve as Vice Chairman of Supervision.* *(b) Financial Stability as Board Function- Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:* *`(11) FINANCIAL STABILITY FUNCTION- The Board of Governors shall identify, measure, monitor, and mitigate risks to the financial stability of the United States.'.* *(c) Appearances Before Congress- Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	`(12) APPEARANCES BEFORE CONGRESS- The Vice Chairman for Supervision shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board.'. *(d) Board Responsibility To Set Supervision and Regulatory Policy- Section 11 of the Federal Reserve Act (12 U.S.C. 248) (relating to enumerated powers of the Board) is amended by adding at the end of subsection (k) (relating to delegation) the following: `The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors.'.*	
	SEC. 1159. GAO AUDIT OF THE FEDERAL RESERVE FACILITIES; PUBLICATION OF BOARD ACTIONS. *(b) Audit of Federal Reserve Bank Governance-* *(1) AUDIT-* *(A) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Comptroller General shall complete an audit of the governance of the Federal reserve bank system.* *(B) REQUIRED EXAMINATIONS- The audit required under subparagraph (A) shall--* *(i) examine the extent to which the current system of appointing Federal reserve bank directors effectively represents `the public, without discrimination on the basis of race, creed, color, sex or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry,*	Section 1159(a) of Senate Bill appears next to Title 1 Subtitle A Section 1000A of the House bill.

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	services, labor, and consumers' in the selection of bank directors, as such requirement is set forth under section 4 of the Federal Reserve Act; *(ii) examine whether there are actual or potential conflicts of interest created when the directors of Federal reserve banks, which execute the supervisory functions of the Board of Governors of the Federal Reserve System, are elected by member banks;* *(iii) examine the establishment and operations of each facility described in subsection (a)(1) and each Federal reserve bank involved in the establishment and operations thereof; and* *(iv) identify changes to selection procedures for Federal reserve bank directors, or to other aspects of Federal reserve bank governance, that would--* *(I) improve how the public is represented;* *(II) eliminate actual or potential conflicts of interest in bank supervision;* *(III) increase the availability of information useful for the formation and execution of monetary policy; or* *(IV) in other ways increase the effectiveness or efficiency of reserve banks.* *(2) REPORT REQUIRED- A report on the audit conducted under paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed, and such report shall be made available to--* *(A) the Speaker of the House of Representatives;* *(B) the majority and minority leaders of the House of Representatives;* *(C) the majority and minority leaders of the Senate;*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	(D) the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives; and *(E) any member of Congress who requests it.* *(c) Publication of Board Actions- Notwithstanding any other provision of law, the Board of Governors shall publish on its website, not later than December 1, 2010, with respect to all loans and other financial assistance it has provided during the period beginning on December 1, 2007 and ending on the date of enactment of this Act under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, Maiden Lane, Maiden Lane II, Maiden Lane III, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act--* *(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;* *(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;* *(3) the value or amount of that financial assistance;* *(4) the date on which the financial assistance was provided;* *(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and* *(6) the specific rationale for each such facility or program.*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
Subtitle I--Miscellaneous **SEC. 1801. INCLUSION OF MINORITIES AND WOMEN; DIVERSITY IN AGENCY WORKFORCE.** (a) Office of Minority and Women Inclusion- (1) ESTABLISHMENT- Not later than 180 days following the enactment of this title, each agency shall establish an Office of Minority and Women Inclusion (hereinafter in this section referred to as the `Office') that shall advise the agency administrator of the impact of policies and regulations of the agency on minority-owned and women-owned businesses (as such terms are defined in subsection (c)(1)), and shall be responsible for all matters of the agency relating to diversity in management, employment, and business activities, including the coordination of technical assistance, in accordance with such standards and requirements as the Director of the Office shall establish. (2) CONSOLIDATION- Each agency that has assigned these or comparable responsibilities to existing offices shall ensure that such responsibilities are consolidated within the Office. (b) Director- (1) IN GENERAL- For each Office, the President shall appoint, by and with the advice and consent of the Senate, a Director of Minority and Women Inclusion (hereinafter in this section referred to as the `Director'), who shall also hold a title within such agency comparable to that of other senior level staff who are, as applicable, either appointed by the President, by and with the advice and consent of the Senate, or act in a managerial capacity that requires reporting directly to the agency administrator. (2) DUTIES- Each Director shall-- (A) ensure equal employment opportunity and the racial, ethnic and gender diversity of the agency's workforce and senior management; (B) increase the participation of minority-owned and		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
women-owned businesses in the programs and contracts of the agency; (C) provide guidance to the agency administrator to ensure that the policies and regulations of the agency strengthen minority-owned and women-owned businesses; and (D) conduct an assessment, as part of the examination process for the entities regulated or monitored by the agency of the diversity and inclusion efforts by such entities. (c) Inclusion in All Levels of Business Activities- (1) IN GENERAL- Each Director shall develop and implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)), women, and minority-owned and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including financial institutions, investment banking firms, mortgage banking firms, asset management firms, broker-dealers, financial services firms, underwriters, accountants, brokers, investment consultants, and providers of legal services) in all business and activities of the agency at all levels, including in procurement, insurance, and all types of contracts (including, as applicable, contracts for the issuance or guarantee of any debt, equity, or security, the sale of assets, the management of its assets, the making of its equity investments, and the implementation of programs to address economic recovery). (2) CONTRACTS- The processes established by each agency for review and evaluation for contract proposals and to hire service providers shall include a component that gives consideration to the diversity of the applicant. (3) WRITTEN ASSURANCE- All such contract proposals, provided such proposals are of an amount greater than $50,000 and the contractor employs more than 50 employees, shall include a written assurance, in a form and substance that the		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
Director shall prescribe, that the contractor shall ensure, to the maximum extent possible, the inclusion of minorities and women in its workforce and, as applicable, by its subcontractors. (4) TERMINATION- A Director may terminate any contract upon a finding that the contractor has failed to make a good faith effort to comply with paragraph (3), except that a contractor may appeal such finding and termination to the agency administrator within a reasonable amount of time as determined by the Director. (d) Applicability- This section shall apply to all contracts of an agency for services of any kind, including services that require the services of investment banking, asset management entities, broker-dealers, financial services entities, underwriters, accountants, investment consultants, and providers of legal services. (e) Reports- Not later than 90 days before the end of each Federal fiscal year, each Director shall report to the Congress detailed information describing the actions taken by the agency and the Director pursuant to this section, which shall-- (1) to the extent contracts exceed the contract amount and employment levels established in subsection (c)(3), include a statement of the total amounts paid by the agency to third party contractors since the last such report; (2) the percentage of such amounts paid to businesses described in subsection (c)(1); (3) the successes achieved and challenges faced by the agency in operating minority and women outreach programs; (4) the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses; and (5) such other information, findings, conclusions, and recommendations for legislative or agency action, as the Director may determine to be appropriate to include in such report. (f) Diversity in Agency Workforce- Each agency shall take affirmative steps to seek diversity in its workforce at all levels of the agency consistent with the demographic diversity of the United States and the Federal government, which shall include--		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
(1) heavily recruiting at historically black colleges and universities, Hispanic-serving institutions, women's colleges, and colleges that typically serve majority minority populations; (2) sponsoring and recruiting at job fairs in urban communities, and placing employment advertisements in newspapers and magazines oriented toward women and people of color; (3) partnering with organizations that are focused on developing opportunities for minorities and women to place talented young minorities and women in industry internships, summer employment, and full-time positions; (4) where feasible, partnering with inner-city high schools, girls' high schools, and high schools with majority minority populations to establish or enhance financial literacy programs and provide mentoring; and (5) such other mass media communications that the Director determines are necessary. (g) Definitions- For purposes of this section: (1) AGENCY- The term `agency' means-- (A) the Department of the Treasury; (B) the Federal Deposit Insurance Corporation; (C) the Federal Housing Finance Agency; (D) each of the Federal reserve banks; (E) the Board; (F) the National Credit Union Administration; (G) the Office of the Comptroller of the Currency; (H) the Office of Thrift Supervision; (I) the Securities and Exchange Commission; (J) the Consumer Financial Protection Agency; and (K) the Federal Insurance Office, and any successors to such entities. (2) AGENCY ADMINISTRATOR- The term `agency administrator' means the head of an agency.		
SEC. 1802. FEDERAL HOUSING FINANCE AGENCY ADVISORY ROLE IN FIEC. After section 1007 of the Federal Financial Institutions Examination Council Act of 1987 (12 U.S.C. 3306) insert the following new section:		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
**`SEC. 1007A. FEDERAL HOUSING FINANCE AGENCY ADVISORY ROLE.**  `Whenever the Council takes any actions with respect to issues that relate to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal home loan banks, the Federal Housing Finance Agency shall participate in the Council's proceedings in an advisory role.'.		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
Subtitle J--International Policy Coordination **SEC. 1901. INTERNATIONAL POLICY COORDINATION.** The President of the United States, or a designee of the President, shall coordinate through all available international policy channels similar policies as found in United States law related to limiting the scope, nature, size, scale, concentration, and interconnectedness of financial companies in order to protect financial stability and the global economy.		
Subtitle K--International Financial Provisions **SEC. 1951. ACCESS TO UNITED STATES FINANCIAL MARKET BY FOREIGN INSTITUTIONS.** (a) Establishment of Foreign Bank Offices in the United States- Subsection 7(d)(3) of the International Banking Act of 1978 (12 U.S.C. 3105(d)(3)) is amended-- (1) by striking `and' at the end of subparagraph (C); (2) by striking the period at the end of subparagraph (D) and inserting `; and'; and (3) by adding at the end the following new subparagraph: `(E) for a foreign bank that presents a systemic risk to the United States, whether the home country of the foreign bank has adopted, or is making demonstrable progress toward adopting, an appropriate system of financial regulation for the financial system of such home country to mitigate such systemic risk.'. (b) Termination of Foreign Bank Offices in the United States- Subsection 7(e)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(e)(1)) is amended-- (1) by striking `or' at the end of subparagraph (A); (2) by striking the period at the end of subparagraph (B) and inserting `; or'; and (3) by inserting after subparagraph (B), the following new		

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
subparagraph: `(C) for a foreign bank that presents a systemic risk to the United States, the home country of the foreign bank has not adopted or made demonstrable progress toward adopting an appropriate system of financial regulation to mitigate such systemic risk.'. (c) Registration or Succession to United States Brokerage or Dealer and Termination of Such Registration- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsections: `(k) Registration or Succession to a United States Broker or Dealer- In determining whether to permit a foreign person or an affiliate of a foreign person to register as a United States broker or dealer, or succeed to the registration of a United States broker or dealer, the Securities and Exchange Commission may consider whether, for a foreign person, or an affiliate of a foreign person that presents a systemic risk to the United States, the home country of the foreign person has adopted or made demonstrable progress toward adopting an appropriate system of financial regulation to mitigate such systemic risk. `(l) Termination of a United States Broker or Dealer- For a foreign person or an affiliate of a foreign person that presents such a systemic risk to the United States, the Securities and Exchange Commission may determine to terminate the registration of such foreign person or an affiliate of such foreign person as a broker or dealer in the United States if the Commission determines that the home country of the foreign person has not adopted, or made demonstrable progress toward adopting, an appropriate system of financial regulation to mitigate such systemic risk.'.		
SEC. 1952. REDUCING TARP FUNDS TO OFFSET COSTS. Section 115(a)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)(3)) is amended by striking `$700,000,000,000, as such amount is reduced by $1,259,000,000,, as such amount is reduced by $1,244,000,000, outstanding at any one time' and inserting `$700,000,000,000, as such amount is reduced by $23,625,000,000, outstanding at any one time'.	***TITLE XIII--PAY IT BACK ACT*** ***SEC. 1301. SHORT TITLE.*** *This title may be cited as the `Pay It Back Act'.*	

House-passed H.R. 4173 as passed by House	Senate-passed (S. 3217 as amended)	Notes
	SEC. 1302. AMENDMENT TO REDUCE TARP AUTHORIZATION. *Section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)) is amended--* *(1) in paragraph (3)--* *(A) by striking `If' and inserting `Except as provided in paragraph (4), if';* *(B) by striking `, $700,000,000,000, as such amount is reduced by $1,259,000,000, as such amount is reduced by $1,244,000,000' and inserting `$550,000,000,000'; and* *(C) by striking `outstanding at any one time'; and* *(2) by adding at the end the following:* *`(4) If the Secretary, with the concurrence of the Chairman of the Board of Governors of the Federal Reserve System, determines that there is an immediate and substantial threat to the economy arising from financial instability, the Secretary is authorized to purchase troubled assets under this Act in an amount equal to amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any other program enacted by the Secretary under the authorities granted to the Secretary under this Act, but only--* *`(A) to the extent necessary to address the threat; and* *`(B) upon transmittal of such determination, in writing, to the appropriate committees of Congress.'.* ***SEC. 1303. REPORT.*** *Section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended by inserting at the end the following:* *`(f) Report- The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle L--Securities Holding Companies **SEC. 1961. SECURITIES HOLDING COMPANIES.** (a) Supervision of a Securities Holding Company Not Having a Bank or Savings Association Affiliate- (1) IN GENERAL- A securities holding company that is required by a foreign regulator or foreign law to be subject to comprehensive consolidated supervision and that is not-- (A) a financial holding company subject to stricter standards; (B) an affiliate of an insured bank (other than an institution described in subparagraphs (D) or (G) of section 2(c)(2) of the Bank Holding Company Act of 1956) or a savings association; (C) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; (D) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or (E) subject to comprehensive consolidated supervision by a foreign regulator, may register with the Board to become supervised, pursuant to paragraph (2). Any securities holding company filing such a registration shall be supervised in accordance with this section and comply with the rules and orders prescribed by the Board applicable to supervised securities holding companies. (2) REGISTRATION AS A SUPERVISED SECURITIES HOLDING COMPANY- A securities holding company described in paragraph (1) shall register by filing with the Board such information and documents concerning such securities holding company as the Board, by regulation, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Such supervision shall become effective 45 days after the date of receipt of such registration by the Board or within such shorter time period as the Board, by rule or order, may	***SEC. 618. SECURITIES HOLDING COMPANIES.*** *(b) Supervision of a Securities Holding Company Not Having a Bank or Savings Association Affiliate-* *(1) IN GENERAL- A securities holding company that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision may register with the Board of Governors under paragraph (2) to become a supervised securities holding company. Any securities holding company filing such a registration shall be supervised in accordance with this section, and shall comply with the rules and orders prescribed by the Board of Governors applicable to supervised securities holding companies.* *(2) REGISTRATION AS A SUPERVISED SECURITIES HOLDING COMPANY-* *(A) REGISTRATION- A securities holding company that elects to be subject to comprehensive consolidated supervision shall register by filing with the Board of Governors such information and documents as the Board of Governors, by regulation, may prescribe as necessary or appropriate in furtherance of the purposes of this section.* *(B) EFFECTIVE DATE- A securities holding company that registers under subparagraph (A) shall be deemed to be a supervised securities holding company, effective on the date that is 45 days after the date of receipt of the registration information and documents under subparagraph (A) by the Board of Governors, or within such shorter period as the Board of Governors, by rule or order, may determine.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
determine.		
(b) Supervision of Securities Holding Companies- (1) RECORDKEEPING AND REPORTING- (A) IN GENERAL- Every supervised securities holding company and each affiliate of such company shall make and keep for prescribed periods such records, furnish copies of records, and make such reports, as the Board determines to be necessary or appropriate for the Board to carry out the purposes of this section, prevent evasions, and monitor compliance by the company or affiliate with applicable provisions of law.	*(c) Supervision of Securities Holding Companies-* *(1) RECORDKEEPING AND REPORTING-* *(A) RECORDKEEPING AND REPORTING REQUIRED- Each supervised securities holding company and each affiliate of a supervised securities holding company shall make and keep for periods determined by the Board of Governors such records, furnish copies of such records, and make such reports, as the Board of Governors determines to be necessary or appropriate to carry out this section, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.*	
(B) FORM AND CONTENTS- Such records and reports shall be prepared in such form and according to such specifications (including certification by a registered public accounting firm), as the Board may require and shall be provided promptly at any time upon request by the Board. Such records and reports may include-- (i) a balance sheet and income statement; (ii) an assessment of the consolidated capital of the supervised securities holding company; (iii) an independent auditor's report attesting to the supervised securities holding company's compliance with its internal risk management and internal control objectives; and (iv) reports concerning the extent to which the company or affiliate has complied with the	*(B) FORM AND CONTENTS-* *(i) IN GENERAL- Any record or report required to be made, furnished, or kept under this paragraph shall--* *(I) be prepared in such form and according to such specifications (including certification by a registered public accounting firm), as the Board of Governors may require; and* *(II) be provided promptly to the Board of Governors at any time,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
provisions of this section and any regulations prescribed and orders issued under this section.	*upon request by the Board of Governors.* *(ii) CONTENTS- Records and reports required to be made, furnished, or kept under this paragraph may include--* *(I) a balance sheet or income statement of the supervised securities holding company or an affiliate of a supervised securities holding company;* *(II) an assessment of the consolidated capital and liquidity of the supervised securities holding company;* *(III) a report by an independent auditor attesting to the compliance of the supervised securities holding company with the internal risk management and internal control objectives of the supervised securities holding company; and* *(IV) a report concerning the extent to which the supervised securities holding company or affiliate has complied with the provisions of this section and any regulations prescribed and orders issued under this section.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) USE OF EXISTING REPORTS- (A) IN GENERAL- The Board shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised securities holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization. (B) AVAILABILITY- A supervised securities holding company or an affiliate of such company shall provide to the Board, at the request of the Board, any report referred to in subparagraph (A), as permitted by law.	*(2) USE OF EXISTING REPORTS-* *(A) IN GENERAL- The Board of Governors shall, to the fullest extent possible, accept reports in fulfillment of the requirements of this paragraph that a supervised securities holding company or an affiliate of a supervised securities holding company has been required to provide to another regulatory agency or a self-regulatory organization.* *(B) AVAILABILITY- A supervised securities holding company or an affiliate of a supervised securities holding company shall promptly provide to the Board of Governors, at the request of the Board of Governors, any report described in subparagraph (A), as permitted by law.*	
(3) EXAMINATION AUTHORITY- (A) FOCUS OF EXAMINATION AUTHORITY- The Board may make examinations of any supervised securities holding company and any affiliate of such company to carry out the purposes of this subsection, prevent evasions thereof, and monitor compliance by the company or affiliate with applicable provisions of law. (B) DEFERENCE TO OTHER EXAMINATIONS- For purposes of this subparagraph, the Board shall, to the fullest extent possible, use the reports of examination made by other appropriate Federal or State regulatory authorities with respect to any functionally regulated subsidiary, as defined under section 5(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)), or an institution described in subparagraphs (D) or (G) of section 1841(c)(2).	*(3) EXAMINATION AUTHORITY-* *(A) FOCUS OF EXAMINATION AUTHORITY- The Board of Governors may make examinations of any supervised securities holding company and any affiliate of a supervised securities holding company to carry out this subsection, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.* *(B) DEFERENCE TO OTHER EXAMINATIONS- For purposes of this subparagraph, the Board of Governors shall, to the fullest extent possible, use the reports of examination made by other appropriate Federal or State regulatory authorities with respect to any functionally regulated subsidiary or any institution described in subparagraph (D), (F), or (H) of section*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)).	
(c) Capital and Risk Management- (1) The Board shall, by regulation or order, prescribe capital adequacy and other risk management standards for a supervised securities holding company appropriate to protect the safety and soundness of the company and address the risks posed to financial stability by a supervised securities holding company. Standards imposed under this subparagraph shall take account of differences among types of business activities and-- (A) the amount and nature of the company's financial assets; (B) the amount and nature of the company's liabilities, including the degree of reliance on short-term funding; (C) the extent and nature of the company's off-balance sheet exposures; (D) the extent and nature of the company's transactions and relationships with other financial companies; (E) the company's importance as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the financial system; and (F) the nature, scope, and mix of the company's activities. (2) In imposing standards under this subsection, the Board may differentiate among supervised securities holding companies on an individual basis or by category, taking into consideration the criteria specified above. (3) Any capital requirements imposed under this subsection shall not take effect until the expiration of 180 days after a supervised securities holding company is provided notice of such requirement.	*(d) Capital and Risk Management-* *(1) IN GENERAL- The Board of Governors shall, by regulation or order, prescribe capital adequacy and other risk management standards for supervised securities holding companies that are appropriate to protect the safety and soundness of the supervised securities holding companies and address the risks posed to financial stability by supervised securities holding companies.* *(2) DIFFERENTIATION- In imposing standards under this subsection, the Board of Governors may differentiate among supervised securities holding companies on an individual basis, or by category, taking into consideration the requirements under paragraph (3).* *(3) CONTENT- Any standards imposed on a supervised securities holding company under this subsection shall take into account--* *(A) the differences among types of business activities carried out by the supervised securities holding company;* *(B) the amount and nature of the financial assets of the supervised securities holding company;* *(C) the amount and nature of the liabilities of the supervised securities holding company, including the degree of reliance on short-term funding;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(D) the extent and nature of the off-balance sheet exposures of the supervised securities holding company; *(E) the extent and nature of the transactions and relationships of the supervised securities holding company with other financial companies;* *(F) the importance of the supervised securities holding company as a source of credit for households, businesses, and State and local governments, and as a source of liquidity for the financial system; and* *(G) the nature, scope, and mix of the activities of the supervised securities holding company.* *(4) NOTICE- A capital requirement imposed under this subsection may not take effect earlier than 180 days after the date on which a supervised securities holding company is provided notice of the capital requirement.*	
	(e) Exception for Banks- No bank shall be subject to any of the requirements set forth in subsections (c) and (d).	
(d) Other Provisions- (1) Subsections (b), (c) through (s), and (u) of section 8 of the Federal Deposit Insurance Act shall apply to any supervised securities holding company, and to any subsidiary (other than a bank) of a supervised securities holding company, in the same manner as they apply to a bank holding company. For purposes of applying such subsections to a supervised securities holding company or a subsidiary (other than a bank) of a supervised securities holding company, the Board shall be considered the appropriate Federal banking agency for the supervised securities holding company or subsidiary.	*(f) Other Provisions of Law Applicable to Supervised Securities Holding Companies-* *(1) FEDERAL DEPOSIT INSURANCE ACT- Subsections (b), (c) through (s), and (u) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) shall apply to any supervised securities holding company, and to any subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) Except as the Board may otherwise provide by regulation or order, a supervised securities holding company shall be subject to the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) in the same manner and to the same extent that bank holding companies are subject to such provisions, except that any such supervised securities holding company shall not by reason of this subparagraph be deemed a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956.	*company, in the same manner as such subsections apply to a bank holding company for which the Board of Governors is the appropriate Federal banking agency. For purposes of applying such subsections to a supervised securities holding company or a subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding company, the Board of Governors shall be deemed the appropriate Federal banking agency for the supervised securities holding company or subsidiary.* *(2) BANK HOLDING COMPANY ACT OF 1956- Except as the Board of Governors may otherwise provide by regulation or order, a supervised securities holding company shall be subject to the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) in the same manner and to the same extent a bank holding company is subject to such provisions, except that a supervised securities holding company may not, by reason of this paragraph, be deemed to be a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843).*	
(e) Definitions- For purposes of this section, the following definitions shall apply:	***SEC. 618.*** *(a) Definitions- In this section--*	
(1) SECURITIES HOLDING COMPANY- The term `securities holding company' means-- (A) any person other than a natural person that owns or controls one or more brokers or dealers as defined in section 3 of the Securities Exchange Act; and (B) the associated persons of the securities holding company.	*(4) the term `securities holding company'--* *(A) means--* *(i) a person (other than a natural person) that owns or controls 1 or more brokers or dealers registered with the Commission; and* *(ii) the associated persons of a person*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	described in clause (i); and *(B) does not include a person that is--* *(i) a nonbank financial company supervised by the Board under title I;* *(ii) an affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)) or an affiliate of a savings association;* *(iii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));* *(iv) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or* *(v) subject to comprehensive consolidated supervision by a foreign regulator;*	
(2) SUPERVISED SECURITIES HOLDING COMPANY- The term `supervised securities holding company' means any securities holding company that is supervised by the Board pursuant to this section.	*(5) the term `supervised securities holding company' means a securities holding company that is supervised by the Board of Governors under this section; and*	
(3) OTHER BANKING TERMS- The terms `affiliate', `bank', `bank holding company', `company', `control', `savings association', and `subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.	*(6) the terms `affiliate', `bank', `bank holding company', `company', `control', `savings association', and `subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(4) INSURED BANK- The term `insured bank' has the same meaning as in section 13 of the Federal Deposit Insurance Act.	*(3) the term `insured bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);*	
(5) FOREIGN BANK- The term `foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.	*(2) the term `foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(b)(7));*	
(6) ASSOCIATED PERSONS- The terms `person associated with a securities holding company' and `associated person of a securities holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, a securities holding company.	*(1) the term `associated person of a securities holding company' means a person directly or indirectly controlling, controlled by, or under common control with, a securities holding company;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE II--CORPORATE AND FINANCIAL INSTITUTION COMPENSATION FAIRNESS ACT **SEC. 2001. SHORT TITLE.** This title may be cited as the `Corporate and Financial Institution Compensation Fairness Act of 2009'.	***TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES*** ***Subtitle E--Accountability and Executive Compensation***	
SEC. 2002. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION DISCLOSURES. Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection: `(i) Annual Shareholder Approval of Executive Compensation- `(1) ANNUAL VOTE- Any proxy or consent or authorization (the solicitation of which is subject to the rules of the Commission pursuant to subsection (a)) for an annual meeting of the shareholders to elect directors (or a special meeting in lieu of such meeting) where proxies are solicited in respect of any security registered under section 12 occurring on or after the date that is 6 months after the date on which final rules are issued under paragraph (4), shall provide for a separate shareholder vote to approve the compensation of executives as disclosed pursuant to the Commission's compensation disclosure rules for named executive officers (which disclosure shall include the compensation committee report, the compensation discussion and analysis, the compensation tables, and any related materials, to the extent required by such rules). The shareholder vote shall not be binding on the issuer or the board of directors and shall not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in such proxy materials related to executive compensation. `(2) SHAREHOLDER APPROVAL OF GOLDEN PARACHUTE COMPENSATION- `(A) DISCLOSURE- In any proxy or consent solicitation material (the solicitation of which is subject to the rules of the Commission pursuant to subsection (a)) for a meeting of the shareholders occurring on or	***SEC. 951. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION DISCLOSURES.*** *The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14 (15 U.S.C. 78n) the following:* ***`SEC. 14A. ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.***  *`(a) Separate Resolution Required- Any proxy or consent or authorization for an annual or other meeting of the shareholders occurring after the end of the 6-month period beginning on the date of enactment of this section, for which the proxy solicitation rules of the Commission require compensation disclosure, shall include a separate resolution subject to shareholder vote to approve the compensation of executives, as disclosed pursuant to section 229.402 of title 17, Code of Federal Regulations, or any successor thereto.* *`(b) Rule of Construction- The shareholder vote referred to in subsection (a) shall not be binding on the issuer or the board of directors of an issuer, and may not be construed--* *`(1) as overruling a decision by such issuer or board of directors;* *`(2) to create or imply any change to the fiduciary duties of such issuer or board of directors;* *`(3) to create or imply any additional fiduciary duties for such issuer or board of directors; or* *`(4) to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
after the date that is 6 months after the date on which final rules are issued under paragraph (4), at which shareholders are asked to approve an acquisition, merger, consolidation, or proposed sale or other disposition of all or substantially all the assets of an issuer, the person making such solicitation shall disclose in the proxy or consent solicitation material, in a clear and simple form in accordance with regulations to be promulgated by the Commission, any agreements or understandings that such person has with any named executive officers of such issuer (or of the acquiring issuer, if such issuer is not the acquiring issuer) concerning any type of compensation (whether present, deferred, or contingent) that is based on or otherwise relates to the acquisition, merger, consolidation, sale, or other disposition of all or substantially all of the assets of the issuer and the aggregate total of all such compensation that may (and the conditions upon which it may) be paid or become payable to or on behalf of such executive officer. `(B) SHAREHOLDER APPROVAL- Any proxy or consent or authorization relating to the proxy or consent solicitation material containing the disclosure required by subparagraph (A) shall provide for a separate shareholder vote to approve such agreements or understandings and compensation as disclosed, unless such agreements or understandings have been subject to a shareholder vote under paragraph (1). A vote by the shareholders shall not be binding on the issuer or the board of directors of the issuer or the person making the solicitation and shall not be construed as overruling a decision by any such person or issuer, nor to create or imply any additional fiduciary duty by any such person or issuer. `(3) DISCLOSURE OF VOTES- Every institutional investment manager subject to section 13(f) shall report at least annually how it voted on any shareholder vote pursuant to paragraph (1) or (2) of this section, unless such vote is otherwise required to be reported publicly by rule or regulation of the Commission. `(4) RULEMAKING- Not later than 6 months after the date of the enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, the Commission shall issue final rules to implement this subsection.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(5) EXEMPTION AUTHORITY- The Commission may exempt certain categories of issuers from the requirements of this subsection, where appropriate in view of the purpose of this subsection. In determining appropriate exemptions, the Commission shall take into account, among other considerations, the potential impact on smaller reporting issuers.'.		
SEC. 2003. COMPENSATION COMMITTEE INDEPENDENCE. (a) Standards Relating to Compensation Committees- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 10A the following new section:	***SEC. 952. COMPENSATION COMMITTEE INDEPENDENCE. SEC*** *The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended by inserting after section 10B, as added by section 753, the following:*	
**`SEC. 10B. STANDARDS RELATING TO COMPENSATION COMMITTEES.**  `(a) Commission Rules- `(1) IN GENERAL- Effective not later than 9 months after the date of enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any class of equity security of an issuer that is not in compliance with the requirements of any portion of subsections (b) through (f). `(2) OPPORTUNITY TO CURE DEFECTS- The rules of the Commission under paragraph (1) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under paragraph (1) before the imposition of such prohibition. `(3) EXEMPTION AUTHORITY- The Commission may exempt certain categories of issuers from the requirements of subsections (b) through (f), where appropriate in view of the purpose of this section. In determining appropriate exemptions, the Commission shall take into account, among other considerations, the potential impact on smaller reporting issuers.	*`(f) Commission Rules-* *`(1) IN GENERAL- Not later than 360 days after the date of enactment of this section, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of this section.* *`(2) OPPORTUNITY TO CURE DEFECTS- The rules of the Commission under paragraph (1) shall provide for appropriate procedures for an issuer to have a reasonable opportunity to cure any defects that would be the basis for the prohibition under paragraph (1), before the imposition of such prohibition.* *`(3) EXEMPTION AUTHORITY-* *`(A) IN GENERAL- The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a category of issuers from the requirements under this section, as the national securities exchange or the national securities association determines is appropriate.* *`(B) CONSIDERATIONS- In determining appropriate exemptions under subparagraph (A), the national securities exchange or the national securities association shall take into account the potential impact of the requirements of this section on smaller reporting issuers.'.*	
`(b) Independence of Compensation Committees- `(1) IN GENERAL- Each member of the compensation committee of the board of directors of the issuer shall be independent. `(2) CRITERIA- In order to be considered to be independent for	***SEC. 10C. COMPENSATION COMMITTEES.*** *`(a) Independence of Compensation Committees-* *`(1) LISTING STANDARDS- The Commission shall, by rule, direct the national securities exchanges and national securities*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
purposes of this subsection, a member of a compensation committee of an issuer may not, other than in his or her capacity as a member of the compensation committee, the board of directors, or any other board committee accept any consulting, advisory, or other compensatory fee from the issuer. `(3) EXEMPTION AUTHORITY- The Commission may exempt from the requirements of paragraph (2) a particular relationship with respect to compensation committee members, where appropriate in view of the purpose of this section. `(4) DEFINITION- As used in this section, the term `compensation committee' means-- `(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of determining and approving the compensation arrangements for the executive officers of the issuer; and `(B) if no such committee exists with respect to an issuer, the independent members of the entire board of directors.	*associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this subsection.* *`(2) INDEPENDENCE OF COMPENSATION COMMITTEES- The rules of the Commission under paragraph (1) shall require that each member of the compensation committee of the board of directors of an issuer be--* *`(A) a member of the board of directors of the issuer; and* *`(B) independent.* *`(3) INDEPENDENCE- The rules of the Commission under paragraph (1) shall require that, in determining the definition of the term `independence' for purposes of paragraph (2), the national securities exchanges and the national securities associations shall consider relevant factors, including--* *`(A) the source of compensation of a member of the board of directors of an issuer, including any consulting, advisory, or other compensatory fee paid by the issuer to such member of the board of directors; and* *`(B) whether a member of the board of directors of an issuer is affiliated with the issuer, a subsidiary of the issuer, or an affiliate of a subsidiary of the issuer.* *`(4) EXEMPTION AUTHORITY- The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a particular relationship from the requirements of paragraph (2), with respect to the members of a compensation committee, as the national securities exchange or national securities association determines is appropriate, taking into consideration the size of an issuer and any other relevant factors.*	
`(c) Independence Standards for Compensation Consultants and Other Committee Advisors- Any compensation consultant or other similar adviser to the compensation committee of any issuer shall meet standards for independence established by the Commission by regulation.	*`(b) Independence of Compensation Consultants and Other Compensation Committee Advisers-* *`(1) IN GENERAL- The compensation committee of an issuer may only select a compensation consultant, legal counsel, or other adviser to the compensation committee after taking into consideration the factors identified by the Commission under paragraph (2).* *`(2) RULES- The Commission shall identify factors that affect the independence of a compensation consultant, legal counsel, or other adviser to a compensation committee of an issuer, including--* *`(A) the provision of other services to the issuer by the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	person that employs the compensation consultant, legal counsel, or other adviser; *`(B) the amount of fees received from the issuer by the person that employs the compensation consultant, legal counsel, or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel, or other adviser;* *`(C) the policies and procedures of the person that employs the compensation consultant, legal counsel, or other adviser that are designed to prevent conflicts of interest;* *`(D) any business or personal relationship of the compensation consultant, legal counsel, or other adviser with a member of the compensation committee; and* *`(E) any stock of the issuer owned by the compensation consultant, legal counsel, or other adviser.*	
`(d) Compensation Committee Authority Relating to Compensation Consultants- `(1) IN GENERAL- The compensation committee of each issuer, in its capacity as a committee of the board of directors, shall have the authority, in its sole discretion, to retain and obtain the advice of a compensation consultant meeting the standards for independence promulgated pursuant to subsection (c), and the compensation committee shall be directly responsible for the appointment, compensation, and oversight of the work of such independent compensation consultant. This provision shall not be construed to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant, and shall not otherwise affect the compensation committee's ability or obligation to exercise its own judgment in fulfillment of its duties. `(2) DISCLOSURE- In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 1 year after the date of enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, each issuer shall disclose in the proxy or consent material, in accordance with regulations to be promulgated by the Commission whether the compensation committee of the issuer retained and obtained the advice of a compensation consultant	*`(c) Compensation Committee Authority Relating to Compensation Consultants-* *`(1) AUTHORITY TO RETAIN COMPENSATION CONSULTANT-* *`(A) IN GENERAL- The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain or obtain the advice of a compensation consultant.* *`(B) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE- The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of a compensation consultant.* *`(C) RULE OF CONSTRUCTION- This paragraph may not be construed--* *`(i) to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant; or* *`(ii) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.* *`(2) DISCLOSURE- In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
meeting the standards for independence promulgated pursuant to subsection (c). `(3) REGULATIONS- In promulgating regulations under this subsection or any other provision of law with respect to compensation consultants, the Commission shall ensure that such regulations are competitively neutral among categories of consultants and preserve the ability of compensation committees to retain the services of members of any such category.	*meeting in lieu of the annual meeting) occurring on or after the date that is 1 year after the date of enactment of this section, each issuer shall disclose in the proxy or consent material, in accordance with regulations of the Commission, whether--* *`(A) the compensation committee of the issuer retained or obtained the advice of a compensation consultant; and* *`(B) the work of the compensation consultant has raised any conflict of interest and, if so, the nature of the conflict and how the conflict is being addressed.*	
`(e) Authority To Engage Independent Counsel and Other Advisors- The compensation committee of each issuer, in its capacity as a committee of the board of directors, shall have the authority, in its sole discretion, to retain and obtain the advice of independent counsel and other advisers meeting the standards for *`(d)* independence promulgated pursuant to subsection (c), and the compensation committee shall be directly responsible for the appointment, compensation, and oversight of the work of such independent counsel and other advisers. This provision shall not be construed to require the compensation committee to implement or act consistently with the advice or recommendations of such independent counsel and other advisers, and shall not otherwise affect the compensation committee's ability or obligation to exercise its own judgment in fulfillment of its duties.	*(d) Authority To Engage Independent Legal Counsel and Other Advisers-* *`(1) IN GENERAL- The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain and obtain the advice of independent legal counsel and other advisers.* *`(2) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE- The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of independent legal counsel and other advisers.* *`(3) RULE OF CONSTRUCTION- This subsection may not be construed--* *`(A) to require a compensation committee to implement or act consistently with the advice or recommendations of independent legal counsel or other advisers under this subsection; or* *`(B) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.*	
`(f) Funding- Each issuer shall provide for appropriate funding, as determined by the compensation committee, in its capacity as a committee of the board of directors, for payment of compensation-- `(1) to any compensation consultant to the compensation committee that meets the standards for independence promulgated pursuant to subsection (c); and `(2) to any independent counsel or other adviser to the compensation committee.'.	*`(e) Compensation of Compensation Consultants, Independent Legal Counsel, and Other Advisers- Each issuer shall provide for appropriate funding, as determined by the compensation committee in its capacity as a committee of the board of directors, for payment of reasonable compensation--* *`(1) to a compensation consultant; and* *`(2) to independent legal counsel or any other adviser to the compensation committee.*	
(b) Study and Review Required- (1) IN GENERAL- The Securities and Exchange Commission shall conduct a study and review of the use of compensation consultants meeting the standards for independence promulgated pursuant to section 10B(c) of the Securities		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Exchange Act of 1934 (as added by subsection (a)), and the effects of such use. (2) REPORT TO CONGRESS- Not later than 2 years after the rules required by the amendment made by this section take effect, the Commission shall submit a report to the Congress on the results of the study and review required by this paragraph.		
SEC. 2004. ENHANCED COMPENSATION STRUCTURE REPORTING TO REDUCE PERVERSE INCENTIVES. (a) Enhanced Disclosure and Reporting of Compensation Arrangements- (1) IN GENERAL- Not later than 9 months after the date of enactment of this title, the appropriate Federal regulators jointly shall prescribe regulations to require each covered financial institution to disclose to the appropriate Federal regulator the structures of all incentive-based compensation arrangements offered by such covered financial institutions sufficient to determine whether the compensation structure-- (A) is aligned with sound risk management; (B) is structured to account for the time horizon of risks; and (C) meets such other criteria as the appropriate Federal regulators jointly may determine to be appropriate to reduce unreasonable incentives offered by such institutions for employees to take undue risks that-- (i) could threaten the safety and soundness of covered financial institutions; or (ii) could have serious adverse effects on economic conditions or financial stability. (2) RULES OF CONSTRUCTION- Nothing in this subsection shall be construed as requiring the reporting of the actual compensation of particular individuals. Nothing in this subsection shall be construed to require a covered financial institution that does not have an incentive-based payment arrangement to make the disclosures required under this subsection.		
(b) Prohibition on Certain Compensation Arrangements- Not later than 9 months after the date of enactment of this title, and taking into account the factors described in subparagraphs (A), (B), and (C) of subsection (a)(1), the appropriate Federal regulators shall jointly prescribe regulations that prohibit any incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
encourages inappropriate risks by covered financial institutions that-- (1) could threaten the safety and soundness of covered financial institutions; or (2) could have serious adverse effects on economic conditions or financial stability.		
(c) Enforcement- The provisions of this section shall be enforced under section 505 of the Gramm-Leach-Bliley Act and, for purposes of such section, a violation of this section shall be treated as a violation of subtitle A of title V of such Act. (d) Definitions- As used in this section-- (1) the term `appropriate Federal regulator' means-- (A) the Board of Governors of the Federal Reserve System; (B) the Office of the Comptroller of the Currency; (C) the Board of Directors of the Federal Deposit Insurance Corporation; (D) the Director of the Office of Thrift Supervision; (E) the National Credit Union Administration Board; (F) the Securities and Exchange Commission; and (G) the Federal Housing Finance Agency; and (2) the term `covered financial institution' means-- (A) a depository institution or depository institution holding company, as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); (B) a broker-dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o); (C) a credit union, as described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; (D) an investment advisor, as such term is defined in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)); (E) the Federal National Mortgage Association; (F) the Federal Home Loan Mortgage Corporation; and (G) any other financial institution that the appropriate Federal regulators, jointly, by rule, determine should be treated as a covered financial institution for purposes of this section.		
(e) Exemption for Certain Financial Institutions- The requirements of this section shall not apply to covered financial institutions with assets of less than $1,000,000,000.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(f) Limitation- No regulation promulgated pursuant to this section shall be allowed to require the recovery of incentive-based compensation under compensation arrangements in effect on the date of enactment of this title, provided such compensation agreements are for a period of no more than 24 months. Nothing in this title shall prevent or limit the recovery of incentive-based compensation under any other applicable law.		
(g) GAO Study- (1) STUDY REQUIRED- (A) IN GENERAL- The Comptroller General of the United States shall carry out a study to determine whether there is a correlation between compensation structures and excessive risk taking. (B) FACTORS TO CONSIDER- In carrying out the study required under subparagraph (A), the Comptroller General shall-- (i) consider compensation structures used by companies from 2000 to 2008; and (ii) compare companies that failed, or nearly failed but for government assistance, to companies that remained viable throughout the housing and credit market crisis of 2007 and 2008, including the compensation practices of all such companies. (C) DETERMINING COMPANIES THAT FAILED OR NEARLY FAILED- In determining whether a company failed, or nearly failed but for government assistance, for purposes of subparagraph (B)(ii), the Comptroller General shall focus on-- (i) companies that received exceptional assistance under the Troubled Asset Relief Program under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) or other forms of significant government assistance, including under the Automotive Industry Financing Program, the Targeted Investment Program, the Asset Guarantee Program, and the Systemically Significant Failing Institutions Program; (ii) the Federal National Mortgage		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Association; (iii) the Federal Home Loan Mortgage Corporation; and (iv) companies that participated in the Security and Exchange Commission's Consolidated Supervised Entities Program as of January 2008. (2) REPORT- Not later than the end of the 1-year period beginning on the date of the enactment of this title, the Comptroller General shall issue a report to the Congress containing the results of the study required under paragraph (1).		
	SEC. 953. EXECUTIVE COMPENSATION DISCLOSURES. *(a) Disclosure of Pay Versus Performance- Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:* *`(i) Disclosure of Pay Versus Performance- The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer a clear description of any compensation required to be disclosed by the issuer under section 229.402 of title 17, Code of Federal Regulations (or any successor thereto), including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions. The disclosure under this subsection may include a graphic representation of the information required to be disclosed.'.* *(b) Additional Disclosure Requirements-* *(1) IN GENERAL- The Commission shall amend section 229.402 of title 17, Code of Federal Regulations, to require each issuer to disclose in any filing of the issuer described in section 229.10(a) of title 17, Code of Federal Regulations (or any successor thereto)--* *(A) the median of the annual total compensation of all employees of the issuer, except the chief executive officer (or any equivalent position) of the issuer;* *(B) the annual total compensation of the chief executive officer (or any equivalent position) of the issuer; and* *(C) the ratio of the amount described in subparagraph (A) to the amount described in subparagraph (B).* *(2) TOTAL COMPENSATION- For purposes of this subsection, the total compensation of an employee of an issuer shall be*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.	
	SEC. 954. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION. *The Securities Exchange Act of 1934 is amended by inserting after section 10C, as added by section 952, the following:* ***`SEC. 10D. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION POLICY.***  *`(a) Listing Standards- The Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this section.* *`(b) Recovery of Funds- The rules of the Commission under subsection (a) shall require each issuer to develop and implement a policy providing--* *`(1) for disclosure of the policy of the issuer on incentive-based compensation that is based on financial information required to be reported under the securities laws; and* *`(2) that, in the event that the issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws, the issuer will recover from any current or former executive officer of the issuer who received incentive-based compensation (including stock options awarded as compensation) during the 3-year period preceding the date on which the issuer is required to prepare an accounting restatement, based on the erroneous data, in excess of what would have been paid to the executive officer under the accounting restatement.'.*	
	SEC. 955. DISCLOSURE REGARDING EMPLOYEE AND DIRECTOR HEDGING. *Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:* *`(j) Disclosure of Hedging by Employees and Directors- The Commission shall, by rule, require each issuer to disclose in any proxy or consent*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	solicitation material for an annual meeting of the shareholders of the issuer whether any employee or member of the board of directors of the issuer, or any designee of such employee or member, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) that are designed to hedge or offset any decrease in the market value of equity securities-- *`(1) granted to the employee or member of the board of directors by the issuer as part of the compensation of the employee or Smember of the board of directors; or* *`(2) held, directly or indirectly, by the employee or member of the board of directors.'.*	
	SEC. 956. EXCESSIVE COMPENSATION BY HOLDING COMPANIES OF DEPOSITORY INSTITUTIONS. *Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:* *`(i) Excessive Compensation-* *`(1) IN GENERAL- Not later than 180 days after the transfer date established under section 311 of the Restoring American Financial Stability Act of 2010, the Board of Governors, in consultation with the Comptroller of the Currency and the Federal Deposit Insurance Corporation, shall, by rule, establish standards prohibiting as an unsafe and unsound practice any compensation plan of a bank holding company that--* *`(A) provides an executive officer, employee, director, or principal shareholder of the bank holding company with excessive compensation, fees, or benefits; or* *`(B) could lead to material financial loss to the bank holding company.* *`(2) CONSIDERATIONS- In establishing the standards under paragraph (1), the Board of Governors shall take into consideration the compensation standards described in section 39(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(c)) and the views and recommendations of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.'.*	
	SEC. 957. VOTING BY BROKERS. *Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) in paragraph (9)-- *(A) in subparagraph (A), by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively, and adjusting the margins accordingly;* *(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the margins accordingly;* *(C) by inserting `(A)' after `(9)'; and* *(D) in the matter immediately following clause (iv), as so redesignated, by striking `As used' and inserting the following:* *`(B) As used'.* *(2) by adding at the end the following:* *`(10)(A) The rules of the exchange prohibit any member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote described in subparagraph (B), unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner.* *`(B) A shareholder vote described in this subparagraph is a shareholder vote with respect to the election of a member of the board of directors of an issuer, executive compensation, or any other significant matter, as determined by the Commission, by rule.* *`(C) Nothing in this paragraph shall be construed to prohibit a national securities exchange from prohibiting a member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote not described in subparagraph (A).'.*	
	TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES ***Subtitle G--Strengthening Corporate Governance***	
	SEC. 971. ELECTION OF DIRECTORS BY MAJORITY VOTE IN UNCONTESTED ELECTIONS.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following: ***`SEC. 14B. CORPORATE GOVERNANCE.***  *`(a) Corporate Governance Standards-* *`(1) LISTING STANDARDS-* *`(A) IN GENERAL- Not later than 1 year after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with any of the requirements of this subsection.* *`(B) OPPORTUNITY TO COMPLY AND CURE- The rules established under this paragraph shall allow an issuer to have an opportunity to come into compliance with the requirements of this subsection, and to cure any defect that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.* *`(C) AUTHORITY TO EXEMPT- The Commission may, by rule or order, exempt an issuer from any or all of the requirements of this subsection and the rules issued under this subsection, based on the size of the issuer, the market capitalization of the issuer, the number of shareholders of record of the issuer, or any other criteria, as the Commission deems necessary and appropriate in the public interest or for the protection of investors.* *`(2) COMMISSION RULES ON ELECTIONS- In an election for membership on the board of directors of an issuer--* *`(A) that is uncontested, each director who receives a majority of the votes cast shall be deemed to be elected;* *`(B) that is contested, if the number of nominees exceeds the number of directors to be elected, each director shall be elected by the vote of a plurality of the shares represented at a meeting and entitled to vote; and* *`(C) if a director of an issuer receives less than a majority of the votes cast in an uncontested election--* *`(i) the director shall tender the resignation of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the director to the board of directors; and *`(ii) the board of directors--* *`(I) shall--* *`(aa) accept the resignation of the director;*  *`(bb) determine a date on which the resignation will take effect, within a reasonable period of time, as established by the Commission; and* *`(cc) make the date under item (bb) public within a reasonable period of time, as established by the Commission; or*  *`(II) shall, upon a unanimous vote of the board, decline to accept the resignation and, not later than 30 days after the date of the vote (or within such shorter period as the Commission may establish), make public, together with a discussion of the analysis used in reaching the conclusion, the specific reasons that--* *`(aa) the board chose not to accept the resignation; and*  *`(bb) the decision was in the best interests of the issuer and the shareholders of the issuer.'.*	
	SEC. 972. PROXY ACCESS. *(a) Proxy Access- Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended--* *(1) by inserting `(1)' after `(a)'; and* *(2) by adding at the end the following:* *`(2) The rules and regulations prescribed by the Commission under paragraph (1) may include--* *`(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).'. *(b) Regulations- The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.*	
	SEC. 973. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES. *Section 14B of the Securities Exchange Act of 1934, as added by section 971, is amended by adding at the end the following:* *`(b) Disclosures Regarding Chairman and CEO Structures- Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules that require an issuer to disclose in the annual proxy sent to investors the reasons why the issuer has chosen--* *`(1) the same person to serve as chairman of the board of directors and chief executive officer (or in equivalent positions); or* *`(2) different individuals to serve as chairman of the board of directors and chief executive officer (or in equivalent positions of the issuer).'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE III--DERIVATIVE MARKETS TRANSPARENCY AND ACCOUNTABILITY ACT **SEC. 3001. SHORT TITLE.** This title may be cited as the `Derivative Markets Transparency and Accountability Act of 2009'.	***TITLE VII--WALL STREET TRANSPARENCY AND ACCOUNTABILITY*** ***SEC. 701. SHORT TITLE.*** *This title may be cited as the `Wall Street Transparency and Accountability Act of 2010'.* ***Subtitle A--Regulation of Over-the-Counter Swaps Markets***	
SEC. 3002. REVIEW OF REGULATORY AUTHORITY. (a) Consultation- (1) CFTC- Before commencing any rulemaking or issuing an order regarding swaps, swap dealers, major swap participants, swap repositories, persons associated with a swap dealer or major swap participant, eligible contract participants, or swap execution facilities pursuant to subtitle A, the Commodity Futures Trading Commission shall consult with the Securities and Exchange Commission and the Prudential Regulators. (2) SEC- Before commencing any rulemaking or issuing an order regarding security-based swaps, security-based swap dealers, major security-based swap participants, security-based swap repositories, persons associated with a security-based swap dealer or major security-based swap participant, eligible contract participants with regard to security-based swaps, or swap execution facilities pursuant to subtitle B, the Securities and Exchange Commission shall consult with the Commodity Futures Trading Commission and the Prudential Regulators. (3) In developing and promulgating rules or orders pursuant to this subsection, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall consider each other's views and the views of the Prudential Regulators. (4) In adopting a rule or order described in paragraph (1) or (2), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall treat functionally or economically similar products or entities similarly. (5) Paragraph (4) shall not be construed to require the Commodity Futures Trading Commission or the Securities Exchange Commission to adopt a rule or order that treats functionally or economically similar products or entities identically.	**PART I--REGULATORY AUTHORITY** ***SEC. 712. REVIEW OF REGULATORY AUTHORITY.*** *(a) Regulatory Authority-* *(1) IN GENERAL- Except as provided in paragraphs (4) and (8), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall each prescribe such regulations as may be necessary to carry out the purposes of this title.* *(2) COORDINATION, CONSISTENCY, AND COMPARABILITY- Both Commissions required under paragraph (1) to prescribe regulations shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such Commission are consistent and comparable with the regulations prescribed by the other.* *(3) PROCEDURES AND DEADLINE- Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States Code, and, shall be issued in final form not later than 180 days after the date of enactment of this Act.* *(4) APPLICABILITY- The requirements of paragraph (1) shall not apply to an order issued--* *(A) in connection with or arising from a violation or potential violation of any provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.);* *(B) in connection with or arising from a violation or potential violation of any provision of the securities laws; or* *(C) in any proceeding that is conducted on the record*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	in accordance with sections 556 and 557 of title 5, United States Code. *(5) EFFECT- Nothing in this subsection authorizes any consultation or procedure for consultation that is not consistent with the requirements of subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the `Administrative Procedure Act').* *(6) RULES; ORDERS- In developing and promulgating rules or orders pursuant to this subsection, each Commission shall consider the views of the prudential regulators.* *(7) TREATMENT OF SIMILAR PRODUCTS AND ENTITIES-* *(A) IN GENERAL- In adopting rules and orders under this subsection, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall treat functionally or economically similar products or entities described in paragraphs (1) and (2) in a similar manner.* *(B) EFFECT- Nothing in this subtitle requires the Commodity Futures Trading Commission or the Securities and Exchange Commission to adopt joint rules or orders that treat functionally or economically similar products or entities described in paragraphs (1) and (2) in an identical manner.* *(8) MIXED SWAPS- The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly prescribe such regulations regarding mixed swaps, as described in section 1a(47)(D) of the Commodity Exchange Act (7 U.S.C. 1a(47)(D)) and in section (68)(D) of the Securities Exchange Act of 1934 (15 U.S.C. (68)(D)), as may be necessary to carry out the purposes of this title.*	
(b) Limitation- (1) CFTC- Nothing in this title, unless specifically provided, shall be construed to confer jurisdiction on the Commodity Futures Trading Commission to issue a rule, regulation, or order providing for oversight or regulation of-- (A) security-based swaps; or (B) with regard to their activities or functions concerning security-based swaps-- (i) security-based swap dealers; (ii) major security-based swap participants; (iii) security-based swap repositories; (iv) persons associated with a security-based swap dealer or major security-based swap	*(b) Limitation-* *(1) COMMODITY FUTURES TRADING COMMISSION- Nothing in this title, unless specifically provided, confers jurisdiction on the Commodity Futures Trading Commission to issue a rule, regulation, or order providing for oversight or regulation of--* *(A) security-based swaps; or* *(B) with regard to its activities or functions concerning security-based swaps--* *(i) security-based swap dealers;* *(ii) major security-based swap participants;* *(iii) security-based swap data repositories;* *(iv) persons associated with a security-based*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
participant; (v) eligible contract participants with respect to security-based swaps; or (vi) swap execution facilities. (2) SEC- Nothing in this title, unless specifically provided, shall be construed to confer jurisdiction on the Securities and Exchange Commission to issue a rule, regulation, or order providing for oversight or regulation of-- (A) swaps; or (B) with regard to their activities or functions concerning swaps-- (i) swap dealers; (ii) major swap participants; (iii) swap repositories; (iv) persons associated with a swap dealer or major swap participant; (v) eligible contract participants with respect to swaps; or (vi) swap execution facilities.	*swap dealer or major security-based swap participant;* *(v) eligible contract participants with respect to security-based swaps; or* *(vi) swap execution facilities with respect to security-based swaps.* *(2) SECURITIES AND EXCHANGE COMMISSION- Nothing in this title, unless specifically provided, confers jurisdiction on the Securities and Exchange Commission or State securities regulators to issue a rule, regulation, or order providing for oversight or regulation of--* *(A) swaps; or* *(B) with regard to its activities or functions concerning swaps--* *(i) swap dealers;* *(ii) major swap participants;* *(iii) swap data repositories;* *(iv) persons associated with a swap dealer or major swap participant;* *(v) eligible contract participants with respect to swaps; or* *(vi) swap execution facilities with respect to swaps.* *(3) PROHIBITION ON CERTAIN FUTURES ASSOCIATIONS AND NATIONAL SECURITIES ASSOCIATIONS-* *(A) FUTURES ASSOCIATIONS- Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert jurisdiction over, for any purpose, any security-based swap, except that this shall not limit the authority of a national futures association to examine for compliance with and enforce its rules on advertising and capital adequacy.* *(B) NATIONAL SECURITIES ASSOCIATIONS- Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	jurisdiction over, for any purpose, any swap, except that this shall not limit the authority of a national securities association to examine for compliance with and enforce its rules on advertising and capital adequacy.	
(c) Objection to Commission Regulation- (1) FILING OF PETITION FOR REVIEW- If either Commission referred to in this section believes that a final rule, regulation, or order of the other such Commission conflicts with subsection (a)(4) or (b), then the complaining Commission may obtain review thereof in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the final rule, regulation, or order, a written petition requesting that the rule, regulation, or order be set aside. Any such proceeding shall be expedited by the Court of Appeals.	*(c) Objection to Commission Regulation-* *(1) FILING OF PETITION FOR REVIEW-* *(A) IN GENERAL- If either Commission referred to in this section determines that a final rule, regulation, or order of the other Commission conflicts with subsection (a)(4) or (b), then the complaining Commission may obtain review of the final rule, regulation, or order in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the final rule, regulation, or order, a written petition requesting that the rule, regulation, or order be set aside.* *(B) EXPEDITED PROCEEDING- A proceeding described in subparagraph (A) shall be expedited by the United States Court of Appeals for the District of Columbia Circuit.*	
(2) TRANSMITTAL OF PETITION AND RECORD- A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after filing by the complaining Commission to the Secretary of the responding Commission. On receipt of the petition, the responding Commission shall file with the court a copy of the rule, regulation, or order under review and any documents referred to therein, and any other materials prescribed by the court.	*(2) TRANSMITTAL OF PETITION AND RECORD-* *(A) IN GENERAL- A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after the date of filing by the complaining Commission to the Secretary of the responding Commission.* *(B) DUTY OF RESPONDING COMMISSION- On receipt of the copy of a petition described in paragraph (1), the responding Commission shall file with the United States Court of Appeals for the District of Columbia Circuit--* *(i) a copy of the rule, regulation, or order under review (including any documents referred to therein); and* *(ii) any other materials prescribed by the United States Court of Appeals for the District of Columbia Circuit.*	
(3) STANDARD OF REVIEW- The court, giving deference to the views of neither Commission, shall determine to affirm or	*(3) STANDARD OF REVIEW- The United States Court of Appeals for the District of Columbia Circuit shall--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
set aside a rule, regulation, or order of the responding Commission under this subsection, based on the determination of the court, as to whether the rule, regulation, or order is in conflict with subsection (a)(4) or (b), as applicable.	*(A) give deference to the views of neither Commission; and* *(B) determine to affirm or set aside a rule, regulation, or order of the responding Commission under this subsection, based on the determination of the court as to whether the rule, regulation, or order is in conflict with subsection (a)(4) or (b), as applicable.*	
(4) JUDICIAL STAY- The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the rule, regulation, or order, until the date on which the determination of the court is final (including any appeal of the determination).	*(4) JUDICIAL STAY- The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the rule, regulation, or order until the date on which the determination of the United States Court of Appeals for the District of Columbia Circuit is final (including any appeal of the determination).*	
	(d) Adoption of Rules on Uncleared Swaps- Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall, after consulting with each other Commission, adopt rules-- *(1) to require the maintenance of records of all activities relating to transactions in swaps and security-based swaps under the respective jurisdictions of the Commodity Futures Trading Commission and the Securities and Exchange Commission that are uncleared;* *(2) to make available, consistent with section 8 of the Commodity Exchange Act (7 U.S.C. 12), to the Securities and Exchange Commission information relating to swaps transactions that are uncleared; and* *(3) to make available to the Commodity Futures Trading Commission information relating to security-based swaps transactions that are uncleared.*	
(d) Definitions- In this section, the terms `Prudential Regulators', `swap', `swap dealer', `major swap participant', `swap repository', `person associated with a swap dealer or major swap participant', `eligible contract participant', `swap execution facility', `security-based swap', `security-based swap dealer', `major security-based swap participant', `security-based swap repository', and `person associated with a security-based swap dealer or major security-based swap participant' shall have the meanings provided, respectively, in the Commodity Exchange Act, including any modification of the meanings under section 3101(b) of this Act.	***SEC. 711. DEFINITIONS.*** *In this subtitle, the terms `prudential regulator', `swap', `swap dealer', `major swap participant', `swap data repository', `associated person of a swap dealer or major swap participant', `eligible contract participant', `swap execution facility', `security-based swap', `security-based swap dealer', `major security-based swap participant', `swap data repository', and `associated person of a security-based swap dealer or major security-based swap participant' have the meanings given the terms in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	
(e)(1) Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities Exchange Commission shall	***SEC. 712. REVIEW OF REGULATORY AUTHORITY.(cont.)***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
jointly adopt rules to-- (A) define the terms `security-based swap agreement' in section 3(a)(76) of the Securities Exchange Act of 1934 and `swap' in section 1a(35)(A)(v) of the Commodity Exchange Act; (B) require the maintenance of records of all activities related to transactions defined in subparagraph (A) that are not cleared; and (C) make available to the Securities and Exchange Commission information relating to transactions defined in subparagraph (A) that are uncleared.	*(e) Definitions- Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly adopt rules to define the term `security-based swap agreement' in section 1a(47)(A)(v) of the Commodity Exchange Act (7 U.S.C. 1a(47)(A)(v)) and in section 3(a)(78) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(78)).*	
(2) In the event that the Commodity Futures Trading Commission and the Securities Exchange Commission fail to jointly prescribe rules pursuant to paragraph (1) in a timely manner, at the request of either Commission, the Financial Services Oversight Council shall resolve the dispute-- (A) within a reasonable time after receiving the request; (B) after consideration of relevant information provided by each Commission; and (C) by agreeing with one of the Commissions regarding the entirety of the matter or by determining a compromise position.	*(f) Global Rulemaking Timeframe- Unless otherwise provided in a particular provision of this title, or an amendment made by this title, the Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, shall individually, and not jointly, promulgate rules and regulations required of each Commission under this title or an amendment made by this title not later than 180 days after the date of enactment of this Act.* *(g) Expedited Rulemaking Process- The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, may use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this title and the amendments made by this title if, in either of the Commissions' discretion, it considers it necessary to do so.*	
SEC. 3003. INTERNATIONAL HARMONIZATION. (a) In order to promote effective and consistent global regulation of contracts of sale of swaps and security-based swaps, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Prudential Regulators (as defined in section 1a(42) of the Commodity Exchange Act), as appropriate, shall consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of contracts of sale of swaps and security-based swaps, and may agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors, swap counterparties, and security-based swap counterparties. (b) In order to promote effective and consistent global regulation of contracts of sale of a commodity for future delivery, the Commodity Futures Trading Commission shall consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of contracts of sale of a	***SEC. 752. INTERNATIONAL HARMONIZATION.*** *In order to promote effective and consistent global regulation of swaps and security-based swaps, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Financial Stability Oversight Council, and the Treasury Department--* *(1) shall, both individually and collectively, consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of such swaps; and* *(2) may, both individually and collectively, agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors and swap counterparties.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
commodity for future delivery, and may agree to such information-sharing arrangements as may be deemed necessary or appropriate in the public interest for the protection users of contracts of sale of a commodity for future delivery.		
SEC. 3004. PROHIBITION AGAINST GOVERNMENT ASSISTANCE. (a) In General- No provision of this title shall be construed to authorize Federal assistance to support clearing operations or liquidation of a derivatives clearing organization described in the Commodity Exchange Act or a clearing agency described in the Securities Exchange Act of 1934, except where explicitly authorized by an Act of Congress. (b) Definition- For the purposes of this section, the term `Federal assistance' means the use of public funds for the purposes of-- (1) making loans to, or purchasing any debt obligation of, a derivatives clearing organization, a clearing agency, or a subsidiary of either; (2) purchasing assets of a derivatives clearing organization, a clearing agency, or a subsidiary of either; (3) assuming or guaranteeing the obligations of a derivatives clearing organization, a clearing agency, or a subsidiary of either; or (4) acquiring any type of equity interest or security of a derivatives clearing organization, a clearing agency, or a subsidiary of either.	***SEC. 716. PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF SWAPS ENTITIES.*** *(a) Prohibition on Federal Assistance- Notwithstanding any other provision of law (including regulations), no Federal assistance may be provided to any swaps entity with respect to any swap, security-based swap, or other activity of the swaps entity.* *(b) Definitions- In this section:* *(1) FEDERAL ASSISTANCE- The term `Federal assistance' means the use of any funds, including advances from any Federal Reserve credit facility, discount window, or pursuant to the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority), Federal Deposit Insurance Corporation insurance, or guarantees for the purpose of--* *(A) making any loan to, or purchasing any stock, equity interest, or debt obligation of, any swaps entity;* *(B) purchasing the assets of any swaps entity;* *(C) guaranteeing any loan or debt issuance of any swaps entity; or* *(D) entering into any assistance arrangement (including tax breaks), loss sharing, or profit sharing with any swaps entity.* *(2) SWAPS ENTITY- The term `swaps entity' means any swap dealer, security-based swap dealer, major swap participant, major security-based swap participant, swap execution facility, designated contract market, national securities exchange, central counterparty, clearing house, clearing agency, or derivatives clearing organization that is registered under--* *(A) the Commodity Exchange Act (7 U.S.C. 1 et seq.);* *(B) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or* *(C) any other Federal or State law (including regulations).*	
SEC. 3005. STUDIES.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(a) Study on Effects of Position Limits on Trading on Exchanges in the United States- (1) STUDY- The Commodity Futures Trading Commission, in consultation with each entity that is a designated contract market under the Commodity Exchange Act, shall conduct a study of the effects (if any) of the position limits imposed pursuant to the other provisions of this title on excessive speculation and on the movement of transactions from exchanges in the United States to trading venues outside the United States. (2) REPORT TO THE CONGRESS- Within 12 months after the imposition of position limits pursuant to the other provisions of this title, the Commodity Futures Trading Commission, in consultation with each entity that is a designated contract market under the Commodity Exchange Act, shall submit to the Congress a report on the matters described in paragraph (1). (3) Within 30 legislative days after the submission to the Congress of the report described in paragraph (2), the Committee on Agriculture of the House of Representatives shall hold a hearing examining the findings of the report. (4) In addition to the study required in paragraph (1), the Chairman of the Commodity Futures Trading Commission shall prepare and submit to the Congress biennial reports on the growth or decline of the derivatives markets in the United States and abroad, which shall include assessments of the causes of any such growth or decline, the effectiveness of regulatory regimes in managing systemic risk, a comparison of the costs of compliance at the time of the report for market participants subject to regulation by the United States with the costs of compliance in December 2008 for the market participants, and the quality of the available data. In preparing the report, the Chairman shall solicit the views of, consult with, and address the concerns raised by, market participants, regulators, legislators, and other interested parties. (b) Study on Feasibility of Requiring Use of Standardized Algorithmic Descriptions for Financial Derivatives- (1) IN GENERAL- The Securities and Exchange Commission and the Commodity Futures Trading Commission shall conduct a joint study of the feasibility of requiring the derivatives industry to adopt standardized computer-readable algorithmic descriptions which may be used to describe complex and standardized financial derivatives. (2) GOALS- The algorithmic descriptions defined in the study shall be designed to facilitate computerized analysis of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
individual derivative contracts and to calculate net exposures to complex derivatives. The algorithmic descriptions shall be optimized for simultaneous use by: (A) commercial users and traders of derivatives; (B) derivative clearing houses, exchanges and electronic trading platforms; (C) trade repositories and regulator investigations of market activities; and (D) systemic risk regulators. The study will also examine the extent to which the algorithmic description, together with standardized and extensible legal definitions, may serve as the binding legal definition of derivative contracts. The study will examine the logistics of possible implementations of standardized algorithmic descriptions for derivatives contracts. The study shall be limited to electronic formats for exchange of derivative contract descriptions and will not contemplate disclosure of proprietary valuation models. (3) INTERNATIONAL COORDINATION- In conducting the study, the Securities and Exchange Commission and the Commodity Futures Trading Commission shall coordinate the study with international financial institutions and regulators as appropriate and practical. (4) REPORT- Within 8 months after the date of the enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission shall jointly submit to the Committees on Agriculture and on Financial Services of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and on Banking, Housing, and Urban Affairs of the Senate a written report which contains the results of the study required by paragraphs (1) through (3). (c) Study of Desirability and Feasibility of Establishing Single Regulator for All Transactions Involving Financial Derivatives- (1) IN GENERAL- The Secretary of the Treasury, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall conduct a joint study of the desirability and feasibility of establishing, by January 1, 2012, a single regulator for all transactions involving financial derivatives. (2) REPORT TO THE CONGRESS- Not later than December 1, 2010, Secretary of the Treasury, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall jointly submit to the Committees on		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Agriculture and on Financial Services of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and on Banking, Housing, and Urban Affairs of the Senate a written report that contains the results of the study required by paragraph (1).		
SEC. 3006. RECOMMENDATIONS FOR CHANGES TO INSOLVENCY LAWS. Not later than 180 days after the date of the enactment of this Act, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Prudential Regulators (as defined in section 1a of the Commodity Exchange Act, as amended by section 3111 of this Act) shall transmit to Congress recommendations for legislative changes to the Federal insolvency laws-- (1) in order to enhance the legal certainty with respect to swap participants clearing non-proprietary swap positions with a swap clearinghouse, including-- (A) customer rights to recover margin deposits or custodial property held at or through an insolvent swap clearinghouse, or clearing participant; and (B) the enforceability of clearing rules relating to the portability of customer swap positions (and associated margin) upon the insolvency of a clearing participant; (2) to clarify and harmonize the insolvency law framework applicable to entities that are both commodity brokers (as defined in section 101(6) of title 11, United States Code) and registered brokers or dealers (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))); and (3) to facilitate the portfolio margining of securities and commodity futures and options positions held through entities that are both futures commission merchants (as defined in section 1a of the Commodity Exchange Act) and registered brokers or dealers (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).	***SEC. 713. RECOMMENDATIONS FOR CHANGES TO PORTFOLIO MARGINING LAWS.*** *Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators shall submit to the appropriate committees of Congress recommendations for legislative changes to the Federal laws to facilitate the portfolio margining of securities and commodity futures and options, commodity options, swaps, and other financial instrument positions.*	
SEC. 3007. ABUSIVE SWAPS. The Commodity Futures Trading Commission and the Securities and Exchange Commission may, by rule or order, jointly collect information as may be necessary concerning the markets for any types of swap (as defined in section 1a(35) of the Commodity Exchange Act) or security-	***SEC. 714. ABUSIVE SWAPS.*** *The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, individually may, by rule or order--* *(1) collect information as may be necessary concerning the markets for any types of--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
based swap (as defined in section 1a(38) of such Act) and jointly issue a report with respect to any types of swaps or security-based swaps which the Commodity Futures Trading Commission and the Securities and Exchange Commission find are detrimental to the stability of a financial market or of participants in a financial market.	*(A) swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or* *(B) security-based swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); and* *(2) issue a report with respect to any types of swaps or security-based swaps that the Commodity Futures Trading Commission or the Securities and Exchange Commission determines to be detrimental to--* *(A) the stability of a financial market; or* *(B) participants in a financial market.*	
SEC. 3008. AUTHORITY TO PROHIBIT PARTICIPATION IN SWAP ACTIVITIES. If the Commodity Futures Trading Commission or the Securities and Exchange Commission determines that the regulation of swaps or security-based swaps markets in a foreign country undermines the stability of the United States financial system, either Commission, in consultation with the Secretary of the Treasury, may prohibit an entity domiciled in that country from participating in the United States in any swap or security-based swap activities.	***SEC. 715. AUTHORITY TO PROHIBIT PARTICIPATION IN SWAP ACTIVITIES.*** *Except as provided in section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 738), if the Commodity Futures Trading Commission or the Securities and Exchange Commission determines that the regulation of swaps or security-based swaps markets in a foreign country undermines the stability of the United States financial system, either Commission, in consultation with the Secretary of the Treasury, may prohibit an entity domiciled in the foreign country from participating in the United States in any swap or security-based swap activities.*	
SEC. 3009. MEMORANDUM. (a)(1) The Commodity Futures Trading Commission and the Federal Energy Regulatory Commission shall, not later than 180 days after the date of the enactment of this section, negotiate a memorandum of understanding to establish procedures for-- (A) applying their respective authorities in a manner so as to ensure effective and efficient regulation in the public interest; (B) resolving conflicts concerning overlapping jurisdiction between the two agencies; and (C) avoiding, to the extent possible, conflicting or duplicative regulation. (2) Such memorandum and any subsequent amendments to the memorandum shall be promptly submitted to the appropriate committees of Congress. (b) The Commodity Futures Trading Commission and the Federal Energy Regulatory Commission shall, not later than 180 days after the date of the enactment of this section, negotiate a memorandum of understanding to share information that may be requested where either Commission is conducting an investigation into potential manipulation,	***SEC. 722. JURISDICTION.*** *(e) Just and Reasonable Rates- Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) (as amended by section 717(a)) is amended by adding at the end the following:* *`(vi) Notwithstanding the exclusive jurisdiction of the Commission with respect to accounts, agreements, and transactions involving swaps or contracts of sale of a commodity for future delivery under this Act, no provision of this Act shall be construed--* *`(I) to supersede or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.);* *`(II) to restrict the Federal Energy Regulatory Commission from carrying out the duties and responsibilities of the Federal Energy Regulatory Commission to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
fraud, or market power abuse in markets subject to such Commission's regulation or oversight. Shared information shall remain subject to the same restrictions on disclosure applicable to the Commission initially holding the information.	*ensure just and reasonable rates and protect the public interest under the Acts described in subclause (I); or* *`(III) to supersede or limit the authority of a State regulatory authority (as defined in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)) that has jurisdiction to regulate rates and charges for the sale of electric energy within the State, or restrict that State regulatory authority from carrying out the duties and responsibilities of the State regulatory authority pursuant to the jurisdiction of the State regulatory authority to regulate rates and charges for the transmission or sale of electric energy.* *`(vii) Nothing in clause (vi) shall affect the Commission's authority with respect to the trading, execution, or clearing of any agreement, contract, or transaction on or subject to the rules of a registered entity, including a designated contract market, derivatives clearing organization, or swaps execution facility.'.* *(f) Public Interest Waiver- Section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) (as amended by section 721(d)) is amended by adding at the end the following:* *`(6) If the Commission determines that the exemption would be consistent with the public interest and the purposes of this Act, the Commission shall, in accordance with paragraphs (1) and (2), exempt from the requirements of this Act an agreement, contract, or transaction that is entered into--* *`(A) pursuant to a tariff or rate schedule approved or permitted to take effect by the Federal Energy Regulatory Commission;* *`(B) pursuant to a tariff or rate schedule establishing rates or charges for, or protocols governing, the sale of electric energy approved or permitted to take effect by the regulatory authority of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy within the State or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	municipality; or *`(C) between entities described in section 201(f) of the Federal Power Act (16 U.S.C. 824(f)).'.*	
Subtitle A--Regulation of Swap Markets **SEC. 3101. DEFINITIONS.**	**PART II--REGULATION OF SWAP MARKETS** ***SEC. 721. DEFINITIONS.*** *(a) In General- Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended--* *(1) by redesignating paragraphs (2), (3) and (4), (5) through (17), (18) through (23), (24) through (28), (29), (30), (31) through (33), and (34) as paragraphs (6), (8) and (9), (11) through (23), (26) through (31), (34) through (38), (40), (41), (44) through (46), and (51), respectively;*	
(a) Amendments to Definitions in the Commodity Exchange Act- Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended-- (1) in paragraph (12)(A)-- (A) in clause (vii)(III), by striking `$25,000,000' and inserting `$50,000,000'; and (B) in clause (xi), by striking `total assets in an amount' and inserting `amounts invested on a discretionary basis'; (2) in paragraph (29)-- (A) in subparagraph (D), by striking `and'; (B) by redesignating subparagraph (E) as subparagraph (G); and (C) by inserting after subparagraph (D) the following: `(E) a swap execution facility registered under section 5h; `(F) a swap repository; and'; and		
(3) by adding at the end the following: `(35) SWAP- `(A) IN GENERAL- Except as provided in subparagraph (B), the term `swap' means any agreement, contract, or transaction that-- `(i) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or based on the value of, 1 or more interest or other rates, currencies, commodities,	*(21) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:* *47) SWAP-* *`(A) IN GENERAL- Except as provided in subparagraph (B), the term `swap' means any agreement, contract, or transaction--* *`(i) that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind; `(ii) provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence; `(iii) provides on an executory basis for the exchange, on a fixed or contingent basis, of 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, and includes any agreement, contract, or transaction commonly known as an interest rate swap, a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, currency swap, total return swap, equity index swap, equity swap, debt index swap, debt swap, credit spread, credit default swap, credit swap, weather swap, energy swap, metal swap, agricultural swap, emissions swap, or commodity swap; `(iv) is, or in the future becomes, commonly known to the trade as a swap; `(v) meets the definition of `swap agreement' as defined in section 206A of the Gramm-Leach-Bliley Act of which a material term of which is based on the price, yield, value, or	*or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;* *`(ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;* *`(iii) that provides on an executory basis for the exchange, on a fixed or contingent basis, of 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as--* *`(I) an interest rate swap;* *`(II) a rate floor;* *`(III) a rate cap;* *`(IV) a rate collar;* *`(V) a cross-currency rate swap;* *`(VI) a basis swap;* *`(VII) a currency swap;* *`(VIII) a foreign exchange swap;* *`(IX) a total return swap;* *`(X) an equity index swap;* *`(XI) an equity swap;* *`(XII) a debt index swap;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
volatility of any security or any group or index of securities, or any interest therein; or `(vi) is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v).	*`(XIII) a debt swap;* *`(XIV) a credit spread;* *`(XV) a credit default swap;* *`(XVI) a credit swap;* *`(XVII) a weather swap;* *`(XVIII) an energy swap;* *`(XIX) a metal swap;* *`(XX) an agricultural swap;* *`(XXI) an emissions swap; and* *`(XXII) a commodity swap;* *`(iv) that is an agreement, contract, or transaction that is, or in the future becomes commonly known to the trade as a swap;* *`(v) including any security-based swap agreement which meets the definition of `swap agreement' as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein; or* *`(vi) that is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v).*	
`(B) EXCLUSIONS- The term `swap' does not include-- `(i) any contract of sale of a commodity for future delivery (or any option on such a contract) or security futures product traded on or subject to the rules of any board of trade designated as a contract market under section 5 or 5f; `(ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled; `(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to the Securities	*`(B) EXCLUSIONS- The term `swap' does not include--* *`(i) any contract of sale of a commodity for future delivery (or option on such a contract), leverage contract authorized under section 19, security futures product, or agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);* *`(ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled;* *`(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to--* *`(I) the Securities Act of 1933 (15*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); `(iv) any put, call, straddle, option, or privilege relating to foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); `(v) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a fixed basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); `(vi) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless the agreement, contract, or transaction predicates the purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction; `(vii) any note, bond, or evidence of indebtedness that is a security as defined in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)); `(viii) any agreement, contract, or transaction that is-- `(I) based on a security; and `(II) entered into directly or through an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)) by the issuer of the security for the purposes of raising capital, unless the agreement, contract, or transaction is entered into to manage a risk associated with capital-raising;	*U.S.C. 77a et seq.); and* *`(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);* *`(iv) any put, call, straddle, option, or privilege relating to a foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));* *`(v) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a fixed basis that is subject to--* *`(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and* *`(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);* *`(vi) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless the agreement, contract, or transaction predicates the purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;* *`(vii) any note, bond, or evidence of indebtedness that is a security, as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a));* *`(viii) any agreement, contract, or transaction that is--* *`(I) based on a security; and* *`(II) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a))) by the issuer of such security for the purposes of raising capital, unless the agreement,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(ix) any foreign exchange forward; `(x) any foreign exchange swap; `(xi) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the United States government or an agency of the United States government that is expressly backed by the full faith and credit of the United States; and `(xii) any security-based swap.	*contract, or transaction is entered into to manage a risk associated with capital raising;* *`(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the Federal Government, or a Federal agency that is expressly backed by the full faith and credit of the United States; and* *`(x) any security-based swap, other than a security-based swap as described in subparagraph (D).*	
`(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS- The term `swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction under the master agreement that is a swap pursuant to subparagraph (A).	*`(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS-* *`(i) IN GENERAL- Except as provided in clause (ii), the term `swap' includes a master agreement that provides for an agreement, contract, or transaction that is a swap under subparagraph (A), together with each supplement to any master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A).* *`(ii) EXCEPTION- For purposes of clause (i), the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction covered by the master agreement that is a swap pursuant to subparagraph (A).* *`(D) MIXED SWAP- The term `security-based swap' includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	described in subparagraph (A)(iii)).	
`(D) FOREIGN EXCHANGE SWAPS AND FORWARDS EXCEPTION- `(i) IN GENERAL- Notwithstanding clauses (ix) and (x) of subparagraph (B), foreign exchange swaps and foreign exchange forwards shall be considered swaps under this paragraph if the Commission makes a determination that either foreign exchange swaps or foreign exchange forwards or both should be regulated as swaps under this Act and the Secretary concurs with such determination. `(ii) SCOPE OF AUTHORITY- `(I) The Commission and the Secretary shall jointly determine which of the authorities under this Act regarding swaps the Commission shall exercise over foreign exchange swaps and foreign exchange forwards. Such authorities shall subsequently be exercised solely by the Commission. The Commission and the Secretary may jointly amend any previously made determination under this subclause. `(II) Notwithstanding clause (i), the Commission and the Secretary of the Treasury may determine that either foreign exchange swaps or foreign exchange forwards or both should not be regulated as swaps under this Act if such determination is jointly made.	*`(E) TREATMENT OF FOREIGN EXCHANGE SWAPS AND FORWARDS-* *`(i) IN GENERAL- Foreign exchange swaps and foreign exchange forwards shall be considered swaps under this paragraph unless the Secretary makes a written determination that either foreign exchange swaps or foreign exchange forwards or both--* *`(I) should be not be regulated as swaps under this Act; and* *`(II) are not structured to evade the Wall Street Transparency and Accountability Act of 2010 in violation of any rule promulgated by the Commission pursuant to section 111(c) of that Act.* *`(ii) CONGRESSIONAL NOTICE; EFFECTIVENESS- The Secretary shall submit any written determination under clause (i) to the appropriate committees of Congress, including the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Any such written determination by the Secretary shall not be effective until it is submitted to the appropriate committees of Congress.*	
`(iii) REPORTING- Notwithstanding clauses (ix) and (x) of subparagraph (B) and subparagraph (D)(ii), all foreign exchange swaps and foreign exchange forwards shall be reported to either a swap repository, or, if there is no swap repository that would accept such swaps or forwards, to the Commission	*`(iii) REPORTING- Notwithstanding a written determination by the Secretary under clause (i), all foreign exchange swaps and foreign exchange forwards shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such swaps or forwards, to the Commission pursuant to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
pursuant to section 4r within such time period as the Commission may by rule or regulation prescribe.	*section 4r within such time period as the Commission may by rule or regulation prescribe.* *`(iv) BUSINESS STANDARDS- Notwithstanding clauses (ix) and (x) of subparagraph (B) and clause (ii), any party to a foreign exchange swap or forward that is a swap dealer or major swap participant shall conform to the business conduct standards contained in section 4s(h).*	
`(iv) SECRETARY- For purposes of this subparagraph only, the term `Secretary' means the Secretary of the Treasury.	*`(v) SECRETARY- For purposes of this subparagraph only, the term `Secretary' means the Secretary of the Treasury.*	
	`(F) EXCEPTION FOR CERTAIN FOREIGN EXCHANGE SWAPS AND FORWARDS-* *`(i) REGISTERED ENTITIES- Any foreign exchange swap and any foreign exchange forward that is listed and traded on or subject to the rules of a designated contract market or a swap execution facility, or that is cleared by a derivatives clearing organization shall not be exempt from any provision of this Act or amendments made by the Wall Street Transparency and Accountability Act of 2010 prohibiting fraud or manipulation. *`(ii) RETAIL TRANSACTIONS- Nothing in subparagraph (E) shall affect, or be construed to affect, the applicability of this Act or the jurisdiction of the Commission with respect to agreements, contracts, or transactions in foreign currency pursuant to section 2(c)(2).*	
`(36) BOARD- The term `Board' means the Board of Governors of the Federal Reserve System.	*`(5) BOARD- The term `Board' means the Board of Governors of the Federal Reserve System.';*	
`(37) SECURITY-BASED SWAP- The term `security-based swap' has the same meaning as in section 3(a)(68) of the Securities and Exchange Act of 1934.	*`(42) SECURITY-BASED SWAP- The term `security-based swap' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).*	
`(38) SWAP DEALER- `(A) IN GENERAL- The term `swap dealer' means any	*`(49) SWAP DEALER-* *`(A) IN GENERAL- The term `swap dealer' means any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
person who-- `(i) holds itself out as a dealer in swaps; `(ii) makes a market in swaps; `(iii) regularly engages in the purchase of swaps and their resale to customers in the ordinary course of a business; or `(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps. `(B) A person may be designated a swap dealer for a single type or single class or category of swap and considered not a swap dealer for other types, classes, or categories of swaps.	*person who--* *`(i) holds itself out as a dealer in swaps;* *`(ii) makes a market in swaps;* *`(iii) regularly engages in the purchase and sale of swaps in the ordinary course of business; or* *`(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.* *`(B) INCLUSION- A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.* *`(C) CAPITAL- In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a swap dealer.*	
`(C) DE MINIMUS EXCEPTION- The Commission shall make a determination to exempt from designation as a swap dealer an entity that engages in a de minimus amount of swap dealing in connection with transactions with or on the behalf of its customers.	*`(D) EXCEPTION- The term `swap dealer' does not include a person that buys or sells swaps for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.*	
`(39) MAJOR SWAP PARTICIPANT- `(A) IN GENERAL- The term `major swap participant' means any person who is not a swap dealer, and-- `(i) maintains a substantial net position in outstanding swaps, excluding positions held primarily for hedging, reducing or otherwise mitigating its commercial risk, including operating and balance sheet risk; or `(ii) whose outstanding swaps create substantial net counterparty exposure among the aggregate of its counterparties that could expose those counterparties to significant	*`(33) MAJOR SWAP PARTICIPANT-* *`(A) IN GENERAL- The term `major swap participant' means any person who is not a swap dealer, and--* *`(i) maintains a substantial position in swaps for any of the major swap categories as determined by the Commission, excluding--* *`(I) positions held for hedging or mitigating commercial risk; and* *`(II) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of*	See Section 3307 of HR 4173 for an additional, differing definition of Major Swap Participant.

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
credit losses. `(B) DEFINITION OF SUBSTANTIAL NET POSITION- The Commission shall define by rule or regulation the terms `substantial net position', `substantial net counterparty exposure', and `significant credit losses' at thresholds that the Commission determines prudent for the effective monitoring, management and oversight of entities which are systemically important or can significantly impact the financial system through counterparty credit risk. In setting the definitions, the Commission shall consider the person's relative position in uncleared as opposed to cleared swaps. `(C) A person may be designated a major swap participant for 1 or more individual types of swaps without being classified as a major swap participant for all classes of swaps.	*section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; or* *`(ii) whose outstanding swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or* *`(iii)(I) is a financial entity, other than an entity predominantly engaged in providing financing for the purchase of an affiliate's merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds; and* *`(II) maintains a substantial position in outstanding swaps in any major swap category as determined by the Commission.* *`(B) DEFINITION OF SUBSTANTIAL POSITION- For purposes of subparagraph (A), the Commission shall define by rule or regulation the term `substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.* *`(C) SCOPE OF DESIGNATION- For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.* *`(D) CAPITAL- In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major swap participant.';*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(40) MAJOR SECURITY-BASED SWAP PARTICIPANT- The term `major security-based swap participant' has the same meaning as in section 3(a)(67) of the Securities Exchange Act of 1934.	*(16) by inserting after paragraph (31) (as redesignated by paragraph (1)) the following:* *`(32) MAJOR SECURITY-BASED SWAP PARTICIPANT- The term `major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).*	
`(41) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).	*(2) by inserting after paragraph (1) the following:* *`(2) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).*	
`(42) PRUDENTIAL REGULATOR- The term `Prudential Regulator' means-- `(A) the Board in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is-- `(i) a State-chartered bank that is a member of the Federal Reserve System; or `(ii) a State-chartered branch or agency of a foreign bank; `(B) the Office of the Comptroller of the Currency in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is-- `(i) a national bank; or `(ii) a federally chartered branch or agency of a foreign bank; and `(C) the Federal Deposit Insurance Corporation in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is a State-chartered bank that is not a member of the Federal Reserve System.	*(17) by inserting after paragraph (38) (as redesignated by paragraph (1)) the following:* *`(39) PRUDENTIAL REGULATOR- The term `prudential regulator' means--* *`(A) the Office of the Comptroller of the Currency, in the case of--* *`(i) any national banking association;* *`(ii) any Federal branch or agency of a foreign bank; or* *`(iii) any Federal savings association;* *`(B) the Federal Deposit Insurance Corporation, in the case of--* *`(i) any insured State bank;* *`(ii) any foreign bank having an insured branch; or* *`(iii) any State savings association;* *`(C) the Board of Governors of the Federal Reserve System, in the case of--* *`(i) any noninsured State member bank;* *`(ii) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act (12 U.S.C. 221 et seq.) which is made applicable under the International Banking Act of 1978 (12 U.S.C. 3101 et seq.);* *`(iii) any foreign bank which does not operate an insured branch;* *`(iv) any agency or commercial lending company other than a Federal agency; or* *`(v) supervisory or regulatory proceedings*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(1)), including such proceedings under the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1464 et seq.); and *`(D) the Farm Credit Administration, in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is an institution chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).';*	
`(43) SECURITY-BASED SWAP DEALER- The term `security-based swap dealer' has the same meaning as in section 3(a)(71) of the Securities Exchange Act of 1934.	*(19) by inserting after paragraph (41) (as redesignated by paragraph (1)) the following:* *`(43) SECURITY-BASED SWAP DEALER- The term `security-based swap dealer' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).';*	
`(44) FOREIGN EXCHANGE FORWARD- The term `foreign exchange forward' means a transaction that solely involves the exchange of 2 different currencies on a specific future date at a fixed rate agreed at the inception of the contract.	*(12) by inserting after paragraph (23) (as redesignated by paragraph (1)) the following:* *`(24) FOREIGN EXCHANGE FORWARD- The term `foreign exchange forward' means a transaction that solely involves the exchange of 2 different currencies on a specific future date at a fixed rate agreed upon on the inception of the contract covering the exchange.*	
`(45) FOREIGN EXCHANGE SWAP- The term `foreign exchange swap' means a transaction that solely involves the exchange of 2 different currencies on a specific date at a fixed rate agreed at the inception of the contract, and a reverse exchange of the same 2 currencies at a date further in the future and at a fixed rate agreed at the inception of the contract.	*`(25) FOREIGN EXCHANGE SWAP- The term `foreign exchange swap' means a transaction that solely involves--* *`(A) an exchange of 2 different currencies on a specific date at a fixed rate that is agreed upon on the inception of the contract covering the exchange; and* *`(B) a reverse exchange of the 2 currencies described in subparagraph (A) at a later date and at a fixed rate that is agreed upon on the inception of the contract covering the exchange.';*	
`(46) PERSON ASSOCIATED WITH A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT- The term `person associated with a security-based swap dealer or major security-based swap participant' or `associated person of a security-based swap dealer or major security-based swap participant' has the same meaning as in section 3(a)(70) of the Securities Exchange Act of 1934.	*`(3) ASSOCIATED PERSON OF A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT- The term `associated person of a security-based swap dealer or major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(47) PERSON ASSOCIATED WITH A SWAP DEALER OR MAJOR SWAP PARTICIPANT- The term `person associated with a swap dealer or major swap participant' or `associated person of a swap dealer or major swap participant' means any partner, officer, director, or branch manager of a swap dealer or major swap participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a swap dealer or major swap participant, or any employee of a swap dealer or major swap participant, except that any person associated with a swap dealer or major swap participant whose functions are solely clerical or ministerial shall not be included in the meaning of the term other than for purposes of section 4s(b)(6).	*`(4) ASSOCIATED PERSON OF A SWAP DEALER OR MAJOR SWAP PARTICIPANT-* *`(A) IN GENERAL- The term `associated person of a swap dealer or major swap participant' means--* *`(i) any partner, officer, director, or branch manager of a swap dealer or major swap participant (including any individual who holds a similar status or performs a similar function with respect to any partner, officer, director, or branch manager of a swap dealer or major swap participant);* *`(ii) any person that directly or indirectly controls, is controlled by, or is under common control with, a swap dealer or major swap participant; and* *`(iii) any employee of a swap dealer or major swap participant.* *`(B) EXCLUSION- Other than for purposes of section 4s(b)(6), the term `associated person of a swap dealer or major swap participant' does not include any person associated with a swap dealer or major swap participant the functions of which are solely clerical or ministerial.*	
`(48) SWAP REPOSITORY- The term `swap repository' means any person that collects, calculates, prepares or maintains information or records with respect to transactions or positions in or the terms and conditions of swaps entered into by third parties.	*`(48) SWAP DATA REPOSITORY- The term `swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties.*	
`(49) SWAP EXECUTION FACILITY- The term `swap execution facility' means a person or entity that facilitates the execution or trading of swaps between two persons through any means of interstate commerce, but which is not a designated contract market, including any electronic trade execution or voice brokerage facility.	*`(50) SWAP EXECUTION FACILITY- The term `swap execution facility' means a facility in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, through any means of interstate commerce, including any trading facility, that--* *`(A) facilitates the execution of swaps between persons; and* *`(B) is not a designated contract market.'; and* *(22) in paragraph (51) (as redesignated by paragraph (1)), in subparagraph (A)(i), by striking `partipants' and inserting `participants'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(50) DERIVATIVE- The term `derivative' means-- `(A) a contract of sale of a commodity for future delivery; or `(B) a swap.'.		
	(3) by inserting after paragraph (6) (as redesignated by paragraph (1)) the following: *`(7) CLEARED SWAP- The term `cleared swap' means any swap that is, directly or indirectly, submitted to and cleared by a derivatives clearing organization registered with the Commission.';* *(4) in paragraph (9) (as redesignated by paragraph (1)), by striking `except onions' and all that follows through the period at the end and inserting the following: `except onions (as provided in section 13-1) and motion picture box office receipts (or any index, measure, value, or data related to such receipts), and all services, rights, and interests (except motion picture box office receipts, or any index, measure, value or data related to such receipts) in which contracts for future delivery are presently or in the future dealt in.';* *(5) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:* *`(10) COMMODITY POOL-* *`(A) IN GENERAL- The term `commodity pool' means any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any--* *`(i) commodity for future delivery, security futures product, or swap;* *`(ii) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);* *`(iii) commodity option authorized under section 4c; or* *`(iv) leverage transaction authorized under section 19.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `commodity pool' any investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(6) by striking paragraph (11) (as redesignated by paragraph (1)) and inserting the following: *`(11) COMMODITY POOL OPERATOR-* *`(A) IN GENERAL- The term `commodity pool operator' means any person--* *`(i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interest, including any--* *`(I) commodity for future delivery, security futures product, or swap;* *`(II) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);* *`(III) commodity option authorized under section 4c; or* *`(IV) leverage transaction authorized under section 19; or* *`(ii) who is registered with the Commission as a commodity pool operator.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `commodity pool operator' any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';* *(7) in paragraph (12) (as redesignated by paragraph (1)), in subparagraph (A)--* *(A) in clause (i)--* *(i) in subclause (I), by striking `made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility' and inserting `, security futures product, or swap';* *(ii) by redesignating subclauses (II) and (III) as subclauses (III) and (IV);*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(iii) by inserting after subclause (I) the following: *`(II) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i)'; and* *(iv) in subclause (IV) (as so redesignated), by striking `or';* *(B) in clause (ii), by striking the period at the end and inserting a semicolon; and* *(C) by adding at the end the following:* *`(iii) is registered with the Commission as a commodity trading advisor; or* *`(iv) the Commission, by rule or regulation, may include if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';* *(8) in paragraph (17) (as redesignated by paragraph (1)), in subparagraph (A), in the matter preceding clause (i), by striking `paragraph (12)(A)' and inserting `paragraph (18)(A)';* *(9) in paragraph (18) (as redesignated by paragraph (1))--* *(A) in subparagraph (A)--* *(i) in the matter following clause (vii)(III)--* *(I) by striking `section 1a (11)(A)' and inserting `paragraph (17)(A)'; and* *(II) by striking `$25,000,000' and inserting `$50,000,000'; and* *(ii) in clause (xi), in the matter preceding subclause (I), by striking `total assets in an amount' and inserting `amounts invested on a discretionary basis, the aggregate of which is';* *(10) by striking paragraph (22) (as redesignated by paragraph (1)) and inserting the following:* *`(22) FLOOR BROKER-* *`(A) IN GENERAL- The term `floor broker' means any person--* *`(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person--* *`(I) any commodity for future*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	delivery, security futures product, or swap; or *`(II) any commodity option authorized under section 4c; or* *`(ii) who is registered with the Commission as a floor broker.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `floor broker' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades for any other person if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';* *(11) by striking paragraph (23) (as redesignated by paragraph (1)) and inserting the following:* *`(23) FLOOR TRADER-* *`(A) IN GENERAL- The term `floor trader' means any person--* *`(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account--* *`(I) any commodity for future delivery, security futures product, or swap; or* *`(II) any commodity option authorized under section 4c; or* *`(ii) who is registered with the Commission as a floor trader.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `floor trader' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades solely for such person's own account if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';*	
	(13) by striking paragraph (28) (as redesignated by paragraph (1)) and inserting the following:	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(28) FUTURES COMMISSION MERCHANT-* *`(A) IN GENERAL- The term `futures commission merchant' means an individual, association, partnership, corporation, or trust--* *`(i) that-- *`(I) is engaged in soliciting or in accepting orders for--*  *`(aa) the purchase or sale of a commodity for future delivery;* *`(bb) a security futures product;*  *`(cc) a swap;* *`(dd) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);*  *`(ee) any commodity option authorized under section 4c; or* *`(ff) any leverage transaction authorized under section 19; or*  *`(II) is acting as a counterparty in any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i); and* *`(III) in or in connection with the activities described in subclause (I) or (II), accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or* *`(ii) that is registered with the Commission as a futures commission merchant.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `futures commission merchant' any person who engages in soliciting or accepting orders for, or acting as a counterparty in, any agreement, contract, or transaction subject to this Act, and who*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'; *(14) in paragraph (30) (as redesignated by paragraph (1)), in subparagraph (B), by striking `state' and inserting `State';* *(15) by striking paragraph (31) (as redesignated by paragraph (1)) and inserting the following:* *`(31) INTRODUCING BROKER-* *`(A) IN GENERAL- The term `introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant)--* *`(i) who--* *`(I) is engaged in soliciting or in accepting orders for--*  *`(aa) the purchase or sale of any commodity for future delivery, security futures product, or swap;* *`(bb) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);*  *`(cc) any commodity option authorized under section 4c; or* *`(dd) any leverage transaction authorized under section 19; and*  *`(II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or* *`(ii) who is registered with the Commission as an introducing broker.* *`(B) FURTHER DEFINITION- The Commission, by rule or regulation, may include within, or exclude from, the term `introducing broker' any person who engages in soliciting or accepting orders for any agreement, contract, or transaction subject to this Act, and who does not accept any money, securities, or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.';	
	(18) in paragraph (40) (as redesignated by paragraph (1))-- *(A) by striking subparagraph (B);* *(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (F), respectively;* *(C) in subparagraph (C) (as so redesignated), by striking `and';* *(D) by inserting after subparagraph (C) (as so redesignated) the following:* *`(D) a swap execution facility registered under section 5h;* *`(E) a swap data repository; and';*	
	(20) in paragraph (46) (as redesignated by paragraph (1)), by striking `subject to section 2(h)(7)' and inserting `subject to section 2(h)(5)';	
(b) Authority to Further Define Terms- The Commodity Futures Trading Commission shall adopt a rule further defining the terms `swap', `swap dealer', `major swap participant', and `eligible contract participant' for the purpose of including transactions and entities that have been structured to evade this title.	*(b) Authority To Define Terms- The Commodity Futures Trading Commission may adopt a rule to define--* *(1) the term `commercial risk'; and* *(2) any other term included in an amendment to the Commodity Exchange Act (7 U.S.C. 1 et seq.) made by this subtitle.* *(c) Modification of Definitions- To include transactions and entities that have been structured to evade this subtitle (or an amendment made by this subtitle), the Commodity Futures Trading Commission shall adopt a rule to further define the terms `swap', `swap dealer', `major swap participant', and `eligible contract participant'.*	
(c) Exemptions- Section 4(c) of the Commodity Exchange Act (7 U.S.C. 4(c)) is amended by adding at the end the following: `The Commission shall not have the authority to grant exemptions from the provisions of sections 3101(a), 3101(c), 3104, 3105, 3106, 3107, 3109, 3110, 3113, 3115, 3120, and 3121 of the Derivative Markets Transparency and Accountability Act of 2009, except as expressly authorized under the provisions of that Act. Notwithstanding the preceding sentence, the Commodity Futures Trading Commission may exempt from any provision of the Commodity Exchange Act, pursuant to this subsection, an agreement, contract, or transaction that is entered into pursuant to a	*(d) Exemptions- Section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) is amended by striking `except that' and all that follows through the period at the end and inserting the following: `except that--* *`(A) unless the Commission is expressly authorized by any provision described in this subparagraph to grant exemptions, with respect to amendments made by subtitle A of the Wall Street Transparency and Accountability Act of 2010--* *`(i) with respect to--* *`(I) paragraphs (2), (3), (4), (5), and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
tariff approved by the Federal Energy Regulatory Commission, if the Commodity Futures Trading Commission determines that the exemption would be consistent with the public interest, and shall consider and not unreasonably deny any request made by the Federal Energy Regulatory Commission for such an exemption.'.	*(7), clause (vii)(III) of paragraph (17), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section 1a, and sections 2(a)(13), 2(c)(D), 4a(a), 4a(b), 4d(c), 4d(d), 4r, 4s, 5b(a), 5b(b), 5(d), 5(g), 5(h), 5b(c), 5b(i), 8e, and 21; and* *`(II) section 206(e) of the Gramm-Leach-Bliley Act (Public Law 106-102; 15 U.S.C. 78c note); and* *`(ii) in subsection (c) of section 111 and section 132; and* *`(B) the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D)) if the Commission determines that the exemption would be consistent with the public interest.'.*	
	(e) Conforming Amendments- *(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended--* *(A) in item (cc)--* *(i) in subitem (AA), by striking `section 1a(20)' and inserting `section 1a'; and* *(ii) in subitem (BB), by striking `section 1a(20)' and inserting `section 1a'; and* *(B) in item (dd), by striking `section 1a(12)(A)(ii)' and inserting `section 1a(18)(A)(ii)'.* *(2) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended by striking `section 1a(6)' and inserting `section 1a'.* *(3) Section 4q(a)(1) of the Commodity Exchange Act (7 U.S.C. 6o-1(a)(1)) is amended by striking `section 1a(4)' and inserting `section 1a(9)'.* *(4) Section 5(e)(1) of the Commodity Exchange Act (7 U.S.C. 7(e)(1)) is amended by striking `section 1a(4)' and inserting `section 1a(9)'.* *(5) Section 5a(b)(2)(F) of the Commodity Exchange Act (7 U.S.C. 7a(b)(2)(F)) is amended by striking `section 1a(4)' and inserting `section 1a(9)'.* *(6) Section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	1(a)) is amended, in the matter preceding paragraph (1), by striking `section 1a(9)' and inserting `section 1a'. *(7) Section 5c(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 7a-2(c)(2)(B)) is amended by striking `section 1a(4)' and inserting `section 1a(9)'.* *(8) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is amended--* *(A) in subclause (I), by striking `section 1a(12)(B)(ii)' and inserting `section 1a(18)(B)(ii)'; and* *(B) in subclause (II), by striking `section 1a(12)' and inserting `section 1a(18)'.* *(9) The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended--* *(A) in section 402--* *(i) in subsection (a)(7), by striking `section 1a(20)' and inserting `section 1a';* *(ii) in subsection (b)(2), by striking `section 1a(12)' and inserting `section 1a';* *(iii) in subsection (c), by striking `section 1a(4)' and inserting `section 1a'; and* *(iv) in subsection (d)--* *(I) in the matter preceding paragraph (1), by striking `section 1a(4)' and inserting `section 1a(9)';* *(II) in paragraph (1)--* *(aa) in subparagraph (A), by striking `section 1a(12)' and inserting `section 1a'; and* *(bb) in subparagraph (B), by striking `section 1a(33)' and inserting `section 1a';* *(III) in paragraph (2)--* *(aa) in subparagraph (A), by striking `section 1a(10)' and inserting `section 1a';* *(bb) in subparagraph (B), by striking `section 1a(12)(B)(ii)' and inserting `section 1a(18)(B)(ii)';* *(cc) in subparagraph (C), by striking `section 1a(12)' and inserting `section 1a(18)'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(dd) in subparagraph (D), by striking `section 1a(13)' and inserting `section 1a'; and *(B) in section 404(1), by striking `section 1a(4)' and inserting `section 1a'.*	
SEC. 3102. JURISDICTION. (a) Exclusive Jurisdiction- Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended-- (1) in the 1st sentence of subparagraph (A)-- (A) by striking `(c) through (i)' and inserting `(c) and (f)'; (B) by inserting `swaps, or' before `contracts of sale'; (C) by striking `derivatives transaction execution facility' and inserting `swap execution facility'; and (D) by striking `5a' and inserting `5h'; and (2) by adding at the end the following: `(G)(i) Nothing in this paragraph shall limit the jurisdiction conferred on the Securities and Exchange Commission by the Derivative Markets Transparency and Accountability Act of 2009 with regard to security-based swap agreements as defined pursuant to section 3002(e) of such Act, and security-based swaps. `(ii) In addition to the authority of the Securities Exchange Commission described in clause (i), nothing in this subparagraph shall limit or affect any statutory authority of the Commission with respect to an agreement, contract, or transaction described in clause (i). `(H)(i) Nothing in this Act shall limit or affect any statutory authority of the Federal Energy Regulatory Commission with respect to an agreement, contract, or transaction that is-- `(I) not executed, traded, or cleared on a registered entity or trading facility; and `(II) entered into pursuant to a tariff or rate schedule approved by the Federal Energy Regulatory Commission. `(ii) In addition to the authority of the Federal Energy Regulatory Commission described in clause (i), nothing in this subparagraph shall limit or affect any	***SEC. 722. JURISDICTION.*** *(a) Exclusive Jurisdiction- Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) is amended in the first sentence--* *(1) by inserting `the Wall Street Transparency and Accountability Act of 2010 (including an amendment made by that Act) and' after `otherwise provided in';* *(2) by striking `(c) through (i) of this section' and inserting `(c) and (f)';* *(3) by striking `contracts of sale' and inserting `swaps or contracts of sale'; and* *(4) by striking `or derivatives transaction execution facility registered pursuant to section 5 or 5a' and inserting `pursuant to section 5'.* *(b) Regulation of Swaps Under Federal and State Law- Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end the following:* *`(h) Regulation of Swaps as Insurance Under State Law- A swap--* *`(1) shall not be considered to be insurance; and* *`(2) may not be regulated as an insurance contract under the law of any State.'.* *(c) Agreements, Contracts, and Transactions Traded on an Organized Exchange- Section 2(c)(2)(A) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(A)) is amended--* *(1) in clause (i), by striking `or' at the end;* *(2) by redesignating clause (ii) as clause (iii); and* *(3) by inserting after clause (i) the following:* *`(ii) a swap; or'.* *(d) Applicability- Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by section 723(a)(3)) is amended by adding at the end the following:* *`(i) Applicability- The provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
statutory authority of the Commission with respect to an agreement, contract, or transaction described in clause (i).'. (b) Additions- Section 2(c)(2)(A) of such Act (7 U.S.C. 2(c)(2)(A)) is amended-- (1) in clause (i) by striking `or' at the end; (2) by redesignating clause (ii) as clause (iii); and (3) by inserting after clause (i) the following: `(ii) a swap; or'. (c) Section 12(e) of such Act (7 U.S.C. 16(e)) is amended-- (1) in paragraph (1)(B), by inserting `or (3)' after `paragraph (2)'; (2) in paragraph (2), by striking subparagraphs (A) and (B) and inserting the following: `(A) a swap; and `(B) an agreement, contract, or transaction that is excluded from this Act under section 2(c) or 2(f) of this Act or title IV of the Commodity Futures Modernization Act of 2000 or exempted under section 4(c) of this Act (regardless of whether any such agreement, contract, or transaction is otherwise subject to this Act).'; and (3) by adding at the end the following: `(3) A swap may not be regulated as an insurance contract under State law. `(4) The provisions of this Act relating to swaps that were enacted by the Derivative Markets Transparency and Accountability Act of 2009, including any rule or regulation thereunder, shall not apply to activities outside the United States unless those activities-- `(A) have a direct and significant connection with activities in or effect on United States commerce; or `(B) contravene such rules or regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Derivative Markets Transparency and Accountability Act of 2009.'. (d) Nothing in the Derivative Markets Transparency and Accountability Act of 2009 or the amendments to the Commodity Exchange Act made by such Act shall limit or affect any statutory enforcement authority of the Federal Energy Regulatory Commission pursuant to Section 222 of the Federal Power Act and Section 4A of the Natural Gas Act that existed prior to the date of enactment of the Derivative Markets Transparency	*`(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or* *`(2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Wall Street Transparency and Accountability Act of 2010.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and Accountability Act of 2009.		
SEC. 3103. CLEARING AND EXECUTION TRANSPARENCY. (a) Clearing and Execution Transparency Requirements- (1) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsections (d), (e), (g), and (h). (2)(A) Prior to the final effective dates in this title, a person may petition the Commodity Futures Trading Commission to remain subject to paragraphs (3) through (7) of section 2(h) of the Commodity Exchange Act. (B) The Commodity Futures Trading Commission shall consider any petition submitted under subparagraph (A) in a prompt manner and may allow a person to continue operating subject to paragraphs	***SEC. 723. CLEARING.*** *(a) Clearing Requirement-* *(1) IN GENERAL- Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended--* *(A) by striking subsections (d), (e), (g), and (h); and* *(B) by redesignating subsection (i) as subsection (g).*	
(3) Section 2 of such Act (7 U.S.C. 2) is further amended by inserting after subsection (c) the following: `(d) Swaps- Nothing in this Act (other than subsections (a)(1)(A), (a)(1)(B), (c)(2)(A)(ii), (e), (f), (j), and (k), sections 4a, 4b, 4b-1, 4c(a), 4c(b), 4o, 4r, 4s, 4t, 5, 5b, 5c, 5h, 6(c), 6(d), 6c, 6d, 8, 8a, 9, 12(e)(2), 12(f), 13(a), 13(b), 21, and 22(a)(4) and such other provisions of this Act as are applicable by their terms to registered entities and Commission registrants) governs or applies to a swap.	*(2) SWAPS; LIMITATION ON PARTICIPATION- Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by paragraph (1)) is amended by inserting after subsection (c) the following:* *`(d) Swaps- Nothing in this Act (other than subparagraphs (A), (B), (C), and (D) of subsection (a)(1), subsections (f) and (g), sections 1a, 2(c)(2)(A)(ii), 2(e), 2(h), 4(c), 4a, 4b, and 4b-1, subsections (a), (b), and (g) of section 4c, sections 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4r, 4s, 4t, 5, 5b, 5c, 5e, and 5h, subsections (c) and (d) of section 6, sections 6c, 6d, 8, 8a, and 9, subsections (e)(2) and (f) of section 12, subsections (a) and (b) of section 13, sections 17, 20, 21, and 22(a)(4), and any other provision of this Act that is applicable to registered entities and Commission registrants) governs or applies to a swap.*	
`(e) Limitation on Participation- It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on or subject to the rules of a board of trade designated as a contract market under section 5.'.	*`(e) Limitation on Participation- It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a board of trade designated as a contract market under section 5.'.*	
(4) Section 2 of such Act (7 U.S.C. 2) is further amended by inserting after subsection (i) the following: `(j) Clearing Requirement- `(1) IN GENERAL- `(A) STANDARD FOR CLEARING- A swap shall be submitted for clearing if a derivatives clearing organization that is registered under this Act will accept the swap for clearing, and the Commission has	*(3) MANDATORY CLEARING OF SWAPS- Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after subsection (g) (as redesignated by paragraph (1)(B)) the following:* *`(h) Clearing Requirement-* *`(1) SUBMISSION-* *`(A) IN GENERAL- Except as provided in paragraphs (9) and (10), any person who is a party to a swap shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
determined under paragraph (2)(B)(ii) that the swap is required to be cleared. `(B) OPEN ACCESS- The rules of a derivatives clearing organization described in subparagraph (A) shall-- `(i) prescribe that all swaps submitted to the derivatives clearing organization with the same terms and conditions are economically equivalent within the derivatives clearing organization and may be offset with each other within the derivatives clearing organization; and `(ii) provide for non-discriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility.	*submit such swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(j) of this Act.* *`(B) OPEN ACCESS- The rules of a registered derivatives clearing organization shall--* *`(i) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and* *`(ii) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5(b).*	
`(2) COMMISSION REVIEW- `(A) COMMISSION-INITIATED REVIEW- `(i) The Commission shall review each swap, or any group, category, type or class of swaps to make a determination as to whether the swap or group, category, type, or class of swaps should be required to be cleared. `(ii) The Commission shall provide at least a 30-day public comment period regarding any determination made under clause (i). `(B) SWAP SUBMISSIONS- `(i) A derivatives clearing organization shall submit to the Commission each swap, or any group, category, type or class of swaps that it plans to accept for clearing, and provide notice to its members (in a manner to be determined by the Commission) of the submission. `(ii) The Commission shall-- `(I) make available to the public any submission received under clause (i); `(II) review each submission made under clause (i), and determine whether the swap, or group, category, type, or class of swaps described in the submission is required to be	*`(2) COMMISSION APPROVAL-* *`(A) IN GENERAL- A derivatives clearing organization shall submit to the Commission for prior approval any group, category, type, or class of swaps that the derivatives clearing organization seeks to accept for clearing, which submission the Commission shall make available to the public.* *`(B) DEADLINE- The Commission shall take final action on a request submitted pursuant to subparagraph (A) not later than 90 days after submission of the request, unless the derivatives clearing organization submitting the request agrees to an extension of the time limitation established under this subparagraph.* *`(C) APPROVAL- The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with section 5b(c)(2). The Commission shall not approve any such request if the Commission does not make such finding.* *`(D) RULES- The Commission shall adopt rules for a derivatives clearing organization's submission for approval, pursuant to this paragraph, of any group, category, type, or class of swaps that the derivative clearing organization seeks to accept for clearing*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
cleared; and `(III) provide at least a 30-day public comment period regarding its determination as to whether the clearing requirement under paragraph (1)(A) shall apply to the submission. `(C) DEADLINE- The Commission shall make its determination under subparagraph (B)(ii) not later than 90 days after receiving a submission made under subparagraph (B)(i), unless the submitting derivatives clearing organization agrees to an extension for the time limitation established under this subparagraph. `(D) DETERMINATION- `(i) In reviewing a submission made under subparagraph (B), the Commission shall review whether the submission is consistent with section 5b(c)(2). `(ii) In reviewing a swap, group of swaps, or class of swaps pursuant to subparagraph (A) or a submission made under subparagraph (B), the Commission shall take into account the following factors: `(I) The existence of significant outstanding notional exposures, trading liquidity and adequate pricing data. `(II) The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded. `(III) The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the derivatives clearing organization available to clear the contract. `(IV) The effect on competition, including appropriate fees and charges applied to clearing.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(V) The existence of reasonable legal certainty in the event of the insolvency of the relevant derivatives clearing organization or 1 or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property. `(iii) In making a determination under subparagraph (B)(ii) that the clearing requirement shall apply, the Commission may require such terms and conditions to the requirement as the Commission determines to be appropriate. `(E) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules for a derivatives clearing organization's submission for review, pursuant to this paragraph, of a swap, or a group, category, type or class of swaps, that it seeks to accept for clearing.		
`(3) STAY OF CLEARING REQUIREMENT- `(A) After a determination pursuant to paragraph (2)(B), the Commission, on application of a counterparty to a swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the swap (or the group, category, type or class of swaps) and the clearing arrangement. `(B) DEADLINE- The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the derivatives clearing organization that clears the swap, or group, category, type or class of swaps, agrees to an extension of the time limitation established under this subparagraph. `(C) DETERMINATION- Upon completion of the review undertaken pursuant to subparagraph (A), the Commission may-- `(i) determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the swap, or	*`(3) STAY OF CLEARING REQUIREMENT- At any time after issuance of an approval pursuant to paragraph (2):* *`(A) REVIEW PROCESS- The Commission, on application of a counterparty to a swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the swap, or the group, category, type, or class of swaps, and the clearing arrangement.* *`(B) DEADLINE- The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the derivatives clearing organization that clears the swap, or the group, category, type, or class of swaps, agrees to an extension of the time limitation established under this subparagraph.* *`(C) DETERMINATION- Upon completion of the review undertaken pursuant to subparagraph (A)--* *`(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the swap, or the group,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
group, category, type or class of swaps, must be cleared pursuant to this subsection if it finds that such clearing is consistent with paragraph (2)(D); or `(ii) determine that the clearing requirement of paragraph (1) shall not apply to the swap, or group, category, type or class of swaps. `(D) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules for reviewing, pursuant to this paragraph, a derivatives clearing organization's clearing of a swap, or a group, category, type or class of swaps, that it has accepted for clearing.	*category, type, or class of swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing--* *`(I) is consistent with section 5b(c)(2); and* *`(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this Act;* *`(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the swap, or the group, category, type, or class of swaps; or* *`(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then it shall still be permissible to clear such swap, or the group, category, type, or class of swaps.* *`(D) RULES- The Commission shall adopt rules for reviewing, pursuant to this paragraph, a derivatives clearing organization's clearing of a swap, or a group, category, type, or class of swaps that the Commission has accepted for clearing.*	
	`(4) SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING-* *`(A) RULEMAKING- The Commission shall adopt rules to further identify any group, category, type, or class of swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors: *`(i) The extent to which any of the terms of the group, category, type, or class of swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.* *`(ii) The volume of transactions in the group, category, type, or class of swaps.* *`(iii) The extent to which the terms of the group, category, type, or class of swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(iv) Whether any differences in the terms of the group, category, type, or class of swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.* *`(v) Whether a derivatives clearing organization is prepared to clear the group, category, type, or class of swaps and such derivatives clearing organization has in place effective risk management systems. *`(vi) Any other factors the Commission determine to be appropriate.* *`(B) OTHER DESIGNATIONS- At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular swap or class of swaps as subject to the clearing requirement in paragraph (1), taking into account the factors described in clauses (i) through (vi) of subparagraph (A) and the rules adopted under such subparagraph.* *`(C) IN GENERAL- In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.* *`(D) EXPEDITED RULEMAKING AUTHORITY-* *`(i) PROCEDURE- The promulgation of regulations under subparagraph (A) may be made without regard to--* *`(I) the notice and comment provisions of section 553 of title 5, United States Code; and* *`(II) chapter 35 of title 44, United States Code (commonly known as the `Paperwork Reduction Act').* *`(ii) AGENCY RULEMAKING- In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.*	
`(4) PREVENTION OF EVASION- The Commission may prescribe rules under this subsection, or issue interpretations of	*`(5) PREVENTION OF EVASION-* *`(A) IN GENERAL- The Commission may prescribe*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the rules, as necessary to prevent evasions of this subsection.	*rules under this subsection (and issue interpretations of rules prescribed under this subsection) as determined by the Commission to be necessary to prevent evasions of the mandatory clearing requirements under this Act.* *`(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS- To the extent the Commission finds that a particular swap, group, category, type, or class of swaps would otherwise be subject to mandatory clearing but no derivatives clearing organization has listed the swap, group, category, type, or class of swaps for clearing, the Commission shall--* *`(i) investigate the relevant facts and circumstances;* *`(ii) within 30 days issue a public report containing the results of the investigation; and* *`(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the swap, group, category, type, or class of swaps.* *`(C) EFFECT ON AUTHORITY- Nothing in this paragraph shall--* *`(i) authorize the Commission to require a derivatives clearing organization to list for clearing a swap, group, category, type, or class of swaps if the clearing of the swap, group, category, type, or class of swaps would adversely affect the business operations of the derivatives clearing organization, threaten the financial integrity of the derivatives clearing organization, or pose a systemic risk to the derivatives clearing organization; and* *`(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a swap, group, category, type, or class of swaps that is listed for clearing by a derivatives clearing organization.*	
`(5) REQUIRED REPORTING- `(A) IN GENERAL- All swaps that are not accepted	*`(6) REQUIRED REPORTING-* *`(A) BOTH COUNTERPARTIES- Both counterparties*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for clearing by any derivatives clearing organization shall be reported either to a swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r within such time period as the Commission may by rule or regulation prescribe. Counterparties to a swap may agree which counterparty will report the swap as required by this paragraph. `(B) SWAP DEALER DESIGNATION- With regard to swaps where only 1 counterparty is a swap dealer, the swap dealer shall report the swap as required by this paragraph.	*to a swap that is not cleared by any derivatives clearing organization shall report such a swap either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.* *`(B) TIMING- Counterparties to a swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.*	
`(6) REPORTING TRANSITION RULES- Rules adopted by the Commission under this section shall provide for the reporting of data, as follows: `(A) Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission no later than 180 days after the effective date of this subsection; and `(B) Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission no later than the later of-- `(i) 90 days after such effective date; or `(ii) such other time after entering into the swap as the Commission may prescribe by rule or regulation. `(7) CLEARING TRANSITION RULES- `(A) Swaps entered into before the date of the enactment of this subsection are exempt from the clearing requirements of this subsection if reported pursuant to paragraph (6)(A). `(B) Swaps entered into before application of the clearing requirement pursuant to this subsection are exempt from the clearing requirements of this subsection if reported pursuant to paragraph (6)(B).	*`(7) TRANSITION RULES-* *`(A) REPORTING TRANSITION RULES- Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:* *`(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION- Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.* *`(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION- Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than the later of--* *`(I) 90 days after such effective date; or* *`(II) such other time after entering into the swap as the Commission may prescribe by rule or regulation. `(B) CLEARING TRANSITION RULES-* *`(i) SWAPS ENTERED INTO BEFORE THE DATE OF THE ENACTMENT OF THIS SUBSECTION- Swaps entered into before the date of the enactment of this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).* *`(ii) SWAPS ENTERED INTO BEFORE*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	APPLICATION OF CLEARING REQUIREMENT- Swaps entered into before application of the clearing requirement pursuant to this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(ii).	
	`(8) TRADE EXECUTION-* *`(A) IN GENERAL- With respect to transactions involving swaps subject to the clearing requirement of paragraph (1), counterparties shall-- *`(i) execute the transaction on a board of trade designated as a contract market under section 5; or* *`(ii) execute the transaction on a swap execution facility registered under section 5h or a swap execution facility that is exempt from registration under section 5h(f) of this Act.* *`(B) EXCEPTION- The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply if no board of trade or swap execution facility makes the swap available to trade or a swap transactions where a commercial end user opts to use the clearing exemption under paragraph (9).* *`(9) REQUIRED EXEMPTION- Subject to paragraph (4), the Commission shall exempt a swap from the requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap from clearing.*	
`(8) EXCEPTIONS- `(A) IN GENERAL- The requirements of paragraph (1) shall not apply to a swap if one of the counterparties to the swap-- `(i) is not a swap dealer or major swap participant; `(ii) is using swaps to hedge or mitigate commercial risk, including operating or balance sheet risk; and	*`(10) END USER CLEARING EXEMPTION-* *`(A) DEFINITION OF COMMERCIAL END USER-* *`(i) IN GENERAL- In this paragraph, the term `commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets goods, services, or commodities*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(iii) notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared swaps.	*(which shall include but not be limited to coal, natural gas, electricity, ethanol, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.* *`(ii) FINANCIAL ENTITY- The term `financial entity' means--* *`(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;* *`(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;* *`(III) a person predominantly engaged in activities that are financial in nature;* *`(IV) a commodity pool or a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)); or* *`(V) a person that is registered or required to be registered with the Commission.* *`(B) END USER CLEARING EXEMPTION-* *`(i) IN GENERAL- Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the swap is a commercial end user, that counterparty--* *`(I)(aa) may elect not to clear the swap, as required under paragraph (1); or* *`(bb) may elect to require clearing of the swap; and* *`(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(ii) LIMITATION- A commercial end user may only make an election under clause (i) if the end user is using the swap to hedge its own commercial risk.* *`(C) TREATMENT OF AFFILIATES- *`(i) IN GENERAL- An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliate of the commercial end user that is not a financial entity.* *`(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES- An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is--* *`(I) a swap dealer;* *`(II) a security-based swap dealer;* *`(III) a major swap participant;* *`(IV) a major security-based swap participant;* *`(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), but for paragraph (1) or (7) of subsection (c) of that Act (15 U.S.C. 80a-3(c));* *`(VI) a commodity pool;* *`(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or* *`(VIII) an affiliate of any entity described in subclauses (I) through (VII).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(B) ABUSE OF EXCEPTION- The Commission may prescribe rules under this subsection, or issue interpretations of the rules, as necessary to prevent abuse of the exemption in subparagraph (A) by swap dealers and major swap participants.	*`(D) ABUSE OF EXEMPTION- The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B). The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).*	
`(C) OPTION TO CLEAR- The application of the clearing exception in subparagraph (A) is solely at the discretion of the counterparty to the swap that meets the conditions of clauses (i) through (iii) of subparagraph (A).	*`(E) OPTION TO CLEAR-* *`(i) SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY- With respect to any swap that is required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity, the financial entity shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.* *`(ii) SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER- With respect to any swap that is not required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity or commercial end user, the financial entity or commercial end user--* *`(I) may elect to require clearing of the swap; and* *`(II) shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.'.*	
`(k) Execution Transparency- `(1) REQUIREMENT- A swap that is subject to the clearing requirement of subsection (j) shall not be traded except on or through a board of trade designated as a contract market under section 5, or on or through a swap execution facility registered under section 5h, that makes the swap available for trading. `(2) EXCEPTIONS- The requirement of paragraph (1) shall not apply to a swap if no designated contract market or swap		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
execution facility makes the swap available for trading. `(3) AGRICULTURAL SWAPS- No person shall offer to enter into, enter into or confirm the execution of, any swap in an agricultural commodity (as defined by the Commission) that is subject to paragraphs (1) and (2) except pursuant to a rule or regulation of the Commission allowing the swap under such terms and conditions as the Commission shall prescribe. `(4) REQUIRED REPORTING- If the exception of paragraph (2) applies and there is no facility that makes the swap available to trade, the counterparties shall comply with any recordkeeping and transaction reporting requirements that may be prescribed by the Commission with respect to swaps subject to the requirements of paragraph (1). `(5) EXCHANGE TRADING- In adopting rules and regulations, the Commission shall endeavor to eliminate unnecessary impediments to the trading on boards of trade designated as contract markets under section 5 of contracts, agreements, or transactions that would be security-based swaps but for the trading of such contracts, agreements or transactions on such a designated contract market.'.		
	(b) Commodity Exchange Act- Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following: *`(j) Audit Committee Approval- Exemptions from the requirements of subsection (h)(2)(F) to clear a swap and subsection (b) to trade a swap through a board of trade or swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) only if the issuer's audit committee has reviewed and approved its decision to enter into swaps that are subject to such exemptions.'.* *(c) Grandfather Provisions-* *(1) LEGAL CERTAINTY FOR CERTAIN TRANSACTIONS IN EXEMPT COMMODITIES- Not later than 60 days after the date of enactment of this Act, a person may submit to the Commodity Futures Trading Commission a petition to remain subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act).* *(2) CONSIDERATION; AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION- The Commodity Futures Trading Commission--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) shall consider any petition submitted under subparagraph (A) in a prompt manner; and *(B) may allow a person to continue operating subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act) for not longer than a 1-year period.* *(3) AGRICULTURAL SWAPS-* *(A) IN GENERAL- Except as provided in paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity (as defined by the Commodity Futures Trading Commission).* *(B) EXCEPTION- Notwithstanding paragraph (1), a person may offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity pursuant to section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) or any rule, regulation, or order issued thereunder (including any rule, regulation, or order in effect as of the date of enactment of this Act) by the Commodity Futures Trading Commission to allow swaps under such terms and conditions as the Commission shall prescribe.* *(4) REQUIRED REPORTING- If the exception described in paragraph (2) applies, and there is no facility that makes the swap available to trade, the counterparties shall comply with any recordkeeping and transaction reporting requirements that may be prescribed by the Commission with respect to swaps subject to the requirements of paragraph (1).*	
(b) Derivatives Clearing Organizations- (1) Subsections (a) and (b) of section 5b of such Act (7 U.S.C. 7a-1) are amended to read as follows: `(a) Registration Requirement- `(1) IN GENERAL- It shall be unlawful for any entity, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization described in section 1a(10) of this Act with respect to-- `(A) a contract of sale of a commodity for future delivery (or option on such a contract) or option on a commodity, in each case unless the contract or option	***SEC. 725. DERIVATIVES CLEARING ORGANIZATIONS.*** *(a) Registration Requirement- Section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) is amended by striking subsections (a) and (b) and inserting the following:* *`(a) Registration Requirement-* *`(1) IN GENERAL- Except as provided in paragraph (2), it shall be unlawful for a derivatives clearing organization, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization with respect to--* *`(A) a contract of sale of a commodity for future delivery (or an option on the contract of sale) or option*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
is-- `(i) excluded from this Act by section 2(a)(1)(C)(i), 2(c), or 2(f); or `(ii) a security futures product cleared by a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or `(B) a swap.	*on a commodity, in each case, unless the contract or option is--* *`(i) excluded from this Act by subsection (a)(1)(C)(i), (c), or (f) of section 2; or* *`(ii) a security futures product cleared by a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or* *`(B) a swap.* *`(2) EXCEPTION- Paragraph (1) shall not apply to a derivatives clearing organization that is registered with the Commission.* *`(b) Voluntary Registration- A person that clears 1 or more agreements, contracts, or transactions that are not required to be cleared under this Act may register with the Commission as a derivatives clearing organization.'.* *(b) Registration for Depository Institutions and Clearing Agencies; Exemptions; Compliance Officer; Annual Reports- Section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) is amended by adding at the end the following:* *`(g) Required Registration for Depository Institutions and Clearing Agencies- A person that is required to be registered as a derivatives clearing organization under this section shall register with the Commission regardless of whether the person is also licensed as a depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).*	
`(2) EXISTING BANKS AND CLEARING AGENCIES- A bank or a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 required to be registered as a derivatives clearing organization under this section is deemed to be registered under this section to the extent that the bank cleared swaps, as defined in this Act, as a multilateral clearing organization or the clearing agency cleared swaps, as defined in this Act, before the enactment of this subsection. A bank to which this paragraph applies may, by the vote of the shareholders owning not less than 51 percent of the voting interests of the bank, be converted into a State corporation, partnership, limited liability company, or other similar legal form pursuant to a plan of conversion, if	*`(h) Existing Depository Institutions and Clearing Agencies-* *`(1) IN GENERAL- A depository institution or clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) that is required to be registered as a derivatives clearing organization under this section is deemed to be registered under this section to the extent that, before the date of enactment of this subsection--* *`(A) the depository institution cleared swaps as a multilateral clearing organization; or* *`(B) the clearing agency cleared swaps.* *`(i) the compliance of the derivatives clearing organization of the compliance officer with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the conversion is not in contravention of applicable State law. `(b) Voluntary Registration- A person that clears agreements, contracts, or transactions that are not required to be cleared under this Act may register with the Commission as a derivatives clearing organization.'.	*respect to this Act (including regulations); and* *`(ii) each policy and procedure of the derivatives clearing organization of the compliance officer (including the code of ethics and conflict of interest policies of the derivatives clearing organization).* *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the derivatives clearing organization that is required to be furnished to the Commission pursuant to this section; and* *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.'.*	
	`(2) CONVERSION OF DEPOSITORY INSTITUTIONS- A depository institution to which this paragraph applies may, by the vote of the shareholders owning not less than 51 percent of the voting interests of the depository institution, be converted into a State corporation, partnership, limited liability company, or similar legal form pursuant to a plan of conversion, if the conversion is not in contravention of applicable State law. *`(i) Exemptions- The Commission may exempt, conditionally or unconditionally, a derivatives clearing organization from registration under this section for the clearing of swaps if the Commission determines that the derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by the Securities and Exchange Commission or the appropriate government authorities in the home country of the organization. Such conditions may include, but are not limited to, requiring that the derivatives clearing organization be available for inspection by the Commission and make available all information requested by the Commission.* *`(j) Designation of Chief Compliance Officer-* *`(1) IN GENERAL- Each derivatives clearing organization shall designate an individual to serve as a chief compliance officer.* *`(2) DUTIES- The chief compliance officer shall--* *`(A) report directly to the board or to the senior officer of the derivatives clearing organization;* *`(B) review the compliance of the derivatives clearing organization with respect to the core principles described in subsection (c)(2);*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(C) in consultation with the board of the derivatives clearing organization, a body performing a function similar to the board of the derivatives clearing organization, or the senior officer of the derivatives clearing organization, resolve any conflicts of interest that may arise;* *`(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section; *`(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;* *`(F) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--*	
(2) Section 5b of such Act (7 U.S.C. 7a-1) is amended by adding at the end the following: `(g) Rules- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing persons that are registered as derivatives clearing organizations for swaps under this subsection. `(h) Exemptions- `(1) IN GENERAL- The Commission may exempt, conditionally or unconditionally, a derivatives clearing organization from registration under this section for the clearing of swaps if the Commission finds that the derivatives clearing organization is subject to comparable, comprehensive supervision and regulation on a consolidated basis by a		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Prudential Regulator or the appropriate governmental authorities in the organization's home country. `(2) A person that is required to be registered as a derivatives clearing organization under this section, whose principal business is clearing securities and options on securities and which is a clearing agency registered with the Securities Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), shall be unconditionally exempt from registration under this section solely for the purpose of clearing swaps, unless the Commission finds that the clearing agency is not subject to comparable, comprehensive supervision and regulation by the Securities and Exchange Commission.		
`(i) Designation of Compliance Officer- `(1) IN GENERAL- Each derivatives clearing organization shall designate an individual to serve as a compliance officer. `(2) DUTIES- The compliance officer-- `(A) shall report directly to the board or to the senior officer of the derivatives clearing organization; and `(B) shall-- `(i) review compliance with the core principles in section 5b(c)(2). `(ii) in consultation with the board of the derivatives clearing organization, a body performing a function similar to that of a board, or the senior officer of the derivatives clearing organization, resolve any conflicts of interest that may arise; `(iii) be responsible for administering the policies and procedures required to be established pursuant to this section; and `(iv) ensure compliance with this Act and the rules and regulations issued under this Act; and `(C) shall establish procedures for remediation of non-compliance issues found during compliance office reviews, lookbacks, internal or external audit findings, self-reported errors, or through validated complaints. The procedures shall establish the handling, management response, remediation, re-testing, and closing of non-compliant issues. `(3) ANNUAL REPORTS REQUIRED- The compliance officer shall annually prepare and sign a report on the compliance of the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
derivatives clearing organization with this Act and the policies and procedures of the derivatives clearing organization, including the code of ethics and conflict of interest policies of the derivatives clearing organization, in accordance with rules prescribed by the Commission. The compliance report shall accompany the financial reports of the derivatives clearing organization that are required to be furnished to the Commission pursuant to this section and shall include a certification that, under penalty of law, the report is accurate and complete.'.		
(3) Section 5b(c)(2) of such Act (7 U.S.C. 7a-1(c)(2)) is amended to read as follows: `(2) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS- `(A) IN GENERAL- To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with the core principles specified in this paragraph and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5). Except where the Commission determines otherwise by rule or regulation, a derivatives clearing organization shall have reasonable discretion in establishing the manner in which the organization complies with the core principles.	*(c) Core Principles for Derivatives Clearing Organizations- Section 5b(c) of the Commodity Exchange Act (7 U.S.C. 7a-1(c)) is amended by striking paragraph (2) and inserting the following:* *`(2) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS-* *`(A) COMPLIANCE-* *`(i) IN GENERAL- To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with each core principle described in this paragraph and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(ii) DISCRETION OF DERIVATIVES CLEARING ORGANIZATION- Subject to any rule or regulation prescribed by the Commission, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle described in this paragraph.*	
`(B) FINANCIAL RESOURCES- `(i) The derivatives clearing organization shall have adequate financial, operational, and managerial resources to discharge the responsibilities of the organization. `(ii) The financial resources of the derivatives clearing organization shall at a minimum exceed the total amount that would-- `(I) enable the organization to meet	*`(B) FINANCIAL RESOURCES-* *`(i) IN GENERAL- Each derivatives clearing organization shall have adequate financial, operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the derivatives clearing organization.* *`(ii) MINIMUM AMOUNT OF FINANCIAL RESOURCES- Each derivatives clearing*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the financial obligations of the organization to the members of, and participants in, the organization, notwithstanding a default by the member or participant creating the largest financial exposure for the organization in extreme but plausible market conditions; and `(II) enable the organization to cover the operating costs of the organization for a period of 1 year, calculated on a rolling basis.	*organization shall possess financial resources that, at a minimum, exceed the total amount that would--* *`(I) enable the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and* *`(II) enable the derivatives clearing organization to cover the operating costs of the derivatives clearing organization for a period of 1 year (as calculated on a rolling basis).*	
`(C) PARTICIPANT AND PRODUCT ELIGIBILITY- `(i) The derivatives clearing organization shall establish-- `(I) appropriate admission and continuing eligibility standards (including sufficient financial resources and operational capacity to meet obligations arising from participation in the organization) for members of and participants in the organization; and `(II) appropriate standards for determining eligibility of agreements, contracts, or transactions submitted to the organization for clearing. `(ii) The derivatives clearing organization shall have procedures in place to verify that participation and membership requirements are met on an ongoing basis. `(iii) The participation and membership requirements of the derivatives clearing organization shall be objective, publicly disclosed, and permit fair and open access.	*`(C) PARTICIPANT AND PRODUCT ELIGIBILITY-* *`(i) IN GENERAL- Each derivatives clearing organization shall establish--* *`(I) appropriate admission and continuing eligibility standards (including sufficient financial resources and operational capacity to meet obligations arising from participation in the derivatives clearing organization) for members of, and participants in, the derivatives clearing organization; and* *`(II) appropriate standards for determining the eligibility of agreements, contracts, and transactions submitted to the derivatives clearing organization for clearing.* *`(ii) REQUIRED PROCEDURES- Each derivatives clearing organization shall establish and implement procedures to verify, on an ongoing basis, the compliance of each participation and membership requirement of the derivatives clearing organization.* *`(iii) REQUIREMENTS- The participation*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	and membership requirements of each derivatives clearing organization shall-- *`(I) be objective;* *`(II) be publicly disclosed; and* *`(III) permit fair and open access.*	
`(D) RISK MANAGEMENT- `(i) The derivatives clearing organization shall have the ability to manage the risks associated with discharging the responsibilities of a derivatives clearing organization through the use of appropriate tools and procedures. `(ii) The derivatives clearing organization shall measure the credit exposures of the organization to the members of, and participants in, the organization at least once each business day and shall monitor the exposures throughout the business day. `(iii) Through margin requirements and other risk control mechanisms, a derivatives clearing organization shall limit the exposures of the organization to potential losses from defaults by the members of, and participants in, the organization so that the operations of the organization would not be disrupted and non-defaulting members or participants would not be exposed to losses that they cannot anticipate or control. `(iv) Margin required from all members and participants shall be sufficient to cover potential exposures in normal market conditions. `(v) The models and parameters used in setting margin requirements shall be risk-based and reviewed regularly.	*`(D) RISK MANAGEMENT-* *`(i) IN GENERAL- Each derivatives clearing organization shall ensure that the derivatives clearing organization possesses the ability to manage the risks associated with discharging the responsibilities of the derivatives clearing organization through the use of appropriate tools and procedures.* *`(ii) MEASUREMENT OF CREDIT EXPOSURE- Each derivatives clearing organization shall--* *`(I) not less than once during each business day of the derivatives clearing organization, measure the credit exposures of the derivatives clearing organization to each member and participant of the derivatives clearing organization; and* *`(II) monitor each exposure described in subclause (I) periodically during the business day of the derivatives clearing organization.* *`(iii) LIMITATION OF EXPOSURE TO POTENTIAL LOSSES FROM DEFAULTS- Each derivatives clearing organization, through margin requirements and other risk control mechanisms, shall limit the exposure of the derivatives clearing organization to potential losses from defaults by members and participants of the derivatives clearing organization to ensure that--* *`(I) the operations of the derivatives clearing organization would not be disrupted; and* *`(II) nondefaulting members or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	participants would not be exposed to losses that nondefaulting members or participants cannot anticipate or control. *`(iv) MARGIN REQUIREMENTS- The margin required from each member and participant of a derivatives clearing organization shall be sufficient to cover potential exposures in normal market conditions.* *`(v) REQUIREMENTS REGARDING MODELS AND PARAMETERS- Each model and parameter used in setting margin requirements under clause (iv) shall be--* *`(I) risk-based; and* *`(II) reviewed on a regular basis.*	
`(E) SETTLEMENT PROCEDURES- The derivatives clearing organization shall-- `(i) complete money settlements on a timely basis, and not less than once each business day; `(ii) employ money settlement arrangements that eliminate or strictly limit the exposure of the organization to settlement bank risks, such as credit and liquidity risks from the use of banks to effect money settlements; `(iii) ensure money settlements are final when effected; `(iv) maintain an accurate record of the flow of funds associated with each money settlement; `(v) have the ability to comply with the terms and conditions of any permitted netting or offset arrangements with other clearing organizations; and `(vi) for physical settlements, establish rules that clearly state the obligations of the organization with respect to physical deliveries, including how risks from these obligations shall be identified and managed.	*`(E) SETTLEMENT PROCEDURES- Each derivatives clearing organization shall--* *`(i) complete money settlements on a timely basis (but not less frequently than once each business day);* *`(ii) employ money settlement arrangements to eliminate or strictly limit the exposure of the derivatives clearing organization to settlement bank risks (including credit and liquidity risks from the use of banks to effect money settlements);* *`(iii) ensure that money settlements are final when effected;* *`(iv) maintain an accurate record of the flow of funds associated with each money settlement;* *`(v) possess the ability to comply with each term and condition of any permitted netting or offset arrangement with any other clearing organization;* *`(vi) regarding physical settlements, establish rules that clearly state each obligation of the derivatives clearing organization with respect to physical deliveries; and* *`(vii) ensure that each risk arising from an obligation described in clause (vi) is identified and managed.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(F) TREATMENT OF FUNDS- `(i) The derivatives clearing organization shall have standards and procedures designed to protect and ensure the safety of member and participant funds and assets. `(ii) The derivatives clearing organization shall hold member and participant funds and assets in a manner whereby risk of loss or of delay in the access of the organization to the assets and funds is minimized. `(iii) Assets and funds invested by the derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks.	*`(F) TREATMENT OF FUNDS-* *`(i) REQUIRED STANDARDS AND PROCEDURES- Each derivatives clearing organization shall establish standards and procedures that are designed to protect and ensure the safety of member and participant funds and assets.* *`(ii) HOLDING OF FUNDS AND ASSETS- Each derivatives clearing organization shall hold member and participant funds and assets in a manner by which to minimize the risk of loss or of delay in the access by the derivatives clearing organization to the assets and funds.* *`(iii) PERMISSIBLE INVESTMENTS- Funds and assets invested by a derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks.*	
`(G) DEFAULT RULES AND PROCEDURES- `(i) The derivatives clearing organization shall have rules and procedures designed to allow for the efficient, fair, and safe management of events when members or participants become insolvent or otherwise default on their obligations to the organization. `(ii) The default procedures of the derivatives clearing organization shall be clearly stated, and they shall ensure that the organization can take timely action to contain losses and liquidity pressures and to continue meeting the obligations of the organization. `(iii) The default procedures shall be publicly available.	*`(G) DEFAULT RULES AND PROCEDURES-* *`(i) IN GENERAL- Each derivatives clearing organization shall have rules and procedures designed to allow for the efficient, fair, and safe management of events during which members or participants--* *`(I) become insolvent; or* *`(II) otherwise default on the obligations of the members or participants to the derivatives clearing organization.* *`(ii) DEFAULT PROCEDURES- Each derivatives clearing organization shall--* *`(I) clearly state the default procedures of the derivatives clearing organization;* *`(II) make publicly available the default rules of the derivatives clearing organization; and* *`(III) ensure that the derivatives clearing organization may take timely action--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(aa) to contain losses and liquidity pressures; and*  *`(bb) to continue meeting each obligation of the derivatives clearing organization.	
`(H) RULE ENFORCEMENT- The derivatives clearing organization shall-- `(i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with rules of the organization and for resolution of disputes; and `(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant for violations of rules of the organization.	*`(H) RULE ENFORCEMENT- Each derivatives clearing organization shall--* *`(i) maintain adequate arrangements and resources for--* *`(I) the effective monitoring and enforcement of compliance with the rules of the derivatives clearing organization; and* *`(II) the resolution of disputes;* *`(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant due to a violation by the member or participant of any rule of the derivatives clearing organization; and* *`(iii) report to the Commission regarding rule enforcement activities and sanctions imposed against members and participants as provided in clause (ii).*	
`(I) SYSTEM SAFEGUARDS- The derivatives clearing organization shall-- `(i) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity; `(ii) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the organization; and `(iii) periodically conduct tests to verify that	*`(I) SYSTEM SAFEGUARDS- Each derivatives clearing organization shall--* *`(i) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures, and automated systems, that are reliable, secure, and have adequate scalable capacity;* *`(ii) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for--* *`(I) the timely recovery and resumption of operations of the derivatives clearing organization; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.	*`(II) the fulfillment of each obligation and responsibility of the derivatives clearing organization; and* *`(iii) periodically conduct tests to verify that the backup resources of the derivatives clearing organization are sufficient to ensure daily processing, clearing, and settlement.*	
`(J) REPORTING- The derivatives clearing organization shall provide to the Commission all information necessary for the Commission to conduct oversight of the organization.	*`(J) REPORTING- Each derivatives clearing organization shall provide to the Commission all information that the Commission determines to be necessary to conduct oversight of the derivatives clearing organization.*	
`(K) RECORDKEEPING- The derivatives clearing organization shall maintain records of all activities related to the business of the organization as a derivatives clearing organization in a form and manner acceptable to the Commission for a period of 5 years.	*`(K) RECORDKEEPING- Each derivatives clearing organization shall maintain records of all activities related to the business of the derivatives clearing organization as a derivatives clearing organization--* *`(i) in a form and manner that is acceptable to the Commission; and* *`(ii) for a period of not less than 5 years.*	
`(L) PUBLIC INFORMATION- `(i) The derivatives clearing organization shall provide market participants with sufficient information to identify and evaluate accurately the risks and costs associated with using the services of the organization. `(ii) The derivatives clearing organization shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) of the organization available to market participants. `(iii) The derivatives clearing organization shall disclose publicly and to the Commission information concerning-- `(I) the terms and conditions of contracts, agreements, and transactions cleared and settled by the organization; `(II) clearing and other fees that the organization charges the members of,	*`(L) PUBLIC INFORMATION-* *`(i) IN GENERAL- Each derivatives clearing organization shall provide to market participants sufficient information to enable the market participants to identify and evaluate accurately the risks and costs associated with using the services of the derivatives clearing organization.* *`(ii) AVAILABILITY OF INFORMATION- Each derivatives clearing organization shall make information concerning the rules and operating procedures governing the clearing and settlement systems of the derivatives clearing organization available to market participants.* *`(iii) PUBLIC DISCLOSURE- Each derivatives clearing organization shall disclose publicly and to the Commission information concerning--* *`(I) the terms and conditions of each contract, agreement, and other*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and participants in, the organization; `(III) the margin-setting methodology and the size and composition of the financial resource package of the organization; `(IV) other information relevant to participation in the settlement and clearing activities of the organization; and `(V) daily settlement prices, volume, and open interest for all contracts settled or cleared by the organization.	*transaction cleared and settled by the derivatives clearing organization;* *`(II) each clearing and other fee that the derivatives clearing organization charges the members and participants of the derivatives clearing organization;* *`(III) the margin-setting methodology, and the size and composition, of the financial resource package of the derivatives clearing organization;* *`(IV) daily settlement prices, volume, and open interest for each contract settled or cleared by the derivatives clearing organization; and* *`(V) any other matter relevant to participation in the settlement and clearing activities of the derivatives clearing organization.*	
`(M) INFORMATION-SHARING- The derivatives clearing organization shall-- `(i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and `(ii) use relevant information obtained from the agreements in carrying out the risk management program of the organization.	*`(M) INFORMATION-SHARING- Each derivatives clearing organization shall--* *`(i) enter into, and abide by the terms of, each appropriate and applicable domestic and international information-sharing agreement; and* *`(ii) use relevant information obtained from each agreement described in clause (i) in carrying out the risk management program of the derivatives clearing organization.*	
`(N) ANTITRUST CONSIDERATIONS- The derivatives clearing organization shall avoid-- `(i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or `(ii) imposing any material anticompetitive burden.	*`(N) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this Act, a derivatives clearing organization shall not--* *`(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or* *`(ii) impose any material anticompetitive burden.*	
`(O) GOVERNANCE FITNESS STANDARDS- `(i) The derivatives clearing organization shall	*`(O) GOVERNANCE FITNESS STANDARDS-* *`(i) GOVERNANCE ARRANGEMENTS- Each*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
establish governance arrangements that are transparent in order to fulfill public interest requirements and to support the objectives of the owners of, and participants in, the organization. `(ii) The derivatives clearing organization shall establish and enforce appropriate fitness standards for the directors, members of any disciplinary committee, and members of the organization, and any other persons with direct access to the settlement or clearing activities of the organization, including any parties affiliated with any of the persons described in this subparagraph.	*derivatives clearing organization shall establish governance arrangements that are transparent--* *`(I) to fulfill public interest requirements; and* *`(II) to support the objectives of owners and participants.* *`(ii) FITNESS STANDARDS- Each derivatives clearing organization shall establish and enforce appropriate fitness standards for--* *`(I) directors;* *`(II) members of any disciplinary committee;* *`(III) members of the derivatives clearing organization;* *`(IV) any other individual or entity with direct access to the settlement or clearing activities of the derivatives clearing organization; and* *`(V) any party affiliated with any individual or entity described in this clause.*	
`(P) CONFLICTS OF INTEREST- The derivatives clearing organization shall establish and enforce rules to minimize conflicts of interest in the decision-making process of the organization and establish a process for resolving the conflicts of interest.	*`(P) CONFLICTS OF INTEREST- Each derivatives clearing organization shall--* *`(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the derivatives clearing organization; and* *`(ii) establish a process for resolving conflicts of interest described in clause (i).*	
`(Q) COMPOSITION OF THE BOARDS- The derivatives clearing organization shall ensure that the composition of the governing board or committee includes market participants.	*`(Q) COMPOSITION OF GOVERNING BOARDS- Each derivatives clearing organization shall ensure that the composition of the governing board or committee of the derivatives clearing organization includes market participants.*	
`(R) LEGAL RISK- The derivatives clearing organization shall have a well founded, transparent, and enforceable legal framework for each aspect of its activities.'.	*`(R) LEGAL RISK- Each derivatives clearing organization shall have a well-founded, transparent, and enforceable legal framework for each aspect of the activities of the derivatives clearing organization.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(S) MODIFICATION OF CORE PRINCIPLES- The Commission may conform the core principles established in this paragraph to reflect evolving United States and international standards.'. *(d) Conflicts of Interest- The Commission shall adopt rules mitigating conflicts of interest in connection with the conduct of business by a swap dealer or a major swap participant with a derivatives clearing organization, board of trade, or a swap execution facility that clears or trades swaps in which the swap dealer or major swap participant has a material debt or material equity investment.*	
(4) Section 5b of such Act (7 U.S.C. 7a-1) is further amended by adding after subsection (i), as added by this section, the following: `(j) Reporting- `(1) IN GENERAL- A derivatives clearing organization that clears swaps shall provide to the Commission all information determined by the Commission to be necessary to perform the responsibilities of the Commission under this Act. The Commission shall adopt data collection and maintenance requirements for swaps cleared by derivatives clearing organizations that are comparable to the corresponding requirements for swaps accepted by swap repositories and swaps traded on swap execution facilities. The Commission shall share the information, upon request, with the Board, the Securities and Exchange Commission, the appropriate Federal banking agencies, the Financial Services Oversight Council, and the Department of Justice or other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries that comply with the provisions of section 8. `(2) PUBLIC INFORMATION- A derivatives clearing organization that clears swaps shall provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in section 8(j). `(3) A derivatives clearing organization shall keep any such books and records relating to swaps defined in section 1a(35)(A)(v) open to inspection and examination by the Securities and Exchange Commission.'. (5) Section 8(e) of such Act (7 U.S.C. 12(e)) is amended in the	*(e) Reporting Requirements- Section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) (as amended by subsection (b)) is amended by adding at the end the following:* *`(k) Reporting Requirements-* *`(1) DUTY OF DERIVATIVES CLEARING ORGANIZATIONS- Each derivatives clearing organization that clears swaps shall provide to the Commission all information that is determined by the Commission to be necessary to perform each responsibility of the Commission under this Act.* *`(2) DATA COLLECTION AND MAINTENANCE REQUIREMENTS- The Commission shall adopt data collection and maintenance requirements for swaps cleared by derivatives clearing organizations that are comparable to the corresponding requirements for--* *`(A) swaps data reported to swap data repositories; and* *`(B) swaps traded on swap execution facilities.* *`(3) REPORTS ON SECURITY-BASED SWAP AGREEMENTS TO BE SHARED WITH THE SECURITIES AND EXCHANGE COMMISSION-* *`(A) IN GENERAL- A derivatives clearing organization that clears security-based swap agreements (as defined in section 3(a)(79) of the Securities Exchange Act) shall, upon request, make available to the Securities and Exchange Commission all books and records relating to such security-based swap agreements, consistent with the confidentiality and disclosure requirements of section 8.* *`(B) JURISDICTION- Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for a derivatives clearing organization that is*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
last sentence by inserting `central bank and ministries' after `department' each place it appears.	*registered with the Commission.'* *`(4) INFORMATION SHARING- Subject to section 8, and upon request, the Commission shall share information collected under paragraph (2) with--* *`(A) the Board;* *`(B) the Securities and Exchange Commission;* *`(C) each appropriate prudential regulator;* *`(D) the Financial Stability Oversight Council;* *`(E) the Department of Justice; and* *`(F) any other person that the Commission determines to be appropriate, including--* *`(i) foreign financial supervisors (including foreign futures authorities);* *`(ii) foreign central banks; and* *`(iii) foreign ministries.* *`(5) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT- Before the Commission may share information with any entity described in paragraph (4)--* *`(A) the Commission shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided; and* *`(B) each entity shall agree to indemnify the Commission for any expenses arising from litigation relating to the information provided under section 8.* *`(6) PUBLIC INFORMATION- Each derivatives clearing organization that clears swaps shall provide to the Commission (including any designee of the Commission) information under paragraph (2) in such form and at such frequency as is required by the Commission to comply with the public reporting requirements contained in section 2(a)(13).'.* *(f) Public Disclosure- Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended in the last sentence--* *(1) by inserting `, central bank and ministries,' after `department' each place it appears; and* *(2) by striking `. is a party.' and inserting `, is a party.'.*	
(c) Legal Certainty for Identified Banking Products- (1) REPEAL- Sections 402(d), 404, 407, 408(b), and 408(c)(2) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(d), 27b, 27e, 27f(b), and 27f(c)(2)) are repealed. (2) LEGAL CERTAINTY- Section 403 of the Legal Certainty	*(g) Legal Certainty for Identified Banking Products-* *(1) REPEALS- The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended--* *(A) by striking sections 404 and 407 (7 U.S.C. 27b, 27e);*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for Bank Products Act of 2000 (7 U.S.C. 27a) is amended to read as follows:	*(B) in section 402 (7 U.S.C. 27), by striking subsection (d); and* *(C) in section 408 (7 U.S.C. 27f)--* *(i) in subsection (c)--* *(I) by striking `in the case' and all that follows through `a hybrid' and inserting `in the case of a hybrid';* *(II) by striking `; or' and inserting a period; and* *(III) by striking paragraph (2);* *(ii) by striking subsection (b); and* *(iii) by redesignating subsection (c) as subsection (b).*	
(2) LEGAL CERTAINTY- Section 403 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a) is amended to read as follows:	*(2) LEGAL CERTAINTY FOR BANK PRODUCTS ACT OF 2000- Section 403 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a) is amended to read as follows:*	
**`SEC. 403. EXCLUSION OF IDENTIFIED BANKING PRODUCT.**  `(a) Exclusion- Except as provided in subsection (b) or (c)-- `(1) the Commodity Exchange Act shall not apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority under such Act with respect to, an identified banking product; and `(2) the definitions of `security-based swap' in section 3(a)(68) of the Securities Exchange Act of 1934 and `security-based swap agreement' in section 3(a)(76) of the Securities Exchange Act of 1934 do not include any identified banking product.	***`SEC. 403. EXCLUSION OF IDENTIFIED BANKING PRODUCT.***  *`(a) Exclusion- Except as provided in subsection (b) or (c)--* *`(1) the Commodity Exchange Act (7 U.S.C. 1 et seq.) shall not apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) with respect to, an identified banking product; and* *`(2) the definitions of `security-based swap' in section 3(a)(68) of the Securities Exchange Act of 1934 and `security-based swap agreement' in section 3(a)(79) of the Securities Exchange Act of 1934 do not include any identified bank product.*	
`(b) Exception- An appropriate Federal banking agency may except an identified banking product of a bank under its regulatory jurisdiction from the exclusions in subsection (a) if the agency determines, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, that the product-- `(1) would meet the definition of swap in section 1a(35) of the Commodity Exchange Act (7 U.S.C. 1a(35)) or security-based swap in section 3(a)(68) of the Securities and Exchange Act of 1934; and `(2) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking	*`(b) Exception- An appropriate Federal banking agency may except an identified banking product of a bank under its regulatory jurisdiction from the exclusion in subsection (a) if the agency determines, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, that the product--* *`(1) would meet the definition of a `swap' under section 1a(46) of the Commodity Exchange Act (7 U.S.C. 1a) or a `security-based swap' under that section 3(a)(68) of the Securities Exchange Act of 1934; and* *`(2) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).	*product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).*	
`(c) Exception- The exclusions in subsection (a) shall not apply to an identified banking product that-- `(1) is a product of a bank that is not under the regulatory jurisdiction of an appropriate Federal banking agency; `(2) meets the definition of swap in section 1a(35) of the Commodity Exchange Act or security-based swap in section 3(a)(68) of the Securities and Exchange Act of 1934; and `(3) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).'.	*`(c) Exception- The exclusions in subsection (a) shall not apply to an identified bank product that--* *`(1) is a product of a bank that is not under the regulatory jurisdiction of an appropriate Federal banking agency;* *`(2) meets the definition of swap in section 1a(46) of the Commodity Exchange Act or security-based swap in section 3(a)(68) of the Securities Exchange Act of 1934; and* *`(3) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).'.*	
SEC. 3104. PUBLIC REPORTING OF AGGREGATE SWAP DATA. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by adding at the end the following: `(j) Public Reporting of Aggregate Swap Data- `(1) IN GENERAL- The Commission, or a person designated by the Commission pursuant to paragraph (2), shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on swap trading volumes and positions from the sources set forth in paragraph (3). `(2) DESIGNEE OF THE COMMISSION- The Commission may designate a derivatives clearing organization or a swap repository to carry out the public reporting described in paragraph (1). `(3) SOURCES OF INFORMATION- The sources of the information to be publicly reported as described in paragraph (1) are-- `(A) derivatives clearing organizations pursuant to section 5b(j)(2); `(B) swap repositories pursuant to section 21(c)(3); and `(C) reports received by the Commission pursuant to section 4r.'.	***SEC. 727. PUBLIC REPORTING OF SWAP TRANSACTION DATA.*** *Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:* *`(13) PUBLIC AVAILABILITY OF SWAP TRANSACTION DATA-* *`(A) DEFINITION OF REAL-TIME PUBLIC REPORTING- In this paragraph, the term `real-time public reporting' means to report data relating to a swap transaction as soon as technologically practicable after the time at which the swap transaction has been executed.* *`(B) PURPOSE- The purpose of this section is to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.* *`(C) GENERAL RULE- The Commission is authorized and required to provide by rule for the public availability of swap transaction and pricing data as follows:* *`(i) With respect to those swaps that are subject to the mandatory clearing requirement described in subsection (h)(2) (including those*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	swaps that are exempted from the requirement pursuant to subsection (h)(10)), the Commission shall require real-time public reporting for such transactions. *`(ii) With respect to those swaps that are not subject to the mandatory clearing requirement described in subsection (h)(2), but are cleared at a registered derivatives clearing organization, the Commission shall require real-time public reporting for such transactions.* *`(iii) With respect to swaps that are not cleared at a registered derivatives clearing organization and which are reported to a swap data repository or the Commission under subsection (h), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such swap trading volumes and positions.* *`(iv) With respect to swaps that are exempt from the requirements of subsection (h)(1), pursuant to subsection (h)(10), the Commission shall require real-time public reporting for such transactions.* *`(D) REGISTERED ENTITIES AND PUBLIC REPORTING- The Commission may require registered entities to publicly disseminate the swap transaction and pricing data required to be reported under this paragraph.* *`(E) RULEMAKING REQUIRED- With respect to the rule providing for the public availability of transaction and pricing data for swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions--* *`(i) to ensure such information does not identify the participants;* *`(ii) to specify the criteria for determining what constitutes a large notional swap transaction (block trade) for particular markets and contracts;* *`(iii) to specify the appropriate time delay for*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	reporting large notional swap transactions (block trades) to the public; and *`(iv) that take into account whether the public disclosure will materially reduce market liquidity.* *`(F) TIMELINESS OF REPORTING- Parties to a swap (including agents of the parties to a swap) shall be responsible for reporting swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.* *`(14) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SWAP DATA-* *`(A) IN GENERAL- In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to--* *`(i) the trading and clearing in the major swap categories; and* *`(ii) the market participants and developments in new products.* *`(B) USE; CONSULTATION- In preparing a report under subparagraph (A), the Commission shall--* *`(i) use information from swap data repositories and derivatives clearing organizations; and* *`(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.'.*	
SEC. 3105. SWAP REPOSITORIES. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 20 the following: **`SEC. 21. SWAP REPOSITORIES.**  `(a) Registration Requirement- `(1) IN GENERAL- It shall be unlawful for any person, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a swap repository.	***SEC. 728. SWAP DATA REPOSITORIES.*** *The Commodity Exchange Act is amended by inserting after section 20 (7 U.S.C. 24) the following:* ***`SEC. 21. SWAP DATA REPOSITORIES.***  *`(a) Registration Requirement-* *`(1) IN GENERAL- It shall be unlawful for any person, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a swap data repository.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) INSPECTION AND EXAMINATION- Registered swap repositories shall be subject to inspection and examination by any representative of the Commission.	*`(2) INSPECTION AND EXAMINATION- Each registered swap data repository shall be subject to inspection and examination by any representative of the Commission.* *`(3) COMPLIANCE WITH CORE PRINCIPLES-* *`(A) IN GENERAL- To be registered, and maintain registration, as a swap data repository, the swap data repository shall comply with--* *`(i) the core principles described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(B) REASONABLE DISCRETION OF SWAP DATA REPOSITORY- Unless otherwise determined by the Commission by rule or regulation, a swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap data repository complies with the core principles described in this subsection.*	
`(b) Standard Setting- `(1) DATA IDENTIFICATION- The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap repository. `(2) DATA COLLECTION AND MAINTENANCE- The Commission shall prescribe data collection and data maintenance standards for swap repositories. `(3) COMPARABILITY- The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations that clear swaps.	*`(b) Standard Setting-* *`(1) DATA IDENTIFICATION- The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository.* *`(2) DATA COLLECTION AND MAINTENANCE- The Commission shall prescribe data collection and data maintenance standards for swap data repositories.* *`(3) COMPARABILITY- The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations in connection with their clearing of swaps.* *`(4) SHARING OF INFORMATION WITH SECURITIES AND EXCHANGE COMMISSION- Registered swap data repositories shall make available to the Securities and Exchange Commission, upon request, all books and records relating to security-based swap agreements that are maintained by such swap data repository, consistent with the confidentiality and disclosure requirements of section 8. Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for a swap data repository that is registered with the Commission.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(c) Duties- A swap repository shall-- `(1) accept data prescribed by the Commission for each swap under subsection (b); `(2) maintain the data in such form and manner and for such period as may be required by the Commission; `(3) provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in section 8(j); and `(4) make available, on a confidential basis pursuant to section 8, all data obtained by the swap repository, including individual counterparty trade and position data, to the Commission, the appropriate Federal banking agencies, the Financial Services Oversight Council, the Securities and Exchange Commission, and the Department of Justice or to other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries.	*`(c) Duties- A swap data repository shall--* *`(1) accept data prescribed by the Commission for each swap under subsection (b);* *`(2) confirm with both counterparties to the swap the accuracy of the data that was submitted;* *`(3) maintain the data described in paragraph (1) in such form, in such manner, and for such period as may be required by the Commission;* *`(4)(A) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and* *`(B) provide the information described in paragraph (1) in such form and at such frequency as the Commission may require to comply with the public reporting requirements contained in section 2(a)(13);* *`(5) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing swap data, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities;* *`(6) maintain the privacy of any and all swap transaction information that the swap data repository receives from a swap dealer, counterparty, or any other registered entity; and* *`(7) on a confidential basis pursuant to section 8, upon request, and after notifying the Commission of the request, make available all data obtained by the swap data repository, including individual counterparty trade and position data, to--* *`(A) each appropriate prudential regulator;* *`(B) the Financial Stability Oversight Council;* *`(C) the Securities and Exchange Commission;* *`(D) the Department of Justice; and* *`(E) any other person that the Commission determines to be appropriate, including--* *`(i) foreign financial supervisors (including foreign futures authorities);* *`(ii) foreign central banks;* *`(iii) foreign ministries; and* *`(8) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the organization.*	
	`(d) Confidentiality and Indemnification Agreement- Before the swap	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	data repository may share information with any entity described above-- *`(1) the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided; and* *`(2) each entity shall agree to indemnify the swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 8.*	
	`(e) Designation of Chief Compliance Officer-* *`(1) IN GENERAL- Each swap data repository shall designate an individual to serve as a chief compliance officer. *`(2) DUTIES- The chief compliance officer shall--* *`(A) report directly to the board or to the senior officer of the swap data repository;* *`(B) review the compliance of the swap data repository with respect to the core principles described in subsection (f);* *`(C) in consultation with the board of the swap data repository, a body performing a function similar to the board of the swap data repository, or the senior officer of the swap data repository, resolve any conflicts of interest that may arise;* *`(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;* *`(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of-- *`(i) the compliance of the swap data repository of the chief compliance officer with respect to this Act (including regulations); and* *`(ii) each policy and procedure of the swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the swap data repository).* *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the swap data repository that is required to be furnished to the Commission pursuant to this section; and* *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.*	
	`(f) Core Principles Applicable To Swap Data Repositories-* *`(1) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this Act, a swap data repository shall not *`(A) adopt any rule or take any action that results in any unreasonable restraint of trade; or* *`(B) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.* *`(2) GOVERNANCE ARRANGEMENTS- Each swap data repository shall establish governance arrangements that are transparent--* *`(A) to fulfill public interest requirements; and* *`(B) to support the objectives of the Federal Government, owners, and participants.* *`(3) CONFLICTS OF INTEREST- Each swap data repository shall--* *`(A) establish and enforce rules to minimize conflicts of interest in the decision-making process of the swap data repository; and* *`(B) establish a process for resolving conflicts of interest described in subparagraph (A).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(g) Required Registration for Swap Data Repositories- Any person that is required to be registered as a swap data repository under this section shall register with the Commission regardless of whether that person is also licensed as a bank or registered with the Securities and Exchange Commission as a swap data repository.	
`(d) Rules- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing persons that are registered under this section, including rules that specify the data elements that shall be collected and maintained.	*`(h) Rules- The Commission shall adopt rules governing persons that are registered under this section.'.*	
`(e) Exemptions- The Commission may exempt, conditionally or unconditionally, a swap repository from the requirements of this section if the Commission finds that the swap repository is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Securities and Exchange Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country.'.		
SEC. 3106. REPORTING AND RECORDKEEPING. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4q the following: **`SEC. 4r. REPORTING AND RECORDKEEPING FOR CERTAIN SWAPS.**  `(a) In General- Any person who enters into a swap and-- `(1) did not have the swap cleared in accordance with section 2(j)(1); and `(2) did not have data regarding the swap accepted by a swap repository in accordance with rules (including timeframes) adopted by the Commission under section 21, shall meet the requirements in subsection (b). `(b) Reports- Any person described in subsection (a) shall-- `(1) make such reports in such form and manner and for such period as the Commission shall prescribe by rule or regulation regarding the swaps held by the person; and `(2) keep books and records pertaining to the swaps held by the person in such form and manner and for such period as may be required by the Commission, which books and records shall be open to inspection by any representative of the Commission, an	***SEC. 729. REPORTING AND RECORDKEEPING.*** *The Commodity Exchange Act is amended by inserting after section 4q (7 U.S.C. 6o-1) the following:* ***`SEC. 4r. REPORTING AND RECORDKEEPING FOR UNCLEARED SWAPS.***  *`(a) Required Reporting of Swaps Not Accepted by Any Derivatives Clearing Organization-* *`(1) IN GENERAL- Each swap that is not accepted for clearing by any derivatives clearing organization shall be reported to--* *`(A) a swap data repository described in section 21; or* *`(B) in the case in which there is no swap data repository that would accept the swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.* *`(2) TRANSITION RULE FOR PREENACTMENT SWAPS-* *`(A) SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appropriate Federal banking agency, the Securities and Exchange Commission, the Financial Services Oversight Council, and the Department of Justice. `(c) Identical Data- In adopting rules under this section, the Commission shall require persons described in subsection (a) to report the same or a more comprehensive set of data than the Commission requires swap repositories to collect under section 21.'.	*2010- Each swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered swap data repository or the Commission by a date that is not later than--* *`(i) 30 days after issuance of the interim final rule; or* *`(ii) such other period as the Commission determines to be appropriate.* *`(B) COMMISSION RULEMAKING- The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each swap entered into before the date of enactment as referenced in subparagraph (A).* *`(C) EFFECTIVE DATE- The reporting provisions described in this section shall be effective upon the enactment of this section.* *`(3) REPORTING OBLIGATIONS-* *`(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT- With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (1) and (2).* *`(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT- With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (1) and (2).* *`(C) OTHER SWAPS- With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (1) and (2).* *`(b) Duties of Certain Individuals- Any individual or entity that enters into a swap shall meet each requirement described in subsection (c) if the individual or entity did not--* *`(1) clear the swap in accordance with section 2(h)(1); or* *`(2) have the data regarding the swap accepted by a swap data repository in accordance with rules (including timeframes) adopted by the Commission under section 21.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(c) Requirements- An individual or entity described in subsection (b) shall--* *`(1) upon written request from the Commission, provide reports regarding the swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and *`(2) maintain books and records pertaining to the swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by--* *`(A) any representative of the Commission;* *`(B) an appropriate prudential regulator;* *`(C) the Securities and Exchange Commission;* *`(D) the Financial Stability Oversight Council; and* *`(E) the Department of Justice.* *`(d) Identical Data- In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by swap data repositories under section 21.'.*	
SEC. 3107. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4r (as added by section 3106) the following: **`SEC. 4s. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.**  `(a) Registration- `(1) It shall be unlawful for any person to act as a swap dealer unless the person is registered as a swap dealer with the Commission. `(2) It shall be unlawful for any person to act as a major swap participant unless the person is registered as a major swap participant with the Commission.	***SEC. 731. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.*** *The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4r (as added by section 729) the following:* ***`SEC. 4s. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.***  *`(a) Registration-* *`(1) SWAP DEALERS- It shall be unlawful for any person to act as a swap dealer unless the person is registered as a swap dealer with the Commission.* *`(2) MAJOR SWAP PARTICIPANTS- It shall be unlawful for any person to act as a major swap participant unless the person is registered as a major swap participant with the Commission.*	
`(b) Requirements- `(1) IN GENERAL- A person shall register as a swap dealer or major swap participant by filing a registration application with the Commission.	*`(b) Requirements-* *`(1) IN GENERAL- A person shall register as a swap dealer or major swap participant by filing a registration application with the Commission.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) CONTENTS- The application shall be made in such form and manner as prescribed by the Commission, giving any information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged. The person, when registered as a swap dealer or major swap participant, shall continue to report and furnish to the Commission such information pertaining to the person's business as the Commission may require.	*`(2) CONTENTS-* *`(A) IN GENERAL- The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.* *`(B) CONTINUAL REPORTING- A person that is registered as a swap dealer or major swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.*	
`(3) EXPIRATION- Each registration shall expire at such time as the Commission may by rule or regulation prescribe.	*`(3) EXPIRATION- Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.*	
`(4) RULES- Except as provided in subsections (c), (d) and (e), the Commission may prescribe rules applicable to swap dealers and major swap participants, including rules that limit the activities of swap dealers and major swap participants. Except with regard to subsection (d)(1)(A), the Commission may provide conditional or unconditional exemptions from some or all of the rules or requirements prescribed under this section for swap dealers and major swap participants.	*`(4) RULES- Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to non-bank swap dealers and non-bank major swap participants, including rules that limit the activities of swap dealers and major swap participants.*	
`(5) TRANSITION- Rules adopted under this section shall provide for the registration of swap dealers and major swap participants no later than 1 year after the effective date of the Derivative Markets Transparency and Accountability Act of 2009.	*`(5) TRANSITION- Rules under this section shall provide for the registration of swap dealers and major swap participants not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.*	
`(6) STATUTORY DISQUALIFICATION- Except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification.	*`(6) STATUTORY DISQUALIFICATION- Except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification.*	
	`(c) Dual Registration-	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(1) SWAP DEALER- Any person that is required to be registered as a swap dealer under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a security-based swap dealer.* *`(2) MAJOR SWAP PARTICIPANT- Any person that is required to be registered as a major swap participant under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a major security-based swap participant.	
`(c) Rules- `(1) IN GENERAL- Not later than 1 year after the date of the enactment of this section, the Commission shall adopt rules for persons that are registered as swap dealers or major swap participants under this section. `(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS- The Commission shall not prescribe rules imposing prudential requirements on swap dealers or major swap participants for which there is a Prudential Regulator. This provision shall not be construed as limiting the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements to protect investors.	*`(d) Rulemakings-* *`(1) IN GENERAL- The Commission shall adopt rules for persons that are registered as swap dealers or major swap participants under this section.* *`(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS-* *`(A) IN GENERAL- The Commission may not prescribe rules imposing prudential requirements on swap dealers or major swap participants for which there is a prudential regulator.* *`(B) APPLICABILITY- Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements to protect investors.*	
`(d) Capital and Margin Requirements- `(1) IN GENERAL- `(A) BANK SWAP DEALERS AND MAJOR SWAP PARTICIPANTS- Each registered swap dealer and major swap participant for which there is a Prudential Regulator shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Prudential Regulators shall by rule or regulation jointly prescribe that: `(i) help ensure the safety and soundness of the swap dealer or major swap participant; and `(ii) are appropriate for the risk associated with the non-cleared swaps held as a swap dealer or major swap participant. `(B) NON-BANK SWAP DEALERS AND MAJOR SWAP PARTICIPANTS- Each registered swap dealer and major swap participant for which there is not a	*`(e) Capital and Margin Requirements-* *`(1) IN GENERAL-* *`(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- Each registered swap dealer and major swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the swap dealer or major swap participant.* *`(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- Each registered swap dealer and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Prudential Regulator shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission shall by rule or regulation prescribe that-- `(i) help ensure the safety and soundness of the swap dealer or major swap participant; and `(ii) are appropriate for the risk associated with the non-cleared swaps held as a swap dealer or major swap participant.	*major swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission and the Securities and Exchange Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and soundness of the swap dealer or major swap participant.*	
`(2) RULES- `(A) BANK SWAP DEALERS AND MAJOR SWAP PARTICIPANTS- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Prudential Regulators, in consultation with the Commission, shall jointly adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants, with respect to their activities as a swap dealer or major swap participant for which there is a Prudential Regulator. `(B) NON-BANK SWAP DEALERS AND MAJOR SWAP PARTICIPANTS- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants for which there is no Prudential Regulator. `(3) AUTHORITY- Nothing in this section shall limit the authority of the Commission to set capital requirements for a registered futures commission merchant or introducing broker in accordance with section 4f.	*`(2) RULES-* *`(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The appropriate Federal banking agencies, in consultation with the Commission and the Securities and Exchange Commission, shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).* *`(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The Commission shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).* *`(3) CAPITAL-* *`(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The capital requirements prescribed under paragraph (2)(A) for swap dealers and major swap participants that are depository institutions shall contain--* *`(i) a capital requirement that is greater than zero for swaps that are cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j); and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(ii) to offset the greater risk to the swap dealer or major swap participant and to the financial system arising from the use of swaps that are not cleared, substantially higher capital requirements for swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j) than for swaps that are cleared. *`(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The capital requirements prescribed under paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for swap dealers and major swap participants that are depository institutions under paragraph (2)(A).* *`(C) RULE OF CONSTRUCTION-* *`(i) IN GENERAL- Nothing in this section shall limit, or be construed to limit, the authority--* *`(I) of the Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) (except for section 4f(a)(3)) in accordance with section 4f(b); or* *`(II) of the Securities and Exchange Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) (except for section 15(b)(11) of that Act (15 U.S.C. 78o(b)(11)) in accordance with section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)).* *`(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS- A futures*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under this Act or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). *`(4) MARGIN-* *`(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The appropriate Federal banking agency for swap dealers and major swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j).* *`(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The Commission and the Securities and Exchange Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j). Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).* *`(5) MARGIN REQUIREMENTS- In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to swap dealers and major swap participants that are depository institutions and the Commission with respect to swap dealers and major swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with--* *`(A) preserving the financial integrity of markets trading swaps; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(B) preserving the stability of the United States financial system.* *`(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS- *`(A) IN GENERAL- The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation margin requirements.* *`(B) COMPARABILITY- The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of non cash collateral, for--* *`(i) swap dealers; and* *`(ii) major swap participants.* *`(7) REQUESTED MARGIN- If any party to a swap that is exempt from the margin requirements of paragraph (4)(A)(i) pursuant to the provisions of paragraph (4)(A)(ii), or from the margin requirements of paragraph (4)(B)(i) pursuant to the provisions of paragraph (4)(B)(ii), requests that such swap be margined, then--* *`(A) the exemption shall not apply; and* *`(B) the counterparty to such swap shall provide the requested margin.* *`(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES- Paragraph (4) shall not apply to initial and variation margin for swaps in which 1 of the counterparties is not--* *`(A) a swap dealer;* *`(B) a major swap participant; or* *`(C) a financial entity as described in section 2(h)(9)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 2(h)(9).*	
`(e) Reporting and Recordkeeping- `(1) IN GENERAL- Each registered swap dealer and major swap participant-- `(A) shall make such reports as are prescribed by the Commission by rule or regulation regarding the	*`(f) Reporting and Recordkeeping-* *`(1) IN GENERAL- Each registered swap dealer and major swap participant--* *`(A) shall make such reports as are required by the Commission by rule or regulation regarding the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
transactions and positions and financial condition of the person; `(B) for which-- `(i) there is a Prudential Regulator, shall keep books and records of all activities related to its business as a swap dealer or major swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; `(ii) there is no Prudential Regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; `(C) shall keep the books and records open to inspection and examination by any representative of the Commission; and `(D) shall keep any such books and records relating to swaps defined in section 1a(35)(A)(v) open to inspection and examination by the Securities and Exchange Commission. `(2) RULES- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing reporting and recordkeeping for swap dealers and major swap participants.	*transactions and positions and financial condition of the registered swap dealer or major swap participant;* *`(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a swap dealer or major swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and* *`(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and* *`(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.* *`(2) RULES- The Commission shall adopt rules governing reporting and recordkeeping for swap dealers and major swap participants.*	
`(f) Daily Trading Records- `(1) IN GENERAL- Each registered swap dealer and major swap participant shall maintain daily trading records of its swaps and all related records (including related cash or forward transactions) and recorded communications including but not limited to electronic mail, instant messages, and recordings of telephone calls, for such period as may be prescribed by the Commission by rule or regulation.	*`(g) Daily Trading Records-* *`(1) IN GENERAL- Each registered swap dealer and major swap participant shall maintain daily trading records of the swaps of the registered swap dealer and major swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.*	
`(2) INFORMATION REQUIREMENTS- The daily trading records shall include such information as the Commission shall prescribe by rule or regulation.	*`(2) INFORMATION REQUIREMENTS- The daily trading records shall include such information as the Commission shall require by rule or regulation.*	
`(3) CUSTOMER RECORDS- Each registered swap dealer and major swap participant shall maintain daily trading records for	*`(3) COUNTERPARTY RECORDS- Each registered swap dealer and major swap participant shall maintain daily trading*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
each customer or counterparty in such manner and form as to be identifiable with each swap transaction.	*records for each counterparty in a manner and form that is identifiable with each swap transaction.*	
`(4) AUDIT TRAIL- Each registered swap dealer and major swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.	*`(4) AUDIT TRAIL- Each registered swap dealer and major swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.*	
`(5) RULES- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing daily trading records for swap dealers and major swap participants.	*`(5) RULES- The Commission shall adopt rules governing daily trading records for swap dealers and major swap participants.*	
`(g) Business Conduct Standards- `(1) IN GENERAL- Each registered swap dealer and major swap participant shall conform with business conduct standards as may be prescribed by the Commission by rule or regulation addressing-- `(A) fraud, manipulation, and other abusive practices involving swaps (including swaps that are offered but not entered into); `(B) diligent supervision of its business as a swap dealer; `(C) adherence to all applicable position limits; and `(D) such other matters as the Commission shall determine to be necessary or appropriate.	*`(h) Business Conduct Standards-* *`(1) IN GENERAL- Each registered swap dealer and major swap participant shall conform with such business conduct standards as may be prescribed by the Commission by rule or regulation that relate to--* *`(A) fraud, manipulation, and other abusive practices involving swaps (including swaps that are offered but not entered into);* *`(B) diligent supervision of the business of the registered swap dealer and major swap participant;* *`(C) adherence to all applicable position limits; and* *`(D) such other matters as the Commission determines to be appropriate.* *`(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES-* *`(A) GOVERNMENTAL ENTITIES- A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a State, State agency, city, county, municipality, or other political subdivision of a State or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of a State, or the Federal agency, as appropriate.* *`(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS- A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate.*	
`(2) BUSINESS CONDUCT REQUIREMENTS- Business	*`(3) BUSINESS CONDUCT REQUIREMENTS- Business*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
conduct requirements adopted by the Commission shall-- `(A) establish the standard of care for a swap dealer or major swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant; `(B) require disclosure by the swap dealer or major swap participant to any counterparty to the transaction (other than a swap dealer or major swap participant) of-- `(i) information about the material risks and characteristics of the swap; `(ii) for cleared swaps, upon the request of the counterparty, the daily mark from the appropriate derivatives clearing organization, and for non-cleared swaps, upon request of the counterparty, the daily mark of the swap dealer or major swap participant; and `(iii) any other material incentives or conflicts of interest that the swap dealer or major swap participant may have in connection with the swap; and `(C) establish such other standards and requirements as the Commission may determine are necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act.	*conduct requirements adopted by the Commission shall--* *`(A) establish the standard of care for a swap dealer or major swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant;* *`(B) require disclosure by the swap dealer or major swap participant to any counterparty to the transaction (other than a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant) of--* *`(i) information about the material risks and characteristics of the swap;* *`(ii) the source and amount of any fees or other material remuneration that the swap dealer or major swap participant would directly or indirectly expect to receive in connection with the swap;* *`(iii) any other material incentives or conflicts of interest that the swap dealer or major swap participant may have in connection with the swap; and* *`(iv)(I) for cleared swaps, upon the request of the counterparty, the daily mark from the appropriate derivatives clearing organization; and* *`(II) for uncleared swaps, the daily mark of the swap dealer or the major swap participant;* *`(C) establish a standard of conduct for a swap dealer or major swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;* *`(D) establish a standard of conduct for a swap dealer or major swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of this Act, to have a reasonable basis to believe that the counterparty has an independent representative that--* *`(i) has sufficient knowledge to evaluate the transaction and risks;* *`(ii) is not subject to a statutory disqualification;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(iii) is independent of the swap dealer or major swap participant;* *`(iv) undertakes a duty to act in the best interests of the counterparty it represents; *`(v) makes appropriate disclosures; and* *`(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and* *`(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act.*	
`(3) RULES- The Commission shall prescribe rules under this subsection governing business conduct standards for swap dealers and major swap participants no later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009.	*`(4) RULES- The Commission shall prescribe rules under this subsection governing business conduct standards for swap dealers and major swap participants.*	
`(h) Documentation Standards- `(1) IN GENERAL- Each registered swap dealer and major swap participant shall conform with standards, as may be prescribed by the Commission by rule or regulation, addressing timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps.	*`(i) Documentation and Back Office Standards-* *`(1) IN GENERAL- Each registered swap dealer and major swap participant shall conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps.*	
`(2) RULES- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing the standards described in paragraph (1) for swap dealers and major swap participants.	*`(2) RULES- The Commission shall adopt rules governing documentation and back office standards for swap dealers and major swap participants.*	
`(i) Dealer Responsibilities- Each registered swap dealer and major swap participant at all times shall comply with the following requirements: `(1) MONITORING OF TRADING- The swap dealer or major swap participant shall monitor its trading in swaps to prevent violations of applicable position limits.	*`(j) Duties- Each registered swap dealer and major swap participant at all times shall comply with the following requirements:* *`(1) MONITORING OF TRADING- The swap dealer or major swap participant shall monitor its trading in swaps to prevent violations of applicable position limits.*	
	`(2) RISK MANAGEMENT PROCEDURES- The swap dealer or major swap participant shall establish robust and professional risk management systems adequate for managing the day-to-day business of the swap dealer or major swap participant.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) DISCLOSURE OF GENERAL INFORMATION- The swap dealer or major swap participant shall disclose to the Commission or to the Prudential Regulator for the swap dealer or major swap participant, as applicable, information concerning-- `(A) terms and conditions of its swaps; `(B) swap trading operations, mechanisms, and practices; `(C) financial integrity protections relating to swaps; and `(D) other information relevant to its trading in swaps.	*`(3) DISCLOSURE OF GENERAL INFORMATION- The swap dealer or major swap participant shall disclose to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, information concerning--* *`(A) terms and conditions of its swaps;* *`(B) swap trading operations, mechanisms, and practices;* *`(C) financial integrity protections relating to swaps; and* *`(D) other information relevant to its trading in swaps.*	
`(3) ABILITY TO OBTAIN INFORMATION- The swap dealer or major swap participant shall-- `(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and `(B) provide the information to the Commission or to the Prudential Regulator for the swap dealer or major swap participant, as applicable, upon request.	*`(4) ABILITY TO OBTAIN INFORMATION- The swap dealer or major swap participant shall--* *`(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and* *`(B) provide the information to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, on request.*	
`(4) CONFLICTS OF INTEREST- The swap dealer and major swap participant shall implement conflict-of-interest systems and procedures that-- `(A) establish structural and institutional safeguards to assure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in trading or clearing activities might potentially bias their judgment or supervision; and `(B) address such other issues as the Commission determines appropriate.	*`(5) CONFLICTS OF INTEREST- The swap dealer and major swap participant shall implement conflict-of-interest systems and procedures that--* *`(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity or swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and* *`(B) address such other issues as the Commission determines to be appropriate.*	
`(5) ANTITRUST CONSIDERATIONS- The swap dealer or	*`(6) ANTITRUST CONSIDERATIONS- Unless necessary or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
major swap participant shall avoid-- `(A) adopting any processes or taking any actions that result in any unreasonable restraints of trade; or `(B) imposing any material anticompetitive burden on trading.'.	*appropriate to achieve the purposes of this Act, a swap dealer or major swap participant shall not--* *`(A) adopt any process or take any action that results in any unreasonable restraint of trade; or* *`(B) impose any material anticompetitive burden on trading or clearing.*	
	`(k) Designation of Chief Compliance Officer-* *`(1) IN GENERAL- Each swap dealer and major swap participant shall designate an individual to serve as a chief compliance officer. *`(2) DUTIES- The chief compliance officer shall--* *`(A) report directly to the board or to the senior officer of the swap dealer or major swap participant;* *`(B) review the compliance of the swap dealer or major swap participant with respect to the swap dealer and major swap participant requirements described in this section;* *`(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;* *`(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(E) ensure compliance with this Act (including regulations) relating to swaps, including each rule prescribed by the Commission under this section;* *`(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	contains a description of-- *`(i) the compliance of the swap dealer or major swap participant with respect to this Act (including regulations); and* *`(ii) each policy and procedure of the swap dealer or major swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).* *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the swap dealer or major swap participant that is required to be furnished to the Commission pursuant to this section; and* *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.'.*	
SEC. 3108. CONFLICTS OF INTEREST. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by-- (1) redesignating subsection (c) as subsection (d); and (2) inserting after subsection (b) the following: `(c) Conflicts of Interest- The Commission shall require that futures commission merchants and introducing brokers implement conflict-of-interest systems and procedures that-- `(1) establish structural and institutional safeguards to assure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in trading or clearing activities might potentially bias their judgment or supervision; and `(2) address such other issues as the Commission determines appropriate.'.	***SEC. 732. CONFLICTS OF INTEREST.*** *Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended--* *(1) by redesignating subsection (c) as subsection (e); and* *(2) by inserting after subsection (b) the following:* *`(c) Conflicts of Interest- The Commission shall require that futures commission merchants and introducing brokers implement conflict-of-interest systems and procedures that--* *`(1) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in trading or clearing activities might potentially bias the judgment or supervision of the persons; and* *`(2) address such other issues as the Commission determines to be appropriate.* *`(d) Designation of Chief Compliance Officer-* *`(1) IN GENERAL- Each futures commission merchant shall designate an individual to serve as a chief compliance officer.* *`(2) DUTIES- The chief compliance officer shall--* *`(A) report directly to the board or to the senior officer of the futures commission merchant;* *`(B) review the compliance of the futures commission merchant with respect to requirements described in this*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	section; *`(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;* *`(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(E) ensure compliance with this Act (including regulations and each rule prescribed by the Commission under this section) relating, but not limited, to--* *`(i) contracts of sale of a commodity for future delivery;* *`(ii) options on the contracts described in clause (i);* *`(iii) commodity options;* *`(iv) retail commodity transactions;* *`(v) security futures products;* *`(vi) leverage contracts; and* *`(vii) swaps;* *`(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--* *`(i) the compliance of the futures commission merchant with respect to this Act (including regulations); and* *`(ii) each policy and procedure of the futures commission merchant of the chief compliance officer (including the code of ethics and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	conflict of interest policies). *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the futures commission merchant that is required to be furnished to the Commission pursuant to this section; and* *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.'.*	
SEC. 3109. SWAP EXECUTION FACILITIES. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5g the following: **`SEC. 5h. SWAP EXECUTION FACILITIES.**  `(a) Registration- A person may not operate a swap execution facility unless the facility is registered under this section or is registered with the Commission as a designated contract market under section 5 or a swap execution facility under section 5.	***SEC. 733. SWAP EXECUTION FACILITIES.*** *The Commodity Exchange Act is amended by inserting after section 5g (7 U.S.C. 7b-2) the following:* ***`SEC. 5h. SWAP EXECUTION FACILITIES.***  *`(a) Registration-* *`(1) IN GENERAL- No person may operate a facility for the trading or processing of swaps unless the facility is registered as a swap execution facility or as a designated contract market under this section.* *`(2) DUAL REGISTRATION- Any person that is registered as a swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Securities and Exchange Commission as a swap execution facility.*	
`(b) Requirements for Trading- `(1) A swap execution facility that is registered under subsection (a) may make available for trading any swap. `(2) RULES FOR TRADING THROUGH THE FACILITY- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules to allow a swap to be traded through the facilities of a designated contract market or a swap execution facility. Such rules shall permit an intermediary, acting as principal or agent, to enter into or execute a swap, notwithstanding section 2(k), if the swap is executed, reported, recorded, or confirmed in accordance with the rules of the designated contract market or swap execution facility.	*`(b) Trading and Trade Processing- A swap execution facility that is registered under subsection (a) may--* *`(1) make available for trading any swap; and* *`(2) facilitate trade processing of any swap.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(3) AGRICULTURAL SWAPS- A swap execution facility may not list for trading or confirm the execution of any swap in an agricultural commodity (as defined by the Commission) except pursuant to a rule or regulation of the Commission allowing the swap under such terms and conditions as the Commission shall prescribe.		
`(c) Trading by Contract Markets- A board of trade that operates a contract market shall, to the extent that the board of trade also operates a swap execution facility and uses the same electronic trade execution system for trading on the contract market and the swap execution facility, identify whether the electronic trading is taking place on the contract market or the swap execution facility.	*`(c) Identification of Facility Used To Trade Swaps by Contract Markets- A board of trade that operates a contract market shall, to the extent that the board of trade also operates a swap execution facility and uses the same electronic trade execution system for listing and executing trades of swaps on or through the contract market and the swap execution facility, identify whether the electronic trading of such swaps is taking place on or through the contract market or the swap execution facility.*	
`(d) Core Principles for Swap Execution Facilities- `(1) IN GENERAL- To be registered as, and to maintain its registration as, a swap execution facility, the facility shall comply with the core principles specified in this subsection and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5). Except where the Commission determines otherwise by rule or regulation, the facility shall have reasonable discretion in establishing the manner in which it complies with these core principles.	*`(d) Core Principles for Swap Execution Facilities-* *`(1) COMPLIANCE WITH CORE PRINCIPLES-* *`(A) IN GENERAL- To be registered, and maintain registration, as a swap execution facility, the swap execution facility shall comply with--* *`(i) the core principles described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(B) REASONABLE DISCRETION OF SWAP EXECUTION FACILITY- Unless otherwise determined by the Commission by rule or regulation, a swap execution facility described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap execution facility complies with the core principles described in this subsection.*	
`(2) COMPLIANCE WITH RULES- The swap execution facility shall-- `(A) monitor and enforce compliance with any of the rules of the facility, including the terms and conditions of the swaps traded on or through the facility and any limitations on access to the facility; and `(B) establish and enforce trading and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means to--	*`(2) COMPLIANCE WITH RULES- A swap execution facility shall--* *`(A) monitor and enforce compliance with any rule of the swap execution facility, including--* *`(i) the terms and conditions of the swaps traded or processed on or through the swap execution facility; and* *`(ii) any limitation on access to the swap execution facility;* *`(B) establish and enforce trading, trade processing,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(i) provide market participants with impartial access to the market; and `(ii) capture information that may be used in establishing whether rule violations have occurred.	*and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means--* *`(i) to provide market participants with impartial access to the market; and* *`(ii) to capture information that may be used in establishing whether rule violations have occurred;* *`(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades; and* *`(D) provide by its rules that when a swap dealer or major swap participant enters into or facilitates a swap that is subject to the mandatory clearing requirement of section 2(h)(2)(F), the swap dealer or major swap participant shall be responsible for compliance with the mandatory trading requirement of section 113(d) of the Wall Street Transparency and Accountability Act of 2010.*	
`(3) SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION- The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.	*`(3) SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION- The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.*	
`(4) MONITORING OF TRADING- The swap execution facility shall-- `(A) establish and enforce rules or terms and conditions defining, or specifications detailing, trading procedures to be used in entering and executing orders traded on or through its facilities; and `(B) monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.	*`(4) MONITORING OF TRADING AND TRADE PROCESSING- The swap execution facility shall--* *`(A) establish and enforce rules or terms and conditions defining, or specifications detailing--* *`(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the swap execution facility; and* *`(ii) procedures for trade processing of swaps on or through the facilities of the swap execution facility; and* *`(B) monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(5) ABILITY TO OBTAIN INFORMATION- The swap execution facility shall-- `(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section; `(B) provide the information to the Commission upon request; and `(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.	*`(5) ABILITY TO OBTAIN INFORMATION- The swap execution facility shall--* *`(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section;* *`(B) provide the information to the Commission on request; and* *`(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.*	
`(6) POSITION LIMITS OR ACCOUNTABILITY- `(A) To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a swap execution facility that is a trading facility shall adopt for each of its contracts made available for trading on the trading facility, where necessary and appropriate, position limitations or position accountability for speculators who establish positions in the contract. `(B) For any contract of a swap execution facility that is subject to a position limitation established by the Commission pursuant to section 4a(a), the swap execution facility-- `(i) may set a position limitation at a level that is lower than the Commission limitation; and `(ii) shall monitor positions established on or through the swap execution facility for compliance with the limit set by the Commission and the limit, if any, set by the swap execution facility.	*`(6) POSITION LIMITS OR ACCOUNTABILITY-* *`(A) IN GENERAL- To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.* *`(B) POSITION LIMITS- For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the swap execution facility shall set its position limitation at a level no higher than the Commission limitation.* *`(C) POSITION ENFORCEMENT- For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), a swap execution facility shall reject any proposed swap transaction if, based on information readily available to a swap execution facility, any proposed swap transaction would cause a swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.*	
`(7) FINANCIAL INTEGRITY OF TRANSACTIONS- The swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of swaps entered on or through its facilities, including the clearance and settlement of the swaps pursuant to section 2(j)(1).	*`(7) FINANCIAL INTEGRITY OF TRANSACTIONS- The swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of swaps entered on or through the facilities of the swap execution facility, including the clearance and settlement of the swaps pursuant to section 2(h)(1).*	
`(8) EMERGENCY AUTHORITY- The swap execution facility	*`(8) EMERGENCY AUTHORITY- The swap execution facility*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority to liquidate or transfer open positions in any swap or to suspend or curtail trading in a swap.	*shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any swap or to suspend or curtail trading in a swap.*	
`(9) TIMELY PUBLICATION OF TRADING INFORMATION- The swap execution facility shall make public timely information on price, trading volume, and other trading data on swaps to the extent prescribed by the Commission. The Commission shall evaluate the impact of public disclosure on market liquidity in the relevant market, and shall seek to avoid public disclosure of information in a manner that would significantly reduce market liquidity. The Commission shall not disclose information related to the internal business decisions of particular market participants.	*`(9) TIMELY PUBLICATION OF TRADING INFORMATION-* *`(A) IN GENERAL- The swap execution facility shall make public timely information on price, trading volume, and other trading data on swaps to the extent prescribed by the Commission.* *`(B) CAPACITY OF SWAP EXECUTION FACILITY- The swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.*	
`(10) RECORDKEEPING AND REPORTING- The swap execution facility shall maintain records of all activities related to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years, and report to the Commission all information determined by the Commission to be necessary or appropriate for the Commission to perform its responsibilities under this Act in a form and manner acceptable to the Commission. The swap execution facility shall keep any such records relating to swaps defined in section 1a(35)(A)(v) open to inspection and examination by the Securities and Exchange Commission. The Commission shall adopt data collection and reporting requirements for swap execution facilities that are comparable to corresponding requirements for derivatives clearing organizations and swap repositories.	*`(10) RECORDKEEPING AND REPORTING-* *`(A) IN GENERAL- A swap execution facility shall--* *`(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and* *`(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this Act.* *`(B) REQUIREMENTS- The Commission shall adopt data collection and reporting requirements for swap execution facilities that are comparable to corresponding requirements for derivatives clearing organizations and swap data repositories.*	
`(11) ANTITRUST CONSIDERATIONS- The swap execution facility shall avoid-- `(A) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or `(B) imposing any material anticompetitive burden on trading on the swap execution facility.	*`(11) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this Act, the swap execution facility shall not--* *`(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or* *`(B) impose any material anticompetitive burden on trading or clearing.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(12) CONFLICTS OF INTEREST- The swap execution facility shall-- `(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and `(B) establish a process for resolving the conflicts of interest.	*`(12) CONFLICTS OF INTEREST- The swap execution facility shall--* *`(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and* *`(B) establish a process for resolving the conflicts of interest.*	
`(13) FINANCIAL RESOURCES- `(A) The swap execution facility shall have adequate financial, operational, and managerial resources to discharge its responsibilities. `(B) The financial resources of the swap execution facility shall be considered adequate if their value exceeds the total amount that would enable the facility to cover its operating costs for a period of 1 year, calculated on a rolling basis.	*`(13) FINANCIAL RESOURCES-* *`(A) IN GENERAL- The swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the swap execution facility.* *`(B) DETERMINATION OF RESOURCE ADEQUACY- The financial resources of a swap execution facility shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the swap execution facility to cover the operating costs of the swap execution facility for a 1-year period, as calculated on a rolling basis.*	
`(14) SYSTEM SAFEGUARDS- The swap execution facility shall-- `(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity; `(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the swap execution facility's responsibilities and obligation; and `(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.	*`(14) SYSTEM SAFEGUARDS- The swap execution facility shall--* *`(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that--* *`(i) are reliable and secure; and* *`(ii) have adequate scalable capacity;* *`(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for--* *`(i) the timely recovery and resumption of operations; and* *`(ii) the fulfillment of the responsibilities and obligation of the swap execution facility; and* *`(C) periodically conduct tests to verify that the backup resources of the swap execution facility are sufficient to ensure continued--* *`(i) order processing and trade matching;* *`(ii) price reporting;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(iii) market surveillance and* *`(iv) maintenance of a comprehensive and accurate audit trail.	
`(15) DESIGNATION OF COMPLIANCE OFFICER- `(A) IN GENERAL- Each swap execution facility shall designate an individual to serve as a compliance officer.	*`(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER-* *`(A) IN GENERAL- Each swap execution facility shall designate an individual to serve as a chief compliance officer.*	
`(B) DUTIES- The compliance officer-- `(i) shall report directly to the board or to the senior officer of the facility; `(ii) shall-- `(I) review compliance with the core principles in this subsection; `(II) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise; `(III) be responsible for administering the policies and procedures required to be established pursuant to this section; and `(IV) ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and `(iii) shall establish procedures for remediation of non-compliance issues found during compliance office reviews, lookbacks, internal or external audit findings, self-reported errors, or through validated complaints, and for the handling, management response, remediation, re-testing, and closing of non-compliant issues.	*`(B) DUTIES- The chief compliance officer shall--* *`(i) report directly to the board or to the senior officer of the facility;* *`(ii) review compliance with the core principles in this subsection;* *`(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise;* *`(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;* *`(v) ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and* *`(vi) establish procedures for the remediation of noncompliance issues found during compliance office reviews, look backs, internal or external audit findings, self-reported errors, or through validated complaints.* *`(C) REQUIREMENTS FOR PROCEDURES- In establishing procedures under subparagraph (B)(vi), the chief compliance officer shall design the procedures to establish the handling, management response, remediation, retesting, and closing of noncompliance issues.*	
`(C) ANNUAL REPORTS REQUIRED- The compliance officer shall annually prepare and sign a report on the compliance of the facility with this Act	*`(D) ANNUAL REPORTS-* *`(i) IN GENERAL- In accordance with rules prescribed by the Commission, the chief*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and its policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. The compliance report shall accompany the financial reports of the facility that are required to be furnished to the Commission pursuant to this section and shall include a certification that, under penalty of law, the report is accurate and complete.	*compliance officer shall annually prepare and sign a report that contains a description of--* *`(I) the compliance of the swap execution facility with this Act; and* *`(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the swap execution facility.* *`(ii) REQUIREMENTS- The chief compliance officer shall--* *`(I) submit each report described in clause (i) with the appropriate financial report of the swap execution facility that is required to be submitted to the Commission pursuant to this section; and* *`(II) include in the report a certification that, under penalty of law, the report is accurate and complete.*	
`(e) Exemptions- The Commission may exempt, conditionally or unconditionally, a swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Securities and Exchange Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country.	*`(e) Exemptions- The Commission may exempt, conditionally or unconditionally, a swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Securities and Exchange Commission, a prudential regulator, or the appropriate governmental authorities in the home country of the facility.*	
`(f) Rules- No later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall prescribe rules governing the regulation of swap execution facilities under this section.'.	*`(f) Rules- The Commission shall prescribe rules governing the regulation of alternative swap execution facilities under this section.'.*	
SEC. 3110. DERIVATIVES TRANSACTION EXECUTION FACILITIES AND EXEMPT BOARDS OF TRADE. (a) Sections 5a and 5d of the Commodity Exchange Act (7 U.S.C. 1 et seq.) are repealed. (b)(1) Prior to the final effective dates in this title, a person may petition the Commodity Futures Trading Commission to remain subject to the provisions of section 5d of the Commodity Exchange Act, as such provisions existed prior to the effective date of this subtitle.	***SEC. 734. DERIVATIVES TRANSACTION EXECUTION FACILITIES AND EXEMPT BOARDS OF TRADE.*** *(a) In General- Sections 5a and 5d of the Commodity Exchange Act (7 U.S.C. 7a, 7a-3) are repealed.* *(b) Conforming Amendments-* *(1) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended--* *(A) in subsection (a)(1)(A), in the first sentence, by*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) The Commodity Futures Trading Commission shall consider any petition submitted under paragraph (1) in a prompt manner and may allow a person to continue operating subject to the provisions of section 5d of the Commodity Exchange Act for up to 1 year after the effective date of this subtitle.	*striking `or 5a'; and* *(B) in paragraph (2) of subsection (g) (as redesignated by section 723(a)(1)(B)), by striking `section 5a of this Act' and all that follows through `5d of this Act' and inserting `section 5b of this Act'.* *(2) Section 6(g)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(1)(A)) is amended--* *(A) by striking `that--' and all that follows through `(i) has been designated' and inserting `that has been designated';* *(B) by striking `; or' and inserting `; and' and* *(C) by striking clause (ii).*	
SEC. 3111. DESIGNATED CONTRACT MARKETS. (a) Section 5(d) of the Commodity Exchange Act (7 U.S.C. 7(d)) is amended by striking paragraphs (1) and (2) and inserting the following: `(1) IN GENERAL- To be designated as, and to maintain the designation of a board of trade as a contract market, the board of trade shall comply with the core principles specified in this subsection and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5). Except where the Commission determines otherwise by rule or regulation, the board of trade shall have reasonable discretion in establishing the manner in which it complies with the core principles.	***SEC. 735. DESIGNATED CONTRACT MARKETS.*** *(a) Criteria for Designation- Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (b).* *(b) Core Principles for Contract Markets- Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (d) and inserting the following:* *`(d) Core Principles for Contract Markets-* *`(1) DESIGNATION AS CONTRACT MARKET-* *`(A) IN GENERAL- To be designated, and maintain a designation, as a contract market, a board of trade shall comply with--* *`(i) any core principle described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(B) REASONABLE DISCRETION OF CONTRACT MARKET- Unless otherwise determined by the Commission by rule or regulation, a board of trade described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the board of trade complies with the core principles described in this subsection.*	
`(2) COMPLIANCE WITH RULES- `(A) The board of trade shall monitor and enforce compliance with the rules of the contract market, including access requirements, the terms and conditions of any contracts to be traded on the contract	*`(2) COMPLIANCE WITH RULES-* *`(A) IN GENERAL- The board of trade shall establish, monitor, and enforce compliance with the rules of the contract market, including--* *`(i) access requirements;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
market and the contract market's abusive trade practice prohibitions. `(B) The board of trade shall have the capacity to detect, investigate, and apply appropriate sanctions to, any person or entity that violates the rules. `(C) The rules shall provide the board of trade with the ability and authority to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.'.	*`(ii) the terms and conditions of any contracts to be traded on the contract market; and* *`(iii) rules prohibiting abusive trade practices on the contract market.* *`(B) CAPACITY OF CONTRACT MARKET- The board of trade shall have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the contract market.* *`(C) REQUIREMENT OF RULES- The rules of the contract market shall provide the board of trade with the ability and authority to obtain any necessary information to perform any function described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.*	
(b) Section 5(d) of such Act (7 U.S.C. 7(d)) is amended by striking paragraphs (4) and (5) and inserting the following: `(4) PREVENTION OF MARKET DISRUPTION- The board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.	*`(4) PREVENTION OF MARKET DISRUPTION- The board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including--* *`(A) methods for conducting real-time monitoring of trading; and* *`(B) comprehensive and accurate trade reconstructions.*	
`(5) POSITION LIMITATIONS OR ACCOUNTABILITY- `(A) To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt for each of its contracts, where necessary and appropriate, position limitations or position accountability for speculators. `(B) For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the board of trade shall set its position limitation at a level no higher than the Commission-established limitation.'.	*`(5) POSITION LIMITATIONS OR ACCOUNTABILITY-* *`(A) IN GENERAL- To reduce the potential threat of market manipulation or congestion (especially during trading in the delivery month), the board of trade shall adopt for each contract of the board of trade, as is necessary and appropriate, position limitations or position accountability for speculators.* *`(B) MAXIMUM ALLOWABLE POSITION LIMITATION- For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the board of trade shall set the position limitation of the board of trade at a level not higher than the position limitation established by the Commission.*	
(c) Section 5(d) of such Act (7 U.S.C. 7(d)) is amended by striking	*`(7) AVAILABILITY OF GENERAL INFORMATION- The board*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
paragraph (7) and inserting the following: `(7) AVAILABILITY OF GENERAL INFORMATION- The board of trade shall make available to market authorities, market participants, and the public accurate information concerning-- `(A) the terms and conditions of the contracts of the contract market; and `(B) the rules, regulations and mechanisms for executing transactions on or through the facilities of the contract market, and the rules and specifications describing the operation of the board of trade's electronic matching platform or other trade execution facility.'.	*of trade shall make available to market authorities, market participants, and the public accurate information concerning--* *`(A) the terms and conditions of the contracts of the contract market; and* *`(B)(i) the rules, regulations, and mechanisms for executing transactions on or through the facilities of the contract market; and* *`(ii) the rules and specifications describing the operation of the contract market's--* *`(I) electronic matching platform; or* *`(II) trade execution facility.*	
(d) Section 5(d) of such Act (7 U.S.C. 7(d)) is amended by striking paragraph (9) and inserting the following: `(9) EXECUTION OF TRANSACTIONS- `(A) The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the board of trade's centralized market. `(B) The rules may authorize, for bona fide business purposes-- `(i) transfer trades or office trades; `(ii) an exchange of-- `(I) futures in connection with a cash commodity transaction; `(II) futures for cash commodities; or `(III) futures for swaps; or `(iii) A futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.'.	*`(9) EXECUTION OF TRANSACTIONS-* *`(A) IN GENERAL- The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the board of trade.* *`(B) RULES- The rules of the board of trade may authorize, for bona fide business purposes--* *`(i) transfer trades or office trades;* *`(ii) an exchange of--* *`(I) futures in connection with a cash commodity transaction;* *`(II) futures for cash commodities; or* *`(III) futures for swaps; or* *`(iii) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.*	
(e) Section 5(d)(17) of such Act (7 U.S.C. 7(d)(17)) is amended by adding at the end the following: `The board of trade shall keep any such records relating to swaps defined in section 1a(35)(A)(v) open to inspection and examination by the Securities and Exchange Commission.'.	*`(18) RECORDKEEPING- The board of trade shall maintain records of all activities relating to the business of the contract market--* *`(A) in a form and manner that is acceptable to the Commission; and* *`(B) for a period of at least 5 years.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(f) Section 5(d) of such Act (7 U.S.C. 7(d)) is amended by adding at the end the following: `(19) FINANCIAL RESOURCES- The board of trade shall have adequate financial, operational, and managerial resources to discharge the responsibilities of a contract market. For the financial resources of a board of trade to be considered adequate, their value shall exceed the total amount that would enable the contract market to cover its operating costs for a period of 1 year, calculated on a rolling basis.	*`(21) FINANCIAL RESOURCES-* *`(A) IN GENERAL- The board of trade shall have adequate financial, operational, and managerial resources to discharge each responsibility of the board of trade.* *`(B) DETERMINATION OF ADEQUACY- The financial resources of the board of trade shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the contract market to cover the operating costs of the contract market for a 1-year period, as calculated on a rolling basis.'.*	
`(20) SYSTEM SAFEGUARDS- The board of trade shall-- `(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and give adequate scalable capacity; `(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the board of trade's responsibilities and obligations; and `(C) periodically conduct tests to verify that back-up resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.	*`(20) SYSTEM SAFEGUARDS- The board of trade shall--* *`(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity;* *`(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the board of trade; and* *`(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.*	
`(21) DIVERSITY OF BOARDS OF DIRECTORS- The board of trade, if a publicly traded company, shall endeavor to recruit individuals to serve on the board of directors and the other decision-making bodies (as determined by the Commission) of the board of trade from among, and to have the composition of the bodies reflect, a broad and culturally diverse pool of qualified candidates.	*`(17) COMPOSITION OF GOVERNING BOARDS OF CONTRACT MARKETS- The governance arrangements of the board of trade shall be designed to promote the objectives of market participants.*	
`(22) DISCIPLINARY PROCEDURES- The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or	*`(13) DISCIPLINARY PROCEDURES- The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.'.	*market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.*	
(g) Section 5 of such Act (7 U.S.C. 7) is amended by striking subsection (b).		
	`(3) CONTRACTS NOT READILY SUBJECT TO MANIPULATION- The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.	
	`(6) EMERGENCY AUTHORITY- The board of trade, in consultation or cooperation with the Commission, shall adopt rules to provide for the exercise of emergency authority, as is necessary and appropriate, including the authority--* *`(A) to liquidate or transfer open positions in any contract; *`(B) to suspend or curtail trading in any contract; and* *`(C) to require market participants in any contract to meet special margin requirements.*	
	`(8) DAILY PUBLICATION OF TRADING INFORMATION- The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market.	
	`(10) TRADE INFORMATION- The board of trade shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the contract market to use the information--* *`(A) to assist in the prevention of customer and market abuses; and *`(B) to provide evidence of any violations of the rules of the contract market.*	
	`(11) FINANCIAL INTEGRITY OF TRANSACTIONS- The board of trade shall establish and enforce--* *`(A) rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	derivatives clearing organization); and *`(B) rules to ensure--* *`(i) the financial integrity of any--* *`(I) futures commission merchant; and* *`(II) introducing broker; and* *`(ii) the protection of customer funds.*	
	`(12) PROTECTION OF MARKETS AND MARKET PARTICIPANTS- The board of trade shall establish and enforce rules--* *`(A) to protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and *`(B) to promote fair and equitable trading on the contract market.*	
	`(14) DISPUTE RESOLUTION- The board of trade shall establish and enforce rules regarding, and provide facilities for alternative dispute resolution as appropriate for, market participants and any market intermediaries.	
	`(15) GOVERNANCE FITNESS STANDARDS- The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other person with direct access to the facility (including any party affiliated with any person described in this paragraph).	
	`(16) CONFLICTS OF INTEREST- The board of trade shall establish and enforce rules--* *`(A) to minimize conflicts of interest in the decision-making process of the contract market; and *`(B) to establish a process for resolving conflicts of interest described in subparagraph (A).*	
	`(19) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this Act, the board of trade shall not--* *`(A) adopt any rule or taking any action that results in any unreasonable restraint of trade; or *`(B) impose any material anticompetitive burden on*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	trading on the contract market.	
SEC. 3112. MARGIN. (a) Section 8a(7)(C) of the Commodity Exchange Act (7 U.S.C. 12a(7)(C)) is amended by striking `, excepting the setting of levels of margin'. (b) Section 8a(7) of such Act (7 U.S.C. 12a(7)) is amended by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively, and inserting after subparagraph (C) the following: `(D) margin requirements, provided that such rules, regulations, or orders shall-- `(i) be limited to protecting the financial integrity of the derivatives clearing organization; `(ii) be designed for risk management purposes in order to protect the financial integrity of transactions; and `(iii) not set specific margin amounts.'.	***SEC. 736. MARGIN.*** *Section 8a(7) of the Commodity Exchange Act (7 U.S.C. 12a(7)) is amended--* *(1) in subparagraph (C), by striking `, excepting the setting of levels of margin';* *(2) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and* *(3) by inserting after subparagraph (C) the following:* *`(D) margin requirements, provided that the rules, regulations, or orders shall--* *`(i) be limited to protecting the financial integrity of the derivatives clearing organization;* *`(ii) be designed for risk management purposes to protect the financial integrity of transactions; and* *`(iii) not set specific margin amounts;'.*	
SEC. 3113. POSITION LIMITS. (a) Section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) is amended by-- (1) inserting `(1)' after `(a)'; (2) striking `on electronic trading facilities with respect to a significant price discovery contract' in the first sentence and inserting `swaps that perform or affect a significant price discovery function with respect to registered entities'; (3) inserting `, including any group or class of traders,' in the second sentence after `held by any person'; (4) striking `on an electronic trading facility with respect to a significant price discovery contract,' in the second sentence and inserting `swaps that perform or affect a significant price discovery function with respect to registered entities,'; and	***SEC. 737. POSITION LIMITS.*** *(a) Aggregate Position Limits- Section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) is amended--* *(1) by inserting after `(a)' the following:* *`(1) IN GENERAL- ';* *(2) in the first sentence, by striking `on electronic trading facilities with respect to a significant price discovery contract' and inserting `swaps that perform or affect a significant price discovery function with respect to registered entities';* *(3) in the second sentence--* *(A) by inserting `, including any group or class of traders,' after `held by any person'; and* *(B) by striking `on an electronic trading facility with respect to a significant price discovery contract,' and inserting `swaps traded on or subject to the rules of an swaps execution facility, or swaps not traded on or subject to the rules of an swaps execution facility that perform a significant price discovery function with respect to a registered entity,'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(5) inserting at the end the following: `(2)(A) In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to physical commodities other than excluded commodities as defined by the Commission, the Commission shall by rule, regulation, or order establish limits on the amount of positions, as appropriate, other than bona fide hedge positions, that may be held by any person with respect to contracts of sale for future delivery or with respect to options on the contracts or commodities traded on or subject to the rules of a designated contract market. `(B)(i) For exempt commodities, the limits shall be established within 180 days after the date of the enactment of this paragraph. `(ii) For agricultural commodities, the limits shall be established within 270 days after the date of the enactment of this paragraph. `(C) In establishing the limits, the Commission shall strive to ensure that trading on foreign boards of trade in the same commodity will be subject to comparable limits and that any limits to be imposed by the Commission will not cause price discovery in the commodity to shift to trading on the foreign boards of trade. `(3) In establishing the limits required in paragraph (2), the Commission, as appropriate, shall set limits-- `(A) on the number of positions that may be held by any person for the spot month, each other month, and the aggregate number of positions that may be held by any person for all months; and `(B) to the maximum extent practicable, in its discretion-- `(i) to diminish, eliminate, or prevent excessive speculation as described under this section; `(ii) to deter and prevent market manipulation, squeezes, and corners; `(iii) to ensure sufficient market liquidity for bona fide hedgers; and `(iv) to ensure that the price discovery function of the underlying market is not disrupted. `(4)(A) Not later than 150 days after the establishment of position limits pursuant to paragraph (2), and biannually		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
thereafter, the Commission shall hold 2 public hearings, 1 for agriculture commodities and 1 for energy commodities as such terms are defined by the Commission, in order to receive recommendations regarding the position limits to be established in paragraph (2). `(B) Each public hearing held pursuant to subparagraph (A) shall, at a minimum providing there is sufficient interest, receive recommendations from-- `(i) 7 predominantly commercial short hedgers of the actual physical commodity for future delivery; `(ii) 7 predominantly commercial long hedgers of the actual physical commodity for future delivery; `(iii) 4 non-commercial participants in markets for commodities for future delivery; and `(iv) each designated contract market upon which a contract in the commodity for future delivery is traded. `(C) Within 60 days after each public hearing held pursuant to subparagraph (A), the Commission shall publish in the Federal Register its response to the recommendations regarding position limits heard at the hearing.		
`(5) SIGNIFICANT PRICE DISCOVERY FUNCTION- In making a determination whether a swap performs or affects a significant price discovery function with respect to regulated markets, the Commission shall consider, as appropriate: `(A) PRICE LINKAGE- The extent to which the swap uses or otherwise relies on a daily or final settlement price, or other major price parameter, of another contract traded on a regulated market based upon the same underlying commodity, to value a position, transfer or convert a position, financially settle a position, or close out a position;	*`(3) SIGNIFICANT PRICE DISCOVERY FUNCTION- In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider, as appropriate, the following factors:* *`(A) PRICE LINKAGE- The extent to which the swap uses or otherwise relies on a daily or final settlement price, or other major price parameter, of another contract traded on a registered entity based on the same underlying commodity, to value a position, transfer or convert a position, financially settle a position, or close out a position.*	
`(B) ARBITRAGE- The extent to which the price for the swap is sufficiently related to the price of another contract traded on a regulated market based upon the same underlying commodity so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the swaps on a frequent and recurring basis;	*`(B) ARBITRAGE- The extent to which the price for the swap is sufficiently related to the price of another contract traded on a registered entity based on the same underlying commodity so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the swaps on a frequent and recurring basis.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(C) MATERIAL PRICE REFERENCE- The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a contract traded on a regulated market are directly based on, or are determined by referencing, the price generated by the swap;	*`(C) MATERIAL PRICE REFERENCE- The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a contract traded on a registered entity are directly based on, or are determined by referencing, the price generated by the swap.*	
`(D) MATERIAL LIQUIDITY- The extent to which the volume of swaps being traded in the commodity is sufficient to have a material effect on another contract traded on a regulated market; and	*`(D) MATERIAL LIQUIDITY- The extent to which the volume of swaps being traded in the commodity is sufficient to have a material effect on another contract traded on a registered entity.*	
`(E) OTHER MATERIAL FACTORS- Such other material factors as the Commission specifies by rule or regulation as relevant to determine whether a swap serves a significant price discovery function with respect to a regulated market.	*`(E) OTHER MATERIAL FACTORS- Such other material factors as the Commission specifies by rule or regulation as relevant to determine whether a swap serves a significant price discovery function with respect to a regulated market.*	
`(6) ECONOMICALLY EQUIVALENT CONTRACTS- `(A) Notwithstanding any other provision of this section, the Commission shall establish limits on the amount of positions, including aggregate position limits, as appropriate, other than bona fide hedge positions, that may be held by any person with respect to swaps that are economically equivalent to contracts of sale for future delivery or to options on the contracts or commodities traded on or subject to the rules of a designated contract market subject to paragraph (2). `(B) In establishing limits pursuant to subparagraph (A), the Commission shall-- `(i) develop the limits concurrently with limits established under paragraph (2), and the limits shall have similar requirements as under paragraph (3)(B); and `(ii) establish the limits simultaneously with limits established under paragraph (2).		
`(7) AGGREGATE POSITION LIMITS- The Commission shall, by rule or regulation, establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in contracts based upon the same underlying commodity (as defined by the Commission) that may be held by any person, including any group or class of traders, for each month across--	*(4) by adding at the end the following: `(2) AGGREGATE POSITION LIMITS- The Commission shall, by rule or regulation, establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in contracts based on the same underlying commodity (as defined by the Commission) that may be held by any person, including any group or class of traders, for each month across--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(A) contracts listed by designated contract markets; `(B) with respect to an agreement contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, contracts traded on a foreign board of trade that provides members or other participants located in the United States with direct access to its electronic trading and order matching system; and `(C) swap contracts that perform or affect a significant price discovery function with respect to regulated entities.	*`(A) contracts listed by designated contract markets;* *`(B) with respect to an agreement, contract, or transaction that settles against, or in relation to, any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, contracts traded on a foreign board of trade that provides members or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade;* *`(C) swaps traded on or subject to the rules of a swap execution facility; and* *`(D) swaps not traded on or subject to the rules of a swap execution facility that perform or affect a significant price discovery function with respect to a registered entity.*	
`(8) EXEMPTIONS- The Commission, by rule, regulation, or order, may exempt, conditionally or unconditionally, any person or class of persons, any swap or class of swaps, any contract of sale of a commodity for future delivery or class of such contracts, any option or class of options, or any transaction or class of transactions from any requirement it may establish under this section with respect to position limits.'.	*`(4) EXEMPTIONS- The Commission, by rule, regulation, or order, may exempt, conditionally or unconditionally, any person or class of persons, any swap or class of swaps, or any transaction or class of transactions from any requirement that the Commission establishes under this section with respect to position limits.'.*	
(b) Section 4a(b) of such Act (7 U.S.C. 6a(b)) is amended-- (1) in paragraph (1), by striking `or derivatives transaction execution facility or facilities or electronic trading facility' and inserting `or swap execution facility or facilities'; and (2) in paragraph (2), by striking `or derivatives transaction execution facility or facilities or electronic trading facility' and inserting `or swap execution facility'.	*(b) Conforming Amendments- Section 4a(b) of the Commodity Exchange Act (7 U.S.C. 6a(b)) is amended--* *(1) in paragraph (1), by striking `or derivatives transaction execution facility or facilities or electronic trading facility' and inserting `or swap execution facility or facilities'; and* *(2) in paragraph (2), by striking `or derivatives transaction execution facility or facilities or electronic trading facility' and inserting `or swap execution facility'.*	
(c) Section 4a(c) of such Act is amended-- (1) by inserting `(1)' after `(c)'; and (2) by adding after and below the end the following: `(2) For the purposes of implementation of subsection (a)(2) for contracts of sale for future delivery or options on the contracts or commodities, the Commission shall define what constitutes a bona fide hedging transaction or position as a transaction or position that-- `(A)(i) represents a substitute for transactions made or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to be made or positions taken or to be taken at a later time in a physical marketing channel; `(ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and `(iii) arises from the potential change in the value of-- `(I) assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising; `(II) liabilities that a person owns or anticipates incurring; or `(III) services that a person provides, purchases, or anticipates providing or purchasing; or `(B) reduces risks attendant to a position resulting from a swap that-- `(i) was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to subparagraph (A); or `(ii) meets the requirements of subparagraph (A).'.		
(d) This section shall become effective on the date of its enactment.		
SEC. 3114. ENHANCED AUTHORITY OVER REGISTERED ENTITIES. (a) Section 5c(a) of the Commodity Exchange Act (7 U.S.C. 7a-2(a)) is amended-- (1) in paragraph (1), by striking `5a(d) and 5b(c)(2)' and inserting `5b(c)(2) and 5h(e)'; and (2) in paragraph (2), by striking `shall not' and inserting `may'. (b) Section 5c(b) of such Act (7 U.S.C. 7a-2(b)) is amended in each of paragraphs (1), (2), and (3) by inserting `or swap execution facility' after `contract market' each place it appears. (c) Section 5c(c)(1) of such Act (7 U.S.C. 7a-2(c)(1)) is amended-- (1) by inserting `(A)' after `In general- '; and (2) by adding at the end the following: `(B) The new rule or rule amendment shall become effective, pursuant to the registered entity's certification and notice of such certification to its members (in a manner to be determined by the Commission), 10 business days after the Commission's	***SEC. 745. ENHANCED COMPLIANCE BY REGISTERED ENTITIES.*** *(a) Core Principles for Contract Markets- Section 5(d) of the Commodity Exchange Act (7 U.S.C. 7(d)) (as amended by section 735(b)) is amended by striking paragraph (1) and inserting the following:* *`(1) DESIGNATION-* *`(A) IN GENERAL- To be designated as, and to maintain the designation of, a board of trade as a contract market, the board of trade shall comply with--* *`(i) the core principles described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(B) DISCRETION OF BOARD OF TRADE- Unless the Commission determines otherwise by rule or regulation, the board of trade shall have reasonable*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
receipt of the certification (or such shorter period determined by the Commission by rule or regulation) unless the Commission notifies the registered entity within such time that it is staying the certification because there exist novel or complex issues that require additional time to analyze, an inadequate explanation by the submitting registered entity, or a potential inconsistency with this Act (including regulations under this Act). `(C)(i) A notification by the Commission pursuant to subparagraph (B) shall stay the certification of the new contract or instrument or clearing of the new contract or instrument, new rule or new amendment for up to an additional 90 days from the date of the notification. `(ii) The Commission shall provide at least a 30-day public comment period, within the 90-day period in which the stay is in effect described in clause (i), whenever it reviews a rule or rule amendment pursuant to a notification by the Commission under this paragraph.'. (d) Section 5c(d) of such Act (7 U.S.C. 7a-2(d)) is repealed.	*discretion in establishing the manner by which the board of trade complies with each core principle.'.* *(b) Core Principles- Section 5b(c)(2) of the Commodity Exchange Act (7 U.S.C. 7a-1(c)(2)) (as amended by section 725(c)) is amended by striking subparagraph (A) and inserting the following:* *`(A) REGISTRATION-* *`(i) IN GENERAL- To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with--* *`(I) the core principles described in this paragraph; and* *`(II) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).* *`(ii) DISCRETION OF COMMISSION- Unless the Commission determines otherwise by rule or regulation, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle.'.* *(c) Effect of Interpretation- Section 5c(a) of the Commodity Exchange Act (7 U.S.C. 7a-2(a)) is amended by striking paragraph (2) and inserting the following:* *`(2) EFFECT OF INTERPRETATION- An interpretation issued under paragraph (1) may provide the exclusive means for complying with each section described in paragraph (1).'.* *(d) New Contracts, New Rules, and Rule Amendments-* *(1) IN GENERAL- A registered entity may elect to list for trading or accept for clearing any new contract, or other instrument, or may elect to approve and implement any new rule or rule amendment, by providing to the Commission (and the Secretary of the Treasury, in the case of a contract of sale of a government security for future delivery (or option on such a contract) or a rule or rule amendment specifically related to such a contract) a written certification that the new contract or instrument or clearing of the new contract or instrument, new rule, or rule amendment complies with this Act (including regulations under this Act).* *(2) RULE REVIEW- The new rule or rule amendment described in paragraph (1) shall become effective, pursuant to the certification of the registered entity, on the date that is 10*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	business days after the date on which the Commission receives the certification (or such shorter period as determined by the Commission by rule or regulation) unless the Commission notifies the registered entity within such time that it is staying the certification because there exist novel or complex issues that require additional time to analyze, an inadequate explanation by the submitting registered entity, or a potential inconsistency with this Act (including regulations under this Act). *(3) STAY OF CERTIFICATION FOR RULES-* *(A) A notification by the Commission pursuant to paragraph (2) shall stay the certification of the new rule or rule amendment for up to an additional 90 days from the date of the notification.* *(B) A rule or rule amendment subject to a stay pursuant to subparagraph (A) shall become effective, pursuant to the certification of the registered entity, at the expiration of the period described in subparagraph (A) unless the Commission--* *(i) withdraws the stay prior to that time; or* *(ii) notifies the registered entity during such period that it objects to the proposed certification on the grounds that it is inconsistent with this Act (including regulations under this Act).* *(4) PRIOR APPROVAL-* *(A) IN GENERAL- A registered entity may request that the Commission grant prior approval to any new contract or other instrument, new rule, or rule amendment.* *(B) PRIOR APPROVAL REQUIRED- Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(10) (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.* *(C) DEADLINE- If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph. *(5) APPROVAL-* *(A) RULES- The Commission shall approve a new rule, or rule amendment, of a registered entity unless the Commission finds that the new rule, or rule amendment, is inconsistent with this subtitle (including regulations).* *(B) CONTRACTS AND INSTRUMENTS- The Commission shall approve a new contract or other instrument unless the Commission finds that the new contract or other instrument would violate this subtitle (including regulations).* *(C) SPECIAL RULE FOR REVIEW AND APPROVAL OF EVENT CONTRACTS AND SWAPS CONTRACTS-* *(i) EVENT CONTRACTS- In connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i)), by a designated contract market or swap execution facility, the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve--* *(I) activity that is unlawful under any Federal or State law;* *(II) terrorism;* *(III) assassination;* *(IV) war;* *(V) gaming; or* *(VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.* *(ii) PROHIBITION- No agreement, contract, or transaction determined by the Commission to be contrary to the public interest under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	clause (i) may be listed or made available for clearing or trading on or through a registered entity. *(iii) SWAPS CONTRACTS-* *(I) IN GENERAL- In connection with the listing of a swap for clearing by a derivatives clearing organization, the Commission shall determine, upon request or on its own motion, the initial eligibility, or the continuing qualification, of a derivatives clearing organization to clear such a swap under those criteria, conditions, or rules that the Commission, in its discretion, determines.* *(II) REQUIREMENTS- Any such criteria, conditions, or rules shall consider--* *(aa) the financial integrity of the derivatives clearing organization; and* *(bb) any other factors which the Commission determines may be appropriate.* *(iv) DEADLINE- The Commission shall take final action under clauses (i) and (ii) in not later than 90 days from the commencement of its review unless the party seeking to offer the contract or swap agrees to an extension of this time limitation.* *(e) Violation of Core Principles- Section 5c of the Commodity Exchange Act (7 U.S.C. 7a-2) is amended by striking subsection (d).*	
SEC. 3115. FOREIGN BOARDS OF TRADE. (a) In General- Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following: `(e) Foreign Boards of Trade- `(1) IN GENERAL- The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of	***SEC. 738. FOREIGN BOARDS OF TRADE.*** *(a) In General- Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended--* *(1) in the first sentence, by striking `The Commission' and inserting the following:* *`(2) PERSONS LOCATED IN THE UNITED STATES-* *`(A) IN GENERAL- The Commission';* *(2) in the second sentence, by striking `Such rules and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that-- `(A) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and `(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)-- `(i) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable, taking into consideration the relative sizes of the respective markets, to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; `(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; `(iii) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding-- `(I) the information that the foreign	*regulations' and inserting the following:* *`(B) DIFFERENT REQUIREMENTS- Rules and regulations described in subparagraph (A)';* *(3) in the third sentence--* *(A) by striking `No rule or regulation' and inserting the following:* *`(C) PROHIBITION- Except as provided in paragraphs (1) and (2), no rule or regulation';* *(B) by striking `that (1) requires' and inserting the following: `that--* *`(i) requires'; and* *(C) by striking `market, or (2) governs' and inserting the following: `market; or* *`(ii) governs'; and* *(4) by inserting before paragraph (2) (as designated by paragraph (1)) the following:* *`(1) FOREIGN BOARDS OF TRADE-* *`(A) IN GENERAL- It shall be unlawful for a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that--* *`(i) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and* *`(ii) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)--* *`(I) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable to the position limits (including related*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
board of trade will make publicly available; `(II) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce; `(III) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and `(IV) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority; `(iv) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and `(v) provides the Commission with information necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to the reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.	*hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;* *`(II) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;* *`(III) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding--*  *`(aa) the information that the foreign board of trade will make publicly available;* *`(bb) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;*  *`(cc) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and* *`(dd) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;*  *`(IV) provides information to the Commission regarding large trader*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and *`(V) provides the Commission such information as is necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.*	
`(2) EXISTING FOREIGN BOARDS OF TRADE- Paragraph (1) shall not be effective with respect to any foreign board of trade to which the Commission has granted direct access permission before the date of the enactment of this subsection until the date that is 180 days after such date of enactment.	*`(B) EXISTING FOREIGN BOARDS OF TRADE- Subparagraph (A) shall not be effective with respect to any foreign board of trade to which, prior to the date of enactment of this paragraph, the Commission granted direct access permission until the date that is 180 days after that date of enactment.'.*	
`(3) PERSONS LOCATED IN THE UNITED STATES- '.	*(repeated from above:) (a) In General- Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended--* *(1) in the first sentence, by striking `The Commission' and inserting the following:* *`(2) PERSONS LOCATED IN THE UNITED STATES-* *`(A) IN GENERAL- The Commission';* *(2) in the second sentence, by striking `Such rules and regulations' and inserting the following:* *`(B) DIFFERENT REQUIREMENTS- Rules and regulations described in subparagraph (A)';* *(3) in the third sentence--* *(A) by striking `No rule or regulation' and inserting the following:* *`(C) PROHIBITION- Except as provided in paragraphs (1) and (2), no rule or regulation';* *(B) by striking `that (1) requires' and inserting the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	following: `that--* *`(i) requires'; and *(C) by striking `market, or (2) governs' and inserting the following: `market; or* *`(ii) governs'; and*	
(b) Liability of Registered Persons Trading on a Foreign Board of Trade- (1) Section 4(a) of such Act (7. U.S.C. 6(a)) is amended by inserting `or by subsection (f)' after `Unless exempted by the Commission pursuant to subsection (c)'; and (2) Section 4 of such Act (7 U.S.C. 6) is further amended by adding at the end the following: `(f)(1) A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person-- `(A) has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that is-- `(i) legally organized under the laws of a foreign country; `(ii) authorized to act as a board of trade by a foreign futures authority; and `(iii) subject to regulation by the foreign futures authority; and `(B) has not been determined by the Commission to be operating in violation of subsection (a). `(2) Nothing in this subsection shall be construed as implying or creating any presumption that a board of trade, exchange, or market is located outside the United States, or its territories or possessions, for purposes of subsection (a).'.	*(b) Liability of Registered Persons Trading on a Foreign Board of Trade- Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended--* *(1) in subsection (a), in the matter preceding paragraph (1), by inserting `or by subsection (e)' after `Unless exempted by the Commission pursuant to subsection (c)'; and* *(2) by adding at the end the following:* *`(e) Liability of Registered Persons Trading on a Foreign Board of Trade- A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that has complied with paragraphs (1) and (2) of subsection (b).'.*	
(c) Contract Enforcement for Foreign Futures Contracts- Section 22(a) of such Act (7 U.S.C. 25(a)) is amended by adding at the end the following: `(5) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS- A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the contract, based on the failure of the foreign board	*(c) Contract Enforcement for Foreign Futures Contracts- Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) (as amended by section 739) is amended by adding at the end the following:* *`(6) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS- A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
of trade to comply with any provision of this Act.'.	*the contract, based on the failure of the foreign board of trade to comply with any provision of this Act.'.*	
SEC. 3116. LEGAL CERTAINTY FOR SWAPS. Section 22(a)(4) of the Commodity Exchange Act (7 U.S.C. 25(a)(4)) is amended to read as follows: `(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES- `(A) A hybrid instrument sold to any investor shall not be void, voidable, or unenforceable, and a party to such a hybrid instrument shall not be entitled to rescind, or recover any payment made with respect to, such a hybrid instrument under this section or any other provision of Federal or State law, based solely on the failure of the hybrid instrument to comply with the terms or conditions of section 2(f) or regulations of the Commission; and `(B) An agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants shall not be void, voidable, or unenforceable, and a party thereto shall not be entitled to rescind, or recover any payment made with respect to, such an agreement, contract, or transaction under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, or transaction to meet the definition of a swap set forth in section 1a, be traded in the manner set forth in section 2(k)(1), or be cleared pursuant to 2(j)(1) or regulations of the Commission pursuant thereto.'.	***SEC. 739. LEGAL CERTAINTY FOR SWAPS.*** *Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) is amended by striking paragraph (4) and inserting the following:* *`(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES-* *`(A) IN GENERAL- No hybrid instrument sold to any investor shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, the hybrid instrument under this section or any other provision of Federal or State law, based solely on the failure of the hybrid instrument to comply with the terms or conditions of section 2(f) or regulations of the Commission.* *`(B) SWAPS- No agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants shall be void, voidable, or unenforceable, and no party to an agreement, contract, or transaction shall be entitled to rescind, or recover any payment made with respect to, the agreement, contract, or transaction under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, or transaction--* *`(i) to meet the definition of a swap under section 1a; or* *`(ii) to be cleared in accordance with section 2(h)(1).* *`(5) LEGAL CERTAINTY FOR LONG-TERM SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010-* *`(A) IN GENERAL- Any swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment, shall not be subject to the mandatory clearing requirements under this Act.* *`(B) EFFECT ON SWAPS- Unless specifically reserved in the applicable bilateral trading agreement, neither*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the enactment of the Wall Street Transparency and Accountability Act of 2010, nor any requirement under that Act or an amendment made by that Act, shall constitute a termination event, force majeure, illegality, increased costs, regulatory change, or similar event under a bilateral trading agreement (including any related credit support arrangement) that would permit a party to terminate, renegotiate, modify, amend, or supplement 1 or more transactions under the bilateral trading agreement. *`(C) POSITION LIMITS- Any position limit established under the Wall Street Transparency and Accountability Act of 2010 shall not apply to a position acquired in good faith prior to the effective date of any rule, regulation, or order under the Act that establishes the position limit; provided, however, that such positions shall be attributed to the trader if the trader's position is increased after the effective date such position limit rule, regulation, or order.'.*	
SEC. 3117. FDICIA AMENDMENTS. Sections 408 and 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421 and 4422) are repealed.	***SEC. 740. MULTILATERAL CLEARING ORGANIZATIONS.*** *Sections 408 and 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421, 4422) are repealed.*	
SEC. 3118. ENFORCEMENT AUTHORITY. (a) The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4b the following: **`SEC. 4b-1. ENFORCEMENT AUTHORITY.**  `(a) CFTC- Except as provided in subsection (b), the Commission shall have exclusive authority to enforce the provisions of subtitle A of the Derivative Markets Transparency and Accountability Act of 2009 with respect to any person. `(b) Prudential Regulators- The Prudential Regulators shall have exclusive authority to enforce the provisions of section 4s(d) and other prudential requirements of this Act with respect to banks, and branches or agencies of foreign banks that are swap dealers or major swap participants. `(c) Referral- (1) If the Prudential Regulator for a swap dealer or major	***SEC. 741. ENFORCEMENT.*** *(a) Enforcement Authority- The Commodity Exchange Act is amended by inserting after section 4b (7 U.S.C. 6b) the following:* ***`SEC. 4b-1. ENFORCEMENT AUTHORITY.***  *`(a) Commission- Except as provided in subsections (b), (c), and (d), the Commission shall have primary authority to enforce the amendments made by the Wall Street Transparency and Accountability Act of 2010 with respect to any person.* *`(b) Appropriate Federal Banking Agencies- The appropriate Federal banking agency for swap dealers or major swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of section 4s(e) and other prudential requirements of this Act, with respect to depository institutions that are*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
swap participant has cause to believe that the swap dealer or major swap participant may have engaged in conduct that constitutes a violation of the nonprudential requirements of section 4s or rules adopted by the Commission thereunder, that Prudential Regulator may recommend in writing to the Commission that the Commission initiate an enforcement proceeding as authorized under this Act. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation. `(2) If the Commission has cause to believe that a swap dealer or major swap participant that has a Prudential Regulator may have engaged in conduct that constitutes a violation of the prudential requirements of section 4s or rules adopted thereunder, the Commission may recommend in writing to the Prudential Regulator that the Prudential Regulator initiate an enforcement proceeding as authorized under this Act. The recommendation shall be accompanied by a written explanation of the concerns given rise to the recommendation.'.	*swap dealers or major swap participants.* *`(c) Referrals-* *`(1) PRUDENTIAL REGULATORS- If the prudential regulator for a swap dealer or major swap participant has cause to believe that the swap dealer or major swap participant, or any affiliate or division of the swap dealer or major swap participant, may have engaged in conduct that constitutes a violation of the nonprudential requirements of this Act (including section 4s or rules adopted by the Commission under that section), the prudential regulator shall promptly notify the Commission in a written report that includes--* *`(A) a request that the Commission initiate an enforcement proceeding under this Act; and* *`(B) an explanation of the facts and circumstances that led to the preparation of the written report.* *`(2) COMMISSION- If the Commission has cause to believe that a swap dealer or major swap participant that has a prudential regulator may have engaged in conduct that constitutes a violation of any prudential requirement of section 4s or rules adopted by the Commission under that section, the Commission may notify the prudential regulator of the conduct in a written report that includes--* *`(A) a request that the prudential regulator initiate an enforcement proceeding under this Act or any other Federal law (including regulations); and* *`(B) an explanation of the concerns of the Commission, and a description of the facts and circumstances, that led to the preparation of the written report.* *`(d) Backstop Enforcement Authority-* *`(1) INITIATION OF ENFORCEMENT PROCEEDING BY PRUDENTIAL REGULATOR- If the Commission does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the Commission receives a written report under subsection (c)(1), the prudential regulator may initiate an enforcement proceeding.* *`(2) INITIATION OF ENFORCEMENT PROCEEDING BY COMMISSION- If the prudential regulator does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the prudential regulator receives a written report under subsection (c)(2), the Commission may initiate an enforcement proceeding.'.*	
	(b) Conforming Amendments-	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended-- *(A) in subsection (a)(2), by striking `or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,';* *(B) in subsection (b), by striking `or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,'; and* *(C) by adding at the end the following:* *`(e) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any registered entity, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery (or option on such a contract), or any swap, on a group or index of securities (or any interest therein or based on the value thereof)--* *`(1) to employ any device, scheme, or artifice to defraud;* *`(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or* *`(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.'.* *(2) Section 4c(a)(1) of the Commodity Exchange Act (7 U.S.C. 6c(a)(1)) is amended by inserting `or swap' before `if the transaction is used or may be used'.* *(3) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the first sentence by inserting `or of any swap,' before `or has willfully made'.* *(4) Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence, in the matter preceding the proviso, by inserting `or of any swap,' before `or otherwise is violating'.* *(5) Section 6c(a) of the Commodity Exchange Act (7 U.S.C. 13a-1(a)) is amended in the matter preceding the proviso by inserting `or any swap' after `commodity for future delivery'.*	
(b)(1) Section 4c(a) of such Act (7 U.S.C. 6c(a)) is amended by adding at the end the following: `(3) DISRUPTIVE PRACTICES- It shall be unlawful for any	***SEC. 747. ANTIDISRUPTIVE PRACTICES AUTHORITY.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
person to engage in any trading or practice on or subject to the rules of a registered entity that-- `(A) violates bids and offers (intentionally bidding at a price higher than the lowest offer, or offering at a price lower than the highest bid); `(B) is, is of the character of, or is commonly known to the trade as `marking the close' (bidding or offering during or near the market's closing period with the intent to influence the settlement price); `(C) is, is of the character of, or is commonly known to the trade as `spoofing' (bidding or offering with the intent to cancel the bid or offer before execution); or `(D) constitutes uneconomic trading (trading that has no legitimate economic purpose but for the effect on price). `(4) The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit any other trading practice that is disruptive of fair and equitable trading.'. (2) The amendment made by paragraph (1) shall become effective upon enactment.	*Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (as amended by section 746) is amended by adding at the end the following:* *`(5) DISRUPTIVE PRACTICES- It shall be unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that--* *`(A) violates bids or offers;* *`(B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or* *`(C) is, is of the character of, or is commonly known to the trade as, `spoofing' (bidding or offering with the intent to cancel the bid or offer before execution).* *`(6) RULEMAKING AUTHORITY- The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices described in paragraph (5) and any other trading practice that is disruptive of fair and equitable trading.* *`(7) USE OF SWAPS TO DEFRAUD- It shall be unlawful for any person to enter into a swap knowing, or acting in reckless disregard of the fact, that its counterparty will use the swap as part of a device, scheme, or artifice to defraud any third party.'.*	
SEC. 3119. ENFORCEMENT. (a) Section 4b(a)(2) of the Commodity Exchange Act (7 U.S.C. 6b(a)(2)) is amended by striking `or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,'. (b) Section 4b(b) of such Act (7 U.S.C. 6b(b)) is amended by striking `or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,'. (c) Section 4c(a) of such Act (7 U.S.C. 6c(a)) is amended by inserting `or swap' before `if the transaction is used or may be used'. (d) Section 9(a)(2) of such Act (7 U.S.C. 13(a)(2)) is amended by inserting `or of any swap,' before `or to corner'. (e) Section 9(a)(4) of such Act (7 U.S.C. 13(a)(4)) is amended by inserting `swap repository,' before `or futures association'. (f) Section 9(e)(1) of such Act (7 U.S.C. 13(e)(1)) is amended by inserting `swap repository,' before `or registered futures association' and by inserting `, or swaps,' before `on the basis'. (g) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C.	***SEC. 741. ENFORCEMENT. (cont.)*** *b) Conforming Amendments-* *(1) Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended--* *(A) in subsection (a)(2), by striking `or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,';* *(B) in subsection (b), by striking `or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g),' and inserting `or swap,'; and* *(C) by adding at the end the following:* *`(e) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any registered entity, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery (or option on such a contract), or any swap, on a group or index of securities (or any interest therein or based on the value*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
1818(b)) is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and inserting after paragraph (5) the following: `(6) This section shall apply to any swap dealer, major swap participant, security-based swap dealer, major security-based swap participant, derivatives clearing organization, swap repository, security-based swap repository, or swap execution facility, whether or not it is an insured depository institution, for which the Board, the Corporation, or the Office of the Comptroller of the Currency is the appropriate Federal banking agency or Prudential Regulator for purposes of the Derivative Markets Transparency and Accountability Act of 2009.'.	*thereof)--* *`(1) to employ any device, scheme, or artifice to defraud;* *`(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or* *`(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.'.* *(2) Section 4c(a)(1) of the Commodity Exchange Act (7 U.S.C. 6c(a)(1)) is amended by inserting `or swap' before `if the transaction is used or may be used'.* *(3) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the first sentence by inserting `or of any swap,' before `or has willfully made'.* *(4) Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence, in the matter preceding the proviso, by inserting `or of any swap,' before `or otherwise is violating'.* *(5) Section 6c(a) of the Commodity Exchange Act (7 U.S.C. 13a-1(a)) is amended in the matter preceding the proviso by inserting `or any swap' after `commodity for future delivery'.* *(6) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended--* *(A) in subsection (a)--* *(i) in paragraph (2), by inserting `or of any swap,' before `or to corner'; and* *(ii) in paragraph (4), by inserting `swap data repository,' before `or futures association' and* *(B) in subsection (e)(1)--* *(i) by inserting `swap data repository,' before `or registered futures association'; and* *(ii) by inserting `, or swaps,' before `on the basis'.* *(7) Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by adding at the end the following:* *`(6) Any person to abuse the end user clearing exemption under section 2(h)(4), as determined by the Commission.'.* *(8) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end the following:* *`(11) SWAPS-* *`(A) IN GENERAL- Subject to subparagraph (B), this section shall apply to any swap dealer, major swap*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	participant, security-based swap dealer, major security-based swap participant, derivatives clearing organization, swap data repository, or swap execution facility, regardless of whether the dealer, participant, organization, repository, or facility is an insured depository institution, for which the Board, the Corporation, or the Office of the Comptroller of the Currency is the appropriate Federal banking agency or prudential regulator for purposes of the amendments made by the Wall Street Transparency and Accountability Act of 2010. *`(B) LIMITATION- The authority described in subparagraph (A) shall be limited by, and exercised in accordance with, section 4b-1 of the Commodity Exchange Act.'.* *(9) Section 2(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)) is amended--* *(A) by striking `(dd),' each place it appears;* *(B) in clause (iii), by inserting `, and accounts or pooled investment vehicles described in clause (vi),' before `shall be subject to'; and* *(C) by adding at the end the following:* *`(vi) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).'.* *(10) Section 2(c)(2)(C) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(C)) is amended--* *(A) by striking `(dd),' each place it appears;* *(B) in clause (ii)(I), by inserting `, and accounts or pooled investment vehicles described in clause (vii),' before `shall be subject to'; and* *(C) by adding at the end the following:* *`(vii) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).'.* *(11) Section 1a(19)(A)(iv)(II) of the Commodity Exchange Act (7 U.S.C. 1a(19)(A)(iv)(II)) (as redesignated by section*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	721(a)(1)) is amended by inserting before the semicolon at the end the following: `provided, however, that for purposes of section 2(c)(2)(B)(vi) and section 2(c)(2)(C)(vii), the term `eligible contract participant' shall not include a commodity pool in which any participant is not otherwise an eligible contract participant'.	
SEC. 3120. RETAIL COMMODITY TRANSACTIONS. (a) Section 2(c) of the Commodity Exchange Act (7 U.S.C. 2(c)) is amended-- (1) in paragraph (1), by striking `(other than section 5a (to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B))' and inserting `(other than section 5b or 12(e)(2)(B))'; and (2) in paragraph (2), by inserting after subparagraph (C) the following: `(D) RETAIL COMMODITY TRANSACTIONS- `(i) This subparagraph shall apply to, and the Commission shall have jurisdiction over, any agreement, contract, or transaction in any commodity that is-- `(I) entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity; and `(II) entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis. `(ii) Clause (i) shall not apply to-- `(I) an agreement, contract, or transaction described in paragraph (1) or subparagraphs (A), (B), or (C), including any agreement, contract, or transaction specifically excluded from subparagraph (A), (B), or (C); `(II) any security; `(III) a contract of sale that--	***SEC. 742. RETAIL COMMODITY TRANSACTIONS.*** *(a) In General- Section 2(c) of the Commodity Exchange Act (7 U.S.C. 2(c)) is amended--* *(1) in paragraph (1), by striking `(to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B))' and inserting `, 5b, or 12(e)(2)(B))'; and* *(2) in paragraph (2), by adding at the end the following:* *`(D) RETAIL COMMODITY TRANSACTIONS-* *`(i) APPLICABILITY- Except as provided in clause (ii), this subparagraph shall apply to any agreement, contract, or transaction in any commodity that is--* *`(I) entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity; and* *`(II) entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.* *`(ii) EXCEPTIONS- This subparagraph shall not apply to--* *`(I) an agreement, contract, or transaction described in paragraph (1) or subparagraphs (A), (B), or (C), including any agreement, contract, or transaction specifically excluded from subparagraph (A), (B), or (C);* *`(II) any security;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(III) a contract of sale that--	
`(aa) results in actual delivery within 28 days or such other longer period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the commodity involved; or	*`(aa) results in actual delivery within 28 days or such other period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the commodity involved; or*	
`(bb) creates an enforceable obligation to deliver between a seller and a buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.	*`(bb) creates an enforceable obligation to deliver between a seller and a buyer that have the ability to deliver and accept delivery, respectively, in connection with the line of business of the seller and buyer; or*	
`(IV) an agreement, contract, or transaction that is listed on a national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or	*`(IV) an agreement, contract, or transaction that is listed on a national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or*	
`(V) an identified banking product, as defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(b)).	*`(V) an identified banking product, as defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C.27(b)).*	
`(iii) Sections 4(a), 4(b) and 4b shall apply to any agreement, contract or transaction described in clause (i), that is not excluded from clause (i) by clause (ii), as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.	*`(iii) ENFORCEMENT- Sections 4(a), 4(b), and 4b apply to any agreement, contract, or transaction described in clause (i), as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery.*	
`(iv) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery;	*`(iv) ELIGIBLE COMMERCIAL ENTITY- For purposes of this subparagraph, an agricultural producer, packer, or handler shall be considered to be an eligible commercial entity for any agreement, contract, or transaction for a commodity in connection with the line of business of the agricultural producer, packer, or handler.*	
`(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provisions of this Act with respect to security futures products and persons effecting transactions in security futures products;	*`(v) ACTUAL DELIVERY- For purposes of clause (ii)(III), the term `actual delivery' does not include delivery to a third party in a financed transaction in which the commodity is held as collateral.'.*	
`(vi) For the purposes of this subparagraph, an agricultural producer, packer, or handler shall be considered an eligible commercial entity	*(b) Gramm-Leach-Bliley Act- Section 206(a) of the Gramm-Leach-Bliley Act (Public Law 106-102; 15 U.S.C. 78c note) is amended, in the matter preceding paragraph (1), by striking `For purposes of' and inserting*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for any agreement, contract, or transaction for a commodity in connection with its line of business.'. (b) The amendments made by subsection (a) shall become effective on the date of the enactment of this section.	*`Except as provided in subsection (e), for purposes of'.* *(c) Conforming Amendments Relating to Retail Foreign Exchange Transactions-* *(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended--* *(A) in item (aa), by inserting `United States' before `financial institution';* *(B) by striking items (dd) and (ff);* *(C) by redesignating items (ee) and (gg) as items (dd) and (ff), respectively; and* *(D) in item (dd) (as so redesignated), by striking the semicolon and inserting `; or'.* *(2) Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) (as amended by subsection (a)(2)) is amended by adding at the end the following:* *`(E) PROHIBITION-* *`(i) DEFINITION OF FEDERAL REGULATORY AGENCY- In this subparagraph, the term `Federal regulatory agency' means--* *`(I) the Commission;* *`(II) the Securities and Exchange Commission;* *`(III) an appropriate Federal banking agency;* *`(IV) the National Credit Union Association; and* *`(V) the Farm Credit Administration.* *`(ii) PROHIBITION- A person described in subparagraph (B)(i)(II) for which there is a Federal regulatory agency shall not offer to, or enter into with, a person that is not an eligible contract participant, any agreement, contract, or transaction in foreign currency described in subparagraph (B)(i)(I) except pursuant to a rule or regulation of a Federal regulatory agency allowing the agreement, contract, or transaction under such terms and conditions as the Federal regulatory agency shall prescribe.* *`(iii) REQUIREMENTS OF RULES AND REGULATIONS-* *`(I) IN GENERAL- The rules and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	regulations described in clause (ii) shall prescribe appropriate requirements with respect to-- *`(aa) disclosure;*  *`(bb) recordkeeping;* *`(cc) capital and margin;*  *`(dd) reporting;* *`(ee) business conduct;*  *`(ff) documentation; and* *`(gg) such other standards or requirements as the Federal regulatory agency shall determine to be necessary.*  *`(II) TREATMENT- The rules or regulations described in clause (ii) shall treat all agreements, contracts, and transactions in foreign currency described in subparagraph (B)(i)(I), and all agreements, contracts, and transactions in foreign currency that are functionally or economically similar to agreements, contracts, or transactions described in subparagraph (B)(i)(I), similarly.'.*	
SEC. 3121. LARGE SWAP TRADER REPORTING. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4s (as added by section 3107 of this Act) the following: **`SEC. 4t. LARGE SWAP TRADER REPORTING.**  `(a) It shall be unlawful for any person to enter into any swap that	***SEC. 730. LARGE SWAP TRADER REPORTING.*** *The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding after section 4s (as added by section 731) the following:* ***`SEC. 4t. LARGE SWAP TRADER REPORTING.***  *`(a) Prohibition-* *`(1) IN GENERAL- Except as provided in paragraph (2), it shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
performs or affects a significant price discovery function with respect to registered entities if-- `(1) the person directly or indirectly enters into such swaps during any 1 day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission; and `(2) such person directly or indirectly has or obtains a position in such swaps equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless the person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in paragraphs (1) and (2) as the Commission may by rule or regulation require and unless, in accordance with the rules and regulations of the Commission, the person keeps books and records of all such swaps and any transactions and positions in any related commodity traded on or subject to the rules of any board of trade, and of cash or spot transactions in, inventories of, and purchase and sale commitments of, such a commodity. `(b) The books and records shall show complete details concerning all transactions and positions as the Commission may by rule or regulation prescribe. `(c) The books and records shall be open at all times to inspection and examination by any representative of the Commission. `(d) For the purpose of this subsection, the swaps, futures and cash or spot transactions and positions of any person shall include the transactions and positions of any persons directly or indirectly controlled by the person. `(e) In making a determination whether a swap performs or affects a significant price discovery function with respect to regulated markets, the Commission shall consider the factors set forth in section 4a(a)(3).'.	*be unlawful for any person to enter into any swap that the Commission determines to perform a significant price discovery function with respect to registered entities if--* *`(A) the person directly or indirectly enters into the swap during any 1 day in an amount equal to or in excess of such amount as shall be established periodically by the Commission; and* *`(B) the person directly or indirectly has or obtains a position in the swap equal to or in excess of such amount as shall be established periodically by the Commission.* *`(2) EXCEPTION- Paragraph (1) shall not apply if--* *`(A) the person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in subparagraphs (A) and (B) of paragraph (1) as the Commission may require by rule or regulation; and* *`(B) in accordance with the rules and regulations of the Commission, the person keeps books and records of all such swaps and any transactions and positions in any related commodity traded on or subject to the rules of any board of trade, and of cash or spot transactions in, inventories of, and purchase and sale commitments of, such a commodity.* *`(b) Requirements-* *`(1) IN GENERAL- Books and records described in subsection (a)(2)(B) shall--* *`(A) show such complete details concerning all transactions and positions as the Commission may prescribe by rule or regulation;* *`(B) be open at all times to inspection and examination by any representative of the Commission; and* *`(C) be open at all times to inspection and examination by the Securities and Exchange Commission, to the extent such books and records relate to transactions in security-based swap agreements (as that term is defined in section 3(a)(79) of the Securities Exchange Act of 1934), and consistent with the confidentiality and disclosure requirements of section 8.* *`(2) JURISDICTION- Nothing in paragraph (1) shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for large swap*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	traders under this section. *`(c) Applicability- For purposes of this section, the swaps, futures, and cash or spot transactions and positions of any person shall include the swaps, futures, and cash or spot transactions and positions of any persons directly or indirectly controlled by the person.* *`(d) Significant Price Discovery Function- In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider the factors described in section 4a(a)(3).'.*	
SEC. 3122. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SWAP TRANSACTIONS. The Commodity Exchange Act (7 U.S.C. 1 et seq.) is further amended by inserting after section 4t the following: **`SEC. 4u. SEGREGATION OF ASSETS HELD AS COLLATERAL IN OVER-THE-COUNTER SWAP TRANSACTIONS.**	***SEC. 724. SWAPS; SEGREGATION AND BANKRUPTCY TREATMENT.*** *(a) Segregation Requirements for Cleared Swaps- Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 732) is amended by adding at the end the following:* *`(f) Swaps-* *`(1) REGISTRATION REQUIREMENT- It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a swaps customer to margin, guarantee, or secure a swap cleared by or through a derivatives clearing organization (including money, securities, or property accruing to the customer as the result of such a swap), unless the person shall have registered under this Act with the Commission as a futures commission merchant, and the registration shall not have expired nor been suspended nor revoked.* *`(2) CLEARED SWAPS-* *`(A) SEGREGATION REQUIRED- A futures commission merchant shall treat and deal with all money, securities, and property of any swaps customer received to margin, guarantee, or secure a swap cleared by or though a derivatives clearing organization (including money, securities, or property accruing to the swaps customer as the result of such a swap) as belonging to the swaps customer.* *`(B) COMMINGLING PROHIBITED- Money, securities, and property of a swaps customer described in subparagraph (A) shall be separately accounted for and shall not be commingled with the funds of the futures commission merchant or be used to margin, secure, or guarantee any trades or contracts of any swaps customer or person other than the person for whom the same are held.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(3) EXCEPTIONS-* *`(A) USE OF FUNDS- *`(i) IN GENERAL- Notwithstanding paragraph (2), money, securities, and property of a swaps customer of a futures commission merchant described in paragraph (2) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a derivatives clearing organization.* *`(ii) WITHDRAWAL- Notwithstanding paragraph (2), such share of the money, securities, and property described in clause (i) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared swap with a derivatives clearing organization, or with any member of the derivatives clearing organization, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared swap.* *`(B) COMMISSION ACTION- Notwithstanding paragraph (2), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the swaps customer of a futures commission merchant described in paragraph (2) may be commingled and deposited as provided in this section with any other money, securities, or property received by the futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the swaps customer of the futures commission merchant.* *`(4) PERMITTED INVESTMENTS- Money described in paragraph (2) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	as the Commission may prescribe. *`(5) COMMODITY CONTRACT- A swap cleared by or through a derivatives clearing organization shall be considered to be a commodity contract as such term is defined in section 761 of title 11, United States Code, with regard to all money, securities, and property of any swaps customer received by a futures commission merchant or a derivatives clearing organization to margin, guarantee, or secure the swap (including money, securities, or property accruing to the customer as the result of the swap).* *`(6) PROHIBITION- It shall be unlawful for any person, including any derivatives clearing organization and any depository institution, that has received any money, securities, or property for deposit in a separate account or accounts as provided in paragraph (2) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the swaps customer of the futures commission merchant.'.* *(b) Bankruptcy Treatment of Cleared Swaps- Section 761 of title 11, United States Code, is amended--* *(1) in paragraph (4), by striking subparagraph (F) and inserting the following:* *`(F)(i) any other contract, option, agreement, or transaction that is similar to a contract, option, agreement, or transaction referred to in this paragraph; and* *`(ii) with respect to a futures commission merchant or a clearing organization, any other contract, option, agreement, or transaction, in each case, that is cleared by a clearing organization;'; and* *(2) in paragraph (9)(A)(i), by striking `the commodity futures account' and inserting `a commodity contract account'.* *(c) Segregation Requirements for Uncleared Swaps- Section 4s of the Commodity Exchange Act (as added by section 731) is amended by adding at the end the following:*	
`(a) Segregation- At the request of a swap counterparty who provides funds or other property to a swap dealer initial margin or collateral to secure the obligations of the counterparty under a swap between the counterparty and the swap dealer that is not submitted for clearing to a derivatives clearing organization, the swap dealer shall segregate the funds or other property for the benefit of the counterparty, and maintain the initial margin or collateral in an account which is carried by an	*`(l) Segregation Requirements-* *`(1) SEGREGATION OF ASSETS HELD AS COLLATERAL IN UNCLEARED SWAP TRANSACTIONS-* *`(A) NOTIFICATION- A swap dealer or major swap participant shall be required to notify the counterparty of the swap dealer or major swap participant at the beginning of a swap transaction that the counterparty*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
independent third-party custodian and designated as a segregated account for the counterparty, in accordance with such rules and regulations as the Commission or Prudential Regulator may prescribe. If a swap counterparty is a swap dealer or major swap participant who owns more than 20 percent of, or has more than 50 percent representation on the board of directors of a custodian, the custodian shall not be considered independent from the swap counterparties for purposes of the preceding sentence. This subsection shall not be interpreted to preclude commercial arrangements regarding the investment of the segregated funds or other property and the related allocation of gains and losses resulting from any such investment.	*has the right to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty.* *`(B) SEGREGATION AND MAINTENANCE OF FUNDS- At the request of a counterparty to a swap that provides funds or other property to a swap dealer or major swap participant to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall--* *`(i) segregate the funds or other property for the benefit of the counterparty; and* *`(ii) in accordance with such rules and regulations as the Commission may promulgate, maintain the funds or other property in a segregated account separate from the assets and other interests of the swap dealer or major swap participant.*	
	`(2) APPLICABILITY- The requirements described in paragraph (1) shall--* *`(A) apply only to a swap between a counterparty and a swap dealer or major swap participant that is not submitted for clearing to a derivatives clearing organization; and *`(B)(i) not apply to variation margin payments; or* *`(ii) not preclude any commercial arrangement regarding--* *`(I) the investment of segregated funds or other property that may only be invested in such investments as the Commission may permit by rule or regulation; and* *`(II) the related allocation of gains and losses resulting from any investment of the segregated funds or other property.*	
	`(3) USE OF INDEPENDENT THIRD-PARTY CUSTODIANS- The segregated account described in paragraph (1) shall be--* *`(A) carried by an independent third-party custodian; and *`(B) designated as a segregated account for and on behalf of the counterparty.*	
`(b) Further Audit Reporting- If a swap dealer does not segregate funds	*`(4) REPORTING REQUIREMENT- If the counterparty does*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
pursuant to the request of a swap counterparty in accordance with subsection (a), the swap dealer shall report to its counterparty on a quarterly basis that its procedures relating to margin and collateral requirements are in compliance with the agreement of the counterparties.'.	*not choose to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall report to the counterparty of the swap dealer or major swap participant on a quarterly basis that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.'.*	
SEC. 3123. OTHER AUTHORITY. Unless otherwise provided by its terms, this subtitle does not divest any appropriate Federal banking agency, the Commission, the Securities and Exchange Commission, or other Federal or State agency, of any authority derived from any other applicable law.	***SEC. 743. OTHER AUTHORITY.*** *Unless otherwise provided by the amendments made by this subtitle, the amendments made by this subtitle do not divest any appropriate Federal banking agency, the Commodity Futures Trading Commission, the Securities and Exchange Commission, or other Federal or State agency of any authority derived from any other applicable law.*	
SEC. 3124. ANTITRUST. Nothing in the amendments made by this subtitle shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of this subtitle, the term `antitrust laws' has the same meaning given the term in subsection (a) of the first section of the Clayton Act, except that the term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.		
SEC. 3125. REVIEW OF PRIOR ACTIONS. Notwithstanding any other provision of the Commodity Exchange Act, the Commodity Futures Trading Commission shall review, as appropriate, all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, other actions taken by or on behalf of the Commission, and any action taken pursuant to the Commodity Exchange Act by an exchange, self-regulatory organization, or any other registered entity, that are currently in effect, to ensure that such prior actions are in compliance with the provisions of this title.		
SEC. 3126. EXPEDITED PROCESS. The Commodity Futures Trading Commission may use emergency and expedited procedures (including any administrative or other procedure as		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appropriate) to carry out this title if, in its discretion, it deems it necessary to do so.		
SEC. 3127. EFFECTIVE DATE. (a) Unless otherwise provided, the provisions of this subtitle shall become effective the later of 270 days after the date of the enactment of this subtitle or, to the extent a provision of this subtitle requires rulemaking, no less than 60 days after publication of a final rule or regulation implementing such provision of this subtitle. (b) Subsection (a) shall not preclude the Commodity Futures Trading Commission from any rulemaking required or directed under this subtitle to implement the provisions of this subtitle.	***SEC. 754. EFFECTIVE DATE.*** *Unless otherwise provided in this title, this subtitle shall take effect on the date that is 180 days after the date of enactment of this Act.*	
Subtitle B--Regulation of Security-Based Swap Markets **SEC. 3201. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.** (a) Definitions- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended-- (1) in paragraph (5)(A) and (B), by inserting `(but not security-based swaps, other than security-based swaps with or for persons that are not eligible contract participants)' after the word `securities' in each place it appears; (2) in paragraph (10), by inserting `security-based swap,' after `security future,'; (3) in paragraph (13), by adding at the end the following: `For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'; (4) in paragraph (14), by adding at the end the following: `For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'; (5) in paragraph (39)-- (A) by striking `or government securities dealer' and adding `government securities dealer, security-based	***SEC. 761. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.*** *(a) Definitions- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended--* *(1) in subparagraphs (A) and (B) of paragraph (5), by inserting `(not including security-based swaps, other than security-based swaps with or for persons that are not eligible contract participants)' after `securities' each place that term appears;* *(2) in paragraph (10), by inserting `security-based swap,' after `security future,';* *(3) in paragraph (13), by adding at the end the following: `For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.';* *(4) in paragraph (14), by adding at the end the following: `For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.';* *(5) in paragraph (39)--* *(A) in subparagraph (B)(i)--* *(i) in subclause (I), by striking `or government securities dealer' and inserting `government securities dealer, security-based swap dealer,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
swap dealer or major security-based swap participant' in its place in subparagraph (B)(i)(I); (B) by adding `security-based swap dealer, major security-based swap participant,' after `government securities dealer,' in subparagraph (B)(i)(II); (C) by striking `or government securities dealer' and adding `government securities dealer, security-based swap dealer or major security-based swap participant' in its place in subparagraph (C); and (D) by adding `security-based swap dealer, major security-based swap participant,' after `government securities dealer,' in subparagraph (D); and	*or major security-based swap participant'; and* *(ii) in subclause (II), by inserting `security-based swap dealer, major security-based swap participant,' after `government securities dealer,';* *(B) in subparagraph (C), by striking `or government securities dealer' and inserting `government securities dealer, security-based swap dealer, or major security-based swap participant'; and* *(C) in subparagraph (D), by inserting `security-based swap dealer, major security-based swap participant,' after `government securities dealer,'; and*	
(6) by adding at the end the following: `(65) ELIGIBLE CONTRACT PARTICIPANT- The term `eligible contract participant' has the same meaning as in section 1a(12) of the Commodity Exchange Act (7 U.S.C. 1a(12)).	*(6) by adding at the end the following:* *`(65) ELIGIBLE CONTRACT PARTICIPANT- The term `eligible contract participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	
`(66) MAJOR SWAP PARTICIPANT- The term `major swap participant' has the same meaning as in section 1a(39) of the Commodity Exchange Act (7 U.S.C. 1a(39)).	*`(66) MAJOR SWAP PARTICIPANT- The term `major swap participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	
`(67) MAJOR SECURITY-BASED SWAP PARTICIPANT- `(A) IN GENERAL- The term `major security-based swap participant' means any person who is not a security-based swap dealer, and-- `(i) maintains a substantial net position in outstanding security-based swaps, excluding positions held primarily for hedging, reducing or otherwise mitigating its commercial risk, including operating and balance sheet risk; or `(ii) whose outstanding security-based swaps create substantial net counterparty exposure among the aggregate of its counterparties that could expose those counterparties to significant credit losses.	*`(67) MAJOR SECURITY-BASED SWAP PARTICIPANT-* *`(A) IN GENERAL- The term `major security-based swap participant' means any person--* *`(i) who is not a security-based swap dealer; and* *`(ii)(I) who maintains a substantial position in security-based swaps for any of the major security-based swap categories, as such categories are determined by the Commission, excluding--* *`(aa) positions held for hedging or mitigating commercial risk; and* *`(bb) positions maintained by any employee benefit plan (or any contract held by such a plan), as that term is defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), for the primary purpose of hedging or*	See Section 3307 of HR 4173 for additional, differing definition of Major Security-Based Swap Participant.

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	mitigating any risk directly associated with the operation of the plan; *`(II) whose outstanding security-based swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or* *`(III) that is a financial entity that--* *`(aa) is highly leveraged relative to the amount of capital such entity holds; and* *`(bb) maintains a substantial position in outstanding security-based swaps in any major security-based swap category, as such categories are determined by the Commission.*	
`(B) DEFINITION OF `SUBSTANTIAL NET POSITION'- The Commission shall define by rule or regulation the terms `substantial net position', `substantial net counterparty exposure', and `significant credit losses' at thresholds that the Commission determines prudent for the effective monitoring, management and oversight of entities which are systemically important or can significantly impact the financial system through counterparty credit risk. In setting the definitions, the Commission shall consider the person's relative position in uncleared as opposed to cleared swaps.	*`(B) DEFINITION OF SUBSTANTIAL POSITION- For purposes of subparagraph (A), the Commission shall define, by rule or regulation, the term `substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.*	
`(C) A person may be designated a major security-based swap participant for 1 or more individual types of security-based swaps without being classified as a major security-based swap participant for all classes of security-based swaps.	*`(C) SCOPE OF DESIGNATION- For purposes of subparagraph (A), a person may be designated as a major security-based swap participant for 1 or more categories of security-based swaps without being classified as a major security-based swap participant for all classes of security-based swaps.*	
	`(D) CAPITAL- In setting capital requirements for a person that is designated as a major security-based swap participant for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major security-based swap participant.	
`(68) SECURITY-BASED SWAP- `(A) IN GENERAL- Except as provided in subparagraph (B), the term `security-based swap' means any agreement, contract, or transaction that would be a swap under section 1a(35) of the Commodity Exchange Act, and that-- `(i) is primarily based on an index that is a narrow-based security index, including any interest therein or based on the value thereof; `(ii) is primarily based on a single security or loan, including any interest therein or based on the value thereof; or `(iii) is primarily based on the occurrence, non-occurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event must directly affect the financial statements, financial condition, or financial obligations of the issuer.	*`(68) SECURITY-BASED SWAP-* *`(A) IN GENERAL- Except as provided in subparagraph (B), the term `security-based swap' means any agreement, contract, or transaction that--* *`(i) is a swap, as that term is defined under section 1a of the Commodity Exchange Act; and* *`(ii) is based on--* *`(I) an index that is a narrow-based security index, including any interest therein or on the value thereof;* *`(II) a single security or loan, including any interest therein or on the value thereof; or* *`(III) the occurrence, nonoccurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer.*	
`(B) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS- The term `security-based swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a security-based swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a security-based swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a security-based swap only	*`(B) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS- The term `security-based swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a security-based swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a security-based swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a security-based swap only*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
with respect to each agreement, contract, or transaction under the master agreement that is a security-based swap pursuant to subparagraph (A).	*with respect to each agreement, contract, or transaction under the master agreement that is a security-based swap pursuant to subparagraph (A).*	
`(C) EXCLUSION- The term `security-based swap' does not include any agreement, contract, or transaction that meets the definition of a security-based swap only because it references, is based upon, or settles through the transfer, delivery, or receipt of an exempted security under section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) as in effect on the date of enactment of the Futures Trading Act of 1982), unless such agreement, contract, or transaction is of the character of, or is commonly known in the trade as, a put, call, or other option.	*`(C) EXCLUSIONS- The term `security-based swap' does not include any agreement, contract, or transaction that meets the definition of a security-based swap only because such agreement, contract, or transaction references, is based upon, or settles through the transfer, delivery, or receipt of an exempted security under paragraph (12), as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in paragraph (29) as in effect on the date of enactment of the Futures Trading Act of 1982), unless such agreement, contract, or transaction is of the character of, or is commonly known in the trade as, a put, call, or other option.*	
	`(D) MIXED SWAP- The term `security-based swap' includes any agreement, contract, or transaction that is as described in subparagraph (A) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(ii)(III)).	
`(69) SWAP- The term `swap' has the same meaning as in section 1a(35) of the Commodity Exchange Act (7 U.S.C. 1a(35)).	*`(69) SWAP- The term `swap' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	
`(70) PERSON ASSOCIATED WITH A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT- The term `person associated with a security-based swap dealer or major security-based swap participant' or `associated person of a security-based swap dealer or major security-based swap participant' means any partner, officer,	*`(70) PERSON ASSOCIATED WITH A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT-* *`(A) IN GENERAL- The term `person associated with a security-based swap dealer or major security-based swap participant' or `associated person of a security-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
director, or branch manager of such security-based swap dealer or major security-based swap participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such security-based swap dealer or major security-based swap participant, or any employee of such security-based swap dealer or major security-based swap participant, except that any person associated with a security-based swap dealer or major security-based swap participant whose functions are solely clerical or ministerial shall not be included in the meaning of such term other than for purposes of section 15F(e)(2).	*based swap dealer or major security-based swap participant' means--* *`(i) any partner, officer, director, or branch manager of such security-based swap dealer or major security-based swap participant (or any person occupying a similar status or performing similar functions);* *`(ii) any person directly or indirectly controlling, controlled by, or under common control with such security-based swap dealer or major security-based swap participant; or* *`(iii) any employee of such security-based swap dealer or major security-based swap participant.* *`(B) EXCLUSION- Other than for purposes of section 15F(l)(2), the term `person associated with a security-based swap dealer or major security-based swap participant' or `associated person of a security-based swap dealer or major security-based swap participant' does not include any person associated with a security-based swap dealer or major security-based swap participant whose functions are solely clerical or ministerial.*	
`(71) SECURITY-BASED SWAP DEALER- `(A) IN GENERAL- The term `security-based swap dealer' means any person that-- `(i) holds itself out as a dealer in security-based swaps; `(ii) makes a market in security-based swaps; `(iii) regularly engages in the purchase of security-based swaps and their resale to customers in the ordinary course of a business; or `(iv) engages in any activity causing it to be commonly known in the trade as a dealer or market maker in security-based swaps.	*`(71) SECURITY-BASED SWAP DEALER-* *`(A) IN GENERAL- The term `security-based swap dealer' means any person who--* *`(i) holds themself out as a dealer in security-based swaps;* *`(ii) makes a market in security-based swaps;* *`(iii) regularly engages in the purchase and sale of security-based swaps in the ordinary course of a business; or* *`(iv) engages in any activity causing it to be commonly known in the trade as a dealer or market maker in security-based swaps.*	
`(B) DESIGNATION BY TYPE OR CLASS- A person may be designated a security-based swap dealer for a single type or single class or category of security-based swap and considered not a security-based swap dealer for other types, classes, or categories of security-based	*`(B) DESIGNATION BY TYPE OR CLASS- A person may be designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities and considered not to be a security-based swap dealer for other types, classes, or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
swaps.	*categories of security-based swaps or activities.*	
`(C) DE MINIMUS EXCEPTION- The Commission shall make a determination to exempt from designation as a security-based swap dealer an entity that engages in a de minimus amount of security-based swap dealing in connection with transactions with or on the behalf of its customers.		
	`(C) CAPITAL- In setting capital requirements for a person that is designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a security-based swap dealer.	
`(72) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).	*`(72) APPROPRIATE FEDERAL BANKING AGENCY- The term `appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).*	
`(73) BOARD- The term `Board' means the Board of Governors of the Federal Reserve System.	*`(73) BOARD- The term `Board' means the Board of Governors of the Federal Reserve System.*	
`(74) PRUDENTIAL REGULATOR- The term `Prudential Regulator' means-- `(A) the Board in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is-- `(i) a State-chartered bank that is a member of the Federal Reserve System; or `(ii) a State-chartered branch or agency of a foreign bank; `(B) the Office of the Comptroller of the Currency in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is--	*`(74) PRUDENTIAL REGULATOR- The term `prudential regulator' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(i) a national bank; or `(ii) a federally chartered branch or agency of a foreign bank; and `(C) the Federal Deposit Insurance Corporation in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is a state-chartered bank that is not a member of the Federal Reserve System.		
`(75) SWAP DEALER- The term `swap dealer' has the same meaning as in section 1a(38) of the Commodity Exchange Act (7 U.S.C. 1a(38)).	*`(76) SWAP DEALER- The term `swap dealer' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).*	
`(76) SECURITY-BASED SWAP AGREEMENT- `(A) IN GENERAL- For purposes of sections 10, 16, 20, and 21A of this Act, and section 17 of the Securities Act of 1933 (15 U.S.C. 77q), the term `security-based swap agreement' means a swap agreement as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein. `(B) EXCLUSIONS- The term `security-based swap agreement' does not include any security-based swap.	*`(78) SECURITY-BASED SWAP AGREEMENT-* *`(A) IN GENERAL- For purposes of sections 9, 10, 16, 20, and 21A of this Act, and section 17 of the Securities Act of 1933 (15 U.S.C. 77q), the term `security-based swap agreement' means a swap agreement as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.* *`(B) EXCLUSIONS- The term `security-based swap agreement' does not include any security-based swap.'.*	
`(76) SECURITY-BASED SWAP REPOSITORY- The term `security-based swap repository' means any person that collects, calculates, prepares or maintains information or records with respect to transactions or positions in, or the terms and conditions of, security-based swaps entered into by third parties.	*`(75) SECURITY-BASED SWAP DATA REPOSITORY- The term `security-based swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, security-based swaps entered into by third parties.*	
`(77) SWAP EXECUTION FACILITY- The term `swap execution facility' means a person or entity that facilitates the execution or trading of security-based swaps between two persons through any means of interstate commerce, but which is not a national securities exchange, including any electronic trade execution or voice brokerage facility.'.	*`(77) SWAP EXECUTION FACILITY- The term `swap execution facility' means a facility in which multiple participants have the ability to execute or trade security-based swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, or confirmation facility, that--* *`(A) facilitates the execution of security-based swaps between persons; and* *`(B) is not a designated contract market*	
(b) Authority to Further Define Terms- The Securities and Exchange	*(b) Authority To Further Define Terms- The Securities and Exchange*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission may adopt a rule further defining the terms `security-based swap', `security-based swap dealer', `major security-based swap participant', and `eligible contract participant' with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this title.	*Commission may, by rule, further define the terms `security-based swap', `security-based swap dealer', `major security-based swap participant', and `eligible contract participant' with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this subtitle or the amendments made by this subtitle.*	
	(c) Other Incorporated Definitions- Except as the context otherwise requires, in this subtitle, the terms `prudential regulator', `swap', `swap dealer', `major swap participant', `swap data repository', `associated person of a swap dealer or major swap participant', `eligible contract participant', `swap execution facility', `security-based swap', `security-based swap dealer', `major security-based swap participant', `security-based swap data repository', and `associated person of a security-based swap dealer or major security-based swap participant' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a), as amended by this Act.	
SEC. 3202. REPEAL OF PROHIBITION ON REGULATION OF SECURITY-BASED SWAPS. (a) Repeal of Law- Section 206B of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is repealed.	***SEC. 762. REPEAL OF PROHIBITION ON REGULATION OF SECURITY-BASED SWAP AGREEMENTS.*** *(a) Repeal- Sections 206B and 206C of the Gramm-Leach-Bliley Act (Public Law 106-102; 15 U.S.C. 78c note) are repealed.*	
(b) Conforming Amendments to the Securities Act of 1933- (1) Section 2A(b) of the Securities Act of 1933 (15 U.S.C. 77b-1) is amended by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that such term appears.	*(b) Conforming Amendments to the Securities Act of 1933-* *(1) Section 2A of the Securities Act of 1933 (15 U.S.C. 77b-1) is amended--* *(A) by striking subsection (a) and reserving that subsection; and* *(B) by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that such term appears and inserting `(as defined in section 3(a)(78) of the Securities Exchange Act of 1934)'.*	
(2) Section 17 of the Securities Act of 1933 (15 U.S.C. 77q) is amended-- (A) in subsection (a)-- (i) by inserting `(including security-based swaps)' after `securities'; and (ii) by striking `206B of the Gramm-Leach-Bliley Act' and inserting `3(a)(76) of the Securities Exchange Act of 1934'; and	*(2) Section 17 of the Securities Act of 1933 (15 U.S.C. 77q) is amended--* *(A) in subsection (a)--* *(i) by inserting `(including security-based swaps)' after `securities'; and* *(ii) by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' and inserting `(as defined in section 3(a)(78) of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Securities Exchange Act)'; and	
(B) in subsection (d), by striking `206B of the Gramm-Leach-Bliley Act' and inserting `3(a)(76) of the Securities Exchange Act of 1934'.	*(B) in subsection (d), by striking `206B of the Gramm-Leach-Bliley Act' and inserting `3(a)(78) of the Securities Exchange Act of 1934'.*	
(c) Conforming Amendments to the Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended as follows: (1) Section 3A (15 U.S.C. 78c-1) is amended by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that the term appears. (2) Section 9(a) (15 U.S.C. 78i(a)) is amended by striking paragraphs (2) through (5) and inserting:	*(c) Conforming Amendments to the Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended--* *(1) in section 3A (15 U.S.C. 78c-1)--* *(A) by striking subsection (a) and reserving that subsection; and* *(B) by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that the term appears;* *(2) in section 9 (15 U.S.C. 78i)--* *(A) in subsection (a), by striking paragraphs (2) through (5) and inserting the following:*	
`(2) To effect, alone or with one or more other persons, a series of transactions in any security registered on a national securities exchange or in connection with any security-based swap or security-based swap agreement with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others	*`(2) To effect, alone or with 1 or more other persons, a series of transactions in any security registered on a national securities exchange, any security not so registered, or in connection with any security-based swap or security-based swap agreement with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.*	
`(3) If a dealer, broker, security-based swap dealer, major security-based swap participant or other person selling or offering for sale or purchasing or offering to purchase the security, or a security-based swap or security-based swap agreement with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange or any security-based swap or security-based swap agreement with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.	*`(3) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or a security-based swap agreement with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.*	
`(4) If a dealer, broker, security-based swap dealer, major security-based swap participant or other person selling or offering for sale or purchasing or offering to purchase the security, or a security-based swap or security-based swap agreement with respect to such security, to make, regarding	*`(4) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to make,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
any security registered on a national securities exchange or any security-based swap or security-based swap agreement with respect to such security, for the purpose of inducing the purchase or sale of such security or such security-based swap or security-based swap agreement, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading.	*regarding any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security, for the purpose of inducing the purchase or sale of such security, such security-based swap, or such security-based swap agreement any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which that person knew or had reasonable ground to believe was so false or misleading.*	
`(5) For a consideration, received directly or indirectly from a dealer, broker, security-based swap dealer, major security-based swap participant or other person selling or offering for sale or purchasing or offering to purchase the security, or a security-based swap or security-based swap agreement with respect to such security, to induce the purchase of any security registered on a national securities exchange or any security-based swap or security-based swap agreement with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.'.	*`(5) For a consideration, received directly or indirectly from a broker, dealer, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to induce the purchase of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.'; and*	
(3) Section 9(i) (15 U.S.C. 78i(i)) is amended by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; (4) Section 10 (15 U.S.C. 78j) is amended by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that the term appears.	*(B) in subsection (i), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';* *(3) in section 10 (15 U.S.C. 78j)--* *(A) in subsection (b), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act),' each place that term appears; and* *(B) in the matter following subsection (b), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';*	
(5) Section 15(c)(1) is amended-- (A) in subparagraph (A), by striking `, or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act),'; and (B) in subparagraphs (B) and (C), by striking `agreement (as defined in section 206B of the Gramm-Leach-Bliley Act)' in each place that the term appears.	*(4) in section 15 (15 U.S.C. 78o)--* *(A) in subsection (c)(1)(A), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act),';* *(B) in subparagraphs (B) and (C) of subsection (c)(1), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' each place that term appears;*	
(6) Section 15(i) (15 U.S.C. 78o(i), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A-455) is amended by striking `(as	*(C) by redesignating subsection (i), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A-455)), as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
defined in section 206B of the Gramm-Leach-Bliley Act)'.	*subsection (j); and*	
	(D) in subsection (j), as redesignated by subparagraph (C), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';	
(7) Section 16 (15 U.S.C. 78p) is amended-- (A) in subsection (a)(2)(C), by striking `(as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note))'; (B) in subsection (b), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)' in each place that the term appears; and (C) in subsection (g), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';	*(5) in section 16 (15 U.S.C. 78p)--* *(A) in subsection (a)(2)(C), by striking `(as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note))';* *(B) in subsection (a)(3)(B), by inserting `or security-based swaps' after `security-based swap agreement';* *(C) in the first sentence of subsection (b), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';* *(D) in the third sentence of subsection (b), by striking `(as defined in section 206B of the Gramm-Leach Bliley Act)' and inserting `or a security-based swap'; and* *(E) in subsection (g), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';*	
(8) Section 20 (15 U.S.C. 78t) is amended-- (A) in subsection (d), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; and (B) in subsection (f), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; and	*(6) in section 20 (15 U.S.C. 78t),* *(A) in subsection (d), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; and* *(B) in subsection (f), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)';*	
(9) Section 21A (15 U.S.C. 78u-1) is amended-- (A) in subsection (a)(1), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; and (B) in subsection (g), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'.	*(7) in section 21A (15 U.S.C. 78u-1)--* *(A) in subsection (a)(1), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'; and* *(B) in subsection (g), by striking `(as defined in section 206B of the Gramm-Leach-Bliley Act)'.*	
SEC. 3203. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934. (a) Clearing for Security-based Swaps- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding the following section after section 3A:	***SEC. 763. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.*** *(a) Clearing for Security-based Swaps- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3B (as added by section 717 of this Act):*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
**`SEC. 3B. CLEARING FOR SECURITY-BASED SWAPS.**  `(a) In General- `(1) STANDARD FOR CLEARING- A security-based swap shall be submitted for clearing if a clearing agency that is registered under this Act will accept the security-based swap for clearing, and the Commission has determined under paragraph (2)(B)(ii) of subsection (b) that the security-based swap is required to be cleared.	***`SEC. 3C. CLEARING FOR SECURITY-BASED SWAPS.***  *`(a) Clearing Requirement-* *`(1) SUBMISSION-* *`(A) IN GENERAL- Except as provided in paragraphs (9) and (10), any person who is a party to a security-based swap shall submit such security-based swap for clearing to a clearing agency registered under section 17A of this title.*	
`(2) OPEN ACCESS- The rules of a clearing agency described in paragraph (1) shall-- `(A) prescribe that all security-based swaps submitted to the clearing agency with the same terms and conditions are economically equivalent within the clearing agency and may be offset with each other within the clearing agency; and `(B) provide for non-discriminatory clearing of a security-based swap executed bilaterally or on or through the rules of an unaffiliated national securities exchange or swap execution facility.	*`(B) OPEN ACCESS- The rules of a registered clearing agency shall--* *`(i) prescribe that all security-based swaps with the same terms and conditions are economically equivalent and may be offset with each other within the clearing agency; and* *`(ii) provide for nondiscriminatory clearing of a security-based swap executed bilaterally or on or through the rules of an unaffiliated national securities exchange or swap execution facility, subject to the requirements of section 5(b).*	
`(b) Commission Review- `(1) COMMISSION-INITIATED REVIEW- `(A) The Commission shall review each security-based swap, or any group, category, type or class of security-based swaps to make a determination that such security-based swap, or group, category, type or class of security-based swaps should be required to be cleared. `(B) The Commission shall provide at least a 30-day public comment period regarding any determination under subparagraph (A). `(2) SWAP SUBMISSIONS- `(A) A clearing agency shall submit to the Commission each security-based swap, or any group, category, type or class of security-based swaps that it plans to accept for clearing and provide notice to its members (in a manner to be determined by the Commission) of such	*`(2) COMMISSION APPROVAL-* *`(A) IN GENERAL- A clearing agency shall submit to the Commission for prior approval any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing, which submission the Commission shall make available to the public.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
submission. `(B) The Commission shall-- `(i) make available to the public any submission received under subparagraph (A); `(ii) review each submission made under subparagraph (A), and determine whether the security-based swap, or group, category, type, or class of security-based swaps, described in the submission is required to be cleared; and `(iii) provide at least a 30-day public comment period regarding its determination whether the clearing requirement under subsection (a)(1) shall apply to the submission.		
`(3) DEADLINE- The Commission shall make its determination under paragraph (2)(B) not later than 90 days after receiving a submission made under paragraph (2)(A), unless the submitting clearing agency agrees to an extension for the time limitation established under this paragraph. `(4) DETERMINATION- `(A) In reviewing a submission made under paragraph (2), the Commission shall review whether the submission is consistent with section 5b(c)(2). `(B) In reviewing a security-based swap, group of security-based swaps or class of security-based swaps pursuant to paragraph (1) or a submission made under paragraph (2), the Commission shall take into account the following factors: `(i) The existence of significant outstanding notional exposures, trading liquidity and adequate pricing data. `(ii) The availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is then traded. `(iii) The effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the clearing agency available to clear the contract. `(iv) The effect on competition, including appropriate fees and charges applied to	*`(C) APPROVAL- The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with the requirements of section 17A. The Commission shall not approve any such request if the Commission does not make such finding.* *`(D) RULES- The Commission shall adopt rules for a clearing agency's submission for approval, pursuant to this paragraph, of any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing.* *`(4) SECURITY-BASED SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING-* *`(A) RULEMAKING- The Commission shall adopt rules to further identify any group, category, type, or class of security-based swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors:* *`(i) The extent to which any of the terms of the group, category, type, or class of security-based swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.* *`(ii) The volume of transactions in the group,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
clearing. `(v) The existence of reasonable legal certainty in the event of the insolvency of the relevant clearing agency or 1 or more of its clearing members with regard to the treatment of customer and security-based swap counterparty positions, funds, and property. `(C) In making a determination under paragraph (2)(B) that the clearing requirement shall apply, the Commission may require such terms and conditions to the requirement as the Commission determines to be appropriate. `(5) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules for a clearing agency's submission for review, pursuant to this subsection, of a security-based swap, or a group, category, type or class of security-based swaps, that it seeks to accept for clearing.	*category, type, or class of security-based swaps.* *`(iii) The extent to which the terms of the group, category, type, or class of security-based swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.* *`(iv) Whether any differences in the terms of the group, category, type, or class of security-based swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.* *`(v) Whether a clearing agency is prepared to clear the group, category, type, or class of security-based swaps and such clearing agency has in place effective risk management systems.* *`(vi) Any other factor the Commission determines to be appropriate.* *`(B) OTHER DESIGNATIONS- At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular security-based swap or class of security-based swaps as subject to the clearing requirement of paragraph (1), taking into account the factors established in clauses (i) through (vi) of subparagraph (A) and the rules adopted in such subparagraph.* *`(C) IN GENERAL- In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.* *`(D) EXPEDITED RULEMAKING AUTHORITY-* *`(i) PROCEDURE- The promulgation of regulations under subparagraph (A) may be made without regard to--* *`(I) the notice and comment provisions of section 553 of title 5, United States Code; and* *`(II) chapter 35 of title 44, United States Code (commonly known as the `Paperwork Reduction Act').*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(ii) AGENCY RULEMAKING- In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.	
`(c) Stay of Clearing Requirement- `(1) After an determination pursuant to subsection (b)(2), the Commission, on application of a counterparty to a security-based swap or on its own initiative, may stay the clearing requirement of subsection (a)(1) until the Commission completes a review of the terms of the security-based swap (or the group, category, type or class of security-based swaps) and the clearing arrangement.	*`(3) STAY OF CLEARING REQUIREMENT- At any time after issuance of an approval pursuant to paragraph (2):* *`(A) REVIEW PROCESS- The Commission, on application of a counterparty to a security-based swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the security-based swap, or the group, category, type, or class of security-based swaps, and the clearing arrangement.*	
`(2) DEADLINE- The Commission shall complete a review undertaken pursuant to paragraph (1) not later than 90 days after issuance of the stay, unless the clearing agency that clears the security-based swap, or group, category, type or class of security-based swaps, agrees to an extension of the time limitation established under this paragraph.	*`(B) DEADLINE- The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the clearing agency that clears the security-based swap, or the group, category, type, or class of security-based swaps, agrees to an extension of the time limitation established under this subparagraph.*	
`(3) DETERMINATION- Upon completion of the review undertaken pursuant to paragraph (1), the Commission may-- `(A) determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the security-based swap, or group, category, type or class of security-based swaps, must be cleared pursuant to this subsection if it finds that such clearing is consistent with subsection (b)(4); or `(B) determine that the clearing requirement of subsection (a)(1) shall not apply to the security-based swap, or group, category, type or class of security-based swaps.	*`(C) DETERMINATION- Upon completion of the review undertaken pursuant to subparagraph (A)--* *`(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the security-based swap, or the group, category, type, or class of security-based swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing--* *`(I) is consistent with the requirements of section 17A; and* *`(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this title;* *`(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the security-based swap, or the group, category, type, or class of security-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	based swaps; or *`(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then the Commission may still permit such security-based swap, or the group, category, type, or class of security-based swaps to be cleared.*	
`(4) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules for reviewing, pursuant to this subsection, a clearing agency's clearing of a security-based swap, or a group, category, type or class of security-based swaps, that it has accepted for clearing.	*`(D) RULES- The Commission shall adopt rules for reviewing, pursuant to this paragraph, a clearing agency's clearing of a security-based swap, or a group, category, type, or class of security-based swaps that the Commission has accepted for clearing.*	
`(d) Prevention of Evasion- The Commission may prescribe rules under this subsection, or issue interpretations of the rules, as necessary to prevent evasions of this section.	*`(5) PREVENTION OF EVASION-* *`(A) IN GENERAL- The Commission shall have authority to prescribe rules under this section, or issue interpretations of such rules, as necessary to prevent evasions of this section.* *`(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS- To the extent the Commission finds that a particular security-based swap or any group, category, type, or class of security-based swaps that would otherwise be subject to mandatory clearing but no clearing agency has listed the security-based swap or the group, category, type, or class of security-based swaps for clearing, the Commission shall--* *`(i) investigate the relevant facts and circumstances;* *`(ii) within 30 days issue a public report containing the results of the investigation; and* *`(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the security-based swap or the group, category, type, or class of security-based swaps.* *`(C) EFFECT ON AUTHORITY- Nothing in this paragraph--* *`(i) authorize the Commission to require a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	clearing agency to list for clearing a security-based swap or any group, category, type, or class of security-based swaps if the clearing of the security-based swap or the group, category, type, or class of security-based swaps would adversely affect the business operations of the clearing agency, threaten the financial integrity of the clearing agency, or pose a systemic risk to the clearing agency; and *`(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a security-based swap or the group, category, type, or class of security-based swaps that is listed for clearing by a clearing agency.*	
`(e) Required Reporting- `(1) IN GENERAL- All security-based swaps that are not accepted for clearing by any clearing agency shall be reported either to a security-based swap repository described in subsection 13(n) or, if there is no security-based swap repository that would accept the security-based swap, to the Commission pursuant to section 13A within such time period as the Commission may by rule or regulation prescribe. Counterparties to a security-based swap may agree which counterparty will report the security-based swap as required by this paragraph. `(2) SWAP DEALER DESIGNATION- With regard to security-based swaps where only 1 counterparty is a security-based swap dealer, the security-based swap dealer shall report the security-based swap as required by this subsection.	*`(6) REQUIRED REPORTING-* *`(A) BOTH COUNTERPARTIES- Both counterparties to a security-based swap that is not cleared by any clearing agency shall report such a security-based swap either to a registered security-based swap repository described in section 13(n) or, if there is no repository that would accept the security-based swap, to the Commission pursuant to section 13A.* *`(B) TIMING- Counterparties to a security-based swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.*	
`(f) Reporting Transition Rules- Rules adopted by the Commission under this section shall provide for the reporting of data, as follows: `(1) Security-based swaps entered into before the date of the enactment of this section shall be reported to a registered security-based swap repository or the Commission no later than 180 days after the effective date of this section; and `(2) Security-based swaps entered into on or after such date of enactment shall be reported to a registered security-based swap repository or the Commission no later than the later of-- `(A) 90 days after such effective date; or `(B) such other time after entering into the security-	*`(7) TRANSITION RULES-* *`(A) REPORTING TRANSITION RULES- Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:* *`(i) Security-based swaps entered into before the date of the enactment of this section shall be reported to a registered security-based swap repository or the Commission not later than 180 days after the effective date of this section.* *`(ii) Security-based swaps entered into on or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
based swap as the Commission may prescribe by rule or regulation.	*after such date of enactment shall be reported to a registered security-based swap repository or the Commission not later than the later of--* *`(I) 90 days after such effective date; or* *`(II) such other time after entering into the security-based swap as the Commission may prescribe by rule or regulation.*	
`(g) Clearing Transition Rules- `(1) Security-based swaps entered into before the date of the enactment of this section are exempt from the clearing requirements of this subsection if reported pursuant to subsection (f)(1). `(2) Security-based swaps entered into before application of the clearing requirement pursuant to this section are exempt from the clearing requirements of this section if reported pursuant to subsection (f)(2).	*`(B) CLEARING TRANSITION RULES-* *`(i) Security-based swaps entered into before the date of the enactment of this section are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).* *`(ii) Security-based swaps entered into before application of the clearing requirement pursuant to this section are exempt from the clearing requirements of this section if reported pursuant to subparagraph (A)(ii).*	
	`(8) TRADE EXECUTION-* *`(A) IN GENERAL- With respect to transactions involving security-based swaps subject to the clearing requirement of paragraph (1), counterparties shall-- *`(i) execute the transaction on an exchange; or* *`(ii) execute the transaction on a swap execution facility registered under section 3D or a swap execution facility that is exempt from registration under section 3D(e).* *`(B) EXCEPTION- The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply--* *`(i) if no national securities exchange or security-based swap execution facility makes the security-based swap available to trade; or* *`(ii) to swap transactions where a commercial end user opts to use the clearing exemption under paragraph (10).*	
	`(9) REQUIRED EXEMPTION- Subject to paragraph (4), the Commission shall exempt a security-based swap from the	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no clearing agency registered under this Act will accept the security-based swap from clearing.	
`(h) Exceptions- `(1) IN GENERAL- The requirements of subsection (a)(1) shall not apply to a security-based swap if one of the counterparties to the security-based swap-- `(A) is not a security-based swap dealer or major security-based swap participant; `(B) is using security-based swaps to hedge or mitigate commercial risk, including operating or balance sheet risk; and `(C) notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into non-cleared security-based swaps.	*`(10) END USER CLEARING EXEMPTION-* *`(A) DEFINITION OF COMMERCIAL END USER-* *`(i) IN GENERAL- In this paragraph, the term `commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets services or commodities (which shall include coal, natural gas, electricity, ethanol, crude oil, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.* *`(ii) FINANCIAL ENTITY- The term `financial entity' means--* *`(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;* *`(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;* *`(III) a person predominantly engaged in activities that are financial in nature;* *`(IV) a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) or a commodity pool as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or* *`(V) a person that is registered or required to be registered with the Commission, but does not include a public company which registers its securities with the Commission.* *`(B) END USER CLEARING EXEMPTION-* *`(i) IN GENERAL- Subject to clause (ii), in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	the event that a security-based swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the security-based swap is a commercial end user that counterparty-- *`(I)(aa) may elect not to clear the security-based swap, as required under paragraph (1); or* *`(bb) may elect to require clearing of the security-based swap; and* *`(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the clearing agency at which the security-based swap will be cleared.* *`(ii) LIMITATION- A commercial end user may only make an election under clause (i) if the end user is using the security-based swap to hedge its own commercial risk.* *`(C) TREATMENT OF AFFILIATES-* *`(i) IN GENERAL- An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the security-based swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliates of the commercial end user that is not a financial entity.* *`(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES- An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is--* *`(I) a security-based swap dealer;* *`(II) a security-based security-based swap dealer;* *`(III) a major security-based swap participant;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(IV) a major security-based security-based swap participant;* *`(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), but for paragraph (1) or (7) of subsection (c) of that section 3 (15 U.S.C. 80a-3(c)); *`(VI) a commodity pool;* *`(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or*	
`(2) ABUSE OF EXCEPTION- The Commission may prescribe rules under this subsection, or issue interpretations of the rules, as necessary to prevent abuse of the exemption in paragraph (1) by security-based swap dealers and major security-based swap participants.	*`(VIII) an affiliate of any entity described in subclauses (I) through (VII).* *`(iii) ABUSE OF EXEMPTION- The Commission may prescribe such rules, or issue interpretations of the rules, as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B).*	
`(3) OPTION TO CLEAR- The application of the clearing exception in paragraph (1) is solely at the discretion the counterparty to the swap that meets the conditions of subparagraphs (A) through (C) of paragraph (1).'.	*`(D) OPTION TO CLEAR-* *`(i) SECURITY-BASED SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY- With respect to any securities-based swap that is required to be cleared by a clearing agency and entered into by a securities-based swap dealer or a major securities-based swap participant with a financial entity, the financial entity shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.* *`(ii) SECURITY-BASED SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER- With respect to any securities-based swap that is not required to be cleared by a clearing agency and entered into by a securities-based swap dealer*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	or a major securities-based swap participant with a financial entity or commercial end user, the financial entity or commercial end user-- *`(I) may elect to require clearing of the securities-based swap; and* *`(II) shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.* *`(b) Audit Committee Approval- Exemptions from the requirements of this section to clear or trade a security-based swap through a national securities exchange or security-based swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 or that is required to file reports pursuant to section 15(d), only if the issuer's audit committee has reviewed and approved the issuer's decision to enter into security-based swaps that are subject to such exemptions.* *`(c) Public Availability of Security-based Swap Transaction Data-* *`(1) IN GENERAL-* *`(A) DEFINITION OF REAL-TIME PUBLIC REPORTING- In this paragraph, the term `real-time public reporting' means to report data relating to a security-based swap transaction as soon as technologically practicable after the time at which the security-based swap transaction has been executed.* *`(B) PURPOSE- The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.* *`(C) GENERAL RULE- The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:* *`(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in subsection (a)(1) (including those security-based swaps that are exempted from those requirements), the Commission shall require real-time public reporting for such transactions.* *`(ii) With respect to those security-based*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	swaps that are not subject to the mandatory clearing requirement described in subsection (a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions. *`(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under subsection (a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.* *`(iv) With respect to security-based swaps that are exempt from the requirements of subsection (a)(1), but are subject to the requirements of subsection (a)(8), the Commission shall require real-time public reporting for such transactions.* *`(D) REGISTERED ENTITIES AND PUBLIC REPORTING- The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.* *`(E) RULEMAKING REQUIRED- With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions--* *`(i) to ensure such information does not identify the participants;* *`(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;* *`(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and* *`(iv) that take into account whether the public disclosure will materially reduce market*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	liquidity. *`(F) TIMELINESS OF REPORTING- Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.* *`(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA-* *`(A) IN GENERAL- In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to--* *`(i) the trading and clearing in the major security-based swap categories; and* *`(ii) the market participants and developments in new products.* *`(B) USE; CONSULTATION- In preparing a report under subparagraph (A), the Commission shall--* *`(i) use information from security-based swap data repositories and clearing agencies; and* *`(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.* *`(C) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS-* *`(i) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010- Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than--* *`(I) 30 days after the date of issuance of the interim final rule; or* *`(II) such other period as the Commission determines to be*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	appropriate. *`(ii) COMMISSION RULEMAKING- The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in clause (i).* *`(D) EFFECTIVE DATE- The reporting provisions described in this paragraph shall be effective upon the date of enactment of this section.*	
(b) Clearing Agency Requirements- Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following new subsections: `(g) Registration Requirement- It shall be unlawful for a clearing agency, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to a swap.	*(b) Clearing Agency Requirements- Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:* *`(g) Registration Requirement- It shall be unlawful for a clearing agency, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to a security-based swap.*	
`(h) Voluntary Registration- A person that clears agreements, contracts, or transactions that are not required to be cleared under this Act may register with the Commission as a clearing agency.	*`(h) Voluntary Registration- A person that clears agreements, contracts, or transactions that are not required to be cleared under this title may register with the Commission as a clearing agency.*	
`(i) Existing Banks and Derivatives Clearing Organizations- A bank or a derivatives clearing organization registered with the Commodity Futures Trading Commission under the Commodity Exchange Act required to be a registered as a clearing agency under this title, solely because it clears security-based swaps, is deemed to be a registered clearing agency under this title solely for the purpose of clearing security-based swaps to the extent that the bank cleared security-based swaps, as defined in this Act, as a multilateral clearing organization or the derivatives clearing organization cleared security-based swaps, as defined in this title pursuant to an exemption from registration as a clearing agency, before the enactment of this section. A bank or derivative clearing organization to which this subsection applies shall continue to comply with the requirements in section 17A(b)(3) of this title. A bank to which this subsection applies may, by the vote of the shareholders owning not less than 51 percent of the voting interests of such bank, be converted into a State corporation, partnership, limited liability company, or other similar legal form pursuant to a plan of conversion, if the conversion is not in contravention of applicable State law.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(j) Reporting- `(1) IN GENERAL- A clearing agency that clears security-based swaps shall provide to the Commission all information determined by the Commission to be necessary to perform its responsibilities under this Act. The Commission shall adopt data collection and maintenance requirements for security-based swaps cleared by clearing agencies that are comparable to the corresponding requirements for security-based swaps accepted by security-based swap repositories and security-based swaps traded on swap execution facilities. Subject to section 24, the Commission shall share such information, upon request, with the Board, the Commodity Futures Trading Commission, the appropriate Federal banking agencies, the Financial Services Oversight Council, and the Department of Justice or to other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries. `(2) PUBLIC INFORMATION- A clearing agency that clears security-based swaps shall provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in section 13.		
	`(i) Standards for Clearing Agencies Clearing Security-based Swap Transactions- To be registered and to maintain registration as a clearing agency that clears security-based swap transactions, a clearing agency shall comply with such standards as the Commission may establish by rule. In establishing any such standards, and in the exercise of its oversight of such a clearing agency pursuant to this title, the Commission may conform such standards or oversight to reflect evolving United States and international standards. Except where the Commission determines otherwise by rule or regulation, a clearing agency shall have reasonable discretion in establishing the manner in which it complies with any such standards.	
`(k) Designation of Compliance Officer- `(1) IN GENERAL- Each clearing agency that clears security-based swaps shall designate an individual to serve as a compliance officer. `(2) DUTIES- The compliance officer shall-- `(A) report directly to the board or to the senior officer	*`(d) Designation of Chief Compliance Officer- `(1) IN GENERAL- Each registered clearing agency shall designate an individual to serve as a chief compliance officer. `(2) DUTIES- The chief compliance officer shall-- `(A) report directly to the board or to the senior officer of the clearing agency;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
of the clearing agency; `(B) in consultation with the board of the clearing agency, a body performing a function similar to that of a board, or the senior officer of the clearing agency, resolve any conflicts of interest that may arise; `(C) be responsible for administering the policies and procedures required to be established pursuant to this section; `(D) ensure compliance with securities laws and the rules and regulations issued thereunder, including rules prescribed by the Commission pursuant to this section; and `(E) establish procedures for remediation of non-compliance issues found during compliance office reviews, lookbacks, internal or external audit findings, self-reported errors, or through validated complaints. Procedures will establish the handling, management response, remediation, re-testing, and closing of non-compliant issues.	*`(B) in consultation with its board, a body performing a function similar thereto, or the senior officer of the registered clearing agency, resolve any conflicts of interest that may arise;* *`(C) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(D) ensure compliance with this title (including regulations issued under this title) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;* *`(E) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(F) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.*	
`(3) ANNUAL REPORTS REQUIRED- The compliance officer shall annually prepare and sign a report on the compliance of the clearing agency with the securities laws and its policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. Such compliance report shall accompany the financial reports of the clearing agency that are required to be furnished to the Commission pursuant to this section and shall include a certification that, under penalty of law, the report is accurate and complete.	*`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--* *`(i) the compliance of the registered clearing agency or security-based swap execution facility of the compliance officer with respect to this title (including regulations under this title); and* *`(ii) each policy and procedure of the registered clearing agency of the compliance officer (including the code of ethics and conflict of interest policies of the registered clearing agency).* *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the registered clearing agency that is required to be furnished to the Commission*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	pursuant to this section; and *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.'.*	
`(l) Standards for Clearing Agencies Clearing Swap Transactions- To be registered and to maintain registration as a clearing agency that clears swap transactions, a clearing agency shall comply with such standards as the Commission may establish by rule. In establishing any such standards, and in the exercise of its oversight of such a clearing agency pursuant to this title, the Commission may conform such standards or oversight to reflect evolving United States and international standards. Except where the Commission determines otherwise by rule or regulation, a clearing agency shall have reasonable discretion in establishing the manner in which it complies with any such standards.		
`(m) Rules- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing persons that are registered as clearing agencies for security-based swaps under this Act.	*`(j) Rules- The Commission shall adopt rules governing persons that are registered as clearing agencies for security-based swaps under this title.*	
`(n) Exemptions- `(1) IN GENERAL- The Commission may exempt, conditionally or unconditionally, a clearing agency from registration under this section for the clearing of security-based swaps if the Commission finds that such clearing agency is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Commodity Futures Trading Commission, a Prudential Regulator, or the appropriate governmental authorities in the organization's home country or if necessary or appropriate in the public interest and consistent with the purpose of this Act. `(2) A person that is required to be registered as clearing agency under this section, whose principal business is clearing commodity futures and options on commodity futures transactions and which is a derivatives clearing organization registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.), shall be unconditionally exempt from registration under this section solely for the purpose of clearing security-based swaps, unless the Commission finds that such derivatives clearing organization is not subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading	*`(k) Exemptions-* *`(1) IN GENERAL- The Commission may exempt, conditionally or unconditionally, a clearing agency from registration under this section for the clearing of security-based swaps if the Commission determines that the clearing agency is subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission or the appropriate government authorities in the home country of the agency. Such conditions may include, but are not limited to, requiring that the clearing agency be available for inspection by the Commission and make available all information requested by the Commission.* *`(2) DERIVATIVES CLEARING ORGANIZATIONS- A person that is required to be registered as a derivatives clearing organization under the Commodity Exchange Act, whose principal business is clearing commodity futures and options on commodity futures transactions and swaps and which is a derivatives clearing organization registered with the Commodity Futures Trading Commission under the Commodity*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission.'.	*Exchange Act (7 U.S.C. 1 et seq.), shall be unconditionally exempt from registration under this section solely for the purpose of clearing security-based swaps, unless the Commission finds that such derivatives clearing organization is not subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission.* *`(l) Modification of Core Principles- The Commission may conform the core principles established in this section to reflect evolving United States and international standards.'.*	
(c) Execution of Security-based Swaps- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 5 the following: **`SEC. 5A. EXECUTION OF SECURITY-BASED SWAPS.**  `(a) Execution Transparency- `(1) REQUIREMENT- A security-based swap that is subject to the clearing requirement of section 3B shall not be traded except on or through a national securities exchange or on or through an swap execution facility registered under section 5h, that makes the security-based swap available for trading. `(2) EXCEPTIONS- The requirement of paragraph (1) shall not apply to a security-based swap if no national securities exchange or swap execution facility makes the security-based swap available for trading. `(3) REQUIRED REPORTING- If the exception of paragraph (2) applies and there is no national securities exchange or swap execution facility that makes the security-based swap available to trade, the counterparties shall comply with any recordkeeping and transaction reporting requirements as may be prescribed by the Commission with respect to security-based swaps subject to the requirements of paragraph (1). `(b) Exchange Trading- In adopting rules and regulations, the Commission shall endeavor to eliminate unnecessary impediments to the trading on national securities exchanges of contracts, agreements, or transactions that would be swaps but for the trading of such contracts, agreements or transactions on such a national securities exchange.'.		
(d) Swap Execution Facilities- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding after section 3B (as added by subsection (a)) the following:	*(c) Security-based Swap Execution Facilities- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3C (as added by subsection (a) of this section) the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
**`SEC. 3C. SWAP EXECUTION FACILITIES.**  `(a) Registration- No person may operate a facility for the trading of security-based swaps unless the facility is registered as a swap execution facility under this section. `(b) Requirements for Trading- `(1) IN GENERAL- A swap execution facility that is registered under subsection (a) may list for trading any security-based swap. `(2) RULES FOR TRADING THROUGH THE FACILITY- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules to allow a security-based swap to be traded through the facilities of an exchange or a swap execution facility. Such rules shall permit an intermediary, acting as principal or agent, to enter into or execute a security-based swap, notwithstanding section 3B(b), if the security-based swap is reported, recorded, or confirmed in accordance with the rules of the exchange or swap execution facility. `(c) Trading by Exchanges- An exchange shall, to the extent that the exchange also operates a swap execution facility and uses the same electronic trade execution system for trading on the exchange and the swap execution facility, identify whether the electronic trading is taking place on the exchange or the swap execution facility.	***`SEC. 3D. SECURITY-BASED SWAP EXECUTION FACILITIES.***  *`(a) Registration-* *`(1) IN GENERAL- No person may operate a facility for the trading or processing of security-based swaps, unless the facility is registered as a security-based swap execution facility or as a national securities exchange under this section.* *`(2) DUAL REGISTRATION- Any person that is registered as a security-based swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap execution facility.* *`(b) Trading and Trade Processing- A security-based swap execution facility that is registered under subsection (a) may--* *`(1) make available for trading any security-based swap; and* *`(2) facilitate trade processing of any security-based swap.* *`(c) Identification of Facility Used To Trade Security-based Swaps by National Securities Exchanges- A national securities exchange shall, to the extent that the exchange also operates a security-based swap execution facility and uses the same electronic trade execution system for listing and executing trades of security-based swaps on or through the exchange and the facility, identify whether electronic trading of such security-based swaps is taking place on or through the national securities exchange or the security-based swap execution facility.*	
`(d) Core Principles for Swap Execution Facilities- `(1) IN GENERAL- To be registered as, and to maintain its registration as, a swap execution facility, the facility shall comply with the core principles specified in this subsection and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5). Except where the Commission determines otherwise by rule or regulation, the facility shall have reasonable discretion in establishing the manner in which it complies with these core principles.	*`(d) Core Principles for Security-based Swap Execution Facilities-* *`(1) COMPLIANCE WITH CORE PRINCIPLES-* *`(A) IN GENERAL- To be registered, and maintain registration, as a security-based swap execution facility, the security-based swap execution facility shall comply with--* *`(i) the core principles described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation.* *`(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP EXECUTION FACILITY- Unless otherwise determined by the Commission, by rule or regulation, a security-based swap execution facility described in subparagraph (A) shall have reasonable*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	discretion in establishing the manner in which it complies with the core principles described in this subsection.	
`(2) COMPLIANCE WITH RULES- The swap execution facility shall-- `(A) monitor and enforce compliance with any of the rules of the facility, including the terms and conditions of the swaps traded on or through the facility and any limitations on access to the facility; and `(B) establish and enforce trading and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means to-- `(i) provide market participants with impartial access to the market; and `(ii) capture information that may be used in establishing whether rule violations have occurred.	*`(2) COMPLIANCE WITH RULES- A security-based swap execution facility shall--* *`(A) monitor and enforce compliance with any rule established by such security-based swap execution facility, including--* *`(i) the terms and conditions of the security-based swaps traded or processed on or through the facility; and* *`(ii) any limitation on access to the facility;* *`(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means--* *`(i) to provide market participants with impartial access to the market; and* *`(ii) to capture information that may be used in establishing whether rule violations have occurred; and* *`(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades.*	
`(3) SECURITY-BASED SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION- The swap execution facility shall permit trading only in security-based swaps that are not readily susceptible to manipulation.	*`(3) SECURITY-BASED SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION- The security-based swap execution facility shall permit trading only in security-based swaps that are not readily susceptible to manipulation.*	
`(4) MONITORING OF TRADING- The swap execution facility shall-- `(A) establish and enforce rules or terms and conditions defining, or specifications detailing, trading procedures to be used in entering and executing orders traded on or through its facilities; and `(B) monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading	*`(4) MONITORING OF TRADING AND TRADE PROCESSING- The security-based swap execution facility shall--* *`(A) establish and enforce rules or terms and conditions defining, or specifications detailing--* *`(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the security-based swap execution facility; and* *`(ii) procedures for trade processing of security-based swaps on or through the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and comprehensive and accurate trade reconstructions.	*facilities of the security-based swap execution facility; and* *`(B) monitor trading in security-based swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.*	
`(5) ABILITY TO OBTAIN INFORMATION- The swap execution facility shall-- `(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section; `(B) provide the information to the Commission upon request; and `(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.	*`(5) ABILITY TO OBTAIN INFORMATION- The security-based swap execution facility shall--* *`(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this subsection;* *`(B) provide the information to the Commission on request; and* *`(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.*	
	`(6) POSITION LIMITS OR ACCOUNTABILITY-* *`(A) IN GENERAL- To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a security-based swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators. *`(B) POSITION LIMITS- For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, the security-based swap execution facility shall set its position limitation at a level no higher than the limitation established by the Commission.* *`(C) POSITION ENFORCEMENT- For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, a security-based swap execution facility shall reject any proposed security-based swap transaction if, based on information readily available to a security-based swap execution facility, any proposed security-based swap transaction would cause a security-based*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.	
`(6) FINANCIAL INTEGRITY OF TRANSACTIONS- The swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of security-based swaps entered on or through its facilities, including the clearance and settlement of the security-based swaps pursuant to section 3B.	*`(7) FINANCIAL INTEGRITY OF TRANSACTIONS- The security-based swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of security-based swaps entered on or through the facilities of the security-based swap execution facility, including the clearance and settlement of security-based swaps pursuant to section 3C(a)(1).*	
`(7) EMERGENCY AUTHORITY- The swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority to suspend or curtail trading in a security-based swap.	*`(8) EMERGENCY AUTHORITY- The security-based swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any security-based swap or to suspend or curtail trading in a security-based swap.*	
`(8) TIMELY PUBLICATION OF TRADING INFORMATION- The swap execution facility shall make public timely information on price, trading volume, and other trading data to the extent prescribed by the Commission. The Commission shall evaluate the impact of public disclosure on market liquidity in the relevant market, and shall seek to avoid public disclosure of information in a manner that would significantly reduce market liquidity. The Commission shall not disclose information related to the internal business decisions of particular market participants.	*`(9) TIMELY PUBLICATION OF TRADING INFORMATION-* *`(A) IN GENERAL- The security-based swap execution facility shall make public timely information on price, trading volume, and other trading data on security-based swaps to the extent prescribed by the Commission.* *`(B) CAPACITY OF SECURITY-BASED SWAP EXECUTION FACILITY- The security-based swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.*	
`(9) RECORDKEEPING AND REPORTING- The swap execution facility shall maintain records of all activities related to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years, and report to the Commission all information determined by the Commission to be necessary or appropriate for the Commission to perform its responsibilities under this Act in a form and manner acceptable to the Commission. The Commission shall adopt data collection and reporting requirements for swap execution facilities that are comparable to corresponding requirements for clearing agencies and	*`(10) RECORDKEEPING AND REPORTING-* *`(A) IN GENERAL- A security-based swap execution facility shall--* *`(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and* *`(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
security-based swap repositories.	*be necessary or appropriate for the Commission to perform the duties of the Commission under this title.* *`(B) REQUIREMENTS- The Commission shall adopt data collection and reporting requirements for security-based swap execution facilities that are comparable to corresponding requirements for clearing agencies and security-based swap data repositories.*	
	`(11) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this title, the security-based swap execution facility shall not--* *`(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or *`(B) impose any material anticompetitive burden on trading or clearing.*	
`(10) CONFLICTS OF INTEREST- The swap execution facility shall-- `(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and `(B) establish a process for resolving the conflicts of interest.	*`(12) CONFLICTS OF INTEREST- The security-based swap execution facility shall--* *`(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and* *`(B) establish a process for resolving the conflicts of interest.*	
`(11) FINANCIAL RESOURCES- The swap execution facility shall have adequate financial, operational, and managerial resources to discharge its responsibilities. Such financial resources shall be considered adequate if their value exceeds the total amount that would enable the facility to cover its operating costs for a period of one year, calculated on a rolling basis.	*`(13) FINANCIAL RESOURCES-* *`(A) IN GENERAL- The security-based swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the security-based swap execution facility, as determined by the Commission.* *`(B) DETERMINATION OF RESOURCE ADEQUACY- The financial resources of a security-based swap execution facility shall be considered to be adequate if the value of the financial resources--* *`(i) enables the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and* *`(ii) exceeds the total amount that would enable the security-based swap execution*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	facility to cover the operating costs of the security-based swap execution facility for a 1-year period, as calculated on a rolling basis.	
`(12) SYSTEM SAFEGUARDS- The swap execution facility shall-- `(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity; `(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the swap execution facility's responsibilities and obligation; and `(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.	*`(14) SYSTEM SAFEGUARDS- The security-based swap execution facility shall--* *`(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that--* *`(i) are reliable and secure; and* *`(ii) have adequate scalable capacity;* *`(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for--* *`(i) the timely recovery and resumption of operations; and* *`(ii) the fulfillment of the responsibilities and obligation of the security-based swap execution facility; and* *`(C) periodically conduct tests to verify that the backup resources of the security-based swap execution facility are sufficient to ensure continued--* *`(i) order processing and trade matching;* *`(ii) price reporting;* *`(iii) market surveillance; and* *`(iv) maintenance of a comprehensive and accurate audit trail.*	
`(13) DESIGNATION OF COMPLIANCE OFFICER- `(A) IN GENERAL- Each swap execution facility shall designate an individual to serve as a compliance officer. `(B) DUTIES- The compliance officer-- `(i) shall report directly to the board or to the senior officer of the facility; and `(ii) shall-- `(I) review compliance with the core principles in section 3B(e). `(II) in consultation with the board of the facility, a body performing a function similar to that of a board, or	*`(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER-* *`(A) IN GENERAL- Each security-based swap execution facility shall designate an individual to serve as a chief compliance officer.* *`(B) DUTIES- The chief compliance officer shall--* *`(i) report directly to the board or to the senior officer of the facility;* *`(ii) review compliance with the core principles in this subsection;* *`(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the senior officer of the facility, resolve any conflicts of interest that may arise; `(III) be responsible for administering the policies and procedures required to be established pursuant to this section; and `(IV) ensure compliance with securities laws and the rules and regulations issued thereunder, including rules prescribed by the Commission pursuant to this section; and `(iii) shall establish procedures for remediation of non-compliance issues found during compliance office reviews, lookbacks, internal or external audit findings, self-reported errors, or through validated complaints and to establish the handling, management response, remediation, re-testing, and closing of non-compliant issues.	*may arise;* *`(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;* *`(v) ensure compliance with this title and the rules and regulations issued under this title, including rules prescribed by the Commission pursuant to this section;* *`(vi) establish procedures for the remediation of noncompliance issues found during--* *`(I) compliance office reviews;* *`(II) look backs;* *`(III) internal or external audit findings;* *`(IV) self-reported errors; or* *`(V) through validated complaints; and* *`(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.*	
`(C) ANNUAL REPORTS REQUIRED- The compliance officer shall annually prepare and sign a report on the compliance of the facility with the securities laws and its policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. Such compliance report shall accompany the financial reports of the facility that are required to be furnished to the Commission pursuant to this section and shall include a certification that, under penalty of law, the report is accurate and complete.	*`(C) ANNUAL REPORTS-* *`(i) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--* *`(I) the compliance of the security-based swap execution facility with this title; and* *`(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the security-based security-based swap execution facility.* *`(ii) REQUIREMENTS- The chief compliance officer shall--* *`(I) submit each report described in clause (i) with the appropriate financial report of the security-based swap execution facility that is required to be submitted to the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Commission pursuant to this section; and *`(II) include in the report a certification that, under penalty of law, the report is accurate and complete.*	
`(e) Exemptions- The Commission may exempt, conditionally or unconditionally, a swap execution facility from registration under this section if the Commission finds that such organization is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Commodity Futures Trading Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country or if necessary or appropriate in the public interest and consistent with the purpose of this Act.	*`(e) Exemptions- The Commission may exempt, conditionally or unconditionally, a security-based swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Commodity Futures Trading Commission.*	
`(f) Rules- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall prescribe rules governing the regulation of swap execution facilities under this section.'.	*`(f) Rules- The Commission shall prescribe rules governing the regulation of security-based swap execution facilities under this section.'.*	
(e) Segregation of Assets Held as Collateral in Swap Transactions- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is further amended by adding after section 3C (as added by subsection (b) the following: **`SEC. 3D. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.**  `(a) Over-the-counter Swaps- At the request of a counterparty to a security-based swap who provides funds or other property to a security-based swap dealer as initial margin or collateral to secure the obligations of the counterparty under a security-based swap between the counterparty and the security-based swap dealer that is not submitted for clearing to a derivatives clearing agency, the security-based swap dealer shall segregate the funds or other property for the benefit of the counterparty, and maintain the funds or other property in an account which is carried by a third-party custodian and designated as a segregated account for the counterparty, in accordance with such rules and regulations as the Commission or Prudential Regulator may prescribe. If a security-based swap counterparty is a security-based swap dealer or major security-based swap participant who owns more than 20 percent of, or has more	*(d) Segregation of Assets Held as Collateral in Security-based Swap Transactions- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3D (as added by subsection (b)) the following:* ***`SEC. 3E. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.***  *`(a) Registration Requirement- It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a security-based swaps customer or to margin, guarantee, or secure a security-based swap cleared by or through a clearing agency (including money, securities, or property accruing to the customer as the result of such a security-based swap), unless the person shall have registered under this title with the Commission as a broker, dealer, or security-based swap dealer, and the registration shall not have expired nor been suspended nor revoked.* *`(b) Cleared Security-based Swaps-* *`(1) SEGREGATION REQUIRED- A broker, dealer, or security-based swap dealer shall treat and deal with all money,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
than 50 percent representation on the board of directors of a custodian, the custodian shall not be considered independent from the security-based swap counterparties for purposes of the preceding sentence. This subsection shall not be interpreted to preclude commercial arrangements regarding the investment of the segregated funds or other property and the related allocation of gains and losses resulting from any such investment. `(b) Further Audit Reporting- If a security-based swap dealer does not segregate funds pursuant to the request of a security-based swap counterparty in accordance with subsection (a), the security-based swap dealer shall report to its counterparty on a quarterly basis that its procedures relating to margin and collateral requirements are in compliance with the agreement of the counterparties.'.	*securities, and property of any security-based swaps customer received to margin, guarantee, or secure a security-based swap cleared by or though a clearing agency (including money, securities, or property accruing to the security-based swaps customer as the result of such a security-based swap) as belonging to the security-based swaps customer.* *`(2) COMMINGLING PROHIBITED- Money, securities, and property of a security-based swaps customer described in paragraph (1) shall be separately accounted for and shall not be commingled with the funds of the broker, dealer, or security-based swap dealer or be used to margin, secure, or guarantee any trades or contracts of any security-based swaps customer or person other than the person for whom the same are held.* *`(c) Exceptions-* *`(1) USE OF FUNDS-* *`(A) IN GENERAL- Notwithstanding subsection (b), money, securities, and property of a security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a clearing agency.* *`(B) WITHDRAWAL- Notwithstanding subsection (b), such share of the money, securities, and property described in subparagraph (A) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared security-based swap with a clearing agency, or with any member of the clearing agency, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared security-based swap.* *`(2) COMMISSION ACTION- Notwithstanding subsection (b), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may be commingled and deposited as provided in this section with any other money, securities, or property received by the broker, dealer, or security-based swap dealer and required by the Commission to be separately accounted for and treated and dealt with as belonging to the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	security-based swaps customer of the broker, dealer, or security-based swap dealer. *`(d) Permitted Investments- Money described in subsection (b) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.* *`(e) Prohibition- It shall be unlawful for any person, including any clearing agency and any depository institution, that has received any money, securities, or property for deposit in a separate account or accounts as provided in subsection (b) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing broker, dealer, or security-based swap dealer or any person other than the swaps customer of the broker, dealer, or security-based swap dealer.'.*	
(f) Trading in Security-based Swaps- Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:	*(e) Trading in Security-based Swaps- Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:*	
`(l) It shall be unlawful for any person to effect a transaction in a security-based swap with or for a person that is not an eligible contract participant unless such transaction is effected on a national securities exchange registered pursuant to subsection (b).'.	*`(l) Security-based Swaps- It shall be unlawful for any person to effect a transaction in a security-based swap with or for a person that is not an eligible contract participant, unless such transaction is effected on a national securities exchange registered pursuant to subsection (b).'.*	
(g) Additions of Security-based Swaps to Certain Enforcement Provisions- Paragraphs (1) through (3) of section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(b)(1)-(3)) are amended to read as follows:	*(f) Additions of Security-based Swaps to Certain Enforcement Provisions- Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(b)) is amended by striking paragraphs (1) through (3) and inserting the following:*	
`(1) any transaction in connection with any security whereby any party to such transaction acquires (A) any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so; (B) any security futures product on the security; or (C) any security-based swap involving the security or the issuer of the security; or	*`(1) any transaction in connection with any security whereby any party to such transaction acquires--* *`(A) any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so;* *`(B) any security futures product on the security; or* *`(C) any security-based swap involving the security or the issuer of the security;*	
`(2) any transaction in connection with any security with	*`(2) any transaction in connection with any security with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
relation to which he has, directly or indirectly, any interest in any (A) such put, call, straddle, option, or privilege; (B) such security futures product; or (C) such security-based swap; or	*relation to which such person has, directly or indirectly, any interest in any--* *`(A) such put, call, straddle, option, or privilege;* *`(B) such security futures product; or* *`(C) such security-based swap; or*	
`(3) any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any (A) such put, call, straddle, option, or privilege; (B) such security futures product with relation to such security; or (C) any security-based swap involving such security or the issuer of such security.'.	*`(3) any transaction in any security for the account of any person who such person has reason to believe has, and who actually has, directly or indirectly, any interest in any--* *`(A) such put, call, straddle, option, or privilege;* *`(B) such security futures product with relation to such security; or* *`(C) any security-based swap involving such security or the issuer of such security.'.*	
(h) Rulemaking Authority to Prevent Fraud, Manipulation and Deceptive Conduct in Security-based Swaps- Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end the following:	*(g) Rulemaking Authority To Prevent Fraud, Manipulation and Deceptive Conduct in Security-based Swaps- Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end the following:*	
`(i) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security-based swap, in connection with which such person engages in any fraudulent, deceptive, or manipulative act or practice, makes any fictitious quotation, or engages in any transaction, practice, or course of business which operates as a fraud or deceit upon any person. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such transactions, acts, practices, and courses of business as are fraudulent, deceptive, or manipulative, and such quotations as are fictitious.'.	*`(j) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security-based swap, in connection with which such person engages in any fraudulent, deceptive, or manipulative act or practice, makes any fictitious quotation, or engages in any transaction, practice, or course of business which operates as a fraud or deceit upon any person. The Commission shall, for the purposes of this subsection, by rules and regulations define, and prescribe means reasonably designed to prevent, such transactions, acts, practices, and courses of business as are fraudulent, deceptive, or manipulative, and such quotations as are fictitious.'.*	
(i) Position Limits and Position Accountability for Security-based Swaps- The Securities Exchange Act of 1934 is amended by inserting after section 10A (15 U.S.C. 78j-1) the following new section: **`SEC. 10B. POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS AND LARGE TRADER REPORTING.**  `(a) Position Limits- As a means reasonably designed to prevent fraud	*(h) Position Limits and Position Accountability for Security-based Swaps- The Securities Exchange Act of 1934 is amended by inserting after section 10A (15 U.S.C. 78j-1) the following:* ***`SEC. 10B. POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS AND LARGE TRADER REPORTING.***  *`(a) Position Limits- As a means reasonably designed to prevent fraud*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and manipulation, the Commission may, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors, establish limits (including related hedge exemption provisions) on the size of positions in any security-based swap that may be held by any person. In establishing such limits, the Commission may require any person to aggregate positions in-- `(1) any security-based swap and any security or loan or group or index of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in section 3(a)(68), and any other instrument relating to such security or loan or group or index of securities or loans; or `(2) any security-based swap and (A) any security or group or index of securities, the price, yield, value, or volatility of which, or of which any interest therein, is the basis for a material term of such security-based swap as described in section 3(a)(76) and (B) any security-based swap and any other instrument relating to the same security or group or index of securities.	*and manipulation, the Commission shall, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors, establish limits (including related hedge exemption provisions) on the size of positions in any security-based swap that may be held by any person. In establishing such limits, the Commission may require any person to aggregate positions in--* *`(1) any security-based swap and any security or loan or group of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in paragraph (68) of section 3(a), and any other instrument relating to such security or loan or group or index of securities or loans; or* *`(2) any security-based swap and--* *`(A) any security or group or index of securities, the price, yield, value, or volatility of which, or of which any interest therein, is the basis for a material term of such security-based swap as described in paragraph (68) of section 3(a); and* *`(B) any other instrument relating to the same security or group or index of securities described under subparagraph (A).*	
`(b) Exemptions- The Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person or class of persons, any security-based swap or class of security-based swaps, or any transaction or class of transactions from any requirement it may establish under this section with respect to position limits.	*`(b) Exemptions- The Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person or class of persons, any security-based swap or class of security-based swaps, or any transaction or class of transactions from any requirement the Commission may establish under this section with respect to position limits.*	
`(c) SRO Rules- `(1) IN GENERAL- As a means reasonably designed to prevent fraud or manipulation, the Commission, by rule, regulation, or order, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, may direct a self-regulatory organization-- `(A) to adopt rules regarding the size of positions in any security-based swap that may be held by-- `(i) any member of such self-regulatory organization; or `(ii) any person for whom a member of such self-regulatory organization effects transactions in such security-based swap; and `(B) to adopt rules reasonably designed to ensure	*`(c) SRO Rules-* *`(1) IN GENERAL- As a means reasonably designed to prevent fraud or manipulation, the Commission, by rule, regulation, or order, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, may direct a self-regulatory organization--* *`(A) to adopt rules regarding the size of positions in any security-based swap that may be held by--* *`(i) any member of such self-regulatory organization; or* *`(ii) any person for whom a member of such self-regulatory organization effects transactions in such security-based swap; and* *`(B) to adopt rules reasonably designed to ensure*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
compliance with requirements prescribed by the Commission under subsection (c)(1)(A).	*compliance with requirements prescribed by the Commission under this subsection.*	
`(2) REQUIREMENT TO AGGREGATE POSITIONS- In establishing such limits, the self-regulatory organization may require such member or person to aggregate positions in-- `(A) any security-based swap and any security or loan or group or index of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in section 3(a)(68), and any other instrument relating to such security or loan or group or index of securities or loans; or `(B)(i) any security-based swap; and `(ii) any security-based swap and any other instrument relating to the same security or group or index of securities.	*`(2) REQUIREMENT TO AGGREGATE POSITIONS- In establishing the limits under paragraph (1), the self-regulatory organization may require such member or person to aggregate positions in--* *`(A) any security-based swap and any security or loan or group or narrow-based security narrow-based security index of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in section 3(a)(68), and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans; or* *`(B)(i) any security-based swap; and* *`(ii) any security-based swap and any other instrument relating to the same security or group or narrow-based security index of securities.*	
`(d) Large Trader Reporting- The Commission, by rule or regulation, may require any person that effects transactions for such person's own account or the account of others in any securities-based swap or uncleared security-based swap agreement and any security or loan or group or index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section to report such information as the Commission may prescribe regarding any position or positions in any security-based swap or uncleared security-based swap agreement and any security or loan or group or index of securities or loans and any other instrument relating to such security or loan or group or index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section.'.	*`(d) Large Trader Reporting- The Commission, by rule or regulation, may require any person that effects transactions for such person's own account or the account of others in any securities-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section to report such information as the Commission may prescribe regarding any position or positions in any security-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section.'.*	
(j) Public Reporting and Repositories for Security-based Swaps- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following: `(m) Public Reporting of Aggregate Security-based Swap Data- `(1) IN GENERAL- The Commission, or a person designated by the Commission pursuant to paragraph (2), shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on security-based swap trading volumes and positions from the	*(i) Public Reporting and Repositories for Security-based Swaps- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:* *`(m) Public Availability of Security-based Swap Transaction Data-* *`(1) IN GENERAL-* *`(A) DEFINITION OF REAL-TIME PUBLIC REPORTING- In this paragraph, the term `real-time public reporting' means to report data relating to a security-based swap transaction as soon as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
sources set forth in paragraph (3). `(2) DESIGNEE OF THE COMMISSION- The Commission may designate a clearing agency or a security-based swap repository to carry out the public reporting described in paragraph (1). `(3) SOURCES OF INFORMATION- The sources of the information to be publicly reported as described in paragraph (1) are-- `(A) clearing agencies pursuant to section 3A; `(B) security-based swap repositories pursuant to subsection (n); and `(C) reports received by the Commission pursuant to section 13A.	*technologically practicable after the time at which the security-based swap transaction has been executed.* *`(B) PURPOSE- The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.* *`(C) GENERAL RULE- The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:* *`(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in section 3C(a)(1) (including those security-based swaps that are exempted from the requirement pursuant to section 3C(a)(10)), the Commission shall require real-time public reporting for such transactions.* *`(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in subsection section 3C(a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.* *`(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under section 3C(a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.* *`(iv) With respect to security-based swaps that are exempt from the requirements of section 3C(a)(1), but are subject to the requirements of section 3C(a)(8), the Commission shall require real-time public reporting for such transactions.* *`(D) REGISTERED ENTITIES AND PUBLIC*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	REPORTING- The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph. *`(E) RULEMAKING REQUIRED- With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions--* *`(i) to ensure such information does not identify the participants;* *`(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;* *`(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and* *`(iv) that take into account whether the public disclosure will materially reduce market liquidity.* *`(F) TIMELINESS OF REPORTING- Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.* *`(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA-* *`(A) IN GENERAL- In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to--* *`(i) the trading and clearing in the major security-based swap categories; and* *`(ii) the market participants and developments in new products.* *`(B) USE; CONSULTATION- In preparing a report under subparagraph (A), the Commission shall--* *`(i) use information from security-based swap data repositories and derivatives clearing organizations; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.	
`(n) Security-based Swap Repositories- `(1) REGISTRATION REQUIREMENT- `(A) IN GENERAL- It shall be unlawful for a security-based swap repository, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap repository.	*`(n) Security-based Swap Data Repositories-* *`(1) REGISTRATION REQUIREMENT- It shall be unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap data repository.*	
`(B) INSPECTION AND EXAMINATION- Registered security-based swap repositories shall be subject to inspection and examination by any representatives of the Commission.	*`(2) INSPECTION AND EXAMINATION- Each registered security-based swap data repository shall be subject to inspection and examination by any representative of the Commission.*	
	`(3) COMPLIANCE WITH CORE PRINCIPLES-* *`(A) IN GENERAL- To be registered, and maintain registration, as a security-based swap data repository, the security-based swap data repository shall comply with-- *`(i) the core principles described in this subsection; and* *`(ii) any requirement that the Commission may impose by rule or regulation.* *`(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP DATA REPOSITORY- Unless otherwise determined by the Commission, by rule or regulation, a security-based swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the security-based swap data repository complies with the core principles described in this subsection.*	
`(2) STANDARD SETTING- `(A) DATA IDENTIFICATION- The Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each security-based swap repository.	*`(4) STANDARD SETTING-* *`(A) DATA IDENTIFICATION- The Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each registered security-based swap data repository.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(B) DATA COLLECTION AND MAINTENANCE- The Commission shall prescribe data collection and data maintenance standards for security-based swap repositories.	*`(B) DATA COLLECTION AND MAINTENANCE- The Commission shall prescribe data collection and data maintenance standards for security-based swap data repositories.*	
`(C) COMPARABILITY- The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies that clear security-based swaps.	*`(C) COMPARABILITY- The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies in connection with their clearing of security-based swaps.*	
`(3) DUTIES- A security-based swap repository shall-- `(A) accept data prescribed by the Commission for each security-based swap under this paragraph (2); `(B) maintain such data in such form and manner and for such period as may be required by the Commission; `(C) provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in subsection (m); and `(D) make available, on a confidential basis, all data obtained by the security-based swap repository, including individual counterparty trade and position data, to the Commission, the appropriate Federal banking agencies, the Commodity Futures Trading Commission, the Financial Services Oversight Council, and the Department of Justice or to other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries. `(4) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing persons that are registered under this section, including rules that specify the data elements that shall be collected and maintained. `(5) EXEMPTIONS- The Commission may exempt, conditionally or unconditionally, a security-based swap repository from the requirements of this section if the Commission finds that such security-based swap repository is	*`(5) DUTIES- A security-based swap data repository shall--* *`(A) accept data prescribed by the Commission for each security-based swap under subsection (b);* *`(B) confirm with both counterparties to the security-based swap the accuracy of the data that was submitted;* *`(C) maintain the data described in subparagraph (A) in such form, in such manner, and for such period as may be required by the Commission;* *`(D)(i) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and* *`(ii) provide the information described in subparagraph (A) in such form and at such frequency as the Commission may require to comply with the public reporting requirements set forth in subsection (m);* *`(E) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing security-based swap data;* *`(F) maintain the privacy of any and all security-based swap transaction information that the security-based swap data repository receives from a security-based swap dealer, counterparty, or any other registered entity; and* *`(G) on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available all data obtained by the security-based swap data repository, including individual counterparty trade and position data, to--* *`(i) each appropriate prudential regulator;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
subject to comparable, comprehensive supervision or regulation on a consolidated basis by the Commodity Futures Trading Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country or if necessary or appropriate in the public interest and consistent with the purpose of this Act.'.	*`(ii) the Financial Stability Oversight Council;* *`(iii) the Commodity Futures Trading Commission;* *`(iv) the Department of Justice; and* *`(v) any other person that the Commission determines to be appropriate, including--* *`(I) foreign financial supervisors (including foreign futures authorities);* *`(II) foreign central banks; and* *`(III) foreign ministries.* *`(H) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT- Before the security-based swap data repository may share information with any entity described in subparagraph (G)--* *`(i) the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided; and* *`(ii) each entity shall agree to indemnify the security-based swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 24.* *`(6) DESIGNATION OF CHIEF COMPLIANCE OFFICER-* *`(A) IN GENERAL- Each security-based swap data repository shall designate an individual to serve as a chief compliance officer.* *`(B) DUTIES- The chief compliance officer shall--* *`(i) report directly to the board or to the senior officer of the security-based swap data repository;* *`(ii) review the compliance of the security-based swap data repository with respect to the core principles described in paragraph (7);* *`(iii) in consultation with the board of the security-based swap data repository, a body performing a function similar to the board of the security-based swap data repository, or the senior officer of the security-based swap*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	data repository, resolve any conflicts of interest that may arise; *`(iv) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(v) ensure compliance with this title (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;* *`(vi) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any--* *`(I) compliance office review;* *`(II) look-back;* *`(III) internal or external audit finding;* *`(IV) self-reported error; or* *`(V) validated complaint; and* *`(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(C) ANNUAL REPORTS-* *`(i) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--* *`(I) the compliance of the security-based swap data repository of the chief compliance officer with respect to this title (including regulations); and* *`(II) each policy and procedure of the security-based swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the security-based swap data repository).* *`(ii) REQUIREMENTS- A compliance report under clause (i) shall--* *`(I) accompany each appropriate financial report of the security-based*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	swap data repository that is required to be furnished to the Commission pursuant to this section; and *`(II) include a certification that, under penalty of law, the compliance report is accurate and complete.* *`(7) CORE PRINCIPLES APPLICABLE TO SECURITY-BASED SWAP DATA REPOSITORIES-* *`(A) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this title, the swap data repository shall not--* *`(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or* *`(ii) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.* *`(B) GOVERNANCE ARRANGEMENTS- Each security-based swap data repository shall establish governance arrangements that are transparent--* *`(i) to fulfill public interest requirements; and* *`(ii) to support the objectives of the Federal Government, owners, and participants.* *`(C) CONFLICTS OF INTEREST- Each security-based swap data repository shall--* *`(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the security-based swap data repository; and* *`(ii) establish a process for resolving any conflicts of interest described in clause (i).* *`(8) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP DATA REPOSITORIES- Any person that is required to be registered as a security-based swap data repository under this subsection shall register with the Commission, regardless of whether that person is also licensed under the Commodity Exchange Act as a swap data repository.* *`(9) RULES- The Commission shall adopt rules governing persons that are registered under this subsection.'.*	
SEC. 3204. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.	***SEC. 764. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15E (15 U.S.C. 78o-7) the following: **`SEC. 15F. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.**  `(a) Registration- `(1) It shall be unlawful for any person to act as a security-based swap dealer unless such person is registered as a security-based swap dealer with the Commission. `(2) It shall be unlawful for any person to act as a major security-based swap participant unless such person is registered as a major security-based swap participant with the Commission.	*The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15E (15 U.S.C. 78o-7) the following:* ***`SEC. 15F. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.***  *`(a) Registration-* *`(1) SECURITY-BASED SWAP DEALERS- It shall be unlawful for any person to act as a security-based swap dealer unless the person is registered as a security-based swap dealer with the Commission.* *`(2) MAJOR SECURITY-BASED SWAP PARTICIPANTS- It shall be unlawful for any person to act as a major security-based swap participant unless the person is registered as a major security-based swap participant with the Commission.*	
`(b) Requirements- `(1) IN GENERAL- A person shall register as a security-based swap dealer or major security-based swap participant by filing a registration application with the Commission. `(2) CONTENTS- The application shall be made in such form and manner as prescribed by the Commission, giving any information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged. Such person, when registered as a security-based swap dealer or major security-based swap participant, shall continue to report and furnish to the Commission such information pertaining to such person's business as the Commission may require.	*`(b) Requirements-* *`(1) IN GENERAL- A person shall register as a security-based swap dealer or major security-based swap participant by filing a registration application with the Commission.* *`(2) CONTENTS-* *`(A) IN GENERAL- The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.* *`(B) CONTINUAL REPORTING- A person that is registered as a security-based swap dealer or major security-based swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.*	
`(3) EXPIRATION- Each registration shall expire at such time as the Commission may by rule or regulation prescribe.	*`(3) EXPIRATION- Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.*	
`(4) RULES- Except as provided in subsections (c) and (d), the Commission may prescribe rules applicable to security-based swap dealers and major security-based swap participants, including rules that limit the activities of security-based swap dealers and major security-based swap participants. Except as	*`(4) RULES- Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to security-based swap dealers and major security-based swap participants, including rules that limit the activities of non-bank security-based swap dealers and non-bank major security-based*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
provided in subsection (d)(1)(A), the Commission may provide conditional or unconditional exemptions from some or all of the rules or requirements prescribed under this section for security-based swap dealers and major security-based swap participants.	*swap participants.*	
`(5) TRANSITION- Rules adopted under this section shall provide for the registration of security-based swap dealers and major security-based swap participants no later than 1 year after the effective date of the Derivative Markets Transparency and Accountability Act of 2009.	*`(5) TRANSITION- Not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commission shall issue rules under this section to provide for the registration of security-based swap dealers and major security-based swap participants.*	
	`(6) STATUTORY DISQUALIFICATION- Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, it shall be unlawful for a security-based swap dealer or a major security-based swap participant to permit any person associated with a security-based swap dealer or a major security-based swap participant who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant, if the security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification. *`(c) Dual Registration-* *`(1) SECURITY-BASED SWAP DEALER- Any person that is required to be registered as a security-based swap dealer under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap dealer.* *`(2) MAJOR SECURITY-BASED SWAP PARTICIPANT- Any person that is required to be registered as a major security-based swap participant under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a major swap participant.*	
`(c) Rules- `(1) IN GENERAL- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules for persons that are registered as security-based swap dealers or major security-based swap participants under this Act.	*`(d) Rulemaking-* *`(1) IN GENERAL- The Commission shall adopt rules for persons that are registered as security-based swap dealers or major security-based swap participants under this section.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS- The Commission shall not prescribe rules imposing prudential requirements on security-based swap dealers or major security-based swap participants for which there is a Prudential Regulator. This provision shall not be construed as limiting the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements to protect investors.	*`(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS-* *`(A) IN GENERAL- The Commission may not prescribe rules imposing prudential requirements on security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).* *`(B) APPLICABILITY- Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements on security-based swap dealers or major security-based swap participants that are depository institutions to protect investors.*	
`(d) Capital and Margin Requirements- `(1) IN GENERAL- `(A) BANK SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS- Each registered security-based swap dealer and major security-based swap participant for which there is a Prudential Regulator shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Prudential Regulators shall by rule or regulation jointly prescribe that-- `(i) help ensure the safety and soundness of the security-based swap dealer or major security-based swap participant; and `(ii) are appropriate for the risk associated with the non-cleared swaps held as a swap dealer or major swap participant.	*`(e) Capital and Margin Requirements-* *`(1) IN GENERAL-* *`(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- Each registered security-based swap dealer and major security-based swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the security-based swap dealer or major security-based swap participant.*	
`(B) NON-BANK SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS- Each registered security-based swap dealer and major security-based swap participant for which there is not a Prudential Regulator shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission shall by rule or regulation prescribe that-- `(i) help ensure the safety and soundness of the security-based swap dealer or major	*`(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- Each registered security-based swap dealer and major security-based swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
security-based swap participant; and `(ii) are appropriate for the risk associated with the non-cleared swaps held as the swap dealer or major swap participant.	*soundness of the security-based swap dealer or major security-based swap participant.*	
`(2) RULES- `(A) BANK SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Prudential Regulators, in consultation with the Commission, shall jointly adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants, with respect to their activities as a security-based swap dealer or major security-based swap participant for which there is a Prudential Regulator. `(B) NON-BANK SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants for which there is no Prudential Regulator.	*`(2) RULES-* *`(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The appropriate Federal banking agencies, in consultation with the Commission and the Commodity Futures Trading Commission, shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).* *`(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The Commission shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).*	
`(3) AUTHORITY- Nothing in this section shall limit the authority of the Commission to set capital requirements for a broker or dealer registered in accordance with section 15 of this Act.	*`(3) CAPITAL-* *`(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The capital requirements prescribed under paragraph (2)(A) for security-based swap dealers and major security-based swap participants that are depository institutions shall contain--* *`(i) a capital requirement that is greater than zero for security-based swaps that are cleared by a clearing agency; and* *`(ii) to offset the greater risk to the security-based swap dealer or major security-based swap participant and to the financial system*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	arising from the use of security-based swaps that are not cleared, substantially higher capital requirements for security-based swaps that are not cleared by a clearing agency than for security-based swaps that are cleared. *`(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The capital requirements prescribed under paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for security-based swap dealers and major security-based swap participants that are depository institutions under paragraph (2)(A).* *`(C) RULE OF CONSTRUCTION-* *`(i) IN GENERAL- Nothing in this section shall limit, or be construed to limit, the authority--* *`(I) of the Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) (except for section 15(b)(11) thereof) in accordance with section 15(c)(3); or* *`(II) of the Commodity Futures Trading Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) of the Commodity Exchange Act (except for section 4f(a)(3) thereof) in accordance with section 4f(b) of the Commodity Exchange Act.* *`(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS- A futures commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	this title or the Commodity Exchange Act. *`(4) MARGIN-* *`(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS- The appropriate Federal banking agency for security-based swap dealers and major security-based swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all security-based swaps that are not cleared by a clearing agency.* *`(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS- The Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions on all security-based swaps that are not cleared by a clearing agency. Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).* *`(5) MARGIN REQUIREMENTS- In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to security-based swap dealers and major security-based swap participants that are depository institutions, and the Commission with respect to security-based swap dealers and major security-based swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with--* *`(A) preserving the financial integrity of markets trading security-based swaps; and* *`(B) preserving the stability of the United States financial system.* *`(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS-* *`(A) IN GENERAL- The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	margin requirements. *`(B) COMPARABILITY- The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of noncash collateral, for--* *`(i) security-based swap dealers; and* *`(ii) major security-based swap participants.* *`(7) REQUESTED MARGIN- If any party to a security-based swap that is exempt from the margin requirements of paragraph (4)(A) or paragraph (4)(B) requests that such security-based swap be margined, then--* *`(A) the exemption shall not apply; and* *`(B) the counterparty to such security-based swap shall provide the requested margin.* *`(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES- Paragraphs (4) and (5) shall not apply to initial and variation margin for security-based swaps in which 1 of the counterparties is not--* *`(A) a security-based swap dealer;* *`(B) a major security-based swap participant; or* *`(C) a financial entity as described in section 3C(a)(10)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 3C(a)(10).*	
`(e) Reporting and Recordkeeping- `(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant-- `(A) shall make such reports as are prescribed by the Commission by rule or regulation regarding the transactions and positions and financial condition of such person; `(B) for which-- `(i) there is a Prudential Regulator shall keep books and records of all activities related to its business as a security-based swap dealer or major security-based swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; `(ii) there is no Prudential Regulator shall	*`(f) Reporting and Recordkeeping-* *`(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant--* *`(A) shall make such reports as are required by the Commission, by rule or regulation, regarding the transactions and positions and financial condition of the registered security-based swap dealer or major security-based swap participant;* *`(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a security-based swap dealer or major security-based swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and* *`(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and `(C) shall keep such books and records open to inspection and examination by any representative of the Commission.	*for such period as may be prescribed by the Commission by rule or regulation; and* *`(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.*	
`(2) RULES- Not later than 1 year after the date of enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules governing reporting and recordkeeping for security-based swap dealers and major security-based swap participants.	*`(2) RULES- The Commission shall adopt rules governing reporting and recordkeeping for security-based swap dealers and major security-based swap participants.*	
`(f) Daily Trading Records- `(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records of its security-based swaps and all related records (including related transactions) and recorded communications including but not limited to electronic mail, instant messages, and recordings of telephone calls, for such period as may be prescribed by the Commission by rule or regulation.	*`(g) Daily Trading Records-* *`(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records of the security-based swaps of the registered security-based swap dealer and major security-based swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.*	
`(2) INFORMATION REQUIREMENTS- The daily trading records shall include such information as the Commission shall prescribe by rule or regulation.	*`(2) INFORMATION REQUIREMENTS- The daily trading records shall include such information as the Commission shall require by rule or regulation.*	
`(3) CUSTOMER RECORDS- Each registered security-based swap dealer or major security-based swap participant shall maintain daily trading records for each customer or counterparty in such manner and form as to be identifiable with each security-based swap transaction.	*`(3) CUSTOMER RECORDS- Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records for each customer or counterparty in a manner and form that is identifiable with each security-based swap transaction.*	
`(4) AUDIT TRAIL- Each registered security-based swap dealer or major security-based swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.	*`(4) AUDIT TRAIL- Each registered security-based swap dealer and major security-based swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.*	
`(5) RULES- Not later than 1 year after the date of the enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission shall adopt rules	*`(5) RULES- The Commission shall adopt rules governing daily trading records for security-based swap dealers and major security-based swap participants.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
governing daily trading records for security-based swap dealers and major security-based swap participants.		
`(g) Business Conduct Standards- `(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall conform with business conduct standards as may be prescribed by the Commission by rule or regulation addressing-- `(A) fraud, manipulation, and other abusive practices involving security-based swaps (including security-based swaps that are offered but not entered into); `(B) diligent supervision of its business as a security-based swap dealer; `(C) adherence to all applicable position limits; and `(D) such other matters as the Commission shall determine to be necessary or appropriate.	*`(h) Business Conduct Standards-* *`(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall conform with such business conduct standards as may be prescribed by the Commission, by rule or regulation, that relate to--* *`(A) fraud, manipulation, and other abusive practices involving security-based swaps (including security-based swaps that are offered but not entered into);* *`(B) diligent supervision of the business of the registered security-based swap dealer and major security-based swap participant;* *`(C) adherence to all applicable position limits; and* *`(D) such other matters as the Commission determines to be appropriate.*	
	`(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES-* *`(A) GOVERNMENTAL ENTITIES- A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a State, State agency, city, county, municipality, or other political subdivision of a State, or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of the State, or the Federal agency, as appropriate. *`(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS- A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate*	
`(2) BUSINESS CONDUCT REQUIREMENTS- Business conduct requirements adopted by the Commission shall-- `(A) establish the standard of care for a security-based swap dealer or major security-based swap participant to verify that any security-based swap counterparty meets the eligibility standards for an eligible contract participant; `(B) require disclosure by the security-based swap dealer or major security-based swap participant to any	*`(3) BUSINESS CONDUCT REQUIREMENTS- Business conduct requirements adopted by the Commission under this subsection shall--* *`(A) establish the standard of care for a security-based swap dealer or major security-based swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant;* *`(B) require disclosure by the security-based swap dealer or major security-based swap participant to any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
counterparty to the security-based swap (other than a security-based swap dealer or major security-based swap participant) of: `(i) information about the material risks and characteristics of the security-based swap; `(ii) for cleared security-based swaps, upon the request of the counterparty, the daily mark from the appropriate clearing agency, and for non-cleared security-based swaps, upon request of the counterparty, the daily mark of the security-based swap dealer or major security-based swap participant; and `(iii) any other material incentives or conflicts of interest that the security-based swap dealer or major security-based swap participant may have in connection with the security-based swap; and `(C) establish such other standards and requirements as the Commission may determine are necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.	*counterparty to the transaction (other than a security-based swap dealer or a major security-based swap participant) of--* *`(i) information about the material risks and characteristics of the security-based swap;* *`(ii) the source and amount of any fees or other material remuneration that the security-based swap dealer or major security-based swap participant would directly or indirectly expect to receive in connection with the security-based swap;* *`(iii) any other material incentives or conflicts of interest that the security-based swap dealer or major security-based swap participant may have in connection with the security-based swap; and* *`(iv)(I) for cleared security-based swaps, upon the request of the counterparty, the daily mark from the appropriate clearing agency; and* *`(II) for uncleared security-based swaps, the daily mark of the security-based swap dealer or the major security-based swap participant;* *`(C) establish a standard of conduct for a security-based swap dealer or major security-based swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;* *`(D) establish a standard of conduct for a security-based swap dealer or major security-based swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of the Commodity Exchange Act, to have a reasonable basis to believe that the counterparty has an independent representative that--* *`(i) has sufficient knowledge to evaluate the transaction and risks;* *`(ii) is not subject to a statutory disqualification;* *`(iii) is independent of the security-based swap dealer or major security-based swap participant;* *`(iv) undertakes a duty to act in the best*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	interests of the counterparty it represents; *`(v) makes appropriate disclosures; and* *`(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and* *`(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.*	
`(3) RULES- The Commission shall prescribe rules under this subsection governing business conduct standards for security-based swap dealers and major security-based swap participants not later than 1 year after the date of enactment of the Derivative Markets Transparency and Accountability Act of 2009.	*`(4) RULES- The Commission shall prescribe rules under this subsection governing business conduct standards for security-based swap dealers and major security-based swap participants.*	
`(h) Documentation Standards- `(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall conform with standards, as may be prescribed by the Commission by rule or regulation, addressing timely and accurate confirmation, processing, netting, documentation, and valuation of all security-based swaps.	*`(i) Documentation and Back Office Standards-* *`(1) IN GENERAL- Each registered security-based swap dealer and major security-based swap participant shall conform with such standards as may be prescribed by the Commission, by rule or regulation, that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all security-based swaps.*	
`(2) RULES- Not later than 1 year after the date of enactment of the Derivative Markets Transparency and Accountability Act of 2009, the Commission and the appropriate Federal banking agencies, shall adopt rules governing the standards described in paragraph (1) for security-based swap dealers and major security-based swap participants.	*`(2) RULES- The Commission shall adopt rules governing documentation and back office standards for security-based swap dealers and major security-based swap participants.*	
`(i) Dealer Responsibilities- Each registered security-based swap dealer and major security-based swap participant at all times shall comply with the following requirements: `(1) MONITORING OF TRADING- The security-based swap dealer or major security-based swap participant shall monitor its trading in security-based swaps to prevent violations of applicable position limits.	*`(j) Duties- Each registered security-based swap dealer and major security-based swap participant shall, at all times, comply with the following requirements:* *`(1) MONITORING OF TRADING- The security-based swap dealer or major security-based swap participant shall monitor its trading in security-based swaps to prevent violations of applicable position limits.*	
	`(2) RISK MANAGEMENT PROCEDURES- The security-based swap dealer or major security-based swap participant shall	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	establish robust and professional risk management systems adequate for managing the day-to-day business of the security-based swap dealer or major security-based swap participant.	
`(2) DISCLOSURE OF GENERAL INFORMATION- The security-based swap dealer or major security-based swap participant shall disclose to the Commission or to the Prudential Regulator for such security-based swap dealer or major security-based swap participant, as applicable, information concerning-- `(A) terms and conditions of its security-based swaps; `(B) security-based swap trading operations, mechanisms, and practices; `(C) financial integrity protections relating to security-based swaps; and `(D) other information relevant to its trading in security-based swaps.	*`(3) DISCLOSURE OF GENERAL INFORMATION- The security-based swap dealer or major security-based swap participant shall disclose to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, information concerning--* *`(A) terms and conditions of its security-based swaps;* *`(B) security-based swap trading operations, mechanisms, and practices;* *`(C) financial integrity protections relating to security-based swaps; and* *`(D) other information relevant to its trading in security-based swaps.*	
`(3) ABILITY TO OBTAIN INFORMATION- The security-based swap dealer or major swap security-based participant shall-- `(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and `(B) provide the information to the Commission or to the Prudential Regulator for such security-based swap dealer or major security-based swap participant, as applicable, upon request.	*`(4) ABILITY TO OBTAIN INFORMATION- The security-based swap dealer or major security-based swap participant shall--* *`(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and* *`(B) provide the information to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, on request.*	
`(4) CONFLICTS OF INTEREST- The security-based swap dealer and major security-based swap participant shall implement conflict-of-interest systems and procedures that-- `(A) establish structural and institutional safeguards to assure that the activities of any person within the firm relating to research or analysis of the price or market for any security are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in trading or clearing activities might potentially bias their judgment or supervision; and `(B) address such other issues as the Commission determines appropriate.	*`(5) CONFLICTS OF INTEREST- The security-based swap dealer and major security-based swap participant shall implement conflict-of-interest systems and procedures that--* *`(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any security-based swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	supervision and contravene the core principles of open access and the business conduct standards described in this title; and *`(B) address such other issues as the Commission determines to be appropriate.*	
`(j) Statutory Disqualification- Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, it shall be unlawful for a security-based swap dealer or a major security-based swap participant to permit any person associated with a security-based swap dealer or a major security-based swap participant who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, if such security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of such statutory disqualification.		
	`(6) ANTITRUST CONSIDERATIONS- Unless necessary or appropriate to achieve the purposes of this title, the security-based swap dealer or major security-based swap participant shall not--* *`(A) adopt any process or take any action that results in any unreasonable restraint of trade; or *`(B) impose any material anticompetitive burden on trading or clearing.*	
	`(k) Designation of Chief Compliance Officer-* *`(1) IN GENERAL- Each security-based swap dealer and major security-based swap participant shall designate an individual to serve as a chief compliance officer. *`(2) DUTIES- The chief compliance officer shall--* *`(A) report directly to the board or to the senior officer of the security-based swap dealer or major security-based swap participant;* *`(B) review the compliance of the security-based swap dealer or major security-based swap participant with respect to the security-based swap dealer and major security-based swap participant requirements described in this section;* *`(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;* *`(E) ensure compliance with this title (including regulations) relating to security-based swaps, including each rule prescribed by the Commission under this section; *`(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any--* *`(i) compliance office review;* *`(ii) look-back;* *`(iii) internal or external audit finding;* *`(iv) self-reported error; or* *`(v) validated complaint; and* *`(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.* *`(3) ANNUAL REPORTS-* *`(A) IN GENERAL- In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of--* *`(i) the compliance of the security-based swap dealer or major swap participant with respect to this title (including regulations); and* *`(ii) each policy and procedure of the security-based swap dealer or major security-based swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).* *`(B) REQUIREMENTS- A compliance report under subparagraph (A) shall--* *`(i) accompany each appropriate financial report of the security-based swap dealer or major security-based swap participant that is required to be furnished to the Commission pursuant to this section; and* *`(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.*	
`(k) Enforcement and Administrative Proceeding Authority-	*`(l) Enforcement and Administrative Proceeding Authority-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) PRIMARY ENFORCEMENT AUTHORITY- `(A) SEC- Except as provided in subparagraph (B), the Commission shall have exclusive authority to enforce the amendments made by subtitle B of the Derivative Markets Transparency and Accountability Act of 2009 with respect to any person.	*`(1) PRIMARY ENFORCEMENT AUTHORITY-* *`(A) SECURITIES AND EXCHANGE COMMISSION- Except as provided in subparagraph (B), the Commission shall have primary authority to enforce subtitle B, and the amendments made by subtitle B of the Wall Street Transparency and Accountability Act of 2010, with respect to any person.*	
`(B) PRUDENTIAL REGULATORS- The Prudential Regulators shall have exclusive authority to enforce the provisions of section 15F(d) and other prudential requirements of this Act with respect to banks, and branches or agencies of foreign banks that are security-based swap dealers or major security-based swap participants.	*`(B) APPROPRIATE FEDERAL BANKING AGENCIES- The appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of subsection (e) and other prudential requirements of this title, with respect to depository institutions that are security-based swap dealers or major security-based swap participants.*	
`(C) REFERRAL- `(i) VIOLATIONS OF NONPRUDENTIAL REQUIREMENTS- If the Prudential Regulator for a security-based swap dealer or major security-based swap participant has cause to believe that such security-based swap dealer or major security-based swap participant may have engaged in conduct that constitutes a violation of the nonprudential requirements of section 15F or rules adopted by the Commission thereunder, that Prudential Regulator may recommend in writing to the Commission that the Commission initiate an enforcement proceeding as authorized under this Act. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation. `(ii) VIOLATIONS OF PRUDENTIAL REQUIREMENTS- If the Commission has cause to believe that a securities-based swap dealer or major securities-based swap participant that has a Prudential Regulator may have engaged in conduct that constitute a	*`(C) REFERRAL-* *`(i) VIOLATIONS OF NONPRUDENTIAL REQUIREMENTS- If the appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions has cause to believe that such security-based swap dealer or major security-based swap participant may have engaged in conduct that constitutes a violation of the nonprudential requirements of this section or rules adopted by the Commission thereunder, the agency may recommend in writing to the Commission that the Commission initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.* *`(ii) VIOLATIONS OF PRUDENTIAL REQUIREMENTS- If the Commission has cause to believe that a securities-based swap dealer or major securities-based swap participant that has a prudential regulator*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
violation of the prudential requirements of section 15F(e) or rules adopted thereunder, the Commission may recommend in writing to the Prudential Regulator that the Prudential Regulator initiate an enforcement proceeding as authorized under this Act. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.	*may have engaged in conduct that constitute a violation of the prudential requirements of subsection (e) or rules adopted thereunder, the Commission may recommend in writing to the prudential regulator that the prudential regulator initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.*	
`(2) CENSURE, DENIAL, SUSPENSION; NOTICE AND HEARING- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission pursuant to subsection (b) if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, or revocation is in the public interest and that such security-based swap dealer or major security-based swap participant, or any person associated with such security-based swap dealer or major security-based swap participant effecting or involved in effecting transactions in security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, whether prior or subsequent to becoming so associated-- `(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b); `(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection; `(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); `(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or `(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).	*`(2) CENSURE, DENIAL, SUSPENSION; NOTICE AND HEARING- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission pursuant to subsection (b) if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, or revocation is in the public interest and that such security-based swap dealer or major security-based swap participant, or any person associated with such security-based swap dealer or major security-based swap participant effecting or involved in effecting transactions in security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, whether prior or subsequent to becoming so associated-- `(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b); `(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection; `(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); `(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or `(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(3) ASSOCIATED PERSONS- With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a security-based swap dealer or major security-based swap participant for the purpose of effecting or being involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a security-based swap dealer or major security-based swap participant, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person-- `(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b); `(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection; `(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); `(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or `(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).	*`(3) ASSOCIATED PERSONS- With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a security-based swap dealer or major security-based swap participant for the purpose of effecting or being involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a security-based swap dealer or major security-based swap participant, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person-- `(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b); `(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection; `(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); `(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or `(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).*	
`(4) UNLAWFUL CONDUCT- It shall be unlawful-- `(A) for any person as to whom an order under paragraph (3) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a security-based swap dealer or major security-based swap participant in contravention of such order; or `(B) for any security-based swap dealer or major security-based swap participant to permit such a	*`(4) UNLAWFUL CONDUCT- It shall be unlawful-- `(A) for any person as to whom an order under paragraph (3) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a security-based swap dealer or major security-based swap participant in contravention of such order; or `(B) for any security-based swap dealer or major security-based swap participant to permit such a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
person, without the consent of the Commission, to become or remain a person associated with the security-based swap dealer or major security-based swap participant in contravention of such order, if such security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of such order.'.	*person, without the consent of the Commission, to become or remain a person associated with the security-based swap dealer or major security-based swap participant in contravention of such order, if such security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of such order.'.*	
SEC. 3205. REPORTING AND RECORDKEEPING. (a) The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 13 the following section: **`SEC. 13A. REPORTING AND RECORDKEEPING FOR CERTAIN SECURITY-BASED SWAPS.**  `(a) In General- Any person who enters into a security-based swap and-- `(1) did not clear the security-based swap in accordance with section 3A; and `(2) did not have data regarding the security-based swap accepted by a security-based swap repository in accordance with rules adopted by the Commission under section 13(n), shall meet the requirements in subsection (b). `(b) Reports- Any person described in subsection (a) shall-- `(1) make such reports in such form and manner and for such period as the Commission shall prescribe by rule or regulation regarding the security-based swaps held by the person; and `(2) keep books and records pertaining to the security-based swaps held by the person in such form and manner and for such period as may be required by the Commission, which books and records shall be open to inspection by any representative of the Commission, an appropriate Federal banking agency, the Commodity Futures Trading Commission, the Financial Services Oversight Council, and the Department of Justice.	***SEC. 766. REPORTING AND RECORDKEEPING.*** *(a) In General- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 13 the following:* ***`SEC. 13A. REPORTING AND RECORDKEEPING FOR CERTAIN SECURITY-BASED SWAPS.***  *`(a) Required Reporting of Security-based Swaps Not Accepted by Any Clearing Agency or Derivatives Clearing Organization-* *`(1) IN GENERAL- Each security-based swap that is not accepted for clearing by any clearing agency or derivatives clearing organization shall be reported to--* *`(A) a security-based swap data repository described in section 10B(n); or* *`(B) in the case in which there is no security-based swap data repository that would accept the security-based swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.* *`(2) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS-* *`(A) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010- Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than--* *`(i) 30 days after issuance of the interim final*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	rule; or *`(ii) such other period as the Commission determines to be appropriate.* *`(B) COMMISSION RULEMAKING- The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in subparagraph (A).* *`(C) EFFECTIVE DATE- The reporting provisions described in this section shall be effective upon the date of the enactment of this section.* *`(3) REPORTING OBLIGATIONS-* *`(A) SECURITY-BASED SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT- With respect to a security-based swap in which only 1 counterparty is a security-based swap dealer or major security-based swap participant, the security-based swap dealer or major security-based swap participant shall report the security-based swap as required under paragraphs (1) and (2).* *`(B) SECURITY-BASED SWAPS IN WHICH 1 COUNTERPARTY IS A SECURITY-BASED SWAP DEALER AND THE OTHER A MAJOR SECURITY-BASED SWAP PARTICIPANT- With respect to a security-based swap in which 1 counterparty is a security-based swap dealer and the other a major security-based swap participant, the security-based swap dealer shall report the security-based swap as required under paragraphs (1) and (2).* *`(C) OTHER SECURITY-BASED SWAPS- With respect to any other security-based swap not described in subparagraph (A) or (B), the counterparties to the security-based swap shall select a counterparty to report the security-based swap as required under paragraphs (1) and (2).* *`(b) Duties of Certain Individuals- Any individual or entity that enters into a security-based swap shall meet each requirement described in subsection (c) if the individual or entity did not--* *`(1) clear the security-based swap in accordance with section 3C(a)(1); or* *`(2) have the data regarding the security-based swap accepted*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	by a security-based swap data repository in accordance with rules (including timeframes) adopted by the Commission under this title. *`(c) Requirements- An individual or entity described in subsection (b) shall--* *`(1) upon written request from the Commission, provide reports regarding the security-based swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and* *`(2) maintain books and records pertaining to the security-based swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by--* *`(A) any representative of the Commission;* *`(B) an appropriate prudential regulator;* *`(C) the Commodity Futures Trading Commission;* *`(D) the Financial Stability Oversight Council; and* *`(E) the Department of Justice.*	
`(c) Identical Data- In adopting rules under this section, the Commission shall require persons described in subsection (a) to report the same or more comprehensive data than the Commission requires security-based swap repositories to collect under subsection (n).'.	*`(d) Identical Data- In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by security-based swap data repositories under this title.'.*	
(b) Beneficial Ownership Reporting- (1) Section 13(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(d)(1)) is amended by inserting `or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap or other derivative instrument that the Commission may define by rule, and' after `Alaska Native Claims Settlement Act,'; and (2) Section 13(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(g)(1)) is amended by inserting `or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap or other derivative instrument that the Commission may define by rule' after `subsection (d)(1) of this section'.	*(b) Beneficial Ownership Reporting- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended--* *(1) in subsection (d)(1), by inserting `or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap that the Commission may define by rule, and' after `Alaska Native Claims Settlement Act,'; and* *(2) in subsection (g)(1), by inserting `or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule' after `subsection (d)(1) of this section'.*	
(c) Reports by Institutional Investment Managers- Section 13(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(1)) is amended by inserting `or otherwise becomes or is deemed to become a beneficial	*(c) Reports by Institutional Investment Managers- Section 13(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(1)) is amended by inserting `or otherwise becomes or is deemed to become a beneficial*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap or other derivative instrument that the Commission may define by rule,' after `subsection (d)(1) of this section'.	*owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule,' after `subsection (d)(1) of this section'.*	
(d) Administrative Proceeding Authority- Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4)) is amended-- (1) in subparagraph (C), by adding `security-based swap dealer, major security-based swap participant,' after `government securities dealer,'; and (2) in subparagraph (F), by adding `, or security-based swap dealer, or a major security-based swap participant' after `or dealer'.	*(d) Administrative Proceeding Authority- Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4)) is amended--* *(1) in subparagraph (C), by inserting `security-based swap dealer, major security-based swap participant,' after `government securities dealer,'; and* *(2) in subparagraph (F), by striking `broker or dealer' and inserting `broker, dealer, security-based swap dealer, or a major security-based swap participant'.*	
(e) Derivatives Beneficial Ownership- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following: `(o) Beneficial Ownership- For purposes of this section and section 16, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap or other derivative instrument only to the extent that the Commission, by rule, determines after consultation with the Prudential Regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap or other derivative instrument, or class of security-based swaps or other derivative instruments, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swaps or instrument, or class of security-based swap or instruments, be deemed the acquisition of beneficial ownership of the equity security.'.	*(e) Security-based Swap Beneficial Ownership- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:* *`(o) Beneficial Ownership- For purposes of this section and section 16, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap, only to the extent that the Commission, by rule, determines after consultation with the prudential regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap, or class of security-based swap, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swaps, or class of security-based swap, be deemed the acquisition of beneficial ownership of the equity security.'.*	
SEC. 3206. STATE GAMING AND BUCKET SHOP LAWS. Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended to read as follows: `(a) Except as provided in subsection (f), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of. Except as otherwise specifically provided in this title, nothing in this	***SEC. 767. STATE GAMING AND BUCKET SHOP LAWS.*** *Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended to read as follows:* *`(a) Limitation on Judgments-* *`(1) IN GENERAL- No person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in 1 or more actions, a total amount in excess of the actual damages to that person on account of the act complained of. Except as otherwise specifically provided in this title, nothing in this title shall affect the jurisdiction of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
title shall affect the jurisdiction of the securities commission (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations thereunder. No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of `bucket shops' or other similar or related activities, shall invalidate (1) any put, call, straddle, option, privilege, or other security subject to this title (except any security that has a pari-mutuel payout or otherwise is determined by the Commission, acting by rule, regulation, or order, to be appropriately subject to such laws), or apply to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such security, (2) any security-based swap between eligible contract participants, or (3) any security-based swap effected on a national securities exchange registered pursuant to section 6(b). No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security-based swap or a security futures product, except that this sentence shall not be construed as limiting any State antifraud law of general applicability. A security-based swap may not be regulated as an insurance contract under State law.'.	*securities commission (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations under this title.* *`(2) RULE OF CONSTRUCTION- Except as provided in subsection (f), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.* *`(3) STATE BUCKET SHOP LAWS- No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of `bucket shops' or other similar or related activities, shall invalidate--* *`(A) any put, call, straddle, option, privilege, or other security subject to this title (except any security that has a pari-mutuel payout or otherwise is determined by the Commission, acting by rule, regulation, or order, to be appropriately subject to such laws), or apply to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such security;* *`(B) any security-based swap between eligible contract participants; or* *`(C) any security-based swap effected on a national securities exchange registered pursuant to section 6(b).* *`(4) OTHER STATE PROVISIONS- No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security-based swap or a security futures product, except that this paragraph may not be construed as limiting any State antifraud law of general applicability. A security-based swap may not be regulated as an insurance contract under any provision of State law.'.*	
SEC. 3207. AMENDMENTS TO THE SECURITIES ACT OF 1933; TREATMENT OF SECURITY-BASED SWAPS. (a) Definitions- Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended-- (1) in paragraph (1), by inserting `security-based swap,' after `security future,';	***SEC. 768. AMENDMENTS TO THE SECURITIES ACT OF 1933; TREATMENT OF SECURITY-BASED SWAPS.*** *(a) Definitions- Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended--* *(1) in paragraph (1), by inserting `security-based swap,' after `security future,';*	
(2) in paragraph (3) by adding at the end the following: `Any	*(2) in paragraph (3), by adding at the end the following: `Any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
offer or sale of a security-based swap by or on behalf of the issuer of the securities upon which such security-based swap is based or is referenced, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell such securities.'; and	*offer or sale of a security-based swap by or on behalf of the issuer of the securities upon which such security-based swap is based or is referenced, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell such securities.'; and*	
(3) by adding at the end the following: `(17) The terms `swap' and `security-based swap' have the same meanings as provided in sections 1a(35) of the Commodity Exchange Act (7 U.S.C. 1a(35)) and section 3(a)(68) of the Securities Exchange Act of 1934. `(18) The terms `purchase' or `sale' of a security-based swap shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'.	*(3) by adding at the end the following:* *`(17) The terms `swap' and `security-based swap' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).* *`(18) The terms `purchase' or `sale' of a security-based swap shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'.*	
(b) Exemption From Registration- Section 3(a) of the Securities Act of 1933 is amended by adding at the end the following: `(15) Any security-based swap, as defined in section 2(a)(17) that is not otherwise a security as defined in section 2(a)(1) and that satisfies such conditions as established by rule or regulation by the Commission consistent with the provisions of the Derivative Markets Transparency and Accountability Act of 2009. The Commission shall promulgate rules implementing this exemption.'.		
(c) Registration of Security-based Swaps- Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) is amended by adding at the end the following: `(d) Notwithstanding the provisions of section 3 or section 4, unless a registration statement meeting the requirements of subsection (a) of section 10 is in effect as to a security-based swap, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, offer to buy or purchase or sell a security-based swap to any person who is not an eligible contract participant as defined in section 1a(12) of the Commodity Exchange Act (7 U.S.C. 1a(12)).'.	*(b) Registration of Security-based Swaps- Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) is amended by adding at the end the following:* *`(d) Notwithstanding the provisions of section 3 or 4, unless a registration statement meeting the requirements of section 10(a) is in effect as to a security-based swap, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, offer to buy or purchase or sell a security-based swap to any person who is not an eligible contract participant as defined in section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)).'.*	
SEC. 3208. OTHER AUTHORITY.	***SEC. 771. OTHER AUTHORITY.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Unless otherwise provided by its terms, this subtitle does not divest any appropriate Federal banking agency, the Commission, the Commodity Futures Trading Commission, or other Federal or State agency, of any authority derived from any other applicable law.	*Unless otherwise provided by its terms, this subtitle does not divest any appropriate Federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, or any other Federal or State agency, of any authority derived from any other provision of applicable law.*	
SEC. 3209. JURISDICTION. (a) Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) is amended by adding at the end the following new subsection: `(c) Derivatives- The Commission shall not grant exemptions from the security-based swap provisions of the Derivative Markets Transparency and Accountability Act of 2009, except as expressly authorized under the provisions of that Act.'.	***SEC. 772. JURISDICTION.*** *(a) In General- Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) is amended by adding at the end the following:* *`(c) Derivatives- The Commission shall not grant exemptions from the security-based swap provisions of the Wall Street Transparency and Accountability Act of 2010 or the amendments made by that Act, except as expressly authorized under the provisions of that Act.'.*	
(b) Section 30 of the Securities Exchange Act of 1934 is amended by adding at the end the following: `(c) No provision of this Act that was added by the Derivative Markets Transparency and Accountability Act of 2009 or any rule or regulation thereunder shall apply to any person insofar as such person transacts a business in security-based swaps without the jurisdiction of the United States unless he transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of any provision of this Act that was added by the Derivative Markets Transparency and Accountability Act of 2009. This subsection shall not be construed to limit the jurisdiction of the Commission under any provision of this Act as in effect prior to enactment of the Derivative Markets Transparency and Accountability Act of 2009.'.	*(b) Rule of Construction- Section 30 of the Securities Exchange Act of 1934 (15 U.S.C. 78dd) is amended by adding at the end the following:* *`(c) Rule of Construction- No provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010, or any rule or regulation thereunder, shall apply to any person insofar as such person transacts a business in security-based swaps without the jurisdiction of the United States, unless such person transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of any provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010. This subsection shall not be construed to limit the jurisdiction of the Commission under any provision of this title, as in effect prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.'.*	
SEC. 3210. EFFECTIVE DATE. (a) Unless otherwise provided, the provisions of this subtitle shall become effective the later of 270 days after the date of the enactment of this subtitle or, to the extent a provision of this subtitle requires rulemaking, no less than 60 days after publication of a final rule or regulation implementing such provision of this subtitle. (b) Subsection (a) shall not preclude the Securities Exchange Commission from any rulemaking required to implement the provisions of this subtitle.	***SEC. 773. EFFECTIVE DATE.*** *Unless otherwise specifically provided in this subtitle, this subtitle, the provisions of this subtitle, and the amendments made by this subtitle shall become effective 180 days after the date of enactment of this Act.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle C--Improved Financial and Commodity Markets Oversight and Accountability		
SEC. 3301. ELEVATION OF CERTAIN INSPECTORS GENERAL TO APPOINTMENT PURSUANT TO SECTION 3 OF THE INSPECTOR GENERAL ACT OF 1978. (a) Inclusion in Certain Definitions- Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended-- (1) in paragraph (1), by striking `or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;' and inserting `the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the Commodity Futures Trading Commission; the Chairman of the National Credit Union Administration; the Director of the Pension Benefit Guaranty Corporation; the Chairman of the Securities and Exchange Commission; or the Director of the Consumer Financial Protection Agency;'; and (2) in paragraph (2), by striking `or the Commissions established under section 15301 of title 40, United States Code,' and inserting `the Commissions established under section 15301 of title 40, United States Code, the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, or the Director of the Consumer Financial Protection Agency,'. (b) Exclusion From Definition of Designated Federal Entity- Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended-- (1) by striking `the Board of Governors of the Federal Reserve System,'; (2) by striking `the Commodity Futures Trading Commission,'; (3) by striking `the National Credit Union Administration,'; and (4) by striking `the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission,'.	***SEC. 989B. DESIGNATED FEDERAL ENTITY INSPECTORS GENERAL INDEPENDENCE.*** *Section 8G of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--* *(1) in subsection (a)(4)--* *(A) in the matter preceding subparagraph (A), by inserting `the board or commission of the designated Federal entity, or in the event the designated Federal entity does not have a board or commission,' after `means';* *(B) in subparagraph (A), by striking `and' after the semicolon; and* *(C) by adding after subparagraph (B) the following:* *`(C) with respect to the Federal Labor Relations Authority, such term means the members of the Authority (described under section 7104 of title 5, United States Code);* *`(D) with respect to the National Archives and Records Administration, such term means the Archivist of the United States;* *`(E) with respect to the National Credit Union Administration, such term means the National Credit Union Administration Board (described under section 102 of the Federal Credit Union Act (12 U.S.C. 1752a);* *`(F) with respect to the National Endowment of the Arts, such term means the National Council on the Arts;* *`(G) with respect to the National Endowment for the Humanities, such term means the National Council on the Humanities; and* *`(H) with respect to the Peace Corps, such term means the Director of the Peace Corps;'; and* *(2) in subsection (h), by inserting `if the designated Federal entity is not a board or commission, include' after `designated Federal entities and'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 3302. CONTINUATION OF PROVISIONS RELATING TO PERSONNEL. (a) In General- The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8L the following: **`SEC. 8M. SPECIAL PROVISIONS CONCERNING CERTAIN ESTABLISHMENTS.**  `(a) Definition- For purposes of this section, the term `covered establishment' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, and the Securities and Exchange Commission. `(b) Provisions Relating to All Covered Establishments- `(1) PROVISIONS RELATING TO INSPECTORS GENERAL- In the case of the Inspector General of a covered establishment, subsections (b) and (c) of section 4 of the Inspector General Reform Act of 2008 (Public Law 110-409) shall apply in the same manner as if such covered establishment were a designated Federal entity under section 8G. An Inspector General who is subject to the preceding sentence shall not be subject to section 3(e). `(2) PROVISIONS RELATING TO OTHER PERSONNEL- Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of a covered establishment may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General of such establishment and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within such establishment. `(c) Provision Relating to the Board of Governors of the Federal Reserve System- The provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of paragraph (1) of such subsection (a)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Conforming Amendment- Paragraph (3) of section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is repealed.		
SEC. 3303. CORRECTIVE RESPONSES BY HEADS OF CERTAIN ESTABLISHMENTS TO DEFICIENCIES IDENTIFIED BY INSPECTORS GENERAL. The Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Commodity Futures Trading Commission, the Chairman of the National Credit Union Administration, the Director of the Pension Benefit Guaranty Corporation, and the Chairman of the Securities and Exchange Commission shall each-- (1) take action to address deficiencies identified by a report or investigation of the Inspector General of the establishment concerned; or (2) certify to both Houses of Congress that no action is necessary or appropriate in connection with a deficiency described in paragraph (1).		
SEC. 3304. EFFECTIVE DATE; TRANSITION RULE. (a) Effective Date- This subtitle and the amendments made by this subtitle shall take effect 30 days after the date of the enactment of this subtitle. (b) Transition Rule- An individual serving as Inspector General of the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Securities and Exchange Commission on the effective date of this subtitle pursuant to an appointment made under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)-- (1) may continue so serving until the President makes an appointment under section 3(a) of such Act with respect to the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Securities and Exchange Commission, as the case may be, consistent with the amendments made by section 301; and (2) shall, while serving under paragraph (1), remain subject to the provisions of section 8G of such Act which, immediately before the effective date of this subtitle, applied with respect to		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Inspector General of the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Securities and Exchange Commission, as the case may be, and suffer no reduction in pay.		
**SEC. 3305. AUTHORITY OF THE COMMODITY FUTURES TRADING COMMISSION TO DEFINE `COMMERCIAL RISK', `OPERATING RISK', AND `BALANCE SHEET RISK'.**  (a) In General- Section 1a of the Commodity Exchange Act (7 U.S.C. 1a), as amended by the preceding provisions of this Act, is amended by adding at the end the following: `(51) COMMERCIAL RISK; OPERATING RISK; BALANCE SHEET RISK- The terms `commercial risk', `operating risk', and `balance sheet risk' shall have such meanings as the Commission may prescribe.'. (b) Effective Date- The amendment made by subsection (a) shall take effect as if included in subtitle A.		
SEC. 3306. CONFLICTS OF INTEREST IN CLEARING ORGANIZATIONS. (a) Commodity Exchange Act- (1) DEFINITION OF RESTRICTED OWNER- Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) (as amended by the preceding provisions of this Act) is further amended by adding at the end the following: `(51) RESTRICTED OWNER- The term `restricted owner' means any swap dealer, security-based swap dealer, major swap participant, or major security-based swap participant, that is an identified financial holding company as defined in Section 1000(b)(5) of the Financial Stability Improvement Act of 2009, or a person associated with a swap dealer or a major swap participant that is an identified financial holding company, or a person associated with a security-based swap dealer or major security-based swap participant that is an identified financial holding company.'.		
(2) CONFLICTS OF INTEREST- (A) Subparagraph (P) of section 5b(c)(2) of the Commodity Exchange Act (as added by the preceding		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
provisions of this Act) is amended by adding at the end of such subparagraph the following: `The rules of the derivatives clearing organization that clears swaps shall provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the organization or in persons with a controlling interest in the organization, to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. The rules of the derivatives clearing organization shall provide that a majority of the directors of the organization shall not be associated with a restricted owner. This subparagraph shall not be construed to require divestiture of any interest of a restricted owner in an established and operational derivatives clearing organization acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this subparagraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this subparagraph.'.		
(B) Section 4s(g)(1) of the Commodity Exchange Act (as added by the preceding provisions of this Act) is amended-- (i) by striking `and' at the end of subparagraph (C); and (ii) by redesignating subparagraph (D) as subparagraph (E) and insert after subparagraph (C) the following: `(D) the prevention of self-dealing, by limiting the extent to which such a swap dealer or major swap participant may conduct business with a derivatives clearing organization, a board of trade, or an alternative swap execution facility that clears or trades swaps and in which such a swap dealer or major swap participant has a material debt or equity investment; and'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(C) Paragraph (12) of section 5h(d) of the Commodity Exchange Act (as added by the preceding provisions of this Act) is amended by adding at the end the following new subparagraph: `(C) The rules of the swap execution facility shall provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the facility or in persons with a controlling interest in the facility, to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. This subparagraph shall not be construed to require divestiture of any interest of a restricted owner in an established and operational swap execution facility acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this subparagraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this subparagraph. `(D) The rules of the swap execution facility shall provide that a majority of the directors of the facility shall not be associated with a restricted owner.'.		
(D) Section 5(d) of the Commodity Exchange Act (as amended by the preceding provisions of this Act) is further amended by striking paragraph (15) and inserting the following: `(15) CONFLICTS OF INTEREST- `(A) The board of trade shall establish and enforce rules to minimize conflicts of interest in the decisionmaking process of the contract market, and establish a process for resolving any such conflicts of interest. `(B) The rules of a board of trade that trades swaps shall provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the board of trade or in persons with a controlling interest in the board of trade,		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. This paragraph shall not be construed to require divestiture of any interest of a restricted owner in an established and operational board of trade acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this paragraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this paragraph. `(C) The rules of a board of trade that trades swaps shall provide that a majority of the directors of the board of trade shall not be associated with a restricted owner.'.		
(b) Securities Exchange Act of 1934- (1) DEFINITION OF RESTRICTED OWNER- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) (as amended by the preceding provisions of this Act) is further amended by adding at the end the following: `(78) RESTRICTED OWNER- The term `restricted owner' has the same meaning as in section 1a(51) of the Commodity Exchange Act.'.		
(2) CONFLICTS OF INTEREST- (A) Paragraph (10) of section 3C(d) of the Securities Exchange Act of 1934 (as added by the preceding provisions of this Act) is amended by adding after subparagraph (B) the following: `The rules of the swap execution facility shall provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the facility or in persons with a controlling interest in the facility, to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. The rules of the swap execution facility shall provide that a majority of the directors of the facility shall not be associated with a restricted owner.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
This paragraph shall not be construed to require divestiture of any interest of a restricted owner in an established and operational swap execution facility acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this paragraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this paragraph.'.		
(B) Section 15F(g)(1) of the Securities Exchange Act of 1934 (as added by the preceding provisions of this Act) is amended-- (i) in subparagraph (C), strike `and'; and (ii) insert after subparagraph (C) the following (and redesignate the succeeding subparagraph accordingly): `(D) the prevention of self-dealing by limiting the extent to which a security-based swap dealer or major security-based swap participant may conduct business with a clearing agency, an exchange, or an alternative swap execution facility that clears or trades security-based swaps and in which such a dealer or participant has a material debt or equity investment; and'.		
(C) Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following new paragraphs: `(10) The rules of the exchange minimize conflicts of interest in its decision-making process and establish a process for resolving such conflicts of interest. `(11) The rules of an exchange that trades security-based swaps provide that a majority of the directors of the exchange shall not be associated with a restricted owner. `(12) The rules of an exchange that trades security-based swaps provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the exchange or in persons with a controlling interest in the exchange, to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. This paragraph shall not be construed to require divestiture of any interest of a restricted owner in an		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
established and operational exchange acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this paragraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this paragraph.'.		
(D) Section 17A(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following new subparagraphs: `(J) The rules of a clearing agency that clears security-based swaps shall provide that a restricted owner shall not be permitted directly or indirectly to acquire beneficial ownership of interests in the agency or in persons with a controlling interest in the agency, to the extent that such an acquisition would result in restricted owners being entitled to vote, cause the voting of, or cause the withholding of votes of, more than 20 percent of the votes entitled to be cast on any matter by the holders of the ownership interests. This subparagraph shall not be construed to require divestiture of any interest of a restricted owner in an established and operational clearing agency acquired prior to January 1, 2010, provided that acquisitions by such restricted owner after such date shall be subject to this subparagraph. The Commission may determine whether any acquisition by a restricted owner during any interim period prior to the date of the enactment of this Act has been made for the purpose of avoiding the effect of this subparagraph. `(K) The rules of the clearing agency shall provide that a majority of the directors of the agency shall not be associated with a restricted owner.'.		
SEC. 3307. DEFINITIONS OF MAJOR SWAP PARTICIPANT AND MAJOR SECURITY-BASED SWAP PARTICIPANT. (a) Major Swap Participant- Section 1a(39) of the Commodity Exchange Act (7 U.S.C. 1a), as added by the preceding provisions of this Act, is amended to read as follows: `(39) MAJOR SWAP PARTICIPANT- `(A) IN GENERAL- The term `major swap participant'		See Section 3101 of HR 4173 for an additional, differing definition of Major Swap Participant.

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
means any person who is not a swap dealer, and-- `(i) maintains a substantial net position in outstanding swaps, excluding positions held primarily for hedging, reducing or otherwise mitigating its commercial risk; or `(ii) whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets. `(B) DEFINITION OF SUBSTANTIAL NET POSITION- The Commission shall define by rule or regulation the term `substantial net position' at a threshold that the Commission determines prudent for the effective monitoring, management, and oversight of entities which are systemically important or can significantly impact the financial system. In setting the definitions, the Commission shall consider the person's relative position in uncleared as opposed to cleared swaps. `(C) A person may be designated a major swap participant for 1 or more individual types of swaps without being classified as a major swap participant for all classes of swaps.'.		
(b) Major Security-based Swap Participant- Section 3(a)(67) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), as added by the preceding provisions of this Act, is amended to read as follows: `(67) MAJOR SECURITY-BASED SWAP PARTICIPANT- `(A) IN GENERAL- The term `major security-based swap participant' means any person who is not a security-based swap dealer, and-- `(i) maintains a substantial net position in outstanding security-based swaps, excluding positions held primarily for hedging, reducing or otherwise mitigating its commercial risk; or `(ii) whose outstanding security-based swaps create substantial net counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets. `(B) DEFINITION OF SUBSTANTIAL NET POSITION- The Commission shall define by rule or		See Section 3201 of HR 4173 for additional, differing definition of Major Security-Based Swap Participant.

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
regulation the term `substantial net position' at a threshold that the Commission determines prudent for the effective monitoring, management, and oversight of entities which are systemically important or can significantly impact the financial system. In setting the definitions, the Commission shall consider the person's relative position in uncleared as opposed to cleared security-based swaps. `(C) A person may be designated a major security-based swap participant for 1 or more individual types of security-based swaps without being classified as a major security-based swap participant for all classes of security-based swaps.'.		
(c) Effective Dates- (1) MAJOR SWAP PARTICIPANT- The amendment made by subsection (a)(1) shall take effect as if included in subtitle A. (2) MAJOR SECURITY-BASED SWAP PARTICIPANT- The amendment made by subsection (a)(2) shall take effect as if included in subtitle B.		
	SEC. 717. NEW PRODUCT APPROVAL--CFTC--SEC PROCESS. *(a) Amendments to the Commodity Exchange Act- Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) is amended--* *(1) in clause (i) by striking `This' and inserting `(I) Except as provided in subclause (II), this'; and* *(2) by adding at the end of clause (i) the following:* *`(II) This Act shall apply to and the Commission shall have jurisdiction with respect to accounts, agreements, and transactions involving, and may permit the listing for trading pursuant to section 5c(c) of, a put, call, or other option on 1 or more securities (as defined in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	interest therein or based on the value thereof, that is exempted by the Securities and Exchange Commission pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 with the condition that the Commission exercise concurrent jurisdiction over such put, call, or other option; provided, however, that nothing in this paragraph shall be construed to affect the jurisdiction and authority of the Securities and Exchange Commission over such put, call, or other option.'. *(b) Amendment to the Securities Exchange Act of 1934- The Securities Exchange Act of 1934 is amended by adding the following section after section 3A (15 U.S.C. 78c-1):* ***`SEC. 3B. SECURITIES-RELATED DERIVATIVES.***  *`(a) Any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) shall be deemed a security for purposes of the securities laws.* *`(b) With respect to any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof), references in the securities laws to the `purchase' or `sale' of a security shall be deemed to include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under such agreement, contract, or transaction, as the context may require.'.* *(c) Amendment to Securities Exchange Act of 1934- Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:* *`(10) Notwithstanding the provisions of paragraph (2), the time period within which the Commission is required by order to approve a proposed rule change or institute proceedings to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	determine whether the proposed rule change should be disapproved is stayed pending a determination by the Commission upon the request of the Commodity Futures Trading Commission or its Chairman that the Commission issue a determination as to whether a product that is the subject of such proposed rule change is a security pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.'. *(d) Amendment to Commodity Exchange Act- Section 5c(c)(1) of the Commodity Exchange Act (7 U.S.C. 7a-2(c)(1)) is amended--* *(1) by striking `Subject to paragraph (2)' and inserting the following:* *`(A) ELECTION- Subject to paragraph (2)'; and* *(2) by adding at the end the following:* *`(B) CERTIFICATION- The certification of a product pursuant to this paragraph shall be stayed pending a determination by the Commission upon the request of the Securities and Exchange Commission or its Chairman that the Commission issue a determination as to whether the product that is the subject of such certification is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.'.*	
	SEC. 718. DETERMINING STATUS OF NOVEL DERIVATIVE PRODUCTS. *(a) Process for Determining the Status of a Novel Derivative Product-* *(1) NOTICE-* *(A) IN GENERAL- Any person filing a proposal to list or trade a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) may concurrently provide notice and furnish a copy of such filing with both the Securities and Exchange Commission and the Commodity Futures Trading Commission. Any such notice shall state that notice has been made with both Commissions.* *(B) NOTIFICATION- If no concurrent notice is made pursuant to subparagraph (A), within 5 business days after determining that a proposal that seeks to list or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	trade a novel derivative product may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall notify the other Commission and provide a copy of such filing to the other Commission. *(2) REQUEST FOR DETERMINATION-* *(A) IN GENERAL- No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Commodity Futures Trading Commission may request that the Securities and Exchange Commission issue a determination as to whether a product is a security, as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).* *(B) REQUEST- No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Securities and Exchange Commission may request that the Commodity Futures Trading Commission issue a determination as to whether a product is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity subject to the Commodity Futures Trading Commission's exclusive jurisdiction under section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)).* *(C) REQUIREMENT RELATING TO REQUEST- A request under subparagraph (A) or (B) shall be made by submitting such request, in writing, to the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable.* *(D) EFFECT- Nothing in this paragraph shall be construed to prevent--* *(i) the Commodity Futures Trading Commission from requesting that the Securities and Exchange Commission grant an exemption pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78mm(a)(1)) with respect to a product that is the subject of a filing under paragraph (1); or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(ii) the Securities and Exchange Commission from requesting that the Commodity Futures Trading Commission grant an exemption pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with respect to a product that is the subject of a filing under paragraph (1). *Provided, however, that nothing in this subparagraph shall be construed to require the Commodity Futures Trading Commission or the Securities and Exchange Commission to issue an exemption requested pursuant to this subparagraph; provided further, That an order granting or denying an exemption described in this subparagraph and issued under paragraph (3)(B) shall not be subject to judicial review pursuant to subsection (b).* *(E) WITHDRAWAL OF REQUEST- A request under subparagraph (A) or (B) may be withdrawn by the Commission making the request at any time prior to a determination being made pursuant to paragraph (3) for any reason by providing written notice to the head of the other Commission.* *(3) DETERMINATION- Notwithstanding any other provision of law, no later than 120 days after the date of receipt of a request--* *(A) under subparagraph (A) or (B) of paragraph (2), unless such request has been withdrawn pursuant to paragraph (2)(E), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall, by order, issue the determination requested in subparagraph (A) or (B) of paragraph (2), as applicable, and the reasons therefore; or* *(B) under paragraph (2)(D), unless such request has been withdrawn, the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall grant an exemption or provide reasons for not granting such exemption, provided that any decision by the Securities and Exchange Commission not to grant such exemption shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y).* *(b) Judicial Resolution-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) IN GENERAL- The Commodity Futures Trading Commission or the Securities and Exchange Commission may petition the United States Court of Appeals for the District of Columbia Circuit for review of a final order of the other Commission, with respect to a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) that it believes affects its statutory jurisdiction, including an order or orders issued under subsection (a)(3)(A), by filing in such court, within 60 days after the date of entry of such order, a written petition requesting a review of the order. Any such proceeding shall be expedited by the Court of Appeals. *(2) TRANSMITTAL OF PETITION AND RECORD- A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after filing by the complaining Commission to the responding Commission. On receipt of the petition, the responding Commission shall file with the court a copy of the order under review and any documents referred to therein, and any other materials prescribed by the court.* *(3) STANDARD OF REVIEW- The court, in considering a petition filed pursuant to paragraph (1), shall give no deference to, or presumption in favor of, the views of either Commission.* *(4) JUDICIAL STAY- The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the order, until the date on which the determination of the court is final (including any appeal of the determination).*	
	SEC. 726. RULEMAKING ON CONFLICT OF INTEREST. *(a) In General- Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commodity Futures Trading Commission shall determine whether to adopt rules to establish limits on the control of any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, an affiliate of such a bank holding company or nonbank financial company, a swap dealer, major swap participant, or associated person of a swap dealer or major swap*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	participant. *(b) Purposes- The Commission shall adopt rules if it determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a swap dealer or major swap participant's conduct of business with, a derivatives clearing organization, contract market, or swap execution facility that clears or posts swaps or makes swaps available for trading and in which such swap dealer or major swap participant has a material debt or equity investment.*	
	SEC. 744. RESTITUTION REMEDIES. *Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a-1(d)) is amended by adding at the end the following:* *`(3) EQUITABLE REMEDIES- In any action brought under this section, the Commission may seek, and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation, equitable remedies including--* *`(A) restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses); and* *`(B) disgorgement of gains received in connection with such violation.'.*	
	SEC. 746. INSIDER TRADING. *Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended by adding at the end the following:* *`(3) CONTRACT OF SALE- It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to use the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	information in his personal capacity and for personal gain to enter into, or offer to enter into-- *`(A) a contract of sale of a commodity for future delivery (or option on such a contract);* *`(B) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or* *`(C) a swap.* *`(4) NONPUBLIC INFORMATION-* *`(A) IMPARTING OF NONPUBLIC INFORMATION- It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to impart the information in his personal capacity and for personal gain with intent to assist another person, directly or indirectly, to use the information to enter into, or offer to enter into--* *`(i) a contract of sale of a commodity for future delivery (or option on such a contract);* *`(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or* *`(iii) a swap.* *`(B) KNOWING USE- It shall be unlawful for any person who receives information imparted by any employee or agent of any department or agency of the Federal Government as described in subparagraph (A) to knowingly use such information to enter into, or offer to enter into--* *`(i) a contract of sale of a commodity for*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	future delivery (or option on such a contract); *`(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or* *`(iii) a swap.* *`(C) THEFT OF NONPUBLIC INFORMATION- It shall be unlawful for any person to steal, convert, or misappropriate, by any means whatsoever, information held or created by any department or agency of the Federal Government that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, where such person knows, or acts in reckless disregard of the fact, that such information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, and to use such information, or to impart such information with the intent to assist another person, directly or indirectly, to use such information to enter into, or offer to enter into--* *`(i) a contract of sale of a commodity for future delivery (or option on such a contract);* *`(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or* *`(iii) a swap.* *Provided, however, that nothing in this subparagraph shall preclude a person that has provided information concerning, or generated by, the person, its operations or activities, to any employee or agent of any department or agency of the Federal Government, voluntarily or as required by law, from using such information to enter into, or offer to enter into, a contract of sale,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	option, or swap described in clauses (i), (ii), or (iii).'.	
	SEC. 748. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION. *The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:* ***`SEC. 23. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION.***  *`(a) Definitions- In this section:* *`(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION- The term `covered judicial or administrative action' means any judicial or administrative action brought by the Commission under this Act that results in monetary sanctions exceeding $1,000,000.* *`(2) FUND- The term `Fund' means the Commodity Futures Trading Commission Customer Protection Fund established under subsection (g).* *`(3) MONETARY SANCTIONS- The term `monetary sanctions', when used with respect to any judicial or administrative action means--* *`(A) any monies, including penalties, disgorgement, restitution, and interest ordered to be paid; and* *`(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.* *`(4) ORIGINAL INFORMATION- The term `original information' means information that--* *`(A) is derived from the independent knowledge or analysis of a whistleblower;* *`(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and* *`(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(5) RELATED ACTION- The term `related action', when used with respect to any judicial or administrative action brought by the Commission under this Act, means any judicial or administrative action brought by an entity described in subclauses (i) through (vi) of subsection (g)(2)(B) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action. *`(6) SUCCESSFUL RESOLUTION- The term `successful resolution', when used with respect to any judicial or administrative action brought by the Commission under this Act, includes any settlement of such action.* *`(7) WHISTLEBLOWER- The term `whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of this Act to the Commission, in a manner established by rule or regulation, by the Commission.* *`(b) Awards-* *`(1) IN GENERAL- In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to--* *`(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and* *`(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.* *`(2) PAYMENT OF AWARDS- Any amount paid under paragraph (1) shall be paid from the Fund.* *`(c) Determination of Amount of Award; Denial of Award-* *`(1) DETERMINATION OF AMOUNT OF AWARD-* *`(A) DISCRETION- The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.* *`(B) CRITERIA- In determining the amount of an award made under subsection (b), the Commission shall take into account--* *`(i) the significance of the information*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	provided by the whistleblower to the success of the covered judicial or administrative action; *`(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;* *`(iii) the programmatic interest of the Commission in deterring violations of the Act (including regulations under the Act) by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and* *`(iv) such additional relevant factors as the Commission may establish by rule or regulation.* *`(2) DENIAL OF AWARD- No award under subsection (b) shall be made--* *`(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of--* *`(i) a appropriate regulatory agency;* *`(ii) the Department of Justice;* *`(iii) a registered entity;* *`(iv) a registered futures association; or* *`(v) a self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or* *`(vi) a law enforcement organization;* *`(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;* *`(C) to any whistleblower who submits information to the Commission that is based on the facts underlying the covered action submitted previously by another whistleblower;* *`(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule or regulation, require.* *`(d) Representation-* *`(1) PERMITTED REPRESENTATION- Any whistleblower who*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	makes a claim for an award under subsection (b) may be represented by counsel. *`(2) REQUIRED REPRESENTATION-* *`(A) IN GENERAL- Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower submits the information upon which the claim is based.* *`(B) DISCLOSURE OF IDENTITY- Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.* *`(e) No Contract Necessary- No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission, by rule or regulation.* *`(f) Appeals-* *`(1) IN GENERAL- Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission.* *`(2) APPEALS- Any determination described in paragraph (1) may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission.* *`(3) REVIEW- The court shall review the determination made by the Commission in accordance with section 7064 of title 5, United States Code.* *`(g) Commodity Futures Trading Commission Customer Protection Fund-* *`(1) ESTABLISHMENT- There is established in the Treasury of the United States a revolving fund to be known as the `Commodity Futures Trading Commission Customer Protection Fund'.* *`(2) USE OF FUND- The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for--* *`(A) the payment of awards to whistleblowers as provided in subsection (a); and* *`(B) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act, or the rules and regulations thereunder.* *`(3) DEPOSITS AND CREDITS- There shall be deposited into*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	or credited to the Fund-- *`(A) any monetary judgment collected by the Commission in any judicial or administrative action brought by the Commission under this Act, that is not otherwise distributed to victims of a violation of this Act or the rules and regulations thereunder underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeds $100,000,000; and* *`(B) all income from investments made under paragraph (4).* *`(4) INVESTMENTS-* *`(A) AMOUNTS IN FUND MAY BE INVESTED- The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund.* *`(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission.* *`(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.* *`(5) REPORTS TO CONGRESS- Not later than October 30 of each year, the Commission shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report on--* *`(A) the Commission's whistleblower award program under this section, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;* *`(B) customer education initiatives described in paragraph (2)(B) that were funded by the Fund during the preceding fiscal year;* *`(C) the balance of the Fund at the beginning of the preceding fiscal year;* *`(D) the amounts deposited into or credited to the Fund*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	during the preceding fiscal year; *`(E) the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;* *`(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);* *`(G) the amount paid from the Fund during the preceding fiscal year for customer education initiatives described in paragraph (2)(B);* *`(H) the balance of the Fund at the end of the preceding fiscal year; and* *`(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.* *`(h) Protection of Whistleblowers-* *`(1) PROHIBITION AGAINST RETALIATION-* *`(A) IN GENERAL- No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower--* *`(i) in providing information to the Commission in accordance with subsection (b); or* *`(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.* *`(B) ENFORCEMENT-* *`(i) CAUSE OF ACTION- An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C), unless the individual who is alleging discharge or other discrimination in violation of subparagraph (A) is an employee of the federal government, in which case the individual shall only bring an action under section 1221 of title 5 United States Code.* *`(ii) SUBPOENAS- A subpoena requiring the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	attendance of a witness at a trial or hearing conducted under this subsection may be served at any place in the United States. *`(iii) STATUTE OF LIMITATIONS- An action under this subsection may not be brought more than 2 years after the date on which the violation reported in subparagraph (A) is committed.* *`(C) RELIEF- Relief for an individual prevailing in an action brought under subparagraph (B) shall include--* *`(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;* *`(ii) the amount of back pay otherwise owed to the individual, with interest; and* *`(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.* *`(2) CONFIDENTIALITY-* *`(A) INFORMATION PROVIDED-* *`(i) IN GENERAL- Except as provided in subparagraph (B), all information provided to the Commission by a whistleblower shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of a department or agency of the Federal Government, under section 552 of title 5, United States Code (commonly known as the `Freedom of Information Act') or otherwise, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B).* *`(ii) CONSTRUCTION- For purposes of section 552 of title 5, United States Code, this paragraph shall be considered to be a statute described in subsection (b)(3)(B) of that*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	section. *`(iii) EFFECT- Nothing in this paragraph is intended to limit the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.* *`(B) AVAILABILITY TO GOVERNMENT AGENCIES-* *`(i) IN GENERAL- Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary or appropriate to accomplish the purposes of this Act and protect customers and in accordance with clause (ii), be made available to--* *`(I) the Department of Justice;* *`(II) an appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction;* *`(III) a registered entity, registered futures association, or self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));* *`(IV) a State attorney general in connection with any criminal investigation;* *`(V) an appropriate department or agency of any State, acting within the scope of its jurisdiction; and* *`(VI) a foreign futures authority.* *`(ii) MAINTENANCE OF INFORMATION- Each of the entities, agencies, or persons described in clause (i) shall maintain information described in that clause as confidential and privileged, in accordance with the requirements in subparagraph (A).* *`(3) RIGHTS RETAINED- Nothing in this section shall be*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement. *`(i) Rulemaking Authority- The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.* *`(j) Implementing Rules- The Commission shall issue final rules or regulations implementing the provisions of this section not later than 270 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.* *`(k) Original Information- Information submitted to the Commission by a whistleblower in accordance with rules or regulations implementing this section shall not lose its status as original information solely because the whistleblower submitted such information prior to the effective date of such rules or regulations, provided such information was submitted after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.* *`(l) Awards- A whistleblower may receive an award pursuant to this section regardless of whether any violation of a provision of this Act, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.* *`(m) Provision of False Information- A whistleblower who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or who makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section and shall be subject to prosecution under section 1001 of title 18, United States Code.'.*	
	SEC. 749. CONFORMING AMENDMENTS. *(a) Section 2(c)(1) of the Commodity Exchange Act (7 U.S.C. 2(c)(1)) is amended, in the matter preceding subparagraph (A), by striking `5a (to the extent provided in section 5a(g)),'.* *(b) Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 724) is amended--* *(1) in subsection (a)--* *(A) in the matter preceding paragraph (1)--* *(i) by striking `engage as' and inserting `be a'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(ii) by striking `or introducing broker' and all that follows through `or derivatives transaction execution facility'; *(B) in paragraph (1), by striking `or introducing broker'; and* *(C) in paragraph (2), by striking `if a futures commission merchant,'; and* *(2) by adding at the end the following:* *`(g) It shall be unlawful for any person to be an introducing broker unless such person shall have registered under this Act with the Commission as an introducing broker and such registration shall not have expired nor been suspended nor revoked.'.* *(c) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended--* *(1) by striking `(3) Subsection (1) of this section' and inserting the following:* *`(3) EXCEPTION-* *`(A) IN GENERAL- Paragraph (1)'; and* *(2) by striking `to any investment trust' and all that follows through the period at the end and inserting the following: `to any commodity pool that is engaged primarily in trading commodity interests.* *`(B) ENGAGED PRIMARILY- For purposes of subparagraph (A), a commodity trading advisor or a commodity pool shall be considered to be `engaged primarily' in the business of being a commodity trading advisor or commodity pool if it is or holds itself out to the public as being engaged primarily, or proposes to engage primarily, in the business of advising on commodity interests or investing, reinvesting, owning, holding, or trading in commodity interests, respectively.* *`(C) COMMODITY INTERESTS- For purposes of this paragraph, commodity interests shall include contracts of sale of a commodity for future delivery, options on such contracts, security futures, swaps, leverage contracts, foreign exchange, spot and forward contracts on physical commodities, and any monies held in an account used for trading commodity interests.'.* *(d) Section 5c of the Commodity Exchange Act (7 U.S.C. 7a-2) is amended--* *(1) in subsection (a)(1)--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) by striking `, 5a(d),'; and* *(B) by striking `and section (2)(h)(7) with respect to significant price discovery contracts,'; and *(2) in subsection (f)(1), by striking `section 4d(c) of this Act' and inserting `section 4d(e)'.* *(e) Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) is amended by striking `or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,'.* *(f) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended in the first sentence by striking `, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,'.* *(g) Section 12(e)(2)(B) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)(B)) is amended--* *(1) by striking `section 2(c), 2(d), 2(f), or 2(g) of this Act' and inserting `section 2(c), 2(f), or 2(i) of this Act'; and* *(2) by striking `2(h) or'.* *(h) Section 17(r)(1) of the Commodity Exchange Act (7 U.S.C. 21(r)(1)) is amended by striking `section 4d(c) of this Act' and inserting `section 4d(e)'.* *(i) Section 22(b)(1)(A) of the Commodity Exchange Act (7 U.S.C. 25(b)(1)(A)) is amended by striking `section 2(h)(7) or'.* *(j) Section 408(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421(2)(C)) is amended--* *(1) by striking `section 2(c), 2(d), 2(f), or (2)(g) of such Act' and inserting `section 2(c), 2(f), or 2(i) of that Act'; and* *(2) by striking `2(h) or'.*	
	SEC. 750. STUDY ON OVERSIGHT OF CARBON MARKETS. *(a) Interagency Working Group- There is established to carry out this section an interagency working group (referred to in this section as the `interagency group') composed of the following members or designees:* *(1) The Chairman of the Commodity Futures Trading Commission (referred to in this section as the `Commission'), who shall serve as Chairman of the interagency group.* *(2) The Secretary of Agriculture.* *(3) The Secretary of the Treasury.* *(4) The Chairman of the Securities and Exchange Commission.* *(5) The Administrator of the Environmental Protection Agency.* *(6) The Chairman of the Federal Energy Regulatory Commission.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(7) The Commissioner of the Federal Trade Commission. *(8) The Administrator of the Energy Information Administration.* *(b) Administrative Support- The Commission shall provide the interagency group such administrative support services as are necessary to enable the interagency group to carry out the functions of the interagency group under this section.* *(c) Consultation- In carrying out this section, the interagency group shall consult with representatives of exchanges, clearinghouses, self-regulatory bodies, major carbon market participants, consumers, and the general public, as the interagency group determines to be appropriate.* *(d) Study- The interagency group shall conduct a study on the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.* *(e) Report- Not later than 180 days after the date of enactment of this Act, the interagency group shall submit to Congress a report on the results of the study conducted under subsection (b), including recommendations for the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.*	
	SEC. 751. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE. *Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) (as amended by section 727) is amended by adding at the end the following:* *`(15) ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE-* *`(A) ESTABLISHMENT-* *`(i) IN GENERAL- An Energy and Environmental Markets Advisory Committee is hereby established.* *`(ii) MEMBERSHIP- The Committee shall have 9 members.* *`(iii) ACTIVITIES- The Committee's objectives and scope of activities shall be--* *`(I) to conduct public meetings;* *`(II) to submit reports and recommendations to the Commission (including dissenting or minority views, if any); and* *`(III) otherwise to serve as a vehicle*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	for discussion and communication on matters of concern to exchanges, firms, end users, and regulators regarding energy and environmental markets and their regulation by the Commission. *`(B) REQUIREMENTS-* *`(i) IN GENERAL- The Committee shall hold public meetings at such intervals as are necessary to carry out the functions of the Committee, but not less frequently than 2 times per year.* *`(ii) MEMBERS- Members shall be appointed to 3-year terms, but may be removed for cause by vote of the Commission.* *`(C) APPOINTMENT- The Commission shall appoint members with a wide diversity of opinion and who represent a broad spectrum of interests, including hedgers and consumers.* *`(D) REIMBURSEMENT- Members shall be entitled to per diem and travel expense reimbursement by the Commission.* *`(E) FACA- The Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).'.*	
	SEC. 753. ANTIMARKET MANIPULATION AUTHORITY. *(a) Prohibition Regarding Manipulation and False Information- Subsection (c) of section 6 of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended to read as follows:* *`(c) Prohibition Regarding Manipulation and False Information-* *`(1) PROHIBITION AGAINST MANIPULATION- It shall be unlawful for any person, directly or indirectly, to use or employ, or attempt to use or employ, in connection with any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010.* *`(A) SPECIAL PROVISION FOR MANIPULATION BY FALSE REPORTING- Unlawful manipulation for*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	purposes of this paragraph shall include, but not be limited to, delivering, or causing to be delivered for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact, that such report is false, misleading or inaccurate. *`(B) EFFECT ON OTHER LAW- Nothing in this paragraph shall affect, or be construed to affect, the applicability of section 9(a)(2).* *`(2) PROHIBITION REGARDING FALSE INFORMATION- It shall be unlawful for any person to make any false or misleading statement of a material fact to the Commission, including in any registration application or any report filed with the Commission under this Act, or any other information relating to a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, or to omit to state in any such statement any material fact that is necessary to make any statement of a material fact made not misleading in any material respect, if the person knew, or reasonably should have known, the statement to be false or misleading.* *`(3) OTHER MANIPULATION- In addition to the prohibition in paragraph (1), it shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.* *`(4) ENFORCEMENT-* *`(A) AUTHORITY OF COMMISSION- If the Commission has reason to believe that any person (other than a registered entity) is violating or has violated this subsection, or any other provision of this Act (including any rule, regulation, or order of the Commission promulgated in accordance with this subsection or any other provision of this Act), the Commission may serve upon the person a complaint.* *`(B) CONTENTS OF COMPLAINT- A complaint under subparagraph (A) shall--* *`(i) contain a description of the charges against the person that is the subject of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	complaint; and *`(ii) have attached or contain a notice of hearing that specifies the date and location of the hearing regarding the complaint.* *`(C) HEARING- A hearing described in subparagraph (B)(ii)--* *`(i) shall be held not later than 3 days after service of the complaint described in subparagraph (A);* *`(ii) shall require the person to show cause regarding why--* *`(I) an order should not be made--*  *`(aa) to prohibit the person from trading on, or subject to the rules of, any registered entity; and* *`(bb) to direct all registered entities to refuse all privileges to the person until further notice of the Commission; and*  *`(II) the registration of the person, if registered with the Commission in any capacity, should not be suspended or revoked; and* *`(iii) may be held before--* *`(I) the Commission; or* *`(II) an administrative law judge designated by the Commission, under which the administrative law judge shall ensure that all evidence is recorded in written form and submitted to the Commission.* *`(5) SUBPOENA- For the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation or proceeding under this Act, and for the purpose of any action taken under section 12(f) of this Act, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (7)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(6) WITNESSES- The attendance of witnesses and the production of any such records may be required from any place in the United States, any State, or any foreign country or jurisdiction at any designated place of hearing.* *`(7) SERVICE- A subpoena issued under this section may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found within the territorial jurisdiction of any court of the United States may be issued only on the prior approval of the Commission. *`(8) REFUSAL TO OBEY- In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question.* *`(9) FAILURE TO OBEY- Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.* *`(10) EVIDENCE- On the receipt of evidence under paragraph (4)(C)(iii), the Commission may--* *`(A) prohibit the person that is the subject of the hearing from trading on, or subject to the rules of, any registered entity and require all registered entities to refuse the person all privileges on the registered entities for such period as the Commission may require in the order;* *`(B) if the person is registered with the Commission in any capacity, suspend, for a period not to exceed 180 days, or revoke, the registration of the person;* *`(C) assess such person--* *`(i) a civil penalty of not more than an amount*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	equal to the greater of-- *`(I) $140,000; or* *`(II) triple the monetary gain to such person for each such violation; or* *`(ii) in any case of manipulation or attempted manipulation in violation of this subsection or section 9(a)(2), a civil penalty of not more than an amount equal to the greater of--* *`(I) $1,000,000; or* *`(II) triple the monetary gain to the person for each such violation; and* *`(D) require restitution to customers of damages proximately caused by violations of the person.* *`(11) ORDERS-* *`(A) NOTICE- The Commission shall provide to a person described in paragraph (10) and the appropriate governing board of the registered entity notice of the order described in paragraph (10) by--* *`(i) registered mail;* *`(ii) certified mail; or* *`(iii) personal delivery.* *`(B) REVIEW-* *`(i) IN GENERAL- A person described in paragraph (10) may obtain a review of the order or such other equitable relief as determined to be appropriate by a court described in clause (ii).* *`(ii) PETITION- To obtain a review or other relief under clause (i), a person may, not later than 15 days after notice is given to the person under clause (i), file a written petition to set aside the order with the United States Court of Appeals--* *`(I) for the circuit in which the petitioner carries out the business of the petitioner; or* *`(II) in the case of an order denying registration, the circuit in which the principal place of business of the petitioner is located, as listed on the application for registration of the petitioner.* *`(C) PROCEDURE-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(i) DUTY OF CLERK OF APPROPRIATE COURT- The clerk of the appropriate court under subparagraph (B)(ii) shall transmit to the Commission a copy of a petition filed under subparagraph (B)(ii).* *`(ii) DUTY OF COMMISSION- In accordance with section 2112 of title 28, United States Code, the Commission shall file in the appropriate court described in subparagraph (B)(ii) the record theretofore made. *`(iii) JURISDICTION OF APPROPRIATE COURT- Upon the filing of a petition under subparagraph (B)(ii), the appropriate court described in subparagraph (B)(ii) shall have jurisdiction to affirm, set aside, or modify the order of the Commission, and the findings of the Commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive.'.* *(b) Cease and Desist Orders, Fines- Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended to read as follows:* *`(d) If any person (other than a registered entity), is violating or has violated subsection (c) or any other provisions of this Act or of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing, and subject to appeal as in other cases provided for in subsection (c), make and enter an order directing that such person shall cease and desist therefrom and, if such person thereafter and after the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than the higher of $140,000 or triple the monetary gain to such person, or imprisoned for not less than six months nor more than one year, or both, except that if such failure or refusal to obey or comply with such order involves any offense within subsection (a) or (b) of section 9 of this Act, such person shall be guilty of a felony and, upon conviction thereof, shall be subject to the penalties of said subsection (a) or (b): Provided, That any such cease and desist order under this subsection against any respondent in any case of manipulation shall be issued only in conjunction with an order issued against such respondent under subsection (c). Each day during which such failure or refusal to obey or comply with such order continues shall be deemed a separate offense.'.* *(c) Manipulations; Private Rights of Action- Section 22(a)(1) of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Commodity Exchange Act (7 U.S.C. 25(a)(1)) is amended by striking subparagraph (D) and inserting the following: *`(D) who purchased or sold a contract referred to in subparagraph (B) hereof or swap if the violation constitutes--* *`(i) the use or employment of, or an attempt to use or employ, in connection with a swap, or a contract of sale of a commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, any manipulative device or contrivance in contravention of such rules and regulations as the Commission shall promulgate by not later than 1 year after the date of enactment of the Restoring American Financial Stability Act of 2010; or* *`(ii) a manipulation of the price of any such contract or swap or the price of the commodity underlying such contract or swap.'.* *(d) Effective Date-* *(1) The amendments made by this section shall take effect on the date on which the final rule promulgated by the Commodity Futures Trading Commission pursuant to this Act takes effect.* *(2) Paragraph (1) shall not preclude the Commission from undertaking prior to the effective date any rulemaking necessary to implement the amendments contained in this section.*	
	SEC. 765. RULEMAKING ON CONFLICT OF INTEREST. *(a) In General- Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Securities and Exchange Commission shall determine whether to adopt rules to establish limits on the control of any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or national securities exchange that posts or makes available for trading security-based swaps, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, affiliate of such a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	bank holding company or nonbank financial company, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant. *(b) Purposes- The Commission shall adopt rules if the Commission determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a security-based swap dealer or major security-based swap participant's conduct of business with, a clearing agency, national securities exchange, or security-based swap execution facility that clears, posts, or makes available for trading security-based swaps and in which such security-based swap dealer or major security-based swap participant has a material debt or equity investment.*	
	SEC. 769. DEFINITIONS UNDER THE INVESTMENT COMPANY ACT OF 1940. *Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2) is amended by adding at the end the following:* *`(54) The terms `commodity pool', `commodity pool operator', `commodity trading advisor', `major swap participant', `swap', `swap dealer', and `swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).'.*	
	SEC. 770. DEFINITIONS UNDER THE INVESTMENT ADVISORS ACT OF 1940. *Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2) is amended by adding at the end the following:* *`(29) The terms `commodity pool', `commodity pool operator', `commodity trading advisor', `major swap participant', `swap', `swap dealer', and `swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE IV--CONSUMER FINANCIAL PROTECTION AGENCY ACT **SEC. 4001. SHORT TITLE.** This title may be cited as the `Consumer Financial Protection Agency Act of 2009'.	***TITLE X--BUREAU OF CONSUMER FINANCIAL PROTECTION*** ***SEC. 1001. SHORT TITLE.*** *This title may be cited as the `Consumer Financial Protection Act of 2010'.*	
SEC. 4002. DEFINITIONS. For the purposes of subtitles A through F of this title, the following definitions shall apply: (1) AFFILIATE- The term `affiliate' means any person that controls, is controlled by, or is under common control with another person.	***SEC. 1002. DEFINITIONS.*** *Except as otherwise provided in this title, for purposes of this title, the following definitions shall apply:* *(1) AFFILIATE- The term `affiliate' means any person that controls, is controlled by, or is under common control with another person.*	
(2) AGENCY- The term `Agency' means-- (A) before the Agency conversion date, the Consumer Financial Protection Agency; and (B) on and after the Agency conversion date, the commission established under section 4103.	*(2) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection.*	
(3) BANK HOLDING COMPANY- The term `bank holding company' has the same meaning as in section 2(a) of the Bank Holding Company Act of 1956.		
(4) BOARD- Except when used in connection with the term `Board of Governors', the term `Board' means the Consumer Financial Protection Oversight Board.		
(5) BOARD OF GOVERNORS- The term `Board of Governors' means the Board of Governors of the Federal Reserve System.		
(6) BUSINESS OF INSURANCE- The term `business of insurance' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.	*(3) BUSINESS OF INSURANCE- The term `business of insurance' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.*	
(7) CONSUMER- The term `consumer' means an individual or an agent, trustee, or representative acting on behalf of an individual.	*(4) CONSUMER- The term `consumer' means an individual or an agent, trustee, or representative acting on behalf of an individual.*	
(8) CONSUMER FINANCIAL PRODUCT OR SERVICE- The term `consumer financial product or service' means any financial product, other than a Federal tax return, or service to be used by a consumer primarily for personal, family, or household purposes.	*(5) CONSUMER FINANCIAL PRODUCT OR SERVICE- The term `consumer financial product or service' means any financial product or service that is described in one or more categories under--* *(A) paragraph (13) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or* *(B) clause (i), (iii), (ix), or (x) of paragraph (13)(A), and is*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (A).	
(9) COVERED PERSON- (A) IN GENERAL- The term `covered person' means any person who engages directly or indirectly in a financial activity, in connection with the provision of a consumer financial product or service. (B) EXCLUSION- The term `covered person' shall not include the Secretary, the Department of the Treasury, any agency or bureau under the jurisdiction of the Secretary, or any person collecting Federal taxes for the United States to the extent such person is acting in such capacity.	*(6) COVERED PERSON- The term `covered person' means--* *(A) any person that engages in offering or providing a consumer financial product or service; and* *(B) any affiliate of a person described in subparagraph (A) if such affiliate acts as a service provider to such person.*	
(10) CREDIT- The term `credit' means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.	*(7) CREDIT- The term `credit' means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.*	
(11) CREDIT UNION- The term `credit union' means a Federal credit union or a State credit union as defined in section 101 of the Federal Credit Union Act.		
(12) DEPOSIT- The term `deposit'-- (A) has the same meaning as in section 3(l) of the Federal Deposit Insurance Act; and (B) includes a share in a member account (as defined in section 101(5) of the Federal Credit Union Act) at a credit union.		
(13) DEPOSIT-TAKING, MONEY ACCEPTANCE, OR MONEY MOVEMENT ACTIVITY- The term `deposit-taking, money acceptance, or money movement activities' means-- (A) the acceptance of deposits, the maintenance of deposit accounts, or the provision of services related to the acceptance of deposits; (B) the acceptance of money, the provision of other services related to the acceptance of money, or the maintenance of members' share accounts by a credit union; or (C) the receipt of money or its equivalent, as the Director may determine by regulation or order, received or held by the covered person (or an agent for the person) for the purpose of facilitating a payment or transferring funds or value of funds by a consumer to a third party.	*(8) DEPOSIT-TAKING ACTIVITY- The term `deposit-taking activity' means--* *(A) the acceptance of deposits, maintenance of deposit accounts, or the provision of services related to the acceptance of deposits or the maintenance of deposit accounts;* *(B) the acceptance of funds, the provision of other services related to the acceptance of funds, or the maintenance of member share accounts by a credit union; or* *(C) the receipt of funds or the equivalent thereof, as the Bureau may determine by rule or order, received or held by a covered person (or an agent for a covered person) for the purpose of facilitating a payment or transferring funds or value of funds between a consumer and a third party.*	
(14) DESIGNATED TRANSFER DATE- The term `designated transfer date' has the meaning provided in section 4602.	*(9) DESIGNATED TRANSFER DATE- The term `designated transfer date' means the date established under section 1062.*	
(15) DIRECTOR- The term `Director' means--	*(10) DIRECTOR- The term `Director' means the Director of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) before the Agency conversion date, the Director of the Agency; and (B) on and after the Agency conversion date, the commission established under section 4103.	*Bureau.*	
(16) ENUMERATED CONSUMER LAWS- The term `enumerated consumer laws' means each of the following: (A) The Alternative Mortgage Transaction Parity Act (12 U.S.C. 3801 et seq.). (B) The Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.). (C) The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.). (D) The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of such Act. (E) The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.). (F) Subsections (b), (c), (d), (e), and (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t). (G) Sections 502, 503, 504, 505, 506, 507, 508, and 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802 et seq.) except for section 505 as it applies to section 501(b). (H) The Homeowners Protection Act of 1998. (I) The Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.). (J) The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.). (K) The Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.). (L) The Truth in Lending Act (15 U.S.C. 1601 et seq.). (M) The Truth in Savings Act (12 U.S.C. 4301 et seq.). (N) Section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111-8). (O) The Unlawful Internet Gambling Enforcement Act of 2006.	*(11) ENUMERATED CONSUMER LAWS- The term `enumerated consumer laws' means--* *(A) the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.);* *(B) the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et seq.);* *(C) the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.);* *(D) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);* *(E) the Fair Credit Billing Act (15 U.S.C. 1666 et seq.);* *(F) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of that Act (15 U.S.C. 1681m(e), 1681w);* *(H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);* *(I) subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)-(f));* *(J) sections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802-6809) except for section 505 as it applies to section 501(b);* *(G) the Home Owners Protection Act of 1998 (12 U.S.C. 4901 et seq.);* *(K) the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.);* *(L) the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note);* *(M) the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);* *(N) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.);* *(O) the Truth in Lending Act (15 U.S.C. 1601 et seq.);* *(P) the Truth in Savings Act (12 U.S.C. 4301 et seq.); and* *(Q) section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111-8).*	
(17) FEDERAL BANKING AGENCY- The term `Federal banking agency' means the Board of Governors, the Comptroller of the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the National Credit Union Administration and the term `Federal banking agencies' means all of such agencies.		
	(12) FEDERAL CONSUMER FINANCIAL LAW- The term `Federal consumer financial law' means the provisions of this title, the enumerated consumer laws, the laws for which authorities are transferred under subtitles F and H, and any rule or order prescribed by the Bureau under this title, an enumerated consumer law, or pursuant to the authorities transferred under subtitles F and H. The term does not include the Federal Trade Commission Act.	
(18) FAIR LENDING- The term `fair lending' means fair, equitable, and nondiscriminatory access to credit for both individuals and communities.		
(19) FINANCIAL ACTIVITY- (A) IN GENERAL- The term `financial activity' means any of the following activities: (i) Deposit-taking, money acceptance, or money movement activities. (ii) Extending credit and servicing loans, including-- (I) acquiring, purchasing, selling, brokering, or servicing loans or other extensions of credit; and (II) engaging in any other activity usual in connection with extensions of credit or servicing loans, including performing appraisals of real estate and personal property. (iii) Check cashing and check-guaranty services, including-- (I) authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services; and (II) purchasing from a subscribing merchant validly authorized checks that are subsequently dishonored. (iv) Collecting, analyzing, maintaining, and providing consumer report information or other	*(13) FINANCIAL PRODUCT OR SERVICE- The term `financial product or service'--* *(A) means--* *(iv) engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer;* *(i) extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions);* *(vi) providing check cashing, check collection, or check guaranty services;* *(ix) collecting, analyzing, maintaining, or providing consumer report information or other*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
account information by covered persons, including information relating to the credit history of consumers and providing the information to a credit grantor who is considering a consumer application for credit or who has extended credit to the borrower, except that furnishing a consumer report to another person that it has reason to believe intends to use the information for employment purposes, including for security investigations, government licensing and evaluating a consumer's residential or tenant history shall not be considered a financial activity.	*account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service, except to the extent that--* *(I) a person--* *(aa) collects, analyzes, or maintains information that relates solely to the transactions between a consumer and such person; or* *(bb) provides the information described in item (aa) to an affiliate of such person; and* *(II) the information described in subclause (I)(aa) is not used by such person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in section 1027(a)(2)(A);*	
(v) Collection of debt related to any consumer financial product or service.	*(x) collecting debt related to any consumer financial product or service; and*	
(vi) Providing real estate settlement services.	*(iii) providing real estate settlement services or performing appraisals of real estate or personal property;*	
(vii) Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if-- (I) the lease is on a non-operating basis; (II) the initial term of the lease is at least 90 days; and (III) in the case of leases involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the Director.	*(ii) extending or brokering leases of personal or real property that are the functional equivalent of purchase finance arrangements, if--* *(I) the lease is on a non-operating basis;* *(II) the initial term of the lease is at least 90 days; and* *(III) in the case of a lease involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the Bureau;*	
(viii) Acting as an investment adviser to any	*(viii) providing financial advisory services to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
person (excluding an investment adviser that is a person regulated by the Commodity Futures Trading Commission, the Securities and Exchange Commission, or a person regulated as an investment adviser by any securities commission (or any agency or office performing like functions) of any State). (ix) Acting as financial adviser to any person (excluding an investment adviser that is a person regulated by the Commodity Futures Trading Commission, the Securities and Exchange Commission, or any securities commission (or any agency or office performing like functions) of any State), including-- (I) providing financial and other related advisory services; (II) providing educational courses, and instructional materials to consumers on individual financial management matters; (III) providing credit counseling or tax planning services to any person (excluding the preparation of returns, or claims for refund, of tax imposed by the Internal Revenue Code or advice with respect to positions taken therein, or services regulated by the Secretary of the Treasury under section 330 of title 31, United States Code); or (IV) providing services to assist a consumer with debt management or debt settlement, with modifying the terms of any extension of credit, or with avoiding foreclosure. (x) For purposes of this title, the following shall not be considered acting as financial adviser: (I) Publishing any bona fide newspaper, news magazine or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer.	*consumers on individual financial matters or relating to proprietary financial products or services (other than by publishing any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer), including--* *(I) providing credit counseling to any consumer; and* *(II) providing services to assist a consumer with debt management or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(II) Providing advice, analyses, or reports that do not relate to any securities other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest which shall have been designated by the Secretary of the Treasury, pursuant to section 3(a)(12) of the Securities Exchange Act of 1934, as exempted securities for the purposes of that Act.		
(xi) Financial data processing by any technological means, including providing data processing, access to or use of databases or facilities, or advice regarding processing or archiving, if the data to be processed, furnished, stored, or archived are financial, banking, or economic, except that it shall not be considered a `financial activity' with respect to financial data processing-- (I) to the extent the person is providing interactive computer service, as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230); or (II) if the person-- (aa) unknowingly or incidentally transmits, processes, or stores financial data in a manner that such data is undifferentiated from other types of data that the person transmits, processes, or stores; (bb) does not provide to any consumer a consumer financial product or service in connection with or relating to in any manner financial data processing; and (cc) does not provide a material service to any covered person in connection with the provision of a consumer financial product or service.	*(vii) providing payments or other financial data processing products or services to a consumer by any technological means, including processing or storing financial or banking data for any payment instrument, or through any payments systems or network used for processing payments data, including payments made through an online banking system or mobile telecommunications network, except that a person shall not be deemed to be a covered person with respect to financial data processing solely because the person--* *(I) unknowingly or incidentally processes, stores, or transmits over the Internet, telephone line, mobile network, or any other mode of transmission, as part of a stream of other types of data, financial data in a manner that such data is undifferentiated from other types of data of the same form that the person processes, stores, or transmits;* *(II) is a merchant, retailer, or seller of any nonfinancial good or service who engages in financial data processing by transmitting or storing payments data about a consumer exclusively for purpose of initiating payments instructions by the consumer to pay such person for the purchase of, or to complete a commercial transaction for, such nonfinancial good or*	
(xii) Money transmitting. (xiii) Sale, provision or issuance of stored value, except that, in the case of a sale, only if the seller influences the terms or conditions of the stored		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
value provided to the consumer. (xiv) Acting as a money services business. (xv) Acting as a custodian of money or any financial instrument. (xvi)(I) Any other activity that the Director defines, by regulation, as a financial activity after finding that-- (aa) the activity is financial in nature or is otherwise a permissible activity for a bank or bank holding company, including a financial holding company, under any provision of Federal law or regulation applicable to a bank or bank holding company, including a financial holding company; (bb) the activity is incidental or complementary to any other financial activity regulated by the Agency; or (cc) the activity is entered into or conducted as a subterfuge or with a purpose to evade any requirement under this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H. (II) For purposes of subclause (I)(bb), the following activities provided to a covered person shall not be `incidental or complementary': (aa) Providing information products or services to a covered person for identity authentication. (bb) Providing information products or services for fraud or identify theft detection, prevention, or investigation. (cc) Providing document retrieval or delivery services. (dd) Providing public records information retrieval. (ee) Providing information products or services for anti-money laundering activities.	*service sold directly by such person to the consumer; or* *(III) provides access to a host server to a person for purposes of enabling that person to establish and maintain a website;* *(v) selling, providing, or issuing stored value or payment instruments, except that, in the case of a sale of, or transaction to reload, stored value, only if the seller exercises substantial control over the terms or conditions of the stored value provided to the consumer where, for purposes of this clause--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(I) a seller shall not be found to exercise substantial control over the terms or conditions of the stored value if the seller is not a party to the contract with the consumer for the stored value product, and another person is principally responsible for establishing the terms or conditions of the stored value; and *(II) advertising the nonfinancial goods or services of the seller on the stored value card or device is not in itself an exercise of substantial control over the terms or conditions;* *(xi) such other financial product or service as may be defined by the Bureau, by regulation, for purposes of this title, if the Bureau finds that such financial product or service is--* *(I) entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or* *(II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers; and*	
(B) EXCEPTIONS- The term `financial activity' shall not include the business of insurance or the provision of electronic data transmission, routing, intermediate or transient storage, or connections to a system or network, where the person providing such services does not select or modify the content of the electronic data, is not the sender or the intended recipient of the data, and such person transmits, routes, stores, or provides connections for electronic data, including financial data, in a manner that such financial data is undifferentiated from other types of data that such person transmits, routes, stores, or provides connections.	*(B) does not include the business of insurance.*	
(20) FINANCIAL PRODUCT OR SERVICE- The term `financial		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
product or service' means any product or service that, directly or indirectly, results from or is related to engaging in 1 or more financial activities.		
(21) FOREIGN EXCHANGE- The term `foreign exchange' means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.	*(14) FOREIGN EXCHANGE- The term `foreign exchange' means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.*	
(22) INSURED CREDIT UNION- The term `insured credit union' has the same meaning as in section 101 of the National Credit Union Act.	*(15) INSURED CREDIT UNION- The term `insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).*	
(23) INSURED DEPOSITORY INSTITUTION- The term `insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act and shall include any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank.		
(24) MONEY SERVICES BUSINESS- The term `money services business' means a person that-- (A) receives currency, monetary value, or payment instruments for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services, or other businesses that facilitate third-party transfers within the United States or to or from the United States; or (B) issues payment instruments or stored value.		
(25) MONEY TRANSMITTING- The term `money transmitting' means the receipt by a person of currency, monetary value, or payment instruments for the purpose of transmitting the same to any third-party by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services.	*(27) TRANSMITTING OR EXCHANGING FUNDS- The term `transmitting or exchanging funds' means receiving currency, monetary value, or payment instruments from a consumer for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or through other businesses that facilitate third-party transfers within the United States or to or from the United States.*	
(26) PAYMENT INSTRUMENT- The term `payment instrument' means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of money, or monetary value (other than currency).	*(16) PAYMENT INSTRUMENT- The term `payment instrument' means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of funds, or monetary value (other than currency).*	
(27) PERSON- The term `person' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.	*(17) PERSON- The term `person' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.*	
(28) PERSON REGULATED BY A STATE INSURANCE REGULATOR- The term `person regulated by a State insurance	*(20) PERSON REGULATED BY A STATE INSURANCE REGULATOR- The term `person regulated by a State insurance*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
regulator' means any person who is-- (A) engaged in the business of insurance; and (B) subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.	*regulator' means any person that is engaged in the business of insurance and subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.*	
(29) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION- The term `person regulated by the Commodity Futures Trading Commission' means any futures commission merchant, commodity trading adviser, commodity pool operator, introducing broker, boards of trade, derivatives clearing organizations, multilateral clearing organizations, retail foreign exchange dealer, or swap execution facility to the extent that such person's actions are subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act and any agent, employee, or contractor acting on behalf of, registered with, or providing services to such person but only to the extent the person, or the employee, agent, or contractor of such person, acts in a registered capacity.	*(18) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION- The term `person regulated by the Commodity Futures Trading Commission' means any person that is registered, or required by statute or regulation to be registered, with the Commodity Futures Trading Commission, but only to the extent that the activities of such person are subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.*	
(30) PERSON REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION- The term `person regulated by the Securities and Exchange Commission' means-- (A) a broker or dealer that is required to be registered under the Securities Exchange Act of 1934; (B) an investment adviser that is registered under the Investment Advisers Act of 1940; (C) an investment company that-- (i) is required to be registered under the Investment Company Act of 1940; or (ii) is excepted from the definition of investment company under section 3(c) of such Act, or any successor provision; (D) a national securities exchange that is required to be registered under the Securities Exchange Act of 1934; (E) a transfer agent that is required to be registered under the Securities Exchange Act of 1934; (F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934; (G) any municipal securities dealer that is registered with the Securities and Exchange Commission; (H) any self-regulatory organization that is registered with the Securities and Exchange Commission; (I) any national securities exchange or other entity that is required to be registered under the Securities Exchange Act of 1934; and	*(19) PERSON REGULATED BY THE COMMISSION- The term `person regulated by the Commission' means a person who is--* *(A) a broker or dealer that is required to be registered under the Securities Exchange Act of 1934;* *(B) an investment adviser that is registered under the Investment Advisers Act of 1940;* *(C) an investment company that is required to be registered under the Investment Company Act of 1940, and any company that has elected to be regulated as a business development company under that Act;* *(D) a national securities exchange that is required to be registered under the Securities Exchange Act of 1934;* *(E) a transfer agent that is required to be registered under the Securities Exchange Act of 1934;* *(F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934;* *(G) any self-regulatory organization that is required to be registered with the Commission;* *(K) any other person that is required to be registered with the Commission under the Securities Exchange Act of 1934; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(J) the Municipal Securities Rulemaking Board, and any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any such person, but only to the extent that any person described in any subparagraph of this paragraph, or the employee agent, or contractor of such person, acts in a registered capacity, or, with respect to a person described in subparagraph (C)(ii), any employee, agent, or contractor acting on behalf of, or providing services to any such person, but only to the extent that such person, or the employee, agent, or contractor of such person acts in such exempt capacity.	*(J) any municipal securities dealer that is required to be registered with the Commission;* *(H) any nationally recognized statistical rating organization that is required to be registered with the Commission;* *(I) any securities information processor that is required to be registered with the Commission;* *(L) any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any person described in any of subparagraphs (A) through (K), but only to the extent that any person described in any of subparagraphs (A) through (K), or the employee, agent, or contractor of such person, acts in a regulated capacity.*	
(31) PROVISION OF A CONSUMER FINANCIAL PRODUCT OR SERVICE- The terms `provision of a consumer financial product or service' and `providing a consumer financial product or service' mean the advertisement, marketing, solicitation, sale, disclosure, delivery, or account maintenance or servicing of a consumer financial product or service.		
(32) PERSON THAT PERFORMS INCOME TAX PREPARATION ACTIVITIES FOR CONSUMERS- The term `person that performs income tax preparation activities for consumers' means-- (A) any tax return preparer (as defined in section 7701(a)(36) of the Internal Revenue Code of 1986), regardless of whether compensated, but only to the extent that the person acts in such capacity; (B) any person regulated by the Secretary of the Treasury under section 330 of title 31, United States Code, but only to the extent that the person acts in such capacity; and (C) any authorized IRS e-file Providers (as defined for purposes of section 7216 of the Internal Revenue Code of 1986), but only to the extent that the person acts in such capacity.	*(21) PERSON THAT PERFORMS INCOME TAX PREPARATION ACTIVITIES FOR CONSUMERS- The term `person that performs income tax preparation activities for consumers' means--* *(A) any tax return preparer (as defined in section 7701(a)(36) of the Internal Revenue Code of 1986), regardless of whether compensated, but only to the extent that the person acts in such capacity;* *(B) any person regulated by the Secretary under section 330 of title 31, United States Code, but only to the extent that the person acts in such capacity; and* *(C) any authorized IRS e-file Providers (as defined for purposes of section 7216 of the Internal Revenue Code of 1986), but only to the extent that the person acts in such capacity.*	
	(22) PRUDENTIAL REGULATOR- The term `prudential regulator' means-- *(A) in the case of an insured depository institution, the appropriate Federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act; and* *(B) in the case of an insured credit union, the National Credit Union Administration.*	
(33) RELATED PERSON-	*(23) RELATED PERSON- The term `related person'--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) IN GENERAL- The term `related person', when used in connection with a covered person that is not a bank holding company, credit union, depository institution, means-- (i) any director, officer, employee charged with managerial responsibility, or controlling stockholder of, or agent for, such covered person; (ii) any shareholder, consultant, joint venture partner, and any other person as determined by the Director (by regulation or on a case-by-case basis) who materially participates in the conduct of the affairs of such covered person; and (iii) any independent contractor (including any attorney, appraiser, or accountant), with respect to such covered person, who knowingly or recklessly participates in any-- (I) violation of any law or regulation; or (II) breach of fiduciary duty. (B) TREATMENT OF A RELATED PERSON AS A COVERED PERSON- Any person who is a related person under subparagraph (A) shall be deemed to be a covered person for all purposes of this title, any enumerated consumer law, and any law for which authorities were transferred by subtitles F and H.	*(A) shall apply only with respect to a covered person that is not a bank holding company (as that term is defined in section 2 of the Bank Holding Company Act of 1956), credit union, or depository institution;* *(C) means--* *(i) any director, officer, or employee charged with managerial responsibility for, or controlling shareholder of, or agent for, such covered person;* *(ii) any shareholder, consultant, joint venture partner, or other person, as determined by the Bureau (by rule or on a case-by-case basis) who materially participates in the conduct of the affairs of such covered person; and* *(iii) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in any--* *(I) violation of any provision of law or regulation; or* *(II) breach of a fiduciary duty.* *(B) shall be deemed to mean a covered person for all purposes of any provision of Federal consumer financial law; and*	
(34) SECRETARY- The term `Secretary' means the Secretary of the Treasury.		
(35) SERVICE PROVIDER- (A) IN GENERAL- The term `service provider' means any person who provides a material service to a covered person in the provision of a consumer financial product or service, including a person who— (i) facilitates the design of, or operations relating to the provision of, the consumer financial product or service; (ii) has direct interaction with a consumer (whether in person or via telecommunication device or other similar technology) regarding the consumer financial product or service; or (iii) processes transactions relating to the consumer financial product or service.	*(24) SERVICE PROVIDER-* *(A) IN GENERAL- The term `service provider' means any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that--* *(i) participates in designing, operating, or maintaining the consumer financial product or service; or* *(ii) processes transactions relating to the consumer financial product or service (other than unknowingly or incidentally transmitting or processing financial data in a manner that such data is undifferentiated from other types of data of the same form as the person transmits or processes).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) EXCEPTIONS- The term `service provider' shall not apply to a person solely by virtue of such person providing or selling to a covered person— (i) a support service of a type provided to businesses generally or a similar ministerial service; (ii) a service that does not materially affect the terms or conditions of the consumer financial product or service, its performance or operation, or the propensity of a consumer to obtain or use such product or service; or (iii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.	*(B) EXCEPTIONS- The term `service provider' does not include a person solely by virtue of such person offering or providing to a covered person--* *(i) a support service of a type provided to businesses generally or a similar ministerial service; or* *(ii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.* *(C) RULE OF CONSTRUCTION- A person that is a service provider shall be deemed to be a covered person to the extent that such person engages in the offering or provision of its own consumer financial product or service.*	
(36) STATE- The term `State' means any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1(a)).	*(25) STATE- The term `State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1(a)).*	
(37) STORED VALUE- The term `stored value'-- (A) means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically; and (B) includes a prepaid debit card or product (other than a card or product used solely for telephone services) or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.	*(26) STORED VALUE- The term `stored value' means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.*	
(38) AGENCY CONVERSION DATE- The term `Agency conversion date' means the date that is 2 years after the designated transfer date.		
Subtitle A--Establishment of the Agency **SEC. 4101. ESTABLISHMENT OF THE CONSUMER FINANCIAL**	***Subtitle A--Bureau of Consumer Financial Protection***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
PROTECTION AGENCY. (a) Agency Established- There is established the Consumer Financial Protection Agency as an independent agency to regulate the provision of consumer financial products or services under this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H.	***SEC. 1011. ESTABLISHMENT OF THE BUREAU.*** *(a) Bureau Established- There is established in the Federal Reserve System the Bureau of Consumer Financial Protection, which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws.*	
(b) Agency Structure- (1) INITIAL STRUCTURE- The Agency shall be led by a Director or Acting Director, established pursuant to section 4102, until the day before the Agency conversion date. (2) SUBSEQUENT STRUCTURE- On and after the Agency conversion date, the Agency shall consist of the commission established under section 4103.		
(c) Principal Office- The principal office of the Agency shall be located in the city of Washington, District of Columbia, at 1 or more sites.	***SEC. 1011. ESTABLISHMENT OF THE BUREAU.*** *(e) Offices- The principal office of the Bureau shall be in the District of Columbia. The Director may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.*	
SEC. 4102. DIRECTOR. (a) Establishment of Position- (1) IN GENERAL- There is hereby established the position of the Director of the Agency who shall be the head of the Agency. (2) AUTHORITY TO PRESCRIBE REGULATIONS- The Director may prescribe such regulations and issue such orders in accordance with this title as the Director may determine to be necessary for carrying out this title and all other laws within the Director's jurisdiction and shall exercise any authorities granted under this title and all other laws within the Director's jurisdiction. (b) Appointment; Term- (1) NOMINATION- Within 60 days after the date of enactment of this title, the President shall nominate the Director, from among individuals who-- (A) are citizens of the United States; and (B) have strong competencies and experiences related to consumer financial protection. (2) APPOINTMENT SUBJECT TO CONFIRMATION- The Director nominated under paragraph (1) shall be appointed by and with the advice and consent of the Senate. (3) ACTING DIRECTOR BEFORE SENATE CONFIRMATION-	***SEC. 1011. ESTABLISHMENT OF THE BUREAU.*** *(b) Director and Deputy Director-* *(1) IN GENERAL- There is established the position of the Director, who shall serve as the head of the Bureau.* *(2) APPOINTMENT- Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.* *(3) QUALIFICATION- The President shall nominate the Director from among individuals who are citizens of the United States.* *(4) COMPENSATION- The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.* *(5) DEPUTY DIRECTOR- There is established the position of Deputy Director, who shall--* *(A) be appointed by the Director; and* *(B) serve as acting Director in the absence or unavailability of the Director.* *(c) Term-* *(1) IN GENERAL- The Director shall serve for a term of 5 years.* *(2) EXPIRATION OF TERM- An individual may serve as Director after the expiration of the term for which appointed, until a successor*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
The individual nominated pursuant to paragraph (1) shall serve as Acting Director with full authorities granted to the Director under this title until the Director is confirmed by the Senate. (4) TERM- The Director shall be appointed for a term that ends on the Agency conversion date. (5) REMOVAL- The Director may be removed before the end of a term only for cause. (6) VACANCY- (A) IN GENERAL- A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (2) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term. (B) ACTING DIRECTOR- (i) IN GENERAL- In the event of vacancy or during the absence of the Director (who has been confirmed by the Senate pursuant to paragraph (2)), an Acting Director shall be appointed in the manner provided in section 3345 of title 5, United States Code. (ii) AUTHORITY OF ACTING DIRECTOR- Any individual serving as Acting Director under this subparagraph shall be vested with all authority, duties, and privileges of the Director. (7) SERVICE AFTER END OF TERM- An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed and qualified. (c) Prohibition on Financial Interests- The Director shall not have a direct or indirect financial interest in any covered person. (d) Compensation- The Director shall receive compensation at the rate prescribed for Level I of the Executive Schedule under section 5313 of title 5, United States Code.	*has been appointed and qualified.* *(3) REMOVAL FOR CAUSE- The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.* *(d) Service Restriction- No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.* ***SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.*** *(b) Delegation of Authority- The Director of the Bureau may delegate to any duly authorized employee, representative, or agent any power vested in the Bureau by law.* *(c) Autonomy of the Bureau-* *(1) COORDINATION WITH THE BOARD OF GOVERNORS- Notwithstanding section 18 of the Federal Trade Commission Act*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(15 U.S.C. 57a) and any other provision of law applicable to the supervision or examination of persons with respect to Federal consumer financial laws, the Board of Governors may delegate to the Bureau the authorities to examine persons subject to the jurisdiction of the Board of Governors for compliance with the Federal consumer financial laws. *(2) AUTONOMY- Notwithstanding the authorities granted to the Board of Governors under the Federal Reserve Act, the Board of Governors may not--* *(A) intervene in any matter or proceeding before the Director, including examinations or enforcement actions, unless otherwise specifically provided by law;* *(B) appoint, direct, or remove any officer or employee of the Bureau; or* *(C) merge or consolidate the Bureau, or any of the functions or responsibilities of the Bureau, with any division or office of the Board of Governors or the Federal reserve banks.* *(3) RULES AND ORDERS- No rule or order of the Bureau shall be subject to approval or review by the Board of Governors. The Board of Governors may not delay or prevent the issuance of any rule or order of the Bureau.* *(4) RECOMMENDATIONS AND TESTIMONY- No officer or agency of the United States shall have any authority to require the Director or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the Director or such officer, and do not necessarily reflect the views of the Board of Governors or the President.*	
SEC. 4103. ESTABLISHMENT AND COMPOSITION OF THE COMMISSION. (a) Establishment of the Commission- (1) IN GENERAL- On the Agency conversion date, there shall be established a commission (hereinafter in this section referred to as the `Commission') that shall by operation of law succeed to all of the authorities of the Director of the Agency granted under this title and any other law. (2) AUTHORITY TO PRESCRIBE REGULATIONS- The Commission may prescribe such regulations and issue such orders in		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
accordance with this title as the Commission may determine to be necessary for carrying out this title and all other laws within the Commission's jurisdiction and shall exercise any authorities granted under this title and all other laws within the Commission's jurisdiction. (b) Composition of the Commission- (1) IN GENERAL- The Commission shall be composed of 5 members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who-- (A) are citizens of the United States; and (B) have strong competencies and experiences related to consumer financial protection. (2) INITIAL APPOINTMENTS- (A) IN GENERAL- The initial members of the Commission, other than the initial Chair, may be appointed by the President, by and with the advice and consent of the Senate, prior to the Agency conversion date, but may not serve in their positions until such date. (B) STAGGERING- Except as provided under subsection (d)(1), the members of the Commission shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 4, and 5 years, respectively. (3) TERMS- (A) IN GENERAL- Except as provided in subsection (d)(1), each member of the Commission, including the Chair, shall serve for a term of 5 years. (B) REMOVAL FOR CAUSE- The President may remove any member of the Commission only for inefficiency, neglect of duty, or malfeasance in office. (C) VACANCIES- Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term to which that member's predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term. (D) CONTINUATION OF SERVICE- Each member of the Commission may continue to serve after the expiration of the term of office to which that member was appointed until a successor has been appointed by the President and confirmed by the Senate, except that a member may not continue to serve more than 1 year after the date on which that member's term would otherwise expire. (E) OTHER EMPLOYMENT PROHIBITED- No member of the Commission shall engage in any other business,		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
vocation, or employment. (c) Affiliation- With respect to members appointed pursuant to subsection (b), not more than 3 shall be members of any one political party. (d) Chair of the Commission- (1) APPOINTMENT- (A) INITIAL CHAIR- The first Chair of the Commission shall be the Director or Acting Director serving on the day before the Agency conversion date, and such individual shall serve in the position of Chair for a period of 3 years. (B) SUBSEQUENT CHAIRS- Subsequent chairs shall be appointed by the President from among the members of the Commission to serve as the Chair. (2) AUTHORITY- The Chair shall be the principal executive officer of the Agency, and shall exercise all of the executive and administrative functions of the Agency, including with respect to-- (A) the appointment and supervision of personnel employed under the Agency (other than personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chair); (B) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Agency; and (C) the use and expenditure of funds. (3) LIMITATION- In carrying out any of the Chair's functions under the provisions of this subsection the Chair shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make. (4) REQUESTS OR ESTIMATES RELATED TO APPROPRIATIONS- Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chair without the prior approval of the commission. (e) No Impairment by Reason of Vacancies- No vacancy in the members of the Commission shall impair the right of the remaining members of the Commission to exercise all the powers of the Commission. Three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Commission members to decline to 2.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(f) Seal- The Commission shall have an official seal. (g) Compensation- (1) CHAIR- The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code. (2) OTHER MEMBERS OF THE COMMISSION- The 4 other members of the Commission shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code. (h) Initial Quorum Established- During any time period prior to the confirmation of at least two members of the Commission under subsection (b)(2), one member of the Commission shall constitute a quorum for the transaction of business. Following the confirmation of at least 2 additional commissioners, the quorum requirements of subsection (e) shall apply. (i) Definitions- Notwithstanding section 4002, for purposes of this section: (1) AGENCY- The term `Agency' means the Consumer Financial Protection Agency. (2) DIRECTOR- The term `Director' means the Director of the Agency.		
SEC. 4104. CONSUMER FINANCIAL PROTECTION OVERSIGHT BOARD. (a) Established- There is hereby established the Consumer Financial Protection Oversight Board as an instrumentality of the United States. (b) Duties and Powers- (1) DUTY TO ADVISE DIRECTOR- The Board shall advise the Director on-- (A) the consistency of a proposed regulation of the Director with prudential, market, or systemic objectives administered by the agencies that comprise the Board; (B) the overall strategies and policies in carrying out the duties of the Director under this title; and (C) actions the Director can take to enhance and ensure that all consumers are subject to robust financial protection. (2) LIMITATION ON POWERS- The Board may not exercise any executive authority, and the Director may not delegate to the Board any of the functions, powers, or duties of the Director. (c) Composition- The Board shall be comprised of 7 members as follows: (1) The Chairman of the Board of Governors. (2) The head of the agency responsible for chartering and regulating national banks. (3) The Chairperson of the Federal Deposit Insurance Corporation. (4) The Chairman of the National Credit Union Administration. (5) The Chairman of the Federal Trade Commission.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(6) The Secretary of Housing and Urban Development. (7) The Chairman of the liaison committee of representatives of State agencies to the Financial Institutions Examination Council. (d) Representative of Additional Interests- (1) COMPOSITION- Notwithstanding subsection (c), the President, by and with the advice and consent of the Senate, shall appoint 5 additional members of the Board from among experts in the fields of consumer protection, fair lending and civil rights, representatives of depository institutions that primarily serve underserved communities, or representatives of communities that have been significantly impacted by higher-priced mortgage loans, as such communities are identified by the Director through an analysis of data received by reason of the provisions of the Home Mortgage Disclosure Act of 1975 or other data on lending patterns. (2) AFFILIATION- With respect to members appointed pursuant to paragraph (1), not more than 3 shall be members of any one political party. (e) Meetings- (1) IN GENERAL- The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months. (2) SPECIAL MEETINGS- Any member of the Board may, upon giving written notice to the Director, require a special meeting of the Board. (f) Prohibition on Additional Compensation- Members of the Board may not receive additional pay, allowances, or benefits by reason of their service on the Board. (g) Complaints Related to Required Offering of Specific Financial Products or Services- The Board shall establish procedures to receive and analyze complaints from any person claiming that the Director is not in compliance with the requirements under section 4311.		
SEC. 4105. EXECUTIVE AND ADMINISTRATIVE POWERS. The Director may exercise all executive and administrative functions of the Agency, including to— (1) establish regulations for conducting the Agency's general business in a manner not inconsistent with this title; (2) bind the Agency and enter into contracts; (3) direct the establishment of and maintain divisions or other offices within the Agency in order to fulfill the responsibilities of this title, the enumerated consumer laws, and the authorities transferred under subtitles F and H, and to satisfy the requirements of other applicable	***SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.*** *(a) Powers of the Bureau- The Bureau is authorized to establish the general policies of the Bureau with respect to all executive and administrative functions, including--* *(1) the establishment of rules for conducting the general business of the Bureau, in a manner not inconsistent with this title;* *(2) to bind the Bureau and enter into contracts;* *(3) directing the establishment and maintenance of divisions or other offices within the Bureau, in order to carry out the responsibilities under the Federal consumer financial laws, and to satisfy the requirements of other applicable law;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
law, except that the Director shall not exercise any authorities that are granted to State insurance authorities under section 505(a)(6) of the Gramm-Leach-Bliley Act; (4) coordinate and oversee the operation of all administrative, enforcement, and research activities of the Agency; (5) adopt and use a seal; (6) determine the character of and the necessity for the Agency's obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid; (7) delegate authority, at the Director's discretion, to any officer or employee of the Agency to take action under any provision of this title or under other applicable law; (8) to implement this title and the Agency's authorities under the enumerated consumer laws and under subtitles F and H through regulations, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and (9) perform such other functions as may be authorized or required by law.	*(4) to coordinate and oversee the operation of all administrative, enforcement, and research activities of the Bureau;* *(5) to adopt and use a seal;* *(6) to determine the character of and the necessity for the obligations and expenditures of the Bureau;* *(7) the appointment and supervision of personnel employed by the Bureau;* *(8) the distribution of business among personnel appointed and supervised by the Director and among administrative units of the Bureau;* *(9) the use and expenditure of funds;* *(10) implementing the Federal consumer financial laws through rules, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and* *(11) performing such other functions as may be authorized or required by law.*	
SEC. 4106. ADMINISTRATION. (a) Officers- The Director shall appoint the following officials: (1) A secretary, who shall be charged with maintaining the records of the Agency and performing such other activities as the Director directs. (2) A general counsel, who shall be charged with overseeing the legal affairs of the Agency and performing such other activities as the Director directs. (3) An inspector general, who shall have the authority and functions of an inspector general of an establishment under the Inspector General Act of 1978 (5 U.S.C. App. 3). (4) An Ombudsperson, who shall-- (A) develop and maintain expertise in and understanding of the law relating to consumer financial products; (B) at the request of a Federal agency or a State agency, and with the prior approval of the Director, advise such agency with respect to actions that may affect consumers; (C) advise consumers who may have a legitimate potential		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or actual claim against a Federal agency involving the provision of consumer financial products regarding their rights under this title; (D) identify Federal agency actions that have potential implications for consumers and, if appropriate, and with the prior approval of the Director, advise the relevant Federal agencies with respect to those implications; (E) provide information to private citizens, civic groups, Federal agencies, State agencies, and other interested parties regarding the rights of those parties under this title; (F) develop, maintain, and provide expertise designed to assist covered persons, especially smaller depository institutions and other smaller entities to comply with regulations and other requirements issued to implement the provisions of this title, and where such assistance for smaller depository institutions shall be provided jointly by the Agency and the appropriate Federal banking agency; (G) develop procedures to assist covered persons, especially smaller depository institutions and other smaller entities, in responding to or challenging actions taken by the Director or the Agency to implement the provisions of this title and to ensure that safeguards exist to preserve the confidentiality of covered persons using those procedures; and (H) perform such other duties as the Director may delegate to the Ombudsperson.		
(b) Personnel- (1) APPOINTMENT- The Director may fix the number of, and appoint and direct, all employees of the Agency. (2) COMPENSATION- (A) PAY- The Director shall fix, adjust, and administer the	***SEC. 1013. ADMINISTRATION.*** *(a) Personnel-* *(1) APPOINTMENT-* *(A) IN GENERAL- The Director may fix the number of, and appoint and direct, all employees of the Bureau.* *(B) EMPLOYEES OF THE BUREAU- The Director is authorized to employ attorneys, compliance examiners, compliance supervision analysts, economists, statisticians, and other employees as may be deemed necessary to conduct the business of the Bureau. Notwithstanding any other provision of law, all such employees shall be appointed and compensated on terms and conditions that are consistent with the terms and conditions set forth in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)).* *(2) COMPENSATION- The Director shall at all times provide compensation and benefits to each class of employees that, at a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
pay for all employees of the Agency without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. (B) BENEFITS- The Director may provide additional benefits to Agency employees if the same type of benefits are then being provided by the Board of Governors or, if not then being provided, could be provided by the Board of Governors under applicable provisions of law or regulations. (C) MINIMUM STANDARD- The Director shall at all times provide compensation and benefits to classes of employees that, at a minimum, are equivalent to the compensation and benefits provided by the Board of Governors for the corresponding class of employees in any fiscal year.	*minimum, are equivalent to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.*	
(c) Specific Functional Units- (1) RESEARCH- The Agency shall establish a unit whose functions shall include-- (A) conducting research on consumer financial counseling and education, including-- (i) on the topics of debt, credit, savings, financial product usage, and financial planning; (ii) exploring effective methods, tools, and approaches; and (iii) identifying ways to incorporate new technology for the delivery and evaluation of financial counseling and education efforts; (B) researching, analyzing, and reporting on-- (i) current and prospective developments in markets for consumer financial products or services, including market areas of alternative consumer financial products or services with high growth rates; (ii) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services; (iii) consumer awareness and understanding of costs, risks, and benefits of consumer financial products or services; (iv) consumer behavior with respect to consumer financial products or services, including	***SEC. 1013. ADMINISTRATION.*** *(b) Specific Functional Units-* *(1) RESEARCH- The Director shall establish a unit whose functions shall include researching, analyzing, and reporting on--* *(A) developments in markets for consumer financial products or services, including market areas of alternative consumer financial products or services with high growth rates and areas of risk to consumers;* *(B) access to fair and affordable credit for traditionally underserved communities;* *(C) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services;* *(D) consumer awareness and understanding of costs, risks, and benefits of consumer financial products or services; and* *(E) consumer behavior with respect to consumer financial products or services.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
performance on mortgage loan; (v) experiences of traditionally underserved consumers, including un-banked and under-banked consumers, regarding consumer financial products or services, and the impact of Federal policies, including resource limits in means-tested Federal benefit programs (as defined in section 318 of the Higher Education Act of 1965; 20 U.S.C. 1059e), on such consumers in influencing banking behavior; and (vi) the nature, range, and size of variations between the credit scores sold to creditors and those sold to consumers by consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act; 15 U.S.C. 1681a(p)), and whether such variations disadvantage consumers; (C) identifying priorities for consumer financial education efforts, based on consumer complaints, research or analysis conducted pursuant to subparagraph (A), or other information; and (D) testing and identifying methods of educating consumers to determine which methods are most effective.		
(2) COMMUNITY AFFAIRS- The Director shall establish a unit whose functions shall include providing information, guidance, and technical assistance regarding the provision of consumer financial products or services to traditionally underserved consumers and communities.	*(2) COMMUNITY AFFAIRS- The Director shall establish a unit whose functions shall include providing information, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.*	
(3) CONSUMER COMPLAINTS- (A) IN GENERAL- The Director shall establish a unit whose functions shall include establishing a central database, or utilizing an existing database, for collecting and tracking information on consumer complaints about consumer financial products or services and resolution of complaints. (B) COORDINATION- In performing the functions described in subparagraph (A), the Director shall coordinate with the Federal banking agencies, the Federal Trade Commission, other Federal agencies, and other regulatory agencies or enforcement authorities. (C) DATA SHARING REQUIRED- To the extent permitted by law and the regulations prescribed by the	*(3) COLLECTING AND TRACKING COMPLAINTS-* *(A) IN GENERAL- The Director shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The Director shall coordinate with the Federal Trade Commission or other Federal agencies to route complaints to such agencies, where appropriate.* *(D) DATA SHARING REQUIRED- To facilitate preparation of the reports required under subparagraph (C), supervision and enforcement activities, and monitoring of the market for consumer financial products and services,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Director regarding the confidential treatment of information, the Director shall share data relating to consumer complaints with Federal banking agencies, the Federal Trade Commission, other Federal agencies, and State regulators. To the extent permitted by law and the regulations prescribed by the Federal banking agencies and other Federal agencies regarding the confidential treatment of information, the Federal banking agencies and other Federal agencies, respectively, shall share data relating to consumer complaints with the Director and the Agency. (D) CONSUMER COMPLAINT WEB SITE- The Director shall establish an Internet Web site for consumer complaints and inquiries concerning institutions regulated by the Agency. The Web site shall be interoperable with the database established under subparagraph (A).	*the Bureau shall share consumer complaint information with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies, consistent with Federal law applicable to personally identifiable information. The prudential regulators, the Federal Trade Commission, and other Federal agencies shall share data relating to consumer complaints regarding consumer financial products and services with the Bureau, consistent with Federal law applicable to personally identifiable information.*	
(4) CONSUMER FINANCIAL EDUCATION- (A) IN GENERAL- The Agency shall establish a unit to be named the Office of Financial Literacy, whose functions shall include activities designed to facilitate the education of consumers on consumer financial products and services, including through the dissemination of materials to consumers on such topics. (B) DIRECTOR- The Office of Financial Literacy shall be headed by a director. (C) DUTIES- Such unit shall-- (i) develop goals for programs to be provided by persons that provide consumer financial education and counseling, including programs through which such persons-- (I) provide one-on-one financial counseling; (II) help individuals understand basic banking and savings tools; (III) help individuals understand their credit history and credit score; (IV) assist individuals in efforts to plan for major purchases, reduce their debt, and improve their financial stability; and (V) work with individuals to design plans for long-term savings; (ii) develop recommendations regarding effective	*(d) Office of Financial Literacy-* *(1) ESTABLISHMENT- The Director shall establish an Office of Financial Literacy, which shall be responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions.* *(2) OTHER DUTIES- The Office of Financial Literacy shall develop and implement a strategy to improve the financial literacy of consumers that includes measurable goals and objectives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for Financial Education, through activities including providing opportunities for consumers to access--* *(A) financial counseling;* *(B) information to assist with the evaluation of credit products and the understanding of credit histories and scores;* *(C) savings, borrowing, and other services found at mainstream financial institutions;* *(D) activities intended to--* *(i) prepare the consumer for educational expenses and the submission of financial aid applications, and other major purchases;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
certification of persons providing programs, or performing the activities, described in clause (i), including recommendations regarding-- (I) certification processes and standards for certification; (II) appropriate certifying bodies; and (III) mechanisms for funding the certification processes; (iii) develop a technology tool to collect data on financial education and counseling outcomes; and (iv) conduct research to identify effective methods, tools, technoloy, and strategies to educate and counsel consumers about personal finance management, including on the topics of debt, credit, savings, financial product usage, and financial planning.	*(ii) reduce debt; and* *(iii) improve the financial situation of the consumer;* *(E) assistance in developing long-term savings strategies; and* *(F) wealth building and financial services during the preparation process to claim earned income tax credits and Federal benefits.*	
(D) COORDINATION- Such unit shall coordinate with other units within the Agency in carrying out its functions, including-- (i) working with the unit established under paragraph (2) to-- (I) provide information and resources to community organizations, nonprofit organizations, and other entities to assist in helping educate consumers about consumer financial products and services; and (II) develop a marketing strategy to promote financial education and one-on-one counseling; and (ii) working with the unit established under paragraph (1) to conduct research related to consumer financial education and counseling.	*(3) COORDINATION- The Office of Financial Literacy shall coordinate with other units within the Bureau in carrying out its functions, including--* *(A) working with the Community Affairs Office to implement the strategy to improve financial literacy of consumers; and* *(B) working with the research unit established by the Director to conduct research related to consumer financial education and counseling.*	
	(4) REPORT- Not later than 24 months after the designated transfer date, and annually thereafter, the Director shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to-- *(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and* *(B) the Committee on Financial Services of the House of Representatives.*	
	(5) MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	COMMISSION- Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended-- *(A) in subparagraph (B), by striking `and' at the end;* *(B) by redesignating subparagraph (C) as subparagraph (D); and* *(C) by inserting after subparagraph (B) the following new subparagraph:* *`(C) the Director of the Bureau of Consumer Financial Protection; and'.* *(6) CONFORMING AMENDMENT- Section 513(d) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(d)) is amended by adding at the end the following: `The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.'.*	
(d) Single Toll-free Telephone Number for Consumer Complaints and Inquiries- (1) CALL INTAKE SYSTEM- The Consumer Financial Protection Agency shall establish a single, toll-free telephone number for consumer complaints and inquiries concerning institutions regulated by such agencies and a system for collecting and monitoring complaints and, as soon as practicable, a system for routing such calls to the Federal financial institution regulatory agency that primarily supervises the financial institution, or that is otherwise the appropriate Federal agency to address the subject of the complaint or inquiry. (2) ROUTING CALLS TO STATES- To the extent practicable, State agencies may receive appropriate call transfers from the system established under paragraph (1) if-- (A) the State agency's system has the functional capacity to receive calls routed by the system; and (B) the State agency has satisfied any conditions of participation in the system that the Council, coordinating with State agencies through the chairperson of the State	***SEC. 1034. RESPONSE TO CONSUMER COMPLAINTS AND INQUIRIES.*** *(a) Timely Regulator Response to Consumers- The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including--* *(1) steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;* *(2) any responses received by the regulator from the covered person; and* *(3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.* ***SEC. 1013. ADMINISTRATION.*** *(b) Specific Functional Units-* *(3) COLLECTING AND TRACKING COMPLAINTS-* *(B) ROUTING CALLS TO STATES- To the extent practicable, State agencies may receive appropriate complaints from the systems established under subparagraph (A), if--* *(i) the State agency system has the functional capacity to receive calls or electronic reports routed by the Bureau systems; and* *(ii) the State agency has satisfied any conditions of participation in the system that the Bureau may*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Liaison Committee, may establish. (e) Report to the Congress- Before the end of the 6-month period beginning on the date of the enactment of this title, the Federal financial institution regulatory agencies shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the agencies' efforts to establish-- (1) a public interagency Web site for directing and referring Internet consumer complaints and inquiries concerning any financial institution to the Consumer Financial Protection Agency for purposes of collecting, monitoring, and responding to such complaints and, where appropriate, a system for referring complaints to the Federal financial institution regulatory agency, other Federal agency, or State agency that is otherwise the appropriate agency to address the subject of the complaint or inquiry; and (2) a system to expedite the prompt and effective rerouting of any misdirected consumer complaint or inquiry documents between or among the agencies, with prompt referral of any complaint or inquiry to the appropriate Federal financial institution regulatory agency, and to participating State agencies.	*establish, including treatment of personally identifiable information and sharing of information on complaint resolution or related compliance procedures and resources.* *(C) REPORTS TO THE CONGRESS- The Director shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services. Such report shall include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints.* ***SEC. 1034. RESPONSE TO CONSUMER COMPLAINTS AND INQUIRIES.*** *(b) Timely Response to Regulator by Covered Person- A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including--* *(1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;* *(2) responses received by the covered person from the consumer; and* *(3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.* *(c) Provision of Information to Consumers-* *(1) IN GENERAL- A covered person subject to supervision and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	primary enforcement by the Bureau pursuant to section 1025 shall, in a timely manner, comply with a consumer request for information in the control or possession of such covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including supporting written documentation, concerning the account of the consumer. *(2) EXCEPTIONS- A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025, a prudential regulator, and any other agency having jurisdiction over a covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 may not be required by this section to make available to the consumer--* *(A) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;* *(B) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting or making any report regarding other unlawful or potentially unlawful conduct;* *(C) any information required to be kept confidential by any other provision of law; or* *(D) any nonpublic or confidential information, including confidential supervisory information.* *(d) Agreements With Other Agencies- The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency regarding procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section.*	
(f) Office of Financial Protection for Older Americans- (1) ESTABLISHMENT- Before the end of the 180-day period beginning on the date of the enactment of this title, the Director shall establish within the Agency the Office of Financial Protection for Older Americans, whose functions shall include activities designed to facilitate the financial literacy of individuals who have attained the age of 62 years or more (in this paragraph, referred to as `seniors') on protection from unfair and deceptive practices and on current and future financial choices, including through the dissemination of materials to seniors on such topics. (2) DIRECTOR- The Office of Financial Protection for Older Americans shall be headed by a director. (3) DUTIES- Such unit shall perform the following duties: (A) Develop goals for programs that provide seniors		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
financial literacy and counseling, including programs that-- (i) help seniors recognize warning signs of unfair and deceptive practices, protect themselves from such practices; (ii) provide one-on-one financial counseling on issues including long-term savings and later-life economic security; and (iii) provide personal consumer credit advocacy to respond to consumer problems caused by unfair and deceptive practices. (B) Monitor certifications or designations of financial advisors who advise seniors and alert the Securities and Exchange Commission and State regulators of certifications or designations that are identified as unfair or deceptive. (C) Not later than 18 months after the date of the establishment of the Office of Financial Protection for Older Americans, submit to Congress and the Securities and Exchange Commission recommendations of the best practices for any legislative and regulatory-- (i) disseminating information regarding the legitimacy of certifications of financial advisers who advise seniors; (ii) methods in which a senior can identify the financial advisor most appropriate for the senior's needs; and (iii) methods in which a senior can verify a financial advisor's credentials. (D) Conduct research to identify best practices and effective methods, tools, technology and strategies to educate and counsel seniors about personal finance management with a focus on-- (i) protecting themselves from unfair and deceptive practices; (ii) long-term savings; and (iii) planning for retirement and long-term care. (E) Coordinate consumer protection efforts of seniors with other Federal agencies and State regulators, as appropriate, to promote consistent, effective, and efficient enforcement. (F) Work with community organizations, non-profit organizations, and other entities that are involved with educating or assisting seniors (including the National Education and Resource Center on Women and Retirement Planning).		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 1013. ADMINISTRATION.	
(g) Office of Fair Lending and Equal Opportunity- (1) ESTABLISHMENT- Before the end of the 180-day period beginning on the date of the enactment of this title, the Director shall establish within the Agency the Office of Fair Lending and Equal Opportunity. (2) FUNCTIONS- The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate the Office which shall include the following functions: (A) Providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Agency, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act. (B) Coordinating fair lending enforcement efforts of the Agency with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient and effective enforcement of Federal fair lending laws. (C) Working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education. (D) Providing annual reports to the Congress on the Agency's efforts to fulfill its fair lending mandate. (3) ADMINISTRATION OF OFFICE- There is hereby established the position of Assistant Director of the Agency for Fair Lending and Equal Opportunity who-- (A) shall be appointed by the Director; (B) shall carry out such duties as the Director may delegate to such Assistant Director; and (C) shall serve as the Director of the Office of Fair Lending and Equal Opportunity. (4) PROHIBITIONS ON PARTICIPATION IN PROGRAMS WITH RESPECT TO CERTAIN INDICTED ORGANIZATIONS- (A) PROHIBITION- The Director of the Office of Fair Lending and Equal Opportunity may not allow a covered organization to participate in any program established by such Director. (B) COVERED ORGANIZATION- In this paragraph, the term `covered organization' means any of the following: (i) Any organization that has been indicted for a violation under any Federal or State law governing the financing of a campaign for election for public	*(c) Office of Fair Lending and Equal Opportunity-* *(1) ESTABLISHMENT- The Director shall establish within the Bureau the Office of Fair Lending and Equal Opportunity.* *(2) FUNCTIONS- The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate to the Office, including--* *(A) providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act;* *(B) coordinating fair lending and fair housing efforts of the Bureau with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws;* *(C) working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education; and* *(D) providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.* *(3) ADMINISTRATION OF OFFICE- There is established the position of Assistant Director of the Bureau for Fair Lending and Equal Opportunity, who--* *(A) shall be appointed by the Director; and* *(B) shall carry out such duties as the Director may delegate to such Assistant Director*.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
office or any law governing the administration of an election for public office, including a law relating to voter registration. (ii) Any organization that had its State corporate charter terminated due to its failure to comply with Federal or State lobbying disclosure requirements. (iii) Any organization that has filed a fraudulent form with any Federal or State regulatory agency. (iv) Any organization that-- (I) employs any applicable individual, in a permanent or temporary capacity; (II) has under contract or retains any applicable individual; or (III) has any applicable individual acting on the organization's behalf or with the express or apparent authority of the organization. (C) ADDITIONAL DEFINITIONS- In this paragraph: (i) The term `organization' includes the Association of Community Organizations for Reform Now (in this paragraph referred to as `ACORN') and any ACORN-related affiliate. (ii) The term `ACORN-related affiliate' means any of the following: (I) Any State chapter of ACORN registered with the Secretary of State's office in that State. (II) Any organization that shares directors, employees, or independent contractors with ACORN. (III) Any organization that has a financial stake in ACORN. (IV) Any organization whose finances, whether federally funded, donor-funded, or raised through organizational goods and services, are shared or controlled by ACORN. (iii) The term `applicable individual' means an individual who has been indicted for a violation under Federal or State law relating to an election for Federal or State office. (D) REVISION OF FEDERAL ACQUISITION REGULATION- The Federal Acquisition Regulation shall		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
be revised to carry out the provisions of this paragraph relating to contracts. (E) SEVERABILITY- If any provision of this section or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provision to any other person or circumstance shall not be affected.		
	SEC. 1013. ADMINISTRATION. *(e) Office of Service Member Affairs-* *(1) IN GENERAL- The Director shall establish an Office of Service Member Affairs, which shall be responsible for developing and implementing initiatives for service members and their families intended to--* *(A) educate and empower service members and their families to make better informed decisions regarding consumer financial products and services;* *(B) coordinate with the unit of the Bureau established under subsection (b)(3), in order to monitor complaints by service members and their families and responses to those complaints by the Bureau or other appropriate Federal or State agency; and* *(C) coordinate efforts among Federal and State agencies, as appropriate, regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families.* *(2) COORDINATION-* *(A) REGIONAL SERVICES- The Director is authorized to assign employees of the Bureau as may be deemed necessary to conduct the business of the Office of Service Member Affairs, including by establishing and maintaining the functions of the Office in regional offices of the Bureau located near military bases, military treatment facilities, or other similar military facilities.* *(B) AGREEMENTS- The Director is authorized to enter into memoranda of understanding and similar agreements with the Department of Defense, including any branch or agency as authorized by the department, in order to carry out the business of the Office of Service Member Affairs.* *(3) DEFINITION- As used in this subsection, the term `service member' means any member of the United States Armed Forces and any member of the National Guard or Reserves.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 4107. CONSUMER ADVISORY BOARD. (a) Establishment Required- The Director shall establish a Consumer Advisory Board to advise and consult with the Director in the exercise of the functions of the Director and the Agency under this title, the enumerated consumer laws, and to provide information on emerging practices in the consumer financial products or services industry. (b) Membership- (1) IN GENERAL- In appointing the members of the Consumer Advisory Board, the Director shall seek-- (A) to assemble experts in financial services, community development, fair lending and civil rights, consumer protection, and consumer financial products or services; and (B) to represent the interests of covered persons and consumers. (2) PROHIBITION ON MEMBERSHIP WITH RESPECT TO CERTAIN INDICTED ORGANIZATIONS- The director may not appoint an employee of a covered organization (as defined in section 4105(f)(4)(B)) to the Consumer Advisory Board. (c) Political Affiliation- Not more than 1 more than half of the members of the Consumer Advisory Board may be members of the same political party. (d) Meetings- The Consumer Advisory Board shall meet from time to time at the call of the Director, but, at a minimum, shall meet at least twice in each year. (e) Compensation and Travel Expenses- Members of the Consumer Advisory Board who are not full-time employees of the United States shall-- (1) be entitled to receive compensation at a rate fixed by the Director while attending meetings of the Consumer Advisory Board, including travel time; and (2) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.	***SEC. 1014. CONSUMER ADVISORY BOARD.*** *(a) Establishment Required- The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.* *(b) Membership- In appointing the members of the Consumer Advisory Board, the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending, and consumer financial products or services and seek representation of the interests of covered persons and consumers, without regard to party affiliation. Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.* *(c) Meetings- The Consumer Advisory Board shall meet from time to time at the call of the Director, but, at a minimum, shall meet at least twice in each year.* *(d) Compensation and Travel Expenses- Members of the Consumer Advisory Board who are not full-time employees of the United States shall--* *(1) be entitled to receive compensation at a rate fixed by the Director while attending meetings of the Consumer Advisory Board, including travel time; and* *(2) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.*	
SEC. 4108. COORDINATION. (a) Coordination With Other Federal Agencies and State Regulators- The Director shall coordinate with the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Secretary of the Treasury, the Federal Trade Commission, and other Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of, and enforcement related to, consumer and investment products, services, and laws. (b) Coordination of Consumer Education Initiatives-	***SEC. 1015. COORDINATION.*** *The Bureau shall coordinate with the Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, and other Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) IN GENERAL- The Director shall coordinate with each agency that is a member of the Financial Literacy and Education Commission established by the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.) to assist each agency in enhancing its existing financial literacy and education initiatives to better achieve the goals in paragraph (2) and to ensure the consistency of such initiatives across Federal agencies. (2) GOALS OF COORDINATION- In coordinating with the agencies described in paragraph (1), the Director shall seek to improve efforts to educate consumers about financial matters generally, the management of their own financial affairs, and their judgments about the appropriateness of certain financial products. (c) Coordination- The Agency may coordinate investigations, compliance examinations, information sharing, and related activities in support of activities undertaken pursuant to the Fair Housing Act by other Federal agencies.		
SEC. 4109. REPORTS TO THE CONGRESS. (a) Reports Required- The Director shall prepare and submit to the President and the appropriate committees of the Congress a report at the beginning of each regular session of the Congress, beginning with the session following the designated transfer date. (b) Contents- The reports required by subsection (a) shall include-- (1) a list of the significant regulations and orders adopted by the Director, as well as other significant initiatives conducted by the Director, during the preceding year and the Director's plan for regulations, orders, or other initiatives to be undertaken during the upcoming period; (2) an analysis of the major problems consumers of financial products and services were confronted with during the preceding year, including a description of the nature of such problems, and recommendations for such administrative and legislative action as may be appropriate to resolve such problems; (3) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Agency is a party (including adjudication proceedings conducted under subtitle E) during the preceding year; (4) the actions taken regarding regulations, orders, and supervisory actions with respect to covered persons which are not credit unions	***SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.*** *(b) Reports Required- The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, a report, beginning with the session following the designated transfer date.* *(c) Contents- The reports required by subsection (b) shall include--* *(1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;* *(2) a justification of the budget request of the previous year;* *(3) a list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;* *(4) an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year;* *(5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;* *(6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or depository institutions, including descriptions of the types of such covered persons, financial activities, and consumer financial products or services affected by such regulations, orders, and supervisory actions; (5) an appraisal of significant actions, including actions under Federal or State law, by State attorneys general or State regulators relating to this title, the authorities transferred under subtitles F and H, and the enumerated consumer laws; (6) an analysis of the Agency's efforts to increase workforce and contracting diversity consistent with subtitle I of title I of this Act; (7) an analysis of the Agency's efforts to fulfill the fair lending mission of the Agency; and (8) an appraisal of the regulatory and legal difficulties encountered by the Agency in carrying out the mission and duties of the Agency with respect to consumer protection, including a description of-- (A) the difficulties and hardships encountered with respect to coordinating with other Federal and State government entities; (B) the regulatory and enforcement limitations placed on the Agency by this title; (C) the practices of persons, covered and uncovered under this title, that allow such persons to harm consumers and escape regulation or enforcement, including any trends identified; and (D) legislative and administrative recommendations with respect to solving or alleviating identified difficulties. (c) Annual Appearance Before the Congress- The Director shall appear before the House Committee on Financial Services and the House Committee on Energy and Commerce at an annual hearing, after the report is submitted under subsection (a)-- (1) to discuss the efforts, activities, objectives and plans of the Agency; and (2) discuss and answer questions concerning such report.	*or depository institutions;* *(7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law; and* *(8) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau.* *(a) Appearances Before Congress- The Director of the Bureau shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).*	
SEC. 4110. GAO SMALL BUSINESS STUDIES. (a) Studies Required- Not later than the end of the 3-year period beginning on the designated transfer date, and also 3 years thereafter, the Comptroller General of the United States shall carry out a study to examine the effects that regulations issued by the Agency have on small businesses. (b) Report- At the conclusion of each study required under subsection (a), the Comptroller General of the United States shall issue a report to the Congress containing the finding and determinations made by the Comptroller General in carrying out such study.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 4111. FUNDING; FEES AND ASSESSMENTS; PENALTIES AND FINES. (a) Transfer of Funds From the Board of Governors- (1) TRANSFER REQUIRED- Each year, beginning on the designated transfer date, the Board of Governors shall transfer funds in an amount equaling 10 percent of the Federal Reserve System's total system expenses (as reported in the Budget Review of the Board of Governors most recent Annual Report to Congress) to the Director for the purposes of carrying out the authorities granted in this title, under the enumerated consumer laws, and transferred under subtitles F and H. (2) PROCEDURES- The Board of Governors, in consultation with the Agency, shall make appropriate arrangements to transfer funds to the Director in accordance with this subsection.	***SEC. 1017. FUNDING; PENALTIES AND FINES.*** *(a) Transfer of Funds From Board Of Governors-* *(1) IN GENERAL- Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).* *(2) FUNDING CAP-* *(A) IN GENERAL- Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to--* *(i) 10 percent of such expenses in fiscal year 2011;* *(ii) 11 percent of such expenses in fiscal year 2012; and* *(iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.* *(B) AMOUNT ADJUSTED FOR INFLATION- The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent by which the average urban consumer price index for the quarter preceding the date of the payment differs from the average of that index for the same quarter in the prior year.* *(3) TRANSITION PERIOD- Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.* *(4) BUDGET AND FINANCIAL MANAGEMENT-* *(A) FINANCIAL OPERATING PLANS AND FORECASTS- The Director shall provide to the Director of the Office of Management and Budget copies of the financial operating plans and forecasts of the Director, as prepared by the Director in the ordinary course of the operations of the Bureau, and copies of the quarterly reports of the financial condition and results of operations of the Bureau, as*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	prepared by the Director in the ordinary course of the operations of the Bureau. *(B) FINANCIAL STATEMENTS- The Bureau shall prepare annually a statement of--* *(i) assets and liabilities and surplus or deficit;* *(ii) income and expenses; and* *(iii) sources and application of funds.* *(C) FINANCIAL MANAGEMENT SYSTEMS- The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.* *(D) ASSERTION OF INTERNAL CONTROLS- The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established in section 3512(c) of title 31, United States Code.* *(E) RULE OF CONSTRUCTION- This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.*	
(b) Fees and Assessments- (1) ASSESSMENT REQUIRED- (A) IN GENERAL- Taking into account such other sums available to the Agency and subject to the provisions of this subsection and subsection (d), the Director shall assess fees on covered persons to meet the Agency's expenses for carrying out the duties and responsibilities of the Agency, including supervising such covered persons. (B) BASIS FOR ASSESSMENT- The Agency shall assess fees on covered persons pursuant to this subsection based on the size, complexity of, risk posed by, and the compliance record of the covered person under the enumerated consumer laws, the laws and authorities transferred under subtitles F and H, and this title. (2) REGULATIONS- (A) IN GENERAL- The Director shall prescribe regulations to govern the imposition and collection of fees and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
assessments. (B) FACTORS REQUIRED TO BE ADDRESSED- Regulations prescribed by the Director under this subsection shall specify and define-- (i) the basis of fees or assessments (such as the outstanding number of consumer credit accounts, off-balance sheet receivables attributable to the covered person, total consolidated assets, total assets under management, or volume of consumer financial transactions or use of service providers); (ii) the amount and frequency of fees or assessments; and (iii) such other factors that the Director determines are appropriate, which shall include a covered person's compliance record under the enumerated consumer laws, the authorities transferred under subtitles F and H, and this title. (3) ASSESSMENTS ON DEPOSITORY INSTITUTION COVERED PERSONS- (A) DEPOSITORY INSTITUTION COVERED PERSON DEFINED- For purposes of this section, the term `depository institution covered person' means a covered person that is an insured depository institution or credit union. (B) ASSESSMENTS- (i) FEES REQUIRED- The Director shall assess fees for supervision as are appropriate on depository institution covered persons, taking into account the size, complexity of, risk posed by, and the compliance record of the covered person under the enumerated consumer laws, the laws and authorities transferred under subtitles F and H, and this title. (ii) LIMITATION ON CERTAIN FEES- The Agency shall not assess examination fees on an institution referred to in section 4203(a), or an institution whose examination responsibilities have been delegated to an appropriate agency, pursuant to section 4202(c)(11). (iii) BASIS FOR FEE AMOUNTS- Fees assessed by the Director under this subparagraph may be established at levels necessary to meet the Agency's expenses for carrying out the duties and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
responsibilities of the Director and the Agency under this title with regard to depository institution covered persons. (C) COORDINATION DURING IMPLEMENTATION PERIOD- The Director and the agencies responsible for chartering and or supervising depository institution covered persons shall coordinate on the levels of fees assessed on depository institution covered persons under this paragraph, so that levels of assessments under this subparagraph combined with levels of assessments by agencies responsible for chartering and or supervising depository institution covered persons in each of the first 3 years following the date of enactment of this Act shall be no more than the assessments such depository institution covered person was required to pay for the calendar year immediately preceding the designated transfer date. (D) MARGINAL ASSESSMENT RATE- (i) IN GENERAL- In setting assessment rates for depository institution covered persons, the Director shall not impose assessments that, on a risk-adjusted basis, result in higher marginal assessment rates for depository institution covered persons with assets of less than $25,000,000,000 than the marginal rates for depository institutions covered persons with assets that exceed that amount. (ii) RULE OF CONSTRUCTION- Clause (i) shall not be construed as limiting or impairing the authority of the Director to set assessments that would result in higher marginal assessment rates on the larger depository institution covered persons or to set assessments that would result in higher marginal assessments on the depository institution covered persons with assets of less than $25,000,000,000 if based on the compliance record of or higher risks posed by such covered persons. (E) LIMITATIONS ON ASSESSMENTS- (i) ASSESSMENTS FOR ADMINISTRATIVE COSTS- Notwithstanding any provision in this title, no depository institution covered person shall be charged an assessment to be used for the supervision, examination, or enforcement activities by the Agency of nondepository covered persons. (ii) AMOUNTS PAID FOR CONSUMER		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
COMPLIANCE SUPERVISION- Notwithstanding any provision in this title, no depository institution covered person shall pay more for consumer compliance supervision so that levels of assessments under this subparagraph combined with levels of assessments by an agency responsible for chartering and/or supervising the depository institution covered person shall be no more than it paid before the date of enactment of this title. (4) ASSESSMENTS ON NONDEPOSITORY COVERED PERSONS- (A) NONDEPOSITORY COVERED PERSON DEFINED- For purposes of this section, the term `nondepository covered person'-- (i) means a covered person that is not a credit union or insured depository institution; and (ii) includes any bank holding company. (B) ASSESSMENTS- (i) FEES REQUIRED- The Director shall assess fees for registration, examination, and supervision of nondepository covered persons. (ii) BASIS FOR FEE AMOUNTS- Fees assessed by the Director under this subparagraph may be established at levels necessary to meet the Agency's expenses for carrying out the duties and responsibilities of the Director and the Agency, including supervising such covered persons, taking into account such other sums available to the Agency. (iii) REGISTRATION FEE MINIMUMS- Registration fees imposed on a nondepository covered person under this paragraph shall, at a minimum, be imposed on such covered person at the time the person registers (or periodically renews any such registration) with the Agency, in accordance with regulations prescribed by the Director. (C) NONDEPOSITORY COVERED PERSON ASSESSMENT NOT LESS THAN FOR DEPOSITORY COVERED PERSONS- Assessment rates levied by the Director under this section on a nondepository institution covered persons shall be no less than assessments levied by		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Agency under this section on a depository institution covered person with similar characteristics. (D) OFFSETTING COLLECTIONS- Fees assessed under this paragraph-- (i) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts; and (ii) shall be deposited and credited as offsetting collections to the account providing appropriations to the Agency.		
(c) Authorization of Appropriations- (1) IN GENERAL- For the purposes of carrying out the authorities granted in this title, under the enumerated consumer laws, and the laws and authorities transferred under subtitles F and H, there are authorized to be appropriated to the Director $200,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014. (2) APPORTIONMENT- Notwithstanding any other provision of law, such amounts shall be subject to apportionment under section 1517 of title 31, United States Code, and restrictions that generally apply to the use of appropriated funds in title 31, United States Code, and other laws. (3) OTHER AVAILABLE FUNDS TAKEN INTO ACCOUNT- Sums appropriated under this subsection shall take into account such other sums available to the Agency under this section.		
(d) Consumer Financial Protection Agency Depository Institution Fund- (1) ESTABLISHMENT- (A) IN GENERAL- There is established in the Treasury a separate fund to be known as the `Consumer Financial Protection Agency Depository Institution Fund' (hereafter in this section referred to as the `CFPA Depository Fund'). (B) AMOUNTS IN FUND NOT AVAILABLE FOR CERTAIN PURPOSES- Other than pursuant to subsection (f), amounts on deposit in the CFPA Depository Fund shall not be used in the supervision and examination of nondepository institution covered persons. (2) ALL TRANSFERRED FUNDS DEPOSITED- All amounts transferred to the Agency under subsection (a) shall be deposited into the CFPA Depository Fund or the CFPA Nondepository Fund, at the discretion of the Agency. (3) ALL APPLICABLE SUPERVISORY FEES AND ASSESSMENTS DEPOSITED- The Director shall deposit all amounts received from assessments under subsection (b)(3) in the CFPA Depository Fund.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(e) Consumer Financial Protection Agency Nondepository Institution Fund- (1) ESTABLISHMENT- (A) IN GENERAL- There is established in the Treasury a separate fund called the Consumer Financial Protection Agency Nondepository Institution Fund (hereafter in this section referred to as the `CFPA Nondepository Fund'). (B) AMOUNTS IN FUND NOT AVAILABLE FOR CERTAIN PURPOSES- Other than pursuant to subsection (f), amounts on deposit in the CFPA Nondepository Fund shall not be used for the supervision and examination of depository institution covered persons. (2) ALL APPLICABLE SUPERVISORY FEES AND ASSESSMENTS DEPOSITED- The Director shall deposit all amounts received from assessments under subsection (b)(4) in the CFPA Nondepository Fund.		
(f) General Provisions Relating to Funds- (1) MAINTENANCE OF FUNDS- (A) AGENCY FUNDS MAINTAINED BY TREASURY- The Consumer Financial Protection Agency Depository Institution Fund established under subsection (d) and the Consumer Financial Protection Agency Nondepository Institution Fund established under subsection (e) shall each be-- (i) maintained and administered by the Secretary; and (ii) maintained separately and not commingled. (B) Agency'S AUTHORITY- Any provision of this title forbidding the commingling or use of the CFPA Depository Fund and the CFPA Nondepository Fund shall not be construed as limiting or impairing the authority of the Agency to use the same facilities and resources in the course of conducting supervisory and regulatory functions with respect to depository institutions and nondepository institutions, or to integrate such functions. (C) ACCOUNTING REQUIREMENTS- (i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES- The Agency shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (B) and shall allocate, in the manner provided in subparagraph (D), any such costs and expenses incurred by the Agency--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(I) with respect to depository institution covered persons, to the CFPA Depository Fund; and (II) with respect to nondepository covered persons, to the CFPA Nondepository fund. (D) ALLOCATION OF ADMINISTRATIVE EXPENSES- Any personnel, administrative, or other overhead expense of the Agency shall be allocated-- (i) fully to the CFPA Depository Fund if the expense was incurred directly as a result of the Agency's responsibilities solely with respect to depository institution covered persons; (ii) fully to the CFPA Nondepository Fund, if the expense was incurred directly as a result of the Agency's responsibilities solely with respect to nondepository covered persons; (iii) between the CFPA Depository Fund and the CFPA Nondepository Fund, in amounts reflecting the relative degree to which the expense was incurred that are reasonably related as a general matter to activities of depository institution covered persons, and nondepository covered persons; and (iv) if the Director is unable to make a complete allocation under clause (i), (ii), or (iii), between the CFPA Depository Fund and the CFPA Nondepository Fund, in amounts reflecting the relative proportion that, as of the end of the preceding year-- (I) the aggregate assets of all depository institution covered persons bears to the aggregate assets of all covered persons; and (II) the aggregate assets of all nondepository covered persons bears to the aggregate assets of all covered persons. (E) AGENCY FUND- The `Agency fund' means the Consumer Financial Protection Agency Depository Institution Fund established under subsection (d), and, the Consumer Financial Protection Agency Nondepository Institution Fund established under subsection (e), and the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Consumer Financial Protection Agency Civil Penalty Fund established under subsection (g). (2) INVESTMENT- (A) AMOUNTS IN FUNDS MAY BE INVESTED- The Director may request the Secretary to invest the portion of any Agency fund that, in the Director's judgment, is not required to meet the current needs of such fund. (B) ELIGIBLE INVESTMENTS- Investments pursuant to subparagraph (A) shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Agency fund involved, as determined by the Director. (C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the respective Agency Fund shall be credited to and form a part of the respective Agency Fund. (3) EXCEPTION- Notwithstanding paragraph (1), an attorney's activities related to assisting another person in preventing a foreclosure shall be subject to this title except to the extent such activities constitute, or are incidental to, the provision of legal services to a client of the attorney.		
(g) Penalties and Fines- (1) ESTABLISHMENT OF VICTIMS RELIEF FUND- There is established in the Treasury of the United States a fund to be known as the `Consumer Financial Protection Agency Civil Penalty Fund' (hereafter in this section referred to as the `Civil Penalty Fund'). (2) DEPOSITS- If the Agency obtains a civil penalty against any person in any judicial or administrative action under this title, any law or authority transferred under subtitles F and H, or any enumerated consumer law, the Agency shall deposit into the Civil Penalty Fund the amount of the penalty collected. (3) PAYMENT TO VICTIMS- Amounts in the Civil Penalty Fund shall be available to the Director, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under this title, the law and authorities transferred under subtitles F and H, or any enumerated consumer law. (4) FINANCIAL EDUCATION AND COUNSELING PROGRAM- (A) IN GENERAL- To the extent such victims cannot be located or such payments are otherwise not practicable, 5 percent of the Victims Relief Fund shall be transferred, up	***SEC. 1017. FUNDING; PENALTIES AND FINES.*** *(b) Consumer Financial Protection Fund-* *(1) SEPARATE FUND IN FEDERAL RESERVE BOARD ESTABLISHED- There is established in the Federal Reserve Board a separate fund, to be known as the `Consumer Financial Protection Fund' (referred to in this section as the `Bureau Fund').* *(2) FUND RECEIPTS- All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.* *(3) INVESTMENT AUTHORITY-* *(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED- The Bureau may request the Board of Governors to invest the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.* *(B) ELIGIBLE INVESTMENTS- Investments authorized by this paragraph shall be made by the Board of Governors in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to $10,000,000 on an annual basis, to the Secretary of the Treasury so that the Secretary may carry out the Financial Education and Counseling Grant Program established under section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701). (B) MEMORANDUM OF UNDERSTANDING- Not later than 12 months after the date of enactment of this subtitle, the Director shall enter into a memorandum of understanding with the Secretary of the Treasury to coordinate the release of Civil Penalty Fund amounts under subparagraph (A). (C) ASSISTANCE FOR INDIVIDUALS AT FINANCIAL RISK- Section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701) is amended-- (i) in subsection (a), by striking `prospective homebuyers' each place that term appears and inserting `individuals at financial risk'; (ii) in subsection (b)-- (I) in paragraph (1), by striking `prospective homebuyers' and inserting `individuals at financial risk'; and (II) by adding at the end the following: `(3) DETERMINATION OF FINANCIAL RISK- For purposes of this section, the Director of the Consumer Financial Protection Agency shall establish the criteria used to determine whether an individual is at financial risk, and the Secretary shall use such criteria when selecting organizations under paragraph (2).'; and (iii) in subsection (c)(1)-- (I) in subparagraph (A), by striking `or'; (II) in subparagraph (B), by striking the period and inserting `; or'; and (III) by adding at the end the following: `(C) a nonprofit corporation that-- `(i) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and `(ii) specializes or has expertise in working with individuals at financial risk.'.	*(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bureau Fund shall be credited to the Bureau Fund.* *(c) Use of Funds-* *(1) IN GENERAL- Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the Director, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the Director and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.* *(2) FUNDS THAT ARE NOT GOVERNMENT FUNDS- Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.* *(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT- Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.* *(d) Penalties and Fines-* *(1) ESTABLISHMENT OF VICTIMS RELIEF FUND- There is established in the Federal Reserve Board a fund to be known as the `Consumer Financial Protection Civil Penalty Fund' (referred to in this subsection as the `Civil Penalty Fund'). If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.* *(2) PAYMENT TO VICTIMS- Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.* ***SEC. 1076. ASSISTANCE FOR ECONOMICALLY VULNERABLE INDIVIDUALS AND FAMILIES.*** *(a) HERA Amendments- Section 1132 of the Housing and Economic Recovery*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Act of 2008 (12 U.S.C. 1701x note) is amended-- *(1) in subsection (a), by inserting in each of paragraphs (1), (2), (3), and (4) `or economically vulnerable individuals and families' after `homebuyers' each place that term appears;* *(2) in subsection (b)(1), by inserting `or economically vulnerable individuals and families' after `homebuyers';* *(3) in subsection (c)(1)--* *(A) in subparagraph (A), by striking `or' at the end;* *(B) in subparagraph (B), by striking the period at the end and inserting `; or'; and* *(C) by adding at the end the following:* *`(C) a nonprofit corporation that--* *`(i) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and* *`(ii) specializes or has expertise in working with economically vulnerable individuals and families, but whose primary purpose is not provision of credit counseling services.'; and* *(4) in subsection (d)(1), by striking `not more than 5'.* *(b) Applicability- Amendments made by subsection (a) shall not apply to programs authorized by section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701x note) that are funded with appropriations prior to fiscal year 2011.*	
(h) Assessments for Certain Nondepository Institution Covered Persons- (1) IN GENERAL- Notwithstanding any other provision of this Act, a nondepository institution covered person shall not be subject to assessments by the Agency if-- (A) the assets that are financial activities of that nondepository covered person represent less than a substantial portion of its total assets; and (B) the gross revenues derived from financial activities of that nondepository covered person are less than a substantial portion of its gross revenues. (2) EXTENSIVE CONSUMER FINANCIAL PRODUCTS OR SERVICES OPERATIONS- Paragraph (1) shall not apply to nondepository institution covered person that the Director determines has a level of assets or revenues derived from financial activities, a number of transactions in consumer financial products or services, or a number of accounts relating to consumer financial products or services that the Director determines represents an extensive consumer financial products or services operation.		
SEC. 4112. AMENDMENTS RELATING TO OTHER ADMINISTRATIVE	***SEC. 1102. AMENDMENTS TO THE PAPERWORK REDUCTION ACT.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
PROVISIONS. (a) Act of October 28, 1974- Section 111 of Public Law 93-495 (12 U.S.C. 250) is amended by inserting `the Consumer Financial Protection Agency,' after `Federal Deposit Insurance Corporation,'. (b) Paperwork Reduction Act- Section 2(5) of the Paperwork Reduction Act (44 U.S.C. 3502(5)) by inserting `the Consumer Financial Protection Agency,' after `the Securities and Exchange Commission,'.	*(a) Designation as an Independent Agency- Section 2(5) of the Paperwork Reduction Act (44 U.S.C. 3502(5)) is amended by inserting `the Bureau of Consumer Financial Protection, the Office of Financial Research,' after `the Securities and Exchange Commission,'.* *(b) Comparable Treatment- Section 3513 of title 44, United States Code, is amended by adding at the end the following:* *`(c) Comparable Treatment- Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the Director of the Bureau of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.'.*	
SEC. 4113. OVERSIGHT BY GAO. (a) Authority- The Comptroller General may audit the programs, activities, receipts, expenditures, and financial transactions of the Agency and of any agents and representatives of the Agency as related to the agent's or representative's activities on behalf of or under authority of the Agency. (b) Access- Notwithstanding any other provision of law, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the Agency, or any vehicles established by the Agency under this Act, and to the directors, officers, employees, independent public accountants, financial advisors, staff, working groups, and agents and representatives of the Agency (as related to the agent's or representative's activities on behalf of the Agency) or any vehicle established by the Agency at such reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.	***SEC. 1017. FUNDING; PENALTIES AND FINES.*** *(a) Transfer of Funds From Board Of Governors-* *(5) AUDIT OF THE BUREAU-* *(A) IN GENERAL- The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.* *(B) REPORT- The Comptroller General shall submit to the Congress a report of each annual audit conducted under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress. *(C) ASSISTANCE AND COSTS- For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.*	
SEC. 4114. EFFECTIVE DATE. This subtitle shall take effect on the date of the enactment of this title.	***SEC. 1018. EFFECTIVE DATE.*** *This subtitle shall become effective on the date of enactment of this Act.*	
Subtitle B--General Powers of the Director and Agency **SEC. 4201. MANDATE AND OBJECTIVES.** (a) Mandate- The Director shall seek to promote transparency, simplicity, fairness, accountability, and equal access in the market for consumer financial products or services. (b) Objectives- The Director may exercise the authorities granted in this title, in the enumerated consumer laws, and transferred under subtitles F and H for	***Subtitle B--General Powers of the Bureau*** ***SEC. 1021. PURPOSE, OBJECTIVES, AND FUNCTIONS.*** *(a) Purpose- The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that markets for consumer financial products and services are fair, transparent, and competitive.* *(b) Objectives- The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the purposes of ensuring that, with respect to consumer financial products or services-- (1) consumers have and can use the information they need to make responsible decisions about consumer financial products or services; (2) consumers are protected from abuse, unfairness, deception, and discrimination; (3) markets for consumer financial products or services operate fairly and efficiently with ample room for sustainable growth and innovation; and (4) traditionally underserved consumers and communities have equal access to responsible financial services.	*respect to consumer financial products and services--* *(1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions;* *(2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;* *(3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;* *(4) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and* *(5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.* *(c) Functions- The primary functions of the Bureau are--* *(1) conducting financial education programs;* *(2) collecting, investigating, and responding to consumer complaints;* *(3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;* *(4) subject to sections 1024 through 1026, supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;* *(5) issuing rules, orders, and guidance implementing Federal consumer financial law; and* *(6) performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.*	
SEC. 4202. AUTHORITIES. (a) In General- The Director may exercise the authorities granted in this title, in the enumerated consumer laws, and transferred under subtitles F and H, to administer, enforce, and otherwise implement the provisions of this title, the authorities transferred in subtitles F and H, and the enumerated consumer laws.	***SEC. 1022. RULEMAKING AUTHORITY.*** *(a) In General- The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 1022. RULEMAKING AUTHORITY.	
(b) Rulemaking, Orders, and Guidance- (1) IN GENERAL- The Director may prescribe regulations and issue orders and guidance as may be necessary or appropriate to enable it to administer and carry out the purposes and objectives of this title, the authorities transferred under subtitles F and H, and the enumerated consumer laws, and to prevent evasions of this title, any such authority, and any such law.	*(b) Rulemaking, Orders, and Guidance-* *(1) GENERAL AUTHORITY- The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.*	
(2) STANDARDS FOR RULEMAKING- In prescribing a regulation under this title or pursuant to the authorities transferred under subtitles F and H or the enumerated consumer laws, the Director shall-- (A) consider the potential benefits and costs to consumers, covered persons, and the Federal Government, including the potential reduction of consumers' access to consumer financial products or services, resulting from such regulation; and (B) consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, or other Federal agencies, as appropriate, regarding the consistency of a proposed regulation with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors and whether such regulation will have an inconsistent effect on nondepository institution covered persons and depository institution covered persons.	*(2) STANDARDS FOR RULEMAKING- In prescribing a rule under the Federal consumer financial laws--* *(A) the Bureau shall consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule;* *(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and* *(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 1023 that may apply to any rule prescribed by the Bureau.*	
(3) EXEMPTIONS- (A) IN GENERAL- The Director, by regulation or order, may conditionally or unconditionally exempt any covered person, service provider, or any consumer financial product or service or any class of covered persons, class of service providers, or consumer financial products or services, from any provision of this title, any enumerated consumer law, or from any regulation under any such provision or law, as the Director deems necessary or appropriate to carry out the purposes and objectives of this title taking into consideration the factors in subparagraph (B).	*(3) EXEMPTIONS-* *(A) IN GENERAL- The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title, taking into consideration the factors in subparagraph (B).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) FACTORS- In issuing an exemption by regulation or order as permitted in subparagraph (A), the Director shall as appropriate take into consideration the following: (i) The total assets of the covered person. (ii) The volume of transactions involving consumer financial products or services in which the covered person engages. (iii) The extent to which the covered person engages in 1 or more financial activities. (iv) Existing laws or regulations which are applicable to the consumer financial product or service and the extent to which such laws or regulations provide consumers with adequate protections. (C) RULE OF CONSTRUCTION- No provision of this section shall be construed as altering, amending, or affecting any authority under sections 304(a), 304(i), 305(a), and 306(b) of the Home Mortgage Disclosure Act of 1975 and sections 703(a)(1), 703(a)(2), 703(a)(3), 705(f), and 705(g) of the Equal Credit Opportunity Act for determining whether a covered person should be provided an exemption.	*(B) FACTORS- In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration--* *(i) the total assets of the class of covered persons;* *(ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and* *(iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.*	
	SEC. 1023. REVIEW OF BUREAU REGULATIONS. *(a) Review of Bureau Regulations- On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.* *(b) Petition-* *(1) PROCEDURE- An agency represented by a member of the Council may petition the Council, in writing, and in accordance with rules prescribed pursuant to subsection (f), to stay the effectiveness of, or set aside, a regulation if the member agency filing the petition--* *(A) has in good faith attempted to work with the Bureau to resolve concerns regarding the effect of the rule on the safety and soundness of the United States banking system or the stability of the financial system of the United States; and* *(B) files the petition with the Council not later than 10 days after the date on which the regulation has been published in the Federal Register.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(2) PUBLICATION- Any petition filed with the Council under this section shall be published in the Federal Register and transmitted contemporaneously with filing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives. *(c) Stays and Set Asides-* *(1) STAY-* *(A) IN GENERAL- Upon the request of any member agency, the Chairperson of the Council may stay the effectiveness of a regulation for the purpose of allowing appropriate consideration of the petition by the Council.* *(B) EXPIRATION- A stay issued under this paragraph shall expire on the earlier of--* *(i) 90 days after the date of filing of the petition under subsection (b); or* *(ii) the date on which the Council makes a decision under paragraph (3).* *(2) NO ADVERSE INFERENCE- After the expiration of any stay imposed under this section, no inference shall be drawn regarding the validity or enforceability of a regulation which was the subject of the petition.* *(3) VOTE-* *(A) IN GENERAL- The decision to issue a stay of, or set aside, any regulation under this section shall be made only with the affirmative vote in accordance with subparagraph (B) of 2/3 of the members of the Council then serving.* *(B) AUTHORIZATION TO VOTE- A member of the Council may vote to stay the effectiveness of, or set aside, a final regulation prescribed by the Bureau only if the agency or department represented by that member has--* *(i) considered any relevant information provided by the agency submitting the petition and by the Bureau; and* *(ii) made an official determination, at a public meeting where applicable, that the regulation which is the subject of the petition would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.* *(4) DECISIONS TO SET ASIDE-* *(A) EFFECT OF DECISION- A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall render such regulation, or provision*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	thereof, unenforceable. *(B) TIMELY ACTION REQUIRED- The Council may not issue a decision to set aside a regulation, or provision thereof, which is the subject of a petition under this section after the expiration of the later of--* *(i) 45 days following the date of filing of the petition, unless a stay is issued under paragraph (1); or* *(ii) the expiration of a stay issued by the Council under this section.* *(C) SEPARATE AUTHORITY- The issuance of a stay under this section does not affect the authority of the Council to set aside a regulation.* *(5) DISMISSAL DUE TO INACTION- A petition under this section shall be deemed dismissed if the Council has not issued a decision to set aside a regulation, or provision thereof, within the period for timely action under paragraph (4)(B).* *(6) PUBLICATION OF DECISION- Any decision under this subsection to issue a stay of, or set aside, a regulation or provision thereof shall be published by the Council in the Federal Register as soon as practicable after the decision is made, with an explanation of the reasons for the decision.* *(7) RULEMAKING PROCEDURES INAPPLICABLE- The notice and comment procedures under section 553 of title 5, United States Code, shall not apply to any decision under this section of the Council to issue a stay of, or set aside, a regulation.* *(8) JUDICIAL REVIEW OF DECISIONS BY THE COUNCIL- A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall be subject to review under chapter 7 of title 5, United States Code.* *(d) Application of Other Law- Nothing in this section shall be construed as altering, limiting, or restricting the application of any other provision of law, except as otherwise specifically provided in this section, including chapter 5 and chapter 7 of title 5, United States Code, to a regulation which is the subject of a petition filed under this section.* *(e) Savings Clause- Nothing in this section shall be construed as limiting or restricting the Bureau from engaging in a rulemaking in accordance with applicable law.* *(f) Implementing Rules- The Council shall prescribe procedural rules to implement this section.*	
(c) Examinations and Reports- (1) IN GENERAL- Except as provided under section 4203, the Director may on a periodic basis examine a covered person or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
service provider, with respect to any consumer financial product or service, for purposes of ensuring compliance with the requirements of this title, the enumerated consumer laws, and any regulations prescribed by the Director under this title or pursuant to the authorities transferred under subtitles F and H, and enforcing compliance with such requirements. (2) EXAMINATION PROGRAM- The Director shall exercise any authority of the Director under paragraph (1) in a manner designed to ensure that such authorities are exercised with respect to covered persons or service providers, without regard to charter or corporate form, based on the Director's assessment of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable, the following factors: (A) The asset size of the covered persons. (B) The volume of transactions involving consumer financial products or services in which the covered persons engage. (C) The risks to consumers created by the provision of such consumer financial products or services. (D) In the case of State-chartered institutions, the extent to which such institutions are subject to oversight by State authorities for consumer protection. (3) COORDINATION- The Director shall coordinate the Agency's supervisory activities with the supervisory activities conducted by the Federal banking agencies and the State bank supervisors, including establishing their respective schedules for examining covered persons and requirements regarding reports to be submitted by covered persons. (4) REPORTS- The Director may require reports from a covered person for purposes of ensuring compliance with the requirements of this title, the enumerated consumers laws, and any regulation prescribed by the Director under this title or pursuant to the authorities transferred under subtitles F and H, and enforcing compliance with such requirements. (5) CONTENT OF REPORTS- The reports authorized in paragraph (4) may include such information as necessary to keep the Agency informed as to-- (A) the compliance systems or procedures of the covered person or any affiliate thereof, with applicable provisions of this title or any other law that the Agency has jurisdiction to enforce; and (B) matters related to the provision of consumer financial products or services including the servicing or maintenance		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
of accounts or extensions of credit. (6) USE OF EXISTING REPORTS- In general, the Agency shall, to the fullest extent possible, use-- (A) reports that a covered person, or any affiliate thereof, or any service provider to such covered person or affiliate, has provided or been required to provide to a Federal or State agency; and (B) information that has been reported publicly. (7) ACCESS BY THE AGENCY TO REPORTS OF OTHER REGULATORS- (A) EXAMINATION AND FINANCIAL CONDITION REPORTS- Upon providing reasonable assurances of confidentiality, the Agency shall have access to any report of examination or financial condition, including a report containing data regarding consumer complaints, made by a Federal banking agency or other Federal agency having supervision of a covered person, or a service provider, (other than returns and return information described in section 6103 of the Internal Revenue Code of 1986) and to all revisions made to any such report. (B) PROVISION OF OTHER REPORTS TO AGENCY- In addition to the reports described in subparagraph (A), a Federal banking agency may, in its discretion, furnish to the Agency any other report or other confidential supervisory information concerning any insured depository institution, any credit union, or other entity examined by such agency under authority of any Federal law. (8) ACCESS BY OTHER REGULATORS TO REPORTS OF THE AGENCY- (A) EXAMINATION REPORTS- Upon providing reasonable assurances of confidentiality, a Federal banking agency, a State regulator, or any other Federal agency having supervision of a covered person shall have access to any report of examination made by the Agency with respect to the covered person or service provider, and to all revisions made to any such report. (B) PROVISION OF OTHER REPORTS TO OTHER REGULATORS- In addition to the reports described in paragraph (A), the Agency may, in the discretion of the Agency, furnish to a Federal banking agency any other report or other confidential supervisory information concerning any insured depository institution, any credit union, or other entity examined by the Agency under		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
authority of any Federal law. (9) PRESERVATION OF AUTHORITY- No provision in paragraph (3) shall be construed as preventing the Agency from conducting an examination authorized by this title or under the authorities transferred under subtitles F and H or pursuant to any enumerated consumer law. No provision of this title shall be construed as limiting the authority of the Director to require reports from a covered person, as permitted under paragraph (4), regarding information owned or under the control of the covered person, regardless of whether such information is maintained, stored, or processed by another person. (10) REPORTS OF TAX LAW NONCOMPLIANCE- The Director shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance. (11) DELEGATION- (A) IN GENERAL- The Director may delegate the examination authorities of the Agency under this title to any appropriate agency, as defined in section 4203, for any insured depository institution or insured credit union that is not subject to section 4203 upon a petition by an appropriate agency. (B) STANDARD FOR DELEGATION- The Director shall provide such delegation if, in the Director's sole discretion, the Director determines that-- (i) the delegation is consistent with the public interest; (ii) the appropriate agency is capable of enforcing compliance with this title, and with any regulation prescribed under this title; and (iii) such capability is comparable to or superior to the capability of the Agency, in terms of expertise, demonstrated commitment, and overall effectiveness, in enforcing such compliance. (C) EFFECT OF DELEGATION- The insured depository institution or insured credit union shall be subject to the examination process described in section 4203(b). (D) NO EFFECT ON ENFORCEMENT- The Director's delegation authority under this paragraph shall not apply to the Director's enforcement responsibilities under subsection (e).		
	SEC. 1022. RULEMAKING AUTHORITY.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(d) Exclusive Rulemaking and Examination Authority- Notwithstanding any other provision of Federal law other than section 4203 and subsections (f) and (h) of this section, to the extent that a Federal law authorizes the Director and another Federal agency to prescribe regulations, issue guidance, conduct examinations, or require reports under a provision of that law for purposes of assuring compliance with this title, a provision of any enumerated consumer law, any provision of the laws for which authorities were transferred under subtitles F and H, and any regulations prescribed under this title or pursuant to any such authority, the Director shall have the exclusive authority under that provision of law to prescribe regulations, issue guidance, conduct examinations, require reports, or issue exemptions with regard to any person subject to that law and with respect to any activity regulated under any enumerated consumer law.	*(b) Rulemaking, Orders, and Guidance-* *(4) EXCLUSIVE RULEMAKING AUTHORITY- Notwithstanding any other provisions of Federal law and except as provided in section 1061(b)(5), to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.*	
(e) Primary Enforcement Authority- (1) THE AGENCY TO HAVE PRIMARY ENFORCEMENT AUTHORITY- To the extent that a Federal law authorizes the Agency and another Federal agency to enforce a provision of a law, the Agency shall have primary enforcement authority to enforce the provision of that Federal law with respect to any person in accordance with this subsection. (2) COORDINATION WITH THE FEDERAL TRADE COMMISSION- (A) NOTICE- If the Federal Trade Commission is authorized to enforce any Federal law described in paragraph (1), or a regulation prescribed under any such Federal law, either the Agency or the Federal Trade Commission shall serve written notice to the other of any enforcement action prior to initiating such an enforcement action, except that if the agency or commission filing the action determines that prior notice is not feasible, that agency or commission may provide notice immediately upon initiating such enforcement action. (B) INTERVENTION BY EITHER ENTITY- Upon receiving any notice under subparagraph (A) with respect to an enforcement action, the Agency or Federal Trade Commission may intervene in such enforcement action, and upon intervening-- (i) be heard on all matters arising in such enforcement action; and (ii) file petitions for appeal in such enforcement action.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(C) PENDENCY OF ACTION- Whenever a civil action has been instituted by or on behalf of the Agency or the Federal Trade Commission for any violation of any Federal law described in paragraph (1), or a regulation prescribed under any such Federal law, the other entity may not, during the pendency of that action, institute a civil action under such law or regulation against any defendant named in the complaint in such pending action for any violation alleged in the complaint. (D) AGREEMENTS BETWEEN ENTITIES- (i) NEGOTIATIONS AUTHORIZED- The Agency and the Federal Trade Commission may negotiate an agreement to establish procedures to ensure that the enforcement actions of the 2 agencies are appropriately coordinated. (ii) SCOPE OF NEGOTIATED AGREEMENT- The terms of any agreement negotiated pursuant to clause (i) may modify or supersede the provisions of subparagraphs (A), (B), and (C). (3) COORDINATION WITH OTHER FEDERAL AGENCY- (A) REFERRAL- Any Federal agency (other than the Federal Trade Commission) that is authorized to enforce a Federal law described in paragraph (1) may recommend in writing to the Director that the Agency initiate an enforcement proceeding to the extent the Agency is authorized by that Federal law or by this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation. (B) BACKSTOP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY- If the Agency does not, before the end of the 120-day period beginning on the date on which the Director receives a recommendation under subparagraph (A), initiate an enforcement proceeding, the other agency referred to in subparagraph (A) may initiate an enforcement proceeding as permitted by that Federal law. (4) INSTITUTIONS SUBJECT TO SPECIAL EXAMINATION AND ENFORCEMENT PROCEDURES- This subsection shall not apply to institutions subject to section 4203.		
(f) Preservation of Other Authority- (1) ATTORNEY GENERAL- No provision of this title shall be construed as affecting any authority of the Attorney General. (2) SECRETARY OF THE TREASURY- No provision of this title		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall be construed as affecting any authority of the Secretary of the Treasury, including with respect to prescribing regulations, initiating enforcement proceedings, or taking other actions with respect to a person providing tax planning or tax preparation services. (3) FAIR HOUSING ACT- No provision of this title shall be construed as affecting any authority arising under the Fair Housing Act.		
(g) Effect on Other Authority- No provision of this section or section 4203 shall be construed as modifying or limiting the authority of any appropriate Federal banking agency or the Director or Agency to interpret, or take enforcement action under, any law or regulation the interpretation or enforcement of which is committed to the banking agency or the Director or Agency, which shall include, in the case of the Director and the Agency, this title, the enumerated consumer laws, and the regulations prescribed under this title or such laws. (h) Preservation of Federal Trade Commission Authority- No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission under the Federal Trade Commission Act or other laws other than the enumerated consumer laws. (i) Preservation of Farm Credit Administration Authority- No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.		
	SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS. *(a) Scope of Coverage-* *(1) APPLICABILITY- Notwithstanding any other provision of this title, and except as provided in paragraph (3), this section shall apply to any covered person who--* *(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans; or* *(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2).* *(2) RULEMAKING TO DEFINE COVERED PERSONS SUBJECT TO THIS SECTION- The Bureau shall consult with the Federal Trade Commission prior to issuing a rule to define covered persons subject to this section, in accordance with paragraph (1)(B). The Bureau shall issue its initial rule within 1 year of the designated transfer date.* *(3) RULES OF CONSTRUCTION-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) CERTAIN PERSONS EXCLUDED- This section shall not apply to persons described in section 1025(a) or 1026(a). *(B) ACTIVITY LEVELS- For purposes of computing activity levels under paragraph (1) or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.* *(b) Supervision-* *(1) IN GENERAL- The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a)(1) for purposes of--* *(A) assessing compliance with the requirements of Federal consumer financial law;* *(B) obtaining information about the activities and compliance systems or procedures of such person; and* *(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.* *(2) RISK-BASED SUPERVISION PROGRAM- The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable--* *(A) the asset size of the covered person;* *(B) the volume of transactions involving consumer financial products or services in which the covered person engages;* *(C) the risks to consumers created by the provision of such consumer financial products or services;* *(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and* *(E) any other factors that the Bureau determines to be relevant to a class of covered persons.* *(3) COORDINATION- To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining persons described in subsection (a)(1) and requirements regarding reports to be submitted by such persons.* *(4) USE OF EXISTING REPORTS- The Bureau shall, to the fullest extent possible, use--* *(A) reports pertaining to persons described in subsection (a)(1) that have been provided or required to have been*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	provided to a Federal or State agency; and *(B) information that has been reported publicly.* *(5) PRESERVATION OF AUTHORITY- Nothing in this title may be construed as limiting the authority of the Director to require reports from persons described in subsection (a)(1), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.* *(6) REPORTS OF TAX LAW NONCOMPLIANCE- The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.* *(7) REGISTRATION, RECORDKEEPING, AND OTHER REQUIREMENTS FOR CERTAIN PERSONS-* *(A) IN GENERAL- The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a)(1) and assessment and detection of risks to consumers.* *(B) REGISTRATION-* *(i) IN GENERAL- The Bureau shall prescribe rules regarding registration requirements for persons described in subsection (a)(1).* *(ii) EXCEPTION FOR RELATED PERSONS- The Bureau may not impose requirements under this section regarding the registration of a related person.* *(iii) REGISTRATION INFORMATION- Subject to rules prescribed by the Bureau, the Bureau shall publicly disclose the registration information about persons described in subsection (a)(1) to facilitate the ability of consumers to identify persons described in subsection (a)(1) registered with the Bureau.* *(C) RECORDKEEPING- The Bureau may require a person described in subsection (a)(1), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.* *(D) REQUIREMENTS CONCERNING OBLIGATIONS- The Bureau may prescribe rules regarding a person described in subsection (a)(1), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	personnel and bonding or other appropriate financial requirements. *(E) CONSULTATION WITH STATE AGENCIES- In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.* *(c) Enforcement Authority-* *(1) THE BUREAU TO HAVE ENFORCEMENT AUTHORITY- Except as provided in paragraph (3) and section 1061(b)(5), with respect to any person described in subsection (a)(1), to the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law.* *(2) REFERRAL- Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.* *(3) COORDINATION WITH THE FEDERAL TRADE COMMISSION-* *(A) IN GENERAL- The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1), or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.* *(B) CIVIL ACTIONS- Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law--* *(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and* *(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	brought by the other agency, and, upon intervening-- *(I) be heard on all matters arising in such enforcement action; and* *(II) file petitions for appeal in such actions.* *(C) AGREEMENT TERMS- The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).* *(D) DEADLINE- The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.* *(d) Exclusive Rulemaking and Examination Authority- Notwithstanding any other provision of Federal law and except as provided in section 1061(b)(5), to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a)(1) under such law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a)(1), subject to those provisions of law.* *(e) Service Providers- A service provider to a person described in subsection (a)(1) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.* *(f) Preservation of Farm Credit Administration Authority- No provision of this title may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.*	
	SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS. *(a) Scope of Coverage-* *(1) APPLICABILITY- This section shall apply to any covered person that is--* *(A) an insured depository institution with total assets of more than $10,000,000,000 and any affiliate thereof; or* *(B) an insured credit union with total assets of more than $10,000,000,000 and any affiliate thereof.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(2) RULE OF CONSTRUCTION- For purposes of determining total assets under this section and section 1026, the Bureau shall rely on the same regulations and interim methodologies specified in section 312(e). *(b) Supervision-* *(1) IN GENERAL- The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of--* *(A) assessing compliance with the requirements of Federal consumer financial laws;* *(B) obtaining information about the activities and compliance systems or procedures of such persons; and* *(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.* *(2) COORDINATION- To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.* *(3) USE OF EXISTING REPORTS- The Bureau shall, to the fullest extent possible, use--* *(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and* *(B) information that has been reported publicly.* *(4) PRESERVATION OF AUTHORITY- Nothing in this title may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.* *(5) REPORTS OF TAX LAW NONCOMPLIANCE- The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.* *(c) Primary Enforcement Authority-* *(1) THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY- To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(2) REFERRAL- Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law. *(3) BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY- If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, as permitted by the subject provision of Federal law.* *(d) Service Providers- A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.* *(e) Simultaneous and Coordinated Supervisory Action-* *(1) EXAMINATIONS- A prudential regulator and the Bureau shall, with respect to each insured depository institution, insured credit union, or other covered person described in subsection (a) that is supervised by the prudential regulator and the Bureau, respectively--* *(A) coordinate the scheduling of examinations of the insured depository institution, insured credit union, or other covered person described in subsection (a);* *(B) conduct simultaneous examinations of each insured depository institution, insured credit union, or other covered person described in subsection (a), unless such institution requests examinations to be conducted separately;* *(C) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and* *(D) prior to issuing a final report of examination or taking supervisory action, take into consideration concerns, if any, raised in the comments made by the other agency.* *(2) COORDINATION WITH STATE BANK SUPERVISORS- The Bureau shall pursue arrangements and agreements with State bank*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	supervisors to coordinate examinations, consistent with paragraph (1). *(3) AVOIDANCE OF CONFLICT IN SUPERVISION-* *(A) REQUEST- If the proposed supervisory determinations of the Bureau and a prudential regulator (in this section referred to collectively as the `agencies') are conflicting, an insured depository institution, insured credit union, or other covered person described in subsection (a) may request the agencies to coordinate and present a joint statement of coordinated supervisory action.* *(B) JOINT STATEMENT- The agencies shall provide a joint statement under subparagraph (A), not later than 30 days after the date of receipt of the request of the insured depository institution, credit union, or covered person described in subsection (a).* *(4) APPEALS TO GOVERNING PANEL-* *(A) IN GENERAL- If the agencies do not resolve the conflict or issue a joint statement required by subparagraph (B), or if either of the agencies takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, an insured depository institution, insured credit union, or other covered person described in subsection (a) may institute an appeal to a governing panel, as provided in this subsection, not later than 30 days after the expiration of the period during which a joint statement is required to be filed under paragraph (3)(B).* *(B) COMPOSITION OF GOVERNING PANEL- The governing panel for an appeal under this paragraph shall be composed of--* *(i) a representative from the Bureau and a representative of the prudential regulator, both of whom--* *(I) have not participated in the material supervisory determinations under appeal; and* *(II) do not directly or indirectly report to the person who participated materially in the supervisory determinations under appeal; and* *(ii) one individual representative, to be determined on a rotating basis, from among the Board of Governors, the Corporation, the National Credit*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Union Administration, and the Office of the Comptroller of the Currency, other than any agency involved in the subject dispute. *(C) CONDUCT OF APPEAL- In an appeal under this paragraph--* *(i) the insured depository institution, insured credit union, or other covered person described in subsection (a)--* *(I) shall include in its appeal all the facts and legal arguments pertaining to the matter; and* *(II) may, through counsel, employees, or representatives, appear before the governing panel in person or by telephone; and* *(ii) the governing panel--* *(I) may request the insured depository institution, insured credit union, or other covered person described in subsection (a), the Bureau, or the prudential regulator to produce additional information relevant to the appeal; and* *(II) by a majority vote of its members, shall provide a final determination, in writing, not later than 30 days after the date of filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, insured credit union, or other covered person described in subsection (a) may jointly agree.* *(D) PUBLIC AVAILABILITY OF DETERMINATIONS- A governing panel shall publish all information contained in a determination by the governing panel, with appropriate redactions of information that would be subject to an exemption from disclosure under section 552 of title 5, United States Code.* *(E) PROHIBITION AGAINST RETALIATION- The Bureau and the prudential regulators shall prescribe rules to provide safeguards from retaliation against the insured depository institution, insured credit union, or other covered person described in subsection (a) instituting an appeal under this paragraph, as well as their officers and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	employees. *(F) LIMITATION- The process provided in this paragraph shall not apply to a determination by a prudential regulator to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) or section 212 of the Federal Credit Union Act (112 U.S.C. 1790a), as applicable.* *(G) EFFECT ON OTHER AUTHORITY- Nothing in this section shall modify or limit the authority of the Bureau to interpret, or take enforcement action under, any Federal consumer financial law.*	
SEC. 4203. EXAMINATION AND ENFORCEMENT FOR SMALL BANKS, THRIFTS, AND CREDIT UNIONS. (a) Scope of Institutions Subject to This Section- (1) INSTITUTIONS COVERED- This section shall apply to-- (A) any insured depository institution with total assets of $10,000,000,000 or less; or (B) any insured credit union with total assets of $10,000,000,000 or less. (2) APPROPRIATE AGENCY- For purposes of this title, the term `appropriate agency' means-- (A) in the case of an insured depository institution, the appropriate Federal banking agency as such term is defined in section 3 of the Federal Deposit Insurance Act; and (B) in the case of an insured credit union, the National Credit Union Administration.	***SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.*** *(a) Scope of Coverage- This section shall apply to any covered person that is--* *(1) an insured depository institution with total assets of $10,000,000,000 or less; or* *(2) an insured credit union with total assets of $10,000,000,000 or less.*	
	SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS. *(b) Reports- The Director may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.* *(1) USE OF EXISTING REPORTS- The Bureau shall, to the fullest extent possible, use--* *(A) reports pertaining to a person described in subsection*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(a) that have been provided or required to have been provided to a Federal or State agency; and *(B) information that has been reported publicly.* *(2) PRESERVATION OF AUTHORITY- Nothing in this subsection may be construed as limiting the authority of the Director from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.* *(3) REPORTS OF TAX LAW NONCOMPLIANCE- The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.*	
(b) Examinations- (1) IN GENERAL- The appropriate agency shall on a periodic basis examine, or require reports from, an institution referred to in subsection (a) for purposes of ensuring compliance with the requirements of this title, the enumerated consumer laws, and any regulation prescribed by the Director under this title or pursuant to the authorities transferred under subtitles F and H, and enforcing compliance with such requirements. (2) AGENCY ROLE IN EXAMINATIONS- (A) The appropriate agency shall provide all reports, records, and documentation related to the examination process to the Agency on a timely and ongoing basis. (B) The Director and Agency may, at its discretion, include an examiner on any examination conducted under paragraph (1). The appropriate agency shall involve such Agency examiner in the entire examination process, including setting the scope of an examination, participating in the examination, and providing input on the examination report, matters requiring attention and examination ratings.	***SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.*** *(c) Examinations-* *(1) IN GENERAL- The Bureau may, at its discretion, include examiners on a sampling basis of the examinations performed by the prudential regulator of persons described in subsection (a).* *(2) AGENCY COORDINATION- The prudential regulator shall--* *(A) provide all reports, records, and documentation related to the examination process for any institution included in the sample referred to in paragraph (1) to the Bureau on a timely and continual basis;* *(B) involve such Bureau examiner in the entire examination process for such person; and* *(C) consider input of the Bureau concerning the scope of an examination, conduct of the examination, the contents of the examination report, the designation of matters requiring attention, and examination ratings.*	
(c) Enforcement- (1) IN GENERAL- Notwithstanding any other provision of this title other than this subsection, the appropriate agency shall have primary authority to enforce violations identified at institutions referred to in subsection (a) of any of the requirements of this title, the enumerated	***SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.*** *(d) Enforcement-* *(1) IN GENERAL- Except for requiring reports under subsection (b), the prudential regulator shall have exclusive authority to enforce compliance with respect to a person described in subsection (a).* *(2) COORDINATION WITH PRUDENTIAL REGULATOR-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
consumers laws, and any regulation prescribed by the Director under this title or pursuant to the authorities transferred under subtitles F and H. (2) COORDINATION WITH APPROPRIATE AGENCY- (A) REFERRAL- (i) IN GENERAL- The Agency may recommend in writing to the appropriate agency that the appropriate agency initiate an enforcement proceeding to the extent the appropriate agency is authorized by that Federal law or by this title. (ii) EXPLANATION- Any recommendation under clause (i) shall be accompanied by a written explanation of the concerns giving rise to the recommendation. (B) BACKSTOP ENFORCEMENT AUTHORITY OF AGENCY- If the appropriate agency does not, before the end of the 120-day period beginning on the date on which the appropriate agency receives a recommendation under subparagraph (A), initiate an enforcement proceeding, the Agency may initiate an enforcement proceeding as permitted by Federal law.	*(A) REFERRAL- When the Bureau has reason to believe that a person described in subsection (a) has engaged in a material violation of a Federal consumer financial law, the Bureau shall notify the prudential regulator in writing and recommend appropriate action to respond.* *(B) RESPONSE- Upon receiving a recommendation under subparagraph (A), the prudential regulator shall provide a written response to the Bureau not later than 60 days thereafter.*	
(d) Actions Arising Out of Consumer Complaint System- Notwithstanding any provision of this section, if through the consumer complaint system administered by the Agency under section 4105(c)(3), the Director has reasonable cause to believe that an institution referred to in subsection (a) demonstrates noncompliance with any provision of this title, the enumerated consumer laws, or any regulation prescribed by the Director under this title or pursuant to the authorities transferred under subtitles F and H, the Director may directly investigate such institution for such noncompliance and take any action permitted under subtitle E that the Director deems appropriate.		
(e) Removal of Appropriate Agency for Particular Institution- (1) HEIGHTENED SUPERVISION- The Director-- (A) may provide notice to an appropriate agency that the Director is considering issuing a removal order under paragraph (2); and (B) shall have an Agency examiner participate in the examination process under subsection (b) for at least 1 examination cycle. (2) REMOVAL BY ORDER- If, after the completion of at least 1 examination cycle following the provision of notice to an appropriate agency under paragraph (1), the Director determines in writing that the appropriate agency has failed to adequately conduct consumer compliance examinations or bring appropriate enforcement actions		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
against an institution referred to in subsection (a), the Director may order the removal of the appropriate agency from its responsibilities under this section for such institution. (3) AGENCY AUTHORITY UPON REMOVAL- Upon removal pursuant to paragraph (2), the Agency shall examine and enforce against such institution as if the institution were subject to section 4202. (4) EFFECTIVE DATE- An order under paragraph (2) shall take effect 30 days after a determination by the Secretary of the Treasury pursuant to paragraphs (5) and (6). (5) AUTOMATIC APPEAL- An order issued by the Director pursuant to paragraph (2) shall be automatically appealed to the Secretary. (6) DECISION BY THE SECRETARY OF THE TREASURY- (A) DETERMINATION- The order issued pursuant to paragraph (2) shall be deemed affirmed unless the Secretary of the Treasury denies the determination of the Director within 120 days of the issuance of the order pursuant to paragraph (2). (B) RULE OF CONSTRUCTION- Nothing in subparagraph (A) shall be construed as prohibiting the Secretary of the Treasury from making a determination to either affirm or deny an order issued pursuant to paragraph (2) prior to the passage of the time period in subparagraph (A). (7) REGULATIONS- By the transfer date, the Secretary shall issue regulations that establish the standards the Director shall apply in making a determination to remove an appropriate agency and the process, procedures, and standards for an appeal. Such standards shall require the Director to consider at least the following in issuing an order removing an appropriate agency for an institution referred to in subsection (a)(1): (A) Reports of examination of such institution. (B) Any enforcement actions taken by an appropriate agency against such institution and the results of those actions. (C) Consumer complaints issued against such institution. (D) Actions taken by State attorneys general and private rights of action against such institution.		
(f) Policies and Procedures- Within 180 days after the designated transfer date, the Agency and the appropriate agency shall develop policies and procedures for implementing this section.		
(g) Assessments- (1) LIMITATION ON CERTAIN FEES- The Agency shall not		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
assess examination fees on an institution referred to in subsection (a). (2) RULE OF CONSTRUCTION- No provision of this section shall be construed as preventing the appropriate agency from assessing fees on an institution referred to in paragraph (1) to meet the appropriate agency's expenses for carrying out such examination and supervision responsibilities pursuant to this section.		
(h) Assistive Division for Community Financial Institutions- (1) ESTABLISHMENT; PURPOSE- There is established in the Agency an office to be known as the `Assistive Division for Community Financial Institutions' to advise the Director on the impact of Agency policies and regulations on community financial institutions and to help ensure that the policies and regulations of the Agency do not unduly burden community financial institutions. (2) ADDITIONAL DUTIES- The Assistive Division for Community Financial Institutions shall also-- (A) provide assistance to and respond to inquiries from community financial institutions regarding policies of the Agency and the effects of such policies on community financial institutions; (B) provide educational materials, training aides, and support to community financial institutions with respect to any new regulatory obligations the Agency establishes during the initial rule-making period; (C) establish and maintain a toll-free telephone number, to be available at least 8 hours a day and 7 days a week, at which community financial institution may make inquiries and receive assistance under subparagraph (A); and (D) perform other duties and exercise such other powers set by the Director.		
	SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS. *(e) Service Providers- A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 to the same extent as if the Bureau were an appropriate Federal bank agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). When conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.*	
SEC. 4204. SIMULTANEOUS AND COORDINATED SUPERVISORY		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
ACTION. (a) Examinations- A Federal banking agency and the Agency shall, with respect to each insured depository institution, credit union, or other covered person supervised by the Federal banking agency and the Agency, respectively-- (1) coordinate the scheduling of examinations of the insured depository institution, and credit union, or other covered person; (2) conduct simultaneous examinations of each insured depository institution, credit union or other covered person, unless such institution requests examinations to be conducted separately; (3) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and (4) prior to issuing a final report of examination or taking supervisory action, an agency shall take into consideration concerns, if any, raised in the comments made by the other agency. (b) Coordination With State Bank Supervisors- The Agency shall pursue arrangements and agreements with State bank supervisors to coordinate examinations consistent with subsection (a). (c) Resolution of Conflict in Supervision- (1) REQUEST OF DEPOSITORY INSTITUTION- (A) IN GENERAL- If the proposed material supervisory determinations of the Agency and a Federal banking agency are conflicting, an insured depository institution, credit union, or other covered person may request the agencies to coordinate and present a joint statement of coordinated supervisory action. (B) LIMITATION- A request of an insured depository institution, credit union, or other covered person shall not be used to appeal a supervisory rating or determination by the Agency or a Federal banking agency. (2) JOINT STATEMENT- The agencies receiving a request from an insured depository institution, credit union, or covered person under paragraph (1) shall provide a joint statement resolving the conflict under such subparagraph before the end of the 30-day period beginning on the date the agencies receive such request. (d) Appeals to Governing Panel- (1) IN GENERAL- If the agencies receiving a request from an insured depository institution, credit union, or covered person under subsection (c)(1) do not issue a joint statement under subsection (c)(2), or if either agency takes or attempts to take any supervisory		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
action relating to the request for the joint statement without the consent of the other agency, the insured depository institution, credit union, or other covered person may institute an appeal to a governing panel under this subsection. (2) TIMETABLE- Any appeal under paragraph (1) with regard to a failure of agencies to issue a joint statement shall be filed before the end of the 30-day period beginning at the end of the 30-day period during which such joint statement was due under subsection (c)(2). (e) Composition of Governing Panel- The governing panel for an appeal under this section shall be composed of-- (1) 2 individuals-- (A) 1 of whom is a representative from the Agency; (B) 1 of whom is a representative of the Federal banking agency which received the request to which the appeal relates; and (C) neither of whom-- (i) have participated in the material supervisory determinations under appeal; and (ii) report directly or indirectly to the individual who made the supervisory determinations under appeal; and (2) 1 individual who is a representative from-- (A) the Federal banking agency that heads the Financial Institution Examination Council; or (B) if the Financial Institutions Examination Council is headed by a Federal banking agency that is a party to the appeal, the Federal banking agency that is next scheduled to head the Financial Institutions Examination Council. (f) Conduct of Appeal- (1) CONTENT OF FILING APPEAL- The insured depository institution, credit union, or other covered person which institutes an appeal under subsection (d)(1) shall include in the filing of such appeal all the facts and legal arguments pertaining to the matter appealed. (2) APPEARANCE- The insured depository institution, credit union, or other covered person which institutes an appeal under this section may appear before the governing panel in person or by telephone, through counsel, employees, or representatives of, or for, such institution, credit union, or other covered person. (3) REQUESTS FOR ADDITIONAL INFORMATION- Any governing panel convened under this section may request the insured depository institution, credit union, or other covered person, the Agency, or the Federal banking agency to produce additional		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
information relevant to the appeal. (4) FINAL WRITTEN DETERMINATIONS- Any governing panel convened under this section, by a majority vote of the members of the panel, shall provide a final determination, in writing, within 30 days of the filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, credit union, or other covered person may jointly agree. (5) PUBLIC INFORMATION- A redacted copy of any determination by a governing panel convened under this section shall be made public upon the issuance of such determination. (g) Prohibition Against Retaliation- The Director and the Federal banking agencies shall prescribe regulations to provide safeguards from retaliation against any insured depository institution, credit union, or other covered person which institutes an appeal under this section, as well as against any officer or and employee of any such institution, credit union, or other person. (h) Material Supervisory Determination Defined- For purposes of this section, the term `material supervisory determination'-- (1) includes any action relating to any supervision or examinations; and (2) does not include-- (A) a determination by any Federal banking agency to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as the case may be; or (B) any regulation or guidance, or order of general applicability.		
SEC. 4205. LIMITATIONS ON AUTHORITY OF AGENCY AND DIRECTOR. (a) Exclusion for Merchants, Retailers, and Sellers of Nonfinancial Services- (1) IN GENERAL- Notwithstanding any provision of this title (other than paragraph (4)) and subject to paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, under this title with respect to-- (A) credit extended directly by a merchant, retailer, or seller of nonfinancial goods or services to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service, exclusively for the purpose of enabling that consumer to purchase such goods	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(a) Exclusion for Merchants, Retailers, and Other Sellers of Nonfinancial Goods or Services-* *(1) SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE- The Bureau may not exercise any rulemaking, supervisory, enforcement or other authority under this title with respect to a person who is a merchant, retailer, or seller of any nonfinancial good or service and is engaged in the sale or brokerage of such nonfinancial good or service, except to the extent that such person is engaged in offering or providing any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or services directly from the merchant, retailer, or seller of nonfinancial services; or (B) collection of debt, directly by the merchant, retailer, or seller of nonfinancial services, arising from such credit extended. In the application of this paragraph, the extension of credit and the collection of debt described in subparagraphs (A) and (B), respectively, shall not be considered a consumer financial product or service. (2) EXCEPTION FOR EXISTING AUTHORITY- The Director may exercise any rulemaking authority regarding an extension of credit described in paragraph (1)(A) or the collection of debt arising from such extension, as may be authorized by the enumerated consumer laws or any law or authority transferred under subtitle F or H. (3) RULE OF CONSTRUCTION- No provision of this title shall be construed as modifying, limiting, or superseding the authority of the Federal Trade Commission or any agency other than the Agency with respect to credit extended, or the collection of debt arising from such extension, directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase goods or services directly from the merchant or retailer. (4) EXCLUSION NOT APPLICABLE TO CERTAIN CREDIT TRANSACTIONS- Paragraph (1) shall not apply to-- (A) any credit transaction, including the collection of the debt arising from such extension, in which the merchant, retailer, or seller of nonfinancial services assigns, sells, or otherwise conveys such debt owed by the consumer to another person; (B) any credit transaction-- (i) in which the credit provided significantly exceeds the market value of the product or service provided; and (ii) with respect to which the Director finds that the sale of the product or service is done as a subterfuge so as to evade or circumvent the provisions of this title; or (C) any credit transaction involving a person who operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, if-- (i) the extension of retail credit or retail leases is provided directly to consumers; and (ii) the contracts governing such extension of retail credit or retail leases are not assigned to a third	*subtitle F or H.* *(2) OFFERING OR PROVISION OF CERTAIN CONSUMER FINANCIAL PRODUCTS OR SERVICES IN CONNECTION WITH THE SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE-* *(A) IN GENERAL- Except as provided in subparagraph (B), and subject to subparagraph (C), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services, but only to the extent that such person--* *(i) extends credit directly to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service (other than credit described in this subparagraph), exclusively for the purpose of enabling that consumer to purchase such nonfinancial good or service directly from the merchant, retailer, or seller;* *(ii) directly, or through an agreement with another person, collects debt arising from credit extended as described in clause (i); or* *(iii) sells or conveys debt described in clause (i) that is delinquent or otherwise in default.* *(B) APPLICABILITY- Subparagraph (A) does not apply to any credit transaction or collection of debt, other than as described in subparagraph (C)(i), arising from a transaction described in subparagraph (A)--* *(i) in which the merchant, retailer, or seller of nonfinancial goods or services assigns, sells or otherwise conveys to another person such debt owed by the consumer (except for a sale of debt that is delinquent or otherwise in default, as described in subparagraph (A)(iii));* *(ii) in which the credit extended exceeds the market value of the nonfinancial good or service provided, or the Bureau otherwise finds that the sale of the nonfinancial good or service is done as a subterfuge, so as to evade or circumvent the provisions of this title; or* *(iii) in which the merchant, retailer, or seller of nonfinancial goods or services regularly extends credit and the credit is subject to a finance charge.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
party finance or leasing source, except on a de minimis basis.	*(C) LIMITATIONS-* *(i) IN GENERAL- Notwithstanding subparagraph (B), and except as provided in clause (ii), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services that is not engaged significantly in offering or providing consumer financial products or services.* *(ii) EXCEPTION- Subparagraph (A) and clause (i) of this subparagraph do not apply to any merchant, retailer, or seller of nonfinancial goods or services, to the extent that such person is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.* *(D) RULES-* *(i) AUTHORITY OF OTHER AGENCIES- No provision of this title shall be construed as modifying, limiting, or superseding the supervisory or enforcement authority of the Federal Trade Commission or any other agency (other than the Bureau) with respect to credit extended, or the collection of debt arising from such extension, directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase nonfinancial goods or services directly from the merchant or retailer.* *(ii) SMALL BUSINESSES- A merchant, retailer, or seller of nonfinancial goods or services that would otherwise be subject to the authority of the Bureau solely by virtue of the application of subparagraph (B)(iii) shall be deemed not to be engaged significantly in offering or providing consumer financial products or services under subparagraph (C)(i), if such person--* *(I) only extends credit for the sale of nonfinancial goods or services, as described in subparagraph (A)(i);* *(II) retains such credit on its own accounts (except to sell or convey such debt that is delinquent or otherwise in default); and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(III) meets the relevant industry size threshold to be a small business concern, based on annual receipts, pursuant to section 3 of the Small Business Act (15 U.S.C. 632) and the implementing rules thereunder. *(iii) INITIAL YEAR- A merchant, retailer, or seller of nonfinancial goods or services shall be deemed to meet the relevant industry size threshold described in clause (ii)(III) during the first year of operations of that business concern if, during that year, the receipts of that business concern reasonably are expected to meet that size threshold.* *(E) EXCEPTION FROM STATE ENFORCEMENT- To the extent that the Bureau may not exercise authority under this subsection with respect to a merchant, retailer, or seller of nonfinancial goods or services, no action by a State attorney general or State regulator with respect to a claim made under this title may be brought under subsection 1042(a), with respect to an activity described in any of clauses (i) through (iii) of subparagraph (A) by such merchant, retailer, or seller of nonfinancial goods or services.*	
(b) Exclusion for Persons Regulated by the Securities and Exchange Commission- (1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of the Securities and Exchange Commission or any securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Securities and Exchange Commission or any securities commission (or any agency or office performing like functions) of any State. The Director and Agency shall have no rulemaking, supervisory, enforcement or other authority, including the authority to order assessments, under this title with respect to a person regulated by the Securities and Exchange Commission or any securities commission (or any agency or office performing like functions) of any State. (2) CONSULTATION AND COORDINATION- Notwithstanding	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(i) Exclusion for Persons Regulated by the Commission-* *(1) IN GENERAL- No provision of this title may be construed as altering, amending, or affecting the authority of the Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commission.* *(2) CONSULTATION AND COORDINATION- Notwithstanding paragraph (1), the Commission shall consult and coordinate, where feasible, with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law. In carrying out this paragraph, the agencies shall negotiate an agreement to establish procedures for such*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
paragraph (1), the Securities and Exchange Commission shall consult and coordinate with the Director with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Agency under this title or under any other law.	*coordination, including procedures for providing advance notice to the Bureau when the Commission is initiating a rulemaking.*	
(c) Exclusion for Persons Regulated by the Commodity Futures Trading Commission- (1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of the Commodity Futures Trading Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commodity Futures Trading Commission. The Director and the Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commodity Futures Trading Commission. (2) CONSULTATION AND COORDINATION- Notwithstanding paragraph (1), the Commodity Futures Trading Commission shall consult and coordinate with the Director with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Agency under this title or under any other law.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(j) Exclusion for Persons Regulated by the Commodity Futures Trading Commission-* *(1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of the Commodity Futures Trading Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commodity Futures Trading Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commodity Futures Trading Commission.* *(2) CONSULTATION AND COORDINATION- Notwithstanding paragraph (1), the Commodity Futures Trading Commission shall consult and coordinate with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law.*	
(d) Persons Regulated by a State Securities Commission- (1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of any securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State. Except as permitted in paragraph (2) and subsection (m), the Director and the Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by any securities commission (or any agency or office performing like	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(h) Persons Regulated by a State Securities Commission-* *(1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of any securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State. Except as permitted in paragraph (2) and subsection (f), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by any securities*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
functions) of any State, but only to the extent that the person acts in such regulated capacity. (2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person to the extent such person is engaged in any financial activity described in any subparagraph of section 101(19) or is otherwise subject to any enumerated consumer law or any law or authority transferred under subtitle F or H.	*commission (or any agency or office performing like functions) of any State, but only to the extent that the person acts in such regulated capacity.* *(2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person to the extent such person is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
(e) Exclusion for Persons Regulated by a State Insurance Regulator- (1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any State insurance regulator. Except as provided in paragraphs (2) and (3), the Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by any State insurance regulator. (2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 4002(19) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H. (3) PRESERVATION OF CERTAIN AUTHORITIES- No provision of this title shall be construed as limiting the authority of the Director and the Agency from exercising powers under this Act with respect to a person, other than a person regulated by a State insurance regulator, who provides a product or service for or on behalf of a person regulated by a State insurance regulator in connection with a financial activity.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(f) Exclusion for Persons Regulated by a State Insurance Regulator-* *(1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by a State insurance regulator. Except as provided in paragraph (2), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by a State insurance regulator.* *(2) DESCRIPTION OF ACTIVITIES- Paragraph (1) does not apply to any person described in such paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
(f) Exclusion for Persons Regulated by the Federal Housing Finance Agency- No provision of this title shall be construed as altering, amending, or affecting the authority of the Federal Housing Finance Agency to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Federal Housing Finance Agency. The Director and Agency shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Federal Housing Finance Agency. For purposes of this subsection, the term `person regulated by the Federal Housing Finance Agency' means any Federal home loan bank, and any joint office of 1 or more Federal home loan banks.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(g) Exclusion for Persons Regulated by the Farm Credit Administration- No provision of this title shall be constructed as altering, amending, or affecting the authority of the Farm Credit Administration to adopt rules, institute enforcement proceedings, or take any other action with respect to a person regulated by the Farm Credit Administration. The Director and Agency shall have no authority to exercise any power to enforce this title, compel registration, or to order assessments with respect to a person regulated by the Farm Credit Administration. For purposes of this subsection, the term `person regulated by the Farm Credit Administration' means any Farm Credit System Institution.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(k) Exclusion for Persons Regulated by the Farm Credit Administration-* *(1) IN GENERAL- No provision of this title shall be construed as altering, amending, or affecting the authority of the Farm Credit Administration to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Farm Credit Administration. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Farm Credit Administration.* *(2) DEFINITION- For purposes of this subsection, the term `person regulated by the Farm Credit Administration' means any Farm Credit System institution that is chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).*	
(h) Employee Benefit and Compensation Plans and Certain Other Arrangements Under the Internal Revenue Code of 1986- (1) AUTHORITY RETAINED BY OTHER AGENCIES- No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to any specified plan or arrangement. (2) ACTIVITIES NOT CONSTITUTING FINANCIAL ACTIVITIES- For the purposes of this title, a person shall not be treated as having engaged in a financial activity, as defined in section 4002(19), solely because such person is a specified plan or arrangement or is engaged in the activity of establishing or maintaining, for the benefit of employees of such person (or for members of an employee organization), any specified plan or arrangement.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(g) Exclusion for Employee Benefit and Compensation Plans and Certain Other Arrangements Under the Internal Revenue Code of 1986-* *(1) PRESERVATION OF AUTHORITY OF OTHER AGENCIES- No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to any specified plan or arrangement.* *(2) ACTIVITIES NOT CONSTITUTING THE OFFERING OR PROVISION OF ANY CONSUMER FINANCIAL PRODUCT OR SERVICE- For purposes of this title, a person shall not be treated as having engaged in the offering or provision of any consumer financial product or service solely because such person is a specified plan or arrangement, or is engaged in the activity of establishing or maintaining, for the benefit of employees of such person (or for members of an employee organization), any specified plan or arrangement.* *(3) LIMITATION ON BUREAU AUTHORITY-* *(A) IN GENERAL- Except as provided under subparagraphs (B) and (C), the Bureau may not exercise any rulemaking or enforcement authority with respect to products or services that relate to any specified plan or arrangement.* *(B) BUREAU ACTION ONLY PURSUANT TO AGENCY*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	REQUEST- The Secretary and the Secretary of Labor may jointly issue a written request to the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement. Subject to a request made under this subparagraph, the Bureau may exercise rulemaking authority, and may act to enforce a rule prescribed pursuant to such request, in accordance with the provisions of this title. A request made by the Secretary and the Secretary of Labor under this subparagraph shall describe the basis for, and scope of, appropriate consumer protection standards to be implemented under this title with respect to the provision of services relating to any specified plan or arrangement. *(C) DESCRIPTION OF PRODUCTS OR SERVICES- To the extent that a person engaged in providing products or services relating to any specified plan or arrangement is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, subparagraph (A) shall not apply with respect to that law.*	
(3) REGULATORY COORDINATION- In the case of regulations promulgated under this title that address any financial activity specifically pertaining to the administration and maintenance of a specified plan or arrangement, the Director shall coordinate with the Secretary of Labor and the Secretary of Treasury, as appropriate. (4) SPECIFIED PLAN OR ARRANGEMENT- For purposes of this subsection, the term `specified plan or arrangement' means any plan, account, or arrangement described in section 220, 223, 401(a), 403(a), 403(b), 408, 408A, 529, or 530 of the Internal Revenue Code of 1986, or any employee benefit or compensation plan or arrangement, including a plan that is subject to title I of the Employee Retirement Income Security Act of 1974.	*(4) SPECIFIED PLAN OR ARRANGEMENT- For purposes of this subsection, the term `specified plan or arrangement' means any plan, account, or arrangement described in section 220, 223, 401(a), 403(a), 403(b), 408, 408A, 529, or 530 of the Internal Revenue Code of 1986, or any employee benefit or compensation plan or arrangement, including a plan that is subject to title I of the Employee Retirement Income Security Act of 1974.*	
	SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.	
(i) Exclusion for Accountants and Tax Preparers- (1) IN GENERAL- Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over-- (A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, or any	*(d) Exclusion for Accountants and Tax Preparers-* *(1) IN GENERAL- Except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority over—* *(A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, or any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
individual who is employed by or holds an ownership interest with respect to a person described in this subparagraph when such person is performing or offering to perform customary and usual accounting activities, including the provision of accounting, tax, advisory, other services that are subject to the regulatory authority of a state board of accountancy or a Federal authority, or other services that are incidental to such customary and usual accounting activities, to the extent that such incidental services are not offered or provided by the person separate and apart from such customary and usual accounting activities and are not offered or provided to consumers who are not receiving such customary and usual accounting activities; or (B) any person other than a person described in subparagraph (A) that performs income tax preparation activities for consumers.	*individual who is employed by or holds an ownership interest with respect to a person described in this subparagraph, when such person is performing or offering to perform--* *(i) customary and usual accounting activities, including the provision of accounting, tax, advisory, or other services that are subject to the regulatory authority of a State board of accountancy or a Federal authority; or* *(ii) other services that are incidental to such customary and usual accounting activities, to the extent that such incidental services are not offered or provided--* *(I) by the person separate and apart from such customary and usual accounting activities; or* *(II) to consumers who are not receiving such customary and usual accounting activities; or* *(B) any person, other than a person described in subparagraph (A) that performs income tax preparation activities for consumers.*	
(2) CERTAIN ACTIVITIES NOT EXCLUDED- (A) IN GENERAL- In no event shall paragraph (1) apply to any activity which involves the sale of securities or extension of credit which is provided by a person described in paragraph (1)(A). (B) DEFINITION- For purposes of subparagraph (A), the term `extension of credit' shall not include an ordinary account receivable.		
(3) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to-- (A) any person described in paragraph (1)(A) to the extent such person is engaged in any activity which is not a customary and usual accounting activity described in paragraph (1)(A) or incidental thereto but which is a financial activity described in any subparagraph of section 4002(19); (B) any person described in paragraph (1)(B) to the extent such person is engaged in any activity which is a financial activity described in any subparagraph of section 4002(19); or (C) any person described in paragraph (1)(A) or (1)(B) that	*(2) DESCRIPTION OF ACTIVITIES-* *(A) IN GENERAL- Paragraph (1) shall not apply to any person described in paragraph (1)(A) or (1)(B) to the extent that such person is engaged in any activity which is not a customary and usual accounting activity described in paragraph (1)(A) or incidental thereto but which is the offering or provision of any consumer financial product or service, except to the extent that a person described in paragraph (1)(A) is engaged in an activity which is a customary and usual accounting activity described in paragraph (1)(A), or incidental thereto.* *(B) NOT A CUSTOMARY AND USUAL ACCOUNTING ACTIVITY- For purposes of this subsection, extending or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.	*brokering credit is not a customary and usual accounting activity, or incidental thereto.* *(C) RULE OF CONSTRUCTION- For purposes of subparagraphs (A) and (B), a person described in paragraph (1)(A) shall not be deemed to be extending credit, if such person is only extending credit directly to a consumer, exclusively for the purpose of enabling such consumer to purchase services described in clause (i) or (ii) of paragraph (1)(A) directly from such person, and such credit is--* *(i) not subject to a finance charge; and* *(ii) not payable by written agreement in more than 4 installments.* *(D) OTHER LIMITATIONS- Paragraph (1) does not apply to any person described in paragraph (1)(A) or (1)(B) that is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
(j) Exclusion for Real Estate Licensees- (1) IN GENERAL- Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over a person that is licensed or registered as a real estate broker, real estate agent, in accordance with State law, but only to the extent that such person— (A) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property; (B) brings together parties interested in the sale, purchase, lease, rental, or exchange of real property; (C) negotiates, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction); (D) engages in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; or (E) offers to engage in any activity, or act in any capacity, described in subparagraph (A), (B), (C), or (D).	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(b) Exclusion for Real Estate Brokerage Activities-* *(1) REAL ESTATE BROKERAGE ACTIVITIES EXCLUDED- Without limiting subsection (a), and except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a person that is licensed or registered as a real estate broker or real estate agent, in accordance with State law, to the extent that such person--* *(A) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property;* *(B) brings together parties interested in the sale, purchase, lease, rental, or exchange of real property;* *(C) negotiates, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with the provision of financing with respect to any such transaction); or* *(D) offers to engage in any activity, or act in any capacity, described in subparagraph (A), (B), or (C).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 4002(19) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.	*(2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
(k) Exclusion for Auto Dealers- (1) IN GENERAL- The Director and the Agency may not exercise any rulemaking, supervisory, enforcement or any other authority, including authority to order assessments, over a motor vehicle dealer that is primarily engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. (2) CERTAIN FUNCTIONS EXCEPTED- The provisions of paragraph (1) shall not apply to any person to the extent that person-- (A) provides consumers with any services related to residential mortgages; or (B) operates a line of business that involves the extension of retail credit or retail leases involving motor vehicles, and in which-- (i) the extension of retail credit or retail leases is routinely provided directly to consumers; and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to a third party finance or leasing source. (3) NO IMPACT ON PRIOR AUTHORITY- Nothing in this subsection shall be construed to modify, limit, or supersede the rulemaking or enforcement authority over motor vehicle dealers that could be exercised by any Federal department or agency on the day prior to the enactment of this title. (4) NO TRANSFER OF CERTAIN AUTHORITY- Notwithstanding subtitle F or any other provision of law under this title, the consumer financial protection functions of the Board of Governors and the Federal Trade Commission shall not be transferred to the Director or the Agency to the extent such functions are with respect to a person described under paragraph (1). (5) DEFINITIONS- For purposes of this subsection: (A) MOTOR VEHICLE- The term `motor vehicle' means any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road. (B) MOTOR VEHICLE DEALER- The term `motor vehicle dealer' means any person resident in the United States or any territory of the United States, and licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(l) No Authority to Impose Usury Limit- No provision of this title shall be construed as conferring authority on the Director or the Agency to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(o) No Authority To Impose Usury Limit- No provision of this title shall be construed as conferring authority on the Bureau to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.*	
(m) Exclusion for Manufactured Home Retailers and Modular Home Retailers- (1) IN GENERAL- The Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over a person to the extent such person— (A) acts as an agent or broker for a buyer or seller of a manufactured home or a modular home; (B) facilitates the purchase by a consumer of a manufactured home or modular home, by negotiating the purchase price or terms of the sales contract (other than providing financing with respect to such transaction); or (C) offers to engage in any activity described in subparagraph (A) or (B). (2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 4002(19) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H. (3) DEFINITIONS- For purposes of this subsection: (A) MANUFACTURED HOME- The term `manufactured home' has the meaning given such term in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402). (B) MODULAR HOME- The term `modular home' means a house built in a factory in two or more modules that meet the State or local building codes where the house will be located and where such modules are transported to the building site, installed on foundations, and completed.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(c) Exclusion for Manufactured Home Retailers and Modular Home Retailers-* *(1) IN GENERAL- The Director may not exercise any rulemaking, supervisory, enforcement, or other authority over a person to the extent that--* *(A) such person is not described in paragraph (2); and* *(B) such person--* *(i) acts as an agent or broker for a buyer or seller of a manufactured home or a modular home;* *(ii) facilitates the purchase by a consumer of a manufactured home or modular home, by negotiating the purchase price or terms of the sales contract (other than providing financing with respect to such transaction); or* *(iii) offers to engage in any activity described in clause (i) or (ii).* *(2) DESCRIPTION OF ACTIVITIES- A person is described in this paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.* *(3) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:* *(A) MANUFACTURED HOME- The term `manufactured home' has the same meaning as in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).* *(B) MODULAR HOME- The term `modular home' means a house built in a factory in 2 or more modules that meet the State or local building codes where the house will be located, and where such modules are transported to the building site, installed on foundations, and completed.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(n) Exclusion for Practice of Law- (1) IN GENERAL- Except as provided under paragraph (2), nothing in this title shall apply with respect to an activity engaged in by an attorney, or engaged in under the direction of an attorney, as part of the practice of law under the laws of a State in which the attorney is licensed to practice law. (2) RULE OF CONSTRUCTION- (A) IN GENERAL- Paragraph (1) shall not be construed to limit the exercise by the Director and the Agency of any rulemaking, supervisory, enforcement, or other authority, including authority to order assessments, regarding any activity that is a financial activity described in any subparagraph of section 4002(19) and is not engaged in as-- (i) part of the practice of law; or (ii) incidental to the practice of law, to the extent that such activity is provided exclusively within the scope of the attorney-client relationship and is not otherwise provided by or under the direction of the attorney to any consumer who is not receiving legal advice or services from the attorney in connection with such activity. (B) CONSTRUCTION- Paragraph (1) shall not be construed to limit the authority of the Director and the Agency with respect to any activity to the extent that such activity is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H. (3) EXCEPTION- Notwithstanding paragraph (1), an individual who provides legal advice or services related to preventing a foreclosure shall be subject to this title unless such individual provides foreclosure prevention services in connection with-- (A) the preparation and filing of a bankruptcy petition; or (B) court proceedings to avoid a foreclosure.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(e) Exclusion for Attorneys-* *(1) IN GENERAL- The Bureau may not exercise any authority to conduct examinations of an attorney licensed by a State, to the extent that the attorney is engaged in the practice of law under the laws of such State.* *(2) EXCEPTION FOR ENUMERATED CONSUMER LAWS AND TRANSFERRED AUTHORITIES- Paragraph (1) shall not apply to an attorney who is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
(o) Exclusion for Pawnbrokers- (1) IN GENERAL- The Director and the Agency may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order assessments, under this title with respect to any pawnbroker licensed by a State or political subdivision thereof, a territory of the United States, or the District of Columbia, but only to the extent that such person acts in such capacity and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
provides either-- (A) non-recourse credit secured by a possessory security interest in tangible goods physically delivered by the consumer to the pawnbroker for which the consumer does not provide a written or electronic promise, order or authorization to pay, or in any other manner authorize a debit of a deposit account, prior to or contemporaneously with the disbursement of the original proceeds; or (B) credit or any other financial activity issued directly by a pawnbroker to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service, exclusively for the purpose of enabling that consumer to purchase goods or services directly from the pawnbroker. (2) RULE OF CONSTRUCTION- (A) FTC AUTHORITY PRESERVED- Except as provided in subparagraph (B), no provision of this title shall be construed as modifying, limiting, or superseding the authority of the Federal Trade Commission with respect to the activities described under paragraph (1). (B) EXERCISE OF RULEMAKING AUTHORITY- The Director may exercise any rulemaking authority regarding the activities described in paragraph (1) only as may be authorized by the enumerated consumer laws or any law or authority transferred under subtitle F or H.		
(p) Exclusion for Certain Consumer Reporting Agencies- (1) IN GENERAL- Except as permitted in paragraph (2), the Director and the Agency may not exercise any rulemaking, supervisory, enforcement or other authority, including authority to order assessments, over a person that is a consumer reporting agency, as such term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), but only to the extent that such consumer reporting agency furnishes a consumer report to another person that it has reason to believe intends to use the information for employment purposes, including for security investigations, government licensing and evaluating a consumer's residential or tenant history. (2) DESCRIPTION OF ACTIVITIES- Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 4002(19) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under subtitle F or H.		
(q) Limited Authority of the Agency to Obtain Information- Notwithstanding		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
subsections (a), (f), (g), (h), (i), and (k), the Director may request or require information from any person subject to or described in any such subsection in order to carry out the responsibilities and functions of the Agency and in accordance with section 4206, 4501, or 4502.		
(r) Exclusion for Activities Relating to Charitable Contributions- (1) The Director and the Agency may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order assessments or penalties, over any activities related to the solicitation or making of voluntary contributions to or through a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer or representative of such organizations to the extent the organization, agent, volunteer or representative thereof is soliciting or providing advice, information, education or instruction to donor(s) or potential donor(s) relating to a contribution to or through the organization. (2) This exclusion shall not apply to other activities not described in the paragraph above and are financial activities as described in any subparagraph of section 4002(19), or otherwise subject to any of the enumerated consumer laws, or the authorities transferred under subtitle F or H.	***SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.*** *(l) Exclusion for Activities Relating to Charitable Contributions-* *(1) IN GENERAL- The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order penalties, over any activities related to the solicitation or making of voluntary contributions to a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer, or representative of such organizations to the extent the organization, agent, volunteer, or representative thereof is soliciting or providing advice, information, education, or instruction to any donor or potential donor relating to a contribution to the organization.* *(2) LIMITATION- The exclusion in paragraph (1) does not apply to other activities not described in paragraph (1) that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.*	
	SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES. *(m) Insurance- The Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.*	
	SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES. *(n) Limited Authority of the Bureau- Notwithstanding subsections (a) through (h) and (l), a person subject to or described in one or more of such subsections--* *(1) may be a service provider; and* *(2) may be subject to requests from, or requirements imposed by, the Bureau regarding information in order to carry out the responsibilities and functions of the Bureau and in accordance with section 1022, 1052, or 1053.*	
	SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(p) Attorney General- No provision of this title, including section 1024(c)(1), shall affect the authorities of the Attorney General under otherwise applicable provisions of law. *(q) Secretary of the Treasury- No provision of this title shall affect the authorities of the Secretary, including with respect to prescribing rules, initiating enforcement proceedings, or taking other actions with respect to a person that performs income tax preparation activities for consumers.*	
	SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES. *(r) Deposit Insurance and Share Insurance- Nothing in this title shall affect the authority of the Corporation under the Federal Deposit Insurance Act or the National Credit Union Administration Board under the Federal Credit Union Act as to matters related to deposit insurance and share insurance, respectively.*	
SEC. 4206. COLLECTION OF INFORMATION; CONFIDENTIALITY REGULATIONS. (a) Collection of Information- (1) IN GENERAL- In conducting research on the provision of consumer financial products or services, the Director shall have the power to gather information from time to time regarding the organization, business conduct, and practices of covered persons or service providers. (2) SPECIFIC AUTHORITY- In order to gather such information, the Director shall have the power-- (A) to gather and compile information; (B) to require persons to file with the Agency, in such form and within such reasonable period of time as the Director may prescribe, by regulation or order, annual or special reports, or answers in writing to specific questions, furnishing information the Director may require; and (C) to make public such information obtained by it under this section as is in the public interest in reports or otherwise in the manner best suited for public information and use. (b) Confidentiality Regulations- The Director shall prescribe regulations regarding the confidential treatment of information obtained from persons in	***SEC. 1022. RULEMAKING AUTHORITY.*** *(c) Monitoring-* *(4) COLLECTION OF INFORMATION- In conducting research on the offering and provision of consumer financial products or services, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of persons operating in consumer financial services markets. In order to gather such information, the Bureau may--* *(A) gather and compile information from examination reports concerning covered persons or service providers, assessment of consumer complaints, surveys, and interviews of covered persons and consumers, and review of available databases;* *(B) require persons to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe, by rule or order, annual or special reports, or answers in writing to specific questions, furnishing such information as the Bureau may require; and* *(C) make public such information obtained by the Bureau under this section, as is in the public interest in reports or otherwise in the manner best suited for public information and use.* *(5) CONFIDENTIALITY RULES- The Bureau shall prescribe rules regarding the confidential treatment of information obtained from*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
connection with the exercise of any authority of the Agency or Director under this title and the enumerated consumer laws and the authorities transferred under subtitles F and H.	*persons in connection with the exercise of its authorities under Federal consumer financial law.* *(A) ACCESS BY THE BUREAU TO REPORTS OF OTHER REGULATORS-* *(i) EXAMINATION AND FINANCIAL CONDITION REPORTS- Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.* *(ii) PROVISION OF OTHER REPORTS TO THE BUREAU- In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.* *(B) ACCESS BY OTHER REGULATORS TO REPORTS OF THE BUREAU-* *(i) EXAMINATION REPORTS- Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.* *(ii) PROVISION OF OTHER REPORTS TO OTHER REGULATORS- In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Federal law.	
(c) Privacy Considerations- In collecting information from any person, publicly releasing information held by the Agency, or requiring covered persons to publicly report information, the Director and the Agency shall take steps to ensure that proprietary, personal or confidential consumer information that are protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law are not made public under this title.	*(6) PRIVACY CONSIDERATIONS- In collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law, is not made public under this title.*	
SEC. 4207. MONITORING; ASSESSMENTS OF SIGNIFICANT REGULATIONS; REPORTS.	***SEC. 1022. RULEMAKING AUTHORITY.***	
(a) Monitoring-	*(c) Monitoring-*	
(1) IN GENERAL- The Agency shall monitor for risks to consumers in the provision of consumer financial products or services, including developments in markets for such products or services.	*(1) IN GENERAL- In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.*	
(2) MEANS OF MONITORING- Such monitoring may be conducted by examinations of covered persons or service providers, analysis of reports obtained from covered persons or service providers, assessment of consumer complaints, surveys and interviews of covered persons, service providers, and consumers, and review of available databases.		
(3) CONSIDERATIONS- In allocating the resources of the Agency to perform the monitoring required by this section, the Director may consider, among other factors--	*(2) CONSIDERATIONS- In allocating its resources to perform the monitoring required by this section, the Bureau may consider, among other factors--*	
(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;	*(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;*	
(B) consumers' understanding of the risks of a type of consumer financial product or service;	*(B) understanding by consumers of the risks of a type of consumer financial product or service;*	
(C) the state of the law that applies to the provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;	*(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;*	
(D) rates of growth in the provision of a consumer financial product or service;	*(D) rates of growth in the offering or provision of a consumer financial product or service;*	
(E) extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers, if any; or	*(E) the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers; or*	
(F) types, number, and other pertinent characteristics of covered persons that provide the product or service.	*(F) the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.*	
(4) REPORTS- The Agency shall publish at least 1 report of significant findings of the monitoring required by paragraph (1) in	*(3) REPORTS- The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
each calendar year, beginning in the calendar year that is 1 year after the designated transfer date.	*each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date*	
(b) Assessment of Significant Regulations- (1) IN GENERAL- The Agency shall conduct an assessment of each significant regulation prescribed or order issued by the Director under this title, under the authorities transferred under subtitles F and H or pursuant to any enumerated consumer law that addresses, among other relevant factors, the effectiveness of the regulation in meeting the purposes and objectives of this title and the specific goals stated by the Director. (2) BASIS FOR ASSESSMENT- The assessment shall reflect available evidence and any data that the Agency reasonably may collect. (3) REPORTS- The Agency shall publish a report of an assessment under this subsection not later than 3 years after the effective date of the regulation or order, unless the Director determines that 3 years is not sufficient time to study or review the impact of the regulation, but in no event shall the Agency publish a report of such assessment more than 5 years after the effective date of the regulation or order. (4) PUBLIC COMMENT REQUIRED- Before publishing a report of its assessment, the Agency shall invite, with sufficient time allotted, public comment on, and may hold public hearings on, recommendations for modifying, expanding, or eliminating the newly adopted significant regulation or order.	***SEC. 1022. RULEMAKING AUTHORITY.*** *(d) Assessment of Significant Rules-* *(1) IN GENERAL- The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.* *(2) REPORTS- The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.* *(3) PUBLIC COMMENT REQUIRED- Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order.*	
(c) Information Gathering- In conducting any monitoring or assessment required by this section, the Agency may gather information through a variety of methods, including by conducting surveys or interviews of consumers.	***SEC. 1022. RULEMAKING AUTHORITY.*** *(e) Information Gathering- In conducting any monitoring or assessment required by this section, the Bureau may gather information through a variety of methods, including by conducting surveys or interviews of consumers.*	
SEC. 4208. AUTHORITY TO RESTRICT MANDATORY PREDISPUTE ARBITRATION. (a) In General- The Director, by regulation, may prohibit or impose conditions or limitations on the use of any agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties if the Director finds that such a prohibition or imposition of conditions or limitations are in the public interest and for the protection of consumers. This authority shall not prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.	***SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.*** *(a) Study and Report- The Bureau shall conduct a study of, and shall provide a report to Congress concerning, the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.* *(b) Further Authority- The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Effective Date- Notwithstanding any other provision of law, any regulation prescribed by the Director under subsection (a) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into after the end of the 180-day period beginning on the effective date of the regulation, as established by the Director.	*for arbitration of any future dispute between the parties, if the Bureau finds that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The findings in such rule shall be consistent with the study conducted under subsection (a).* *(c) Limitation- The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.* *(d) Effective Date- Notwithstanding any other provision of law, any regulation prescribed by the Bureau under subsection (a) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into after the end of the 180-day period beginning on the effective date of the regulation, as established by the Bureau.*	
SEC. 4209. REGISTRATION AND SUPERVISION OF NONDEPOSITORY COVERED PERSONS. (a) Risk-based Programs- (1) IN GENERAL- The Agency shall develop risk-based programs to supervise covered persons that are not credit unions, depository institutions, or persons excluded under section 4205 by prescribing registration requirements, reporting requirements, and examination standards and procedures. (2) BASIS FOR PROGRAMS- The risk-based supervisory programs established pursuant to paragraph (1) shall be based on-- (A) relevant registration and reporting information about such covered persons, as determined by the Agency; and (B) the Agency's assessment of risks posed to consumers in the relevant geographic markets and markets for consumer financial products and services. (b) Registration- (1) IN GENERAL- The Director shall prescribe regulations regarding registration requirements for covered persons that are not credit unions or depository institutions. (2) CONSULTATION WITH STATE AGENCIES- In developing and implementing registration requirements under this subsection, the Agency shall consult with State agencies regarding requirements or systems for registration (including coordinated or combined systems), where appropriate. (3) EXCEPTION FOR RELATED PERSONS- The Agency shall not impose requirements regarding the registration of a related person. (4) REGISTRATION INFORMATION- Subject to regulations prescribed by the Director, the Agency shall publicly disclose the registration information about a covered person which is not a bank		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
holding company, credit union, or depository institution for the purposes of facilitating the ability of consumers to identify the covered person as registered with the Agency. (c) Reporting Requirements- (1) IN GENERAL- The Agency may require reports from covered persons that are not credit unions or depository institutions, or service providers thereto, for the purposes of facilitating supervision of such covered persons or service providers. (2) CONSISTENCY OF REPORTING REQUIREMENTS AND RISK-BASED STANDARDS- The Agency shall impose reporting requirements under this subsection that are consistent with the risk-based standards developed and implemented under this section and the registration information pertaining to the relevant types or classes of covered persons. (3) CONTENTS OF REPORTS- Reporting requirements imposed under this paragraph may include information regarding-- (A) the nature of the covered person's business; (B) the covered person's name, legal form, ownership and management structure, and related persons; (C) the covered person's locations of operation; (D) the covered person's types and number of consumer financial products and services provided by the covered person; (E) compliance with any requirement imposed or enforced by the Agency, including any requirement relating to registration, licensing, fees, or assessments; and (F) the financial condition of such covered person, including a related person, for the purpose of assessing the ability of such person to perform its obligation to consumers. (4) CONSULTATION WITH THE FEDERAL TRADE COMMISSION- In developing and implementing report requirements under this subsection, the Agency shall consult with the Federal Trade Commission, where appropriate. (5) EXCEPTION FOR RELATED PERSONS- Other than reports permitted under paragraph (3)(F) or in connection with a supervisory action or examination or pursuant to the powers granted in subtitle E, the Agency shall not impose requirements regarding reports of any related person. (d) Examinations- (1) EXAMINATIONS REQUIRED- The Agency shall conduct examinations of covered persons that are not credit unions or depository institutions as part of the programs implemented under		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
paragraphs (2) and (3) of section 4202(c). (2) EXAMINATION STANDARDS AND PROCEDURES- The Director shall establish risk-based standards and procedures for conducting examinations of covered persons required to be examined under paragraph (1), including the frequency and scope of such examinations, except that the Agency shall conduct examinations of such covered persons that are determined to pose the highest risk to consumers based on factors determined by the Director, such as the operations, sales practices, or consumer financial products or services provided by such covered persons. (e) Authority to Collect Information Regarding Fees or Assessments- To the extent permitted by Federal law, the Agency may obtain from the Secretary of the Treasury information relating to a covered person which is not a bank holding company, credit union, or depository institution, including information regarding compliance with a reporting or registration requirement under the subchapter II of chapter 53 of title 31, United States Code, for the purposes of, and only to the extent necessary in, investigating, determining, or enforcing compliance with a requirement relating to any fee or assessment imposed by the Agency under this title.		
SEC. 4210. EFFECTIVE DATE. This subtitle shall take effect on the designated transfer date.	***SEC. 1029. EFFECTIVE DATE.*** *This subtitle shall become effective on the designated transfer date.*	
Subtitle C--Specific Authorities **SEC. 4301. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.** (a) In General- The Agency may take any action authorized under subtitle E to prevent a person from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. (b) Regulations- (1) IN GENERAL- The Director may prescribe regulations identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service or the offering of a consumer financial product or service. (2) INCLUDES PREVENTION MEASURES- Regulations prescribed under this section may include requirements for the purpose of preventing such acts or practices. (c) Unfair, Deceptive, or Abusive Acts or Practices Defined-	***Subtitle C--Specific Bureau Authorities*** ***SEC. 1031. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.*** *(a) In General- The Bureau may take any action authorized under subtitle E to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.* *(b) Rulemaking- The Bureau may prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing such acts or practices.* *(c) Unfairness-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) UNFAIR ACTS OR PRACTICES- Any determination by the Director and the Agency that an act or practice is unfair shall be consistent with the standard set forth under section 5 of the Federal Trade Commission Act and with the policy statement adopted by the Federal Trade Commission pursuant to section 5 of the Federal Trade Commission Act and dated December 17, 1980. (2) DECEPTIVE ACTS OR PRACTICES- Any determination by the Director and the Agency that an act or practice is deceptive shall be consistent with the policy statement adopted by the Federal Trade Commission pursuant to section 5 of the Federal Trade Commission Act and dated October 14, 1983.	*(1) IN GENERAL- The Bureau shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair, unless the Bureau has a reasonable basis to conclude that--* *(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and* *(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.* *(2) CONSIDERATION OF PUBLIC POLICIES- In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.*	
(3) ABUSIVE ACTS OR PRACTICES- The Director and the Agency may determine that an act or practice is abusive only if the Director finds that-- (A) the act or practice is reasonably likely to result in a consumer's inability to understand the terms and conditions of a financial product or service or to protect their own interests in selecting or using a financial product or service; and (B) the widespread use of the act or practice is reasonably likely to contribute to instability and greater risk in the financial system. (4) CONSIDER AS UNFAIR CERTAIN PRACTICES WITH REGARD TO THE PROVISION OF CREDIT SCORES- Subject to regulations prescribed by the Director, it shall be considered unfair for any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act; 15 U.S.C. 1681a(p)) to make available for purchase by creditors any credit score for a consumer that is not also available for purchase by that consumer at the same price as other credit scores sold to consumers by such agency.	*(d) Abusive- The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice--* *(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or* *(2) takes unreasonable advantage of--* *(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;* *(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or* *(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.*	
(d) Consultation- In prescribing any regulation under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, or other Federal agencies, as appropriate, regarding the consistency of a proposed regulation with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors.	*(e) Consultation- In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.* *(f) Consideration of Seasonal Income- The rules of the Bureau under this section shall provide, with respect to an extension of credit secured by residential real estate or a dwelling, if documented income of the borrower,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, the creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.	
SEC. 4302. DISCLOSURES. (a) In General- The Director may prescribe regulations to ensure the timely, appropriate and effective disclosure to consumers of the costs, benefits, and risks associated with any consumer financial product or service. (b) Coordination With Other Laws- In prescribing regulations under subsection (a), the Director shall take into account disclosure requirements under other laws in order to enhance consumer compliance and reduce regulatory burden. (c) Compliance- (1) MODEL DISCLOSURES- The Agency may provide model disclosures to facilitate compliance with the requirements of regulations prescribed under this section. (2) PER SE COMPLIANCE- Compliance by a covered person with the model disclosures issued by the Agency under this subsection shall per se constitute compliance with the disclosure requirements of this section. (3) ADDITIONAL GUIDANCE- The Agency may issue exemptions, no action letters, and other guidance to promote compliance with disclosures requirements of regulations prescribed under this section.	***SEC. 1032. DISCLOSURES.*** *(a) In General- The Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.* *(b) Model Disclosures-* *(1) IN GENERAL- Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.* *(2) FORMAT- A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum--* *(A) uses plain language comprehensible to consumers;* *(B) contains a clear format and design, such as an easily readable type font; and* *(C) succinctly explains the information that must be communicated to the consumer.* *(3) CONSUMER TESTING- Any model form issued pursuant to this subsection shall be validated through consumer testing.* *(c) Basis for Rulemaking- In prescribing rules under this section, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.* *(d) Safe Harbor- Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.* *(e) Trial Disclosure Programs-* *(1) IN GENERAL- The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.* *(2) SAFE HARBOR- The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law. *(3) PUBLIC DISCLOSURE- The rules of the Bureau shall provide for public disclosure of trial disclosure programs, which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.*	
(d) Combined Mortgage Loan Disclosure- Within 1 year after the designated transfer date, the Director shall propose for public comment regulations and model disclosures that combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement Procedures Act into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Director determines that any proposal issued by the Board of Governors and the Department of Housing and Urban Development carries out the same purpose.	*(f) Combined Mortgage Loan Disclosure- Not later than 1 year after the designated transfer date, the Bureau shall propose for public comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.*	
SEC. 4303. SALES PRACTICES. The Director may prescribe regulations and issue orders and guidance regarding the manner, settings, and circumstances for the provision of any consumer financial products or services to ensure that the risks, costs, and benefits of the products or services, both initially and over the term of the products or services, are fully and accurately represented to consumers.		
SEC. 4304. PILOT DISCLOSURES. (a) Pilot Disclosures- The Agency shall establish standards and procedures for approval of pilot disclosures to be provided or made available by a covered person to consumers in connection with the provision of a consumer financial product or service, or the offering of a consumer financial product or service. (b) Standards- The procedures shall provide that a pilot disclosure must be limited in time and scope and reasonably designed to contribute materially to the understanding of consumer awareness and understanding of, and responses to, disclosures or communications about the risks, costs, and benefits of consumer financial products or services. (c) Transparency- The procedures shall provide for public disclosure of pilots, but the Agency may limit disclosure to the extent necessary to encourage covered persons to conduct effective pilots.		
SEC. 4305. ADOPTING OPERATIONAL STANDARDS TO DETER UNFAIR, DECEPTIVE, OR ABUSIVE PRACTICES. (a) Authority To Prescribe Standards- The States are encouraged to prescribe		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
standards applicable to covered persons who are not insured depository institutions or credit unions, or service providers, to deter and detect unfair, deceptive, abusive, fraudulent, or illegal transactions in the provision of consumer financial products or services, including standards for-- (1) background checks for principals, officers, directors, or key personnel; (2) registration, licensing, or certification; (3) bond or other appropriate financial requirements to provide reasonable assurance of ability to perform its obligations to consumers; (4) creating and maintaining records of transactions or accounts; or (5) procedures and operations relating to the provision of, or maintenance of accounts for, consumer financial products or services. (b) Agency Authority to Prescribe Standards- (1) IN GENERAL- The Director may prescribe regulations establishing minimum standards under this section for any class of covered persons other than covered persons which are subject to the jurisdiction of a Federal banking agency or a State bank supervisor, or for any service provider. (2) REGISTRATION AND LICENSING STANDARDS- In addition to prescribing standards for the purposes described in subsection (a), the Director may prescribe registration or licensing standards applicable to covered persons for the purposes of imposing fees or assessments in accordance with this title. (3) ENFORCEMENT OF STANDARDS- The Director may enforce under subtitle E compliance with standards adopted by the Director or a State pursuant to this section for covered persons or service providers operating in that State. (c) Consultation- In prescribing minimum standards under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, or other Federal agencies, as appropriate, regarding the consistency of a proposed regulation with prudential, consumer protection, civil rights, market, or systemic objectives administered by such agencies or supervisors.		
SEC. 4306. DUTIES. (a) In General- (1) REGULATIONS ENSURING FAIR DEALING WITH CONSUMERS- The Director shall prescribe regulations imposing duties on a covered person, or an employee of a covered person, or an agent or independent contractor for a covered person, who deals or communicates directly with consumers in the provision of a		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
consumer financial product or service, as the Director deems appropriate or necessary to ensure fair dealing with consumers. (2) CONSIDERATIONS FOR DUTIES- In prescribing such regulations, the Director shall consider whether-- (A) the covered person, employee, agent, or independent contractor represents implicitly or explicitly that the person, employee, agent, or contractor is acting in the interest of the consumer with respect to any aspect of the transaction; (B) the covered person, employee, agent, or independent contractor provides the consumer with advice with respect to any aspect of the transaction; (C) the consumer's reliance on or use of any advice from the covered person, employee, agent, or independent contractor would be reasonable and justifiable under the circumstances; (D) the benefits to consumers of imposing a particular duty would outweigh the costs; and (E) any other factors as the Director considers appropriate. (3) DUTIES RELATING TO COMPENSATION PRACTICES- (A) IN GENERAL- The Director may prescribe regulations establishing duties regarding compensation practices applicable to a covered person, employee, agent, or independent contractor who deals or communicates directly with a consumer in the provision of a consumer financial product or service for the purpose of promoting fair dealing with consumers. (B) NO COMPENSATION CAPS- The Director may not prescribe a limit on the total dollar amount of compensation paid to any person. (C) DISPARITY TREATMENT PROHIBITED- The Director may not prescribe regulations that directly or indirectly disparately treat, or are interpreted to disparately treat, or disparately impact any entity that employs covered persons. (4) REQUIREMENT TO INCLUDE DISCLAIMER ON PUBLIC STATEMENTS- The Director shall ensure that the Agency's website, and any statement made by the Director or the Agency to the public, includes a disclaimer stating that the Agency does not endorse any particular financial product or service and consumers are expected to exercise due diligence in deciding what financial products and services are appropriate for them. (b) Administrative Proceedings- (1) IN GENERAL- Any regulation prescribed by the Director under		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
this section shall be enforceable only by the Agency through an adjudication proceeding under subtitle E or by a State regulator through an appropriate administrative proceeding as permitted under State law. (2) EXCLUSIVITY OF REMEDY- No action may be commenced in any court to enforce any requirement of a regulation prescribed under this section (other than by the Agency, or by a State regulator, as may be necessary to enforce an administrative order under this section), and no court may exercise supplemental jurisdiction over a claim asserted under a regulation prescribed under this section based on allegations or evidence of conduct that otherwise may be subject to such regulation. (3) RULE OF CONSTRUCTION- The Agency, the Attorney General, and any State attorney general or State regulator shall not be precluded from enforcing any other Federal or State law against a person with respect to conduct that may be subject to a regulation prescribed by the Director under this section. (c) Exclusions- This section shall not be construed as authorizing the Director to prescribe regulations applicable to-- (1) an attorney licensed to practice law and in compliance with the applicable rules and standards of professional conduct, but only to the extent that the consumer financial product or service provided is within the attorney-client relationship with the consumer; or (2) any trustee, custodian, or other person that holds a fiduciary duty in connection with a trust, including a fiduciary duty to a grantor or beneficiary of a trust, that is subject to and in compliance with the applicable law relating to such trust.		
SEC. 4307. CONSUMER RIGHTS TO ACCESS INFORMATION. (a) In General- Subject to regulations prescribed by the Director, a covered person shall make available to a consumer, in an electronic form usable by the consumer, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. (b) Exceptions- A covered person shall not be required by this section to make available to the consumer-- (1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors; (2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any	***SEC. 1033. CONSUMER RIGHTS TO ACCESS INFORMATION.*** *(a) In General- Subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information shall be made available in an electronic form usable by consumers.* *(b) Exceptions- A covered person may not be required by this section to make available to the consumer--* *(1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;* *(2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
report regarding other unlawful or potentially unlawful conduct; (3) any information required to be kept confidential by any other law (including section 6103 of the Internal Revenue Code of 1986); or (4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information. (c) No Duty To Maintain Records- No provision of this section shall be construed as imposing any duty on a covered person to maintain or keep any information about a consumer. (d) Standardized Formats for Data- The Director, by regulation, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section. (e) Consultation- The Director shall, when prescribing any regulation under this section, consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Commissioner of Internal Revenue to ensure that the regulations-- (1) impose substantively similar requirements on covered persons; (2) take into account conditions under which covered persons do business both in the United States and in other countries; and (3) do not require or promote the use of any particular technology in order to develop systems for compliance.	*(3) any information required to be kept confidential by any other provision of law; or* *(4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.* *(c) No Duty To Maintain Records- Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.* *(d) Standardized Formats for Data- The Bureau, by rule, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.* *(e) Consultation- The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure, to the extent appropriate, that the rules--* *(1) impose substantively similar requirements on covered persons;* *(2) take into account conditions under which covered persons do business both in the United States and in other countries; and* *(3) do not require or promote the use of any particular technology in order to develop systems for compliance.*	
SEC. 4308. PROHIBITED ACTS. It shall be unlawful for any person-- (1) to advertise, market, offer, sell, enforce, or attempt to enforce, any term, agreement, change in terms, fee, or charge in connection with a consumer financial product or service that is not in conformity with this title or applicable regulation prescribed or order issued by the Director or to engage in any unfair, deceptive, or abusive act or practice, except that no person shall be held to have violated this subsection solely by virtue of providing or selling time or space to a person placing an advertisement; (2) to fail or refuse to pay any fee or assessment imposed by the Agency under this title, to fail or refuse to permit access to or copying of records, to fail or refuse to establish or maintain records,	***SEC. 1036. PROHIBITED ACTS.*** *It shall be unlawful for any person--* *(1) to--* *(A) advertise, market, offer, or sell a consumer financial product or service not in conformity with this title or applicable rules or orders issued by the Bureau;* *(B) enforce, or attempt to enforce, any agreement with a consumer (including any term or change in terms in respect of such agreement), or impose, or attempt to impose, any fee or charge on a consumer in connection with a consumer financial product or service that is not in conformity with this title or applicable rules or orders issued by the Bureau; or* *(C) engage in any unfair, deceptive, or abusive act or practice,* *except that no person shall be held to have violated this paragraph solely by virtue of providing or selling time or space to a person placing an advertisement;* *(2) to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder--* *(A) to permit access to or copying of records;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or to fail or refuse to make reports or provide information to the Agency, as required by this title, an enumerated consumer law, or pursuant to the authorities transferred by subtitles F and H, or any regulation prescribed or order issued by the Director this title or pursuant to any such authority; or (3) to knowingly or recklessly provide substantial assistance to another person in violation of the provisions of section 4301, or any regulation prescribed or order issued under such section, and, notwithstanding any other provision of this title, any such person shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided. Nothing in this section shall be construed as limiting or superseding the protection provided to any provider or user qualifying for protection under section 230(c)(1) of the Communications Act of 1934 (47 U.S.C. 230(c)(1)).	*(B) to establish or maintain records; or* *(C) to make reports or provide information to the Bureau; or* *(3) knowingly or recklessly to provide substantial assistance to another person in violation of the provisions of section 1031, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.*	
SEC. 4309. TREATMENT OF REMITTANCE TRANSFERS. (a) Disclosures Required for Remittance Transfers- (1) IN GENERAL- Each remittance transfer provider shall make disclosures to consumers, as specified by this section and by regulation prescribed by the Director.	***SEC. 1077. REMITTANCE TRANSFERS.*** *(a) Treatment of Remittance Transfers- The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--* *(1) in section 902(b) (15 U.S.C. 1693(b)), by inserting `and remittance' after `electronic fund';* *(2) by redesignating sections 919, 920, 921, and 922 as sections 920, 921, 922, and 923, respectively; and* *(3) by inserting after section 918 the following:* ***`SEC. 919. REMITTANCE TRANSFERS.***  *`(a) Disclosures Required for Remittance Transfers-* *`(1) IN GENERAL- Each remittance transfer provider shall make disclosures as required under this section and in accordance with rules prescribed by the Board.* *`(2) STOREFRONT DISCLOSURES-* *`(A) IN GENERAL- At every physical storefront location owned or controlled by a remittance transfer provider (with respect to remittance transfer activities), the remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer for the amounts of $100 and $200 (in United States dollars) showing the amount of currency that will be received by the designated recipient, using the values of the currency into which the funds will be exchanged for the 3 currencies to which that particular storefront sends the greatest number of remittance transfer payments, measured irrespective of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	value of such payments. The values shall include all fees charged by the remittance transfer provider, taken out of the $100 and $200 amounts. *`(B) ELECTRONIC DISCLOSURE- Subject to the rules prescribed by the Board, a remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer, as described in subparagraph (A), on the Internet site owned or controlled by the remittance transfer provider which senders use to electronically conduct remittance transfer transactions.*	
(2) SPECIFIC DISCLOSURES- In addition to any other disclosures applicable under this title, a remittance transfer provider shall-- (A) disclose clearly and conspicuously, in writing and in a form that the consumer may keep, to each consumer who requests information regarding the fees or exchange rate for a remittance transfer, prior to the consumer making any payment in connection with the transfer-- (i) the total amount in United States dollars that will be required to be paid by the consumer in connection with the remittance transfer; (ii) the amount of currency that the designated recipient of the remittance transfer will receive, using the values of the currency into which the funds will be exchanged; (iii) the fee charged by the remittance transfer provider for the remittance transfer; (iv) any exchange rate to be used by the remittance transfer provider for the remittance transfer, unless the exchange rate is not fixed on send; (v) the amount of time for which the information specified in this subparagraph (A) will be in effect; (vi) the expected time interval within which the funds being transferred will be made available to the recipient; and (vii) the location where the funds being transferred will be made available to the recipient if the funds are to be made available only at one location, or if the remittance transfer provider permits the recipient to choose from multiple locations where the funds being transferred will be made available to the recipient, the remittance transfer provider shall make available to the consumer or the recipient a resource that lists such locations;	*`(3) SPECIFIC DISCLOSURES- In addition to any other disclosures applicable under this title, and subject to paragraph (4), a remittance transfer provider shall provide, in writing and in a form that the sender may keep, to each sender requesting a remittance transfer, as applicable to the transaction--* *`(A) at the time at which the sender requests a remittance transfer to be initiated, and prior to the sender making any payment in connection with the remittance transfer, a disclosure describing the amount of currency that will be sent to the designated recipient, using the values of the currency into which the funds will be exchanged; and* *`(B) at the time at which the sender makes payment in connection with the remittance transfer--* *`(i) a receipt showing--* *`(I) the information described in subparagraph (A);* *`(II) the promised date of delivery to the designated recipient; and* *`(III) the name and either the telephone number or the address of the designated recipient; and* *`(ii) a statement containing--* *`(I) information about the rights of the sender under this section regarding the resolution of errors; and* *`(II) appropriate contact information for--* *`(aa) the remittance transfer provider; and*  *`(bb) each State or Federal agency supervising the remittance transfer provider, including its State licensing authority or Federal regulator, as applicable.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) at the time at which the consumer makes payment in connection with the remittance transfer, a receipt in writing disclosing clearly and conspicuously-- (i) the information described in subparagraph (A); (ii) the expected time interval within which the funds being transferred will be made available to the recipient, which shall be not more than ten days after the date the consumer makes payment in connection with the remittance transfer unless otherwise prohibited by applicable State or Federal law or the law of another country, or as may be specified by the consumer so long as the consumer has the choice to order that the funds be made available to the recipient not more than ten days after the consumer makes payment in connection with the remittance transfer; (iii) the location where the funds being transferred will be made available to the recipient if the funds are to be made available only at one location, or if the remittance transfer provider permits the recipient to choose from multiple locations where the funds being transferred will be made available to the recipient, the remittance transfer provider shall make available to the consumer or the recipient a resource that lists such locations; (iv) the name and telephone number or address of the designated recipient, if provided to the remittance transfer provider by the consumer; (v) information about the rights of the consumer under this section to cancel the remittance transfer, to resolve errors and to receive refunds; (vi) appropriate contact information for the remittance transfer provider; (vii) a transaction reference number unique to that remittance transfer; and (viii) information as to when the exchange rate will be calculated (for example, when the funds are received by the recipient), if the customer has been notified that the exchange rate is not fixed on send; (C) at the time at which the consumer initiates the remittance transfer, offer to provide in writing, prior to making any payment in connection with the transfer, the information listed in subparagraph (A); and	*`(4) REQUIREMENTS RELATING TO DISCLOSURES- With respect to each disclosure required to be provided under paragraph (3), and subject to paragraph (5), a remittance transfer provider shall--* *`(A) provide an initial notice and receipt, as required by subparagraphs (A) and (B) of paragraph (3), and an error resolution statement, as required by subsection (c), that clearly and conspicuously describe the information required to be disclosed therein; and* *`(B) with respect to any transaction that a sender conducts electronically, comply with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(D) in the case of an exchange rate not fixed on send, the remittance provider shall also disclose, at the time at which the consumer initiates the remittance transfer, the range, using the high and low rates, for the prior 30 day period, that the consumer would have received if a representative amount had been exchanged by the remittance transfer provider, as well as a clear and conspicuous notice that the actual exchange rate may vary. If the actual rate used for the transfer is known to the remittance provider, either because such rate was set by the remittance provider itself or because the remittance provider receives confirmation of the actual exchange rate used, the remittance provider shall make available to consumers written or electronic confirmation of the actual exchange rate used and the amount of currency that the recipient or the remittance transfer received, using the values of the currency into which the funds were exchanged. The Director shall within 2 years after the date of the enactment of the Consumer Financial Protection Agency Act of 2009 prescribe consumer disclosures for transfers with rates not fixed on send that are functionally equivalent to those applicable to remittances where the exchange rate is specified by the remittance transfer provider at the time the consumer initiates the remittance transfer. To the greatest extent possible, the Director shall ensure that functional equivalence will enable remittance transfer providers to comply with all requirements in this title and provide consumers with information sufficient to compare services providers, to time their use of the product, to discover errors in transmission and to seek remedies. (3) EXEMPTION- Notwithstanding requirements under paragraph (2)(A)(ii), (2)(A)(iv), or (2)(B)(i), no such disclosure is required-- (A) because of the requirements of another law, including the law of another country; (B) because the transfer is being routed through the Directo a Mexico offered by the Federal reserve banks; or (C) because of any other circumstance deemed permissible by regulation of the Director; If the actual rate used for the transfer is known to the remittance provider, the remittance provider shall make available to consumers written or electronic confirmation of the actual exchange rate used and the amount of currency that the recipient of the remittance transfer received, using the values of the currency into which the funds were exchanged.	*`(5) EXEMPTION AUTHORITY- The Board may, by rule, permit a remittance transfer provider to satisfy the requirements of--* *`(A) paragraph (3)(A) orally, if the transaction is conducted entirely by telephone;* *`(B) paragraph (3)(B), by mailing the documents required under such subparagraph to the sender, not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone;* *`(C) subparagraphs (A) and (B) of paragraph (3) together in one written disclosure, but only to the extent that the information provided in accordance with paragraph (3)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer;* *`(D) paragraph (3)(A), if a sender initiates a transaction to one of those countries displayed, in the exact amount of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	transfers displayed pursuant to paragraph (2), if the Board finds it to be appropriate; and *`(E) paragraph (3)(A), without compliance with section 101(c) of the Electronic Signatures in Global Commerce Act, if a sender initiates the transaction electronically and the information is displayed electronically in a manner that the sender can keep.*	
(4) PROVISION OF TOLL-FREE NUMBER AND WEB ACCESS- (A) In addition to providing the disclosures required by this section to a consumer at a remittance transfer provider location, a remittance transfer provider shall provide a toll-free telephone number or local number, and an Internet website that a consumer can access for which access no remittance transfer provider may assess a charge, to obtain the information required by paragraph (2)(A) for remittance transfers offered by that remittance transfer provider or information about the status of a remittance transfer for which a consumer has made payment. (B) A remittance transfer provider that on an aggregate basis originates 30,000 or fewer transfers on a calendar year basis (or such other amount as may be prescribed by the Director) is not required to offer the web access prescribed in subparagraph (A), but is required to provide a toll-free telephone number or local number as prescribed in subparagraph (A). (5) ALTERNATIVE METHODS OF DISCLOSURE- Subject to subsection (e)(2), a remittance transfer provider may-- (A) if the transaction is conducted entirely by telephone (which shall include, but not be limited to, a mobile telephone) satisfy the requirements of paragraph (2)(A) orally or, at the option of the consumer, electronically through a message sent to the consumer through any electronic means (including, but not limited to, an electronic mail address or a mobile telephone) as designated by the consumer; (B) satisfy the requirements of paragraph (2)(A) electronically if the transfer is initiated by the consumer electronically through the remittance transfer provider's website or through any other electronic means; and (C) satisfy the requirements of paragraph (2)(B) by mailing (or transmitting electronically if the transfer is initiated electronically by the consumer through the remittance transfer provider's website or the consumer otherwise		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
consents in accordance with the provisions of section 101 of the Electronic Signatures in Global and National Commerce Act) the information required under such paragraph to the consumer not later than one business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone (or electronically) and the consumer requests a written receipt. (b) Written Foreign Language Disclosures- (1) IN GENERAL- The disclosures required under subsections (a)(2)(A) and (a)(2)(B)(i) shall be made in English and-- (A) at each remittance transfer provider location, shall be made in the same languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market its remittance transfers business, either orally or in writing, at that location, if other than English, provided that such languages are those for which the Director has issued model disclosures as provided in subsection (g); or (B) on a remittance transfer provider's website, shall at a minimum be made in any other language for which the Director has issued model disclosures as provided in subsection (g) if the remittance transfer provider, or any of its agents, advertises, solicits, or markets its remittance transfers business in such language. (2) DISPUTES CONCERNING TERMS- If a disclosure is required by this section to be in English and another language, the English version of the disclosure shall govern any dispute concerning the terms of the receipt. However, any discrepancies between the English version and any other version due to the translation of the receipt from English to another language including errors or ambiguities shall be construed against the remittance transfer provider or its agent and the remittance transfer provider or its agent shall be liable for any damages caused by these discrepancies. (c) Remittance Transfer Cancellations, Refunds, and Errors- (1) CANCELLATIONS- (A) After receiving the receipt required under subsection (a)(2)(B), a consumer may cancel the currency transaction-- (i) before leaving the premises of the remittance transfer provider where the consumer received the receipt; and (ii) not later than 30 minutes after the time the consumer initiated the remittance transfer with the remittance transfer provider.	*`(b) Foreign Language Disclosures-* *`(1) IN GENERAL- The disclosures required under this section shall be made in English and in each of the same foreign languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office.* *`(2) ACCOUNTS- In the case of a sender who holds a demand deposit, savings deposit, or other asset account with the remittance transfer provider (other than an occasional or incidental credit balance under an open end credit plan, as defined in section 103(i) of the Truth in Lending Act), the disclosures required under this section shall be made in the language or languages principally used by the remittance transfer provider to communicate to the sender with respect to the account.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) If a consumer cancels the transaction, the remittance transfer provider shall immediately refund to the consumer the fees paid and the currency to be transferred, and issue a receipt indicating that the transaction has been cancelled. (C) A consumer may not cancel a remittance transfer after the remittance transfer provider has sent the funds to the recipient. (D) A remittance transfer provider shall not be required to provide a refund if providing a refund would violate State or Federal law. (2) REFUNDS- (A) If a remittance transfer provider receives written notice from the consumer within 10 days of the promised date of delivery of a remittance transfer that no amount of the funds to be remitted was made available to the designated recipient in the foreign country, the remittance transfer provider shall-- (i) refund to the consumer the total amount in U.S. dollars that was paid by the consumer in connection with such remittance transfer; (ii) promptly transmit the remittance transfer in accordance with the terms in the written receipt provided to the consumer pursuant to subsection (a)(2)(B); (iii) provide such other remedy, as determined appropriate by rule of the Director for the protection of consumers; or (iv) demonstrate to the consumer that the proceeds of the remittance transfer were made available to the recipient of the remittance provider. (B) A remittance transfer provider shall not be required to provide a refund if providing a refund would violate State or Federal law. (3) ERROR RESOLUTION- (A) IN GENERAL- If a remittance transfer provider receives written notice from the consumer within 60 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including that the full amount of the funds to be remitted was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this paragraph.	*`(c) Remittance Transfer Errors-* *`(1) ERROR RESOLUTION-* *`(A) IN GENERAL- If a remittance transfer provider receives oral or written notice from the sender within 180 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including the amount of currency designated in subsection (a)(3)(A) that was to be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds should have been exchanged, but was not made*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection and investigate the reason for the error.	
(B) REMEDIES- Not later than 120 days after the date of receipt of a notice from the consumer pursuant to subparagraph (A), the remittance transfer provider shall--	*`(B) REMEDIES- Not later than 90 days after the date of receipt of a notice from the sender pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the sender--*	
(i) as applicable to the error and as designated by the consumer--	*`(i) refund to the sender the total amount of funds tendered by the sender in connection with the remittance transfer which was not properly transmitted;*	
(I) refund to the consumer the total amount in United States dollars that was paid by the consumer in connection with the remittance transfer that was not properly transmitted;		
(II) make available to the designated recipient, without additional cost to the designated recipient or to the consumer, the amount appropriate to resolve the error;	*`(ii) make available to the designated recipient, without additional cost to the designated recipient or to the sender, the amount appropriate to resolve the error;*	
(III) provide such other remedy, as determined appropriate by regulation of the Director for the protection of consumers; or	*`(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of senders; or*	
(ii) demonstrate to the consumer that there was no error.	*`(iv) provide written notice to the sender that there was no error with an explanation responding to the specific complaint of the sender.*	
(4) REGULATIONS- The Director, in order to protect consumers, shall establish, by regulation, clear and appropriate standards for remittance transfer providers with respect to error resolution, cancellation and refunds.	*`(2) RULES- The Board shall establish, by rule issued not later than 1 calendar year after the date of enactment of the Restoring American Financial Stability Act of 2010, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect senders from such errors. Standards prescribed under this paragraph shall include appropriate standards regarding record keeping, as required, including documentation--*	
	`(A) of the complaint of the sender;	
	`(B) that the sender provides the remittance transfer provider with respect to the alleged error; and	
	`(C) of the findings of the remittance transfer provider regarding the investigation of the alleged error that the sender brought to their attention.	
(d) Enforcement Authority- The Director shall have the sole authority to enforce the provisions of this section, and any regulations established pursuant to this section.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(e) Applicability of Other Provisions of Law- (1) APPLICABILITY OF TITLE 18 AND TITLE 31 PROVISIONS- A remittance transfer provider that is a money transmitting business as defined in section 5330 of title 31, United States Code, may provide remittance transfers only if such provider is in compliance with the requirements of section 5330 of title 31, United States Code, and section 1960 of title 18, United States Code, as applicable. (2) RULE OF CONSTRUCTION- Nothing in this section shall be construed-- (A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act, or chapter 2 of title I of Public Law 91-508, or any regulations promulgated thereunder; or (B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulation prescribed under such subparagraph.	*`(d) Applicability of This Title-* *`(1) IN GENERAL- A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of the provisions of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title, except for section 908, that are otherwise applicable to electronic fund transfers under this title.* *`(2) RULE OF CONSTRUCTION- Nothing in this section shall be construed--* *`(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91-508 (12 U.S.C. 1951-1959), or any regulations promulgated thereunder; or* *`(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (1) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.*  *`(e) Acts of Agents- A remittance transfer provider shall be liable for any violation of this section by any agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.*	
(f) Definitions- For purposes of this section, the following definitions shall apply: (1) DEPOSITORY INSTITUTION- the term `depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act and includes a credit union.  (2) NOT FIXED ON SEND- The term `not fixed on send' when referring to an exchange rate used in a remittance transfer means an exchange rate that is not set by the remittance transfer provider at the time the consumer initiates the remittance transfer.	*`(f) Definitions- As used in this section--*  *`(1) the term `designated recipient' means any person located in a foreign country and identified by the sender as the authorized recipient of a remittance transfer to be made by a remittance transfer provider, except that a designated recipient shall not be deemed to be a consumer for purposes of this Act;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(3) REMITTANCE TRANSFER- The term `remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act) transfer of funds to be effected or used primarily for personal, family, or household purposes at the request of a consumer located in any State to a person in another country that is initiated by a remittance transfer provider, whether or not the consumer is an account holder of the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903 of the Electronic Fund Transfer Act.	*`(2) the term `remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds requested by a sender located in any State to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;*	
(4) REMITTANCE TRANSFER PROVIDER- The term `remittance transfer provider' means any person or depository institution, or agent thereof, that originates remittance transfers on behalf of consumers in the normal course of its business, whether or not the consumer is an account holder of that person or depository institution.	*`(3) the term `remittance transfer provider' means any person or financial institution that provides remittance transfers for a consumer in the normal course of its business, whether or not the consumer holds an account with such person or financial institution; and* *`(4) the term `sender' means a consumer who requests a remittance provider to send a remittance transfer for the consumer to a designated recipient.'.*	
(g) Model Disclosures- (1) PUBLICATION- Notwithstanding any provisions of this title, the Director shall establish and publish model disclosure forms to facilitate compliance with the disclosure requirements of this section and to aid the consumer in understanding the transaction to which the subject disclosure form relates. (2) LANGUAGES TO BE USED IN MODEL DISCLOSURES- The Director shall make these disclosures available within 1 year of the effective date of this title-- (A) in English; and (B) the ten most frequently spoken languages in the United States, other than English, used by consumers initiating remittance transfers, as may be determined by the Director. (3) USE OF AUTOMATED EQUIPMENT- In establishing model forms under this subsection, the Director shall consider the use by lessors of data processing or similar automated equipment. (4) USE OPTIONAL- A remittance transfer provider may utilize a model disclosure form established by the Director under this subsection for purposes of compliance with this section, at the discretion of the remittance transfer provider. (5) EFFECT OF USE- Any remittance transfer provider that properly uses the material aspects of any model disclosure form established by the Director under this subsection shall be deemed to be in compliance with the disclosure requirements to which the form		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
relates. (h) Regulation and Exemption Authority- Notwithstanding any other provisions of this title, the Director, in the sole discretion of the Director, in consultation with relevant Federal and State government agencies may by regulation exempt from one or more requirements of this section, any category of remittance transfer provider if the Director determines that under applicable Federal or State law that such category of remittance transfer provider is subject to requirements substantially similar to those imposed under this section or that such law gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement. (i) Applicability of State Law- (1) This section does not annul, alter, affect, or exempt any person subject to the provisions of this section from complying with other applicable Federal law and the laws of any State relating to remittance transfers and remittance transfer providers, except to the extent that those laws are inconsistent with the provisions of this section, and then only to the extent of the inconsistency. (2) Notwithstanding any other provisions of this title, the Director may determine whether such inconsistencies exist. A State law is not inconsistent with this section if the protection such law affords any consumer is greater than the protection afforded by this section. If the Director determines that a State requirement is inconsistent, remittance transfer providers shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This section does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply. (3) This section does not annul, alter, or affect the laws of any State relating to the licensing or registration, supervision or examination of remittance transfer providers. (4) Nothing in this section shall be construed as limiting the authority of a State attorney general or State regulator to bring an action or other regulatory proceeding arising solely under the law of that State.		
(j) Federal Credit Union Act Amendment- Paragraph (12)(A) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(12)(A)) is amended by inserting `and remittance transfers, as defined in section 4309 of the Consumer Financial Protection Agency Act of 2009' after `and domestic electronic fund transfers'.	***SEC. 1077. REMITTANCE TRANSFERS.*** *(d) Federal Credit Union Act Conforming Amendment- Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended to read as follows:* *`(12) in accordance with regulations prescribed by the Board--* *`(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); *`(B) to provide remittance transfers, as defined in section 919 of the Electronic Fund Transfer Act, to persons in the field of membership; and* *`(C) to cash checks and money orders for persons in the field of membership for a fee;'.*	
(k) Automated Clearinghouse System- (1) EXPANSION OF SYSTEM- The Board of Governors of the Federal Reserve System shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on-- (A) the volume and dollar amount of remittance transfers to those countries; (B) the significance of the volume of such transfers, relative to the external financial flows of the receiving country; and (C) the feasibility of such an expansion. (2) REPORT TO THE CONGRESS- Before the end of the 180-day period beginning on the date of the enactment of this title, and on April 30 biennially thereafter, the Board of Governors of the Federal Reserve System shall submit a report to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this section.	***SEC. 1077. REMITTANCE TRANSFERS.*** *(b) Automated Clearinghouse System-* *(1) EXPANSION OF SYSTEM- The Board of Governors shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on--* *(A) the number, volume, and size of such transfers;* *(B) the significance of the volume of such transfers relative to the external financial flows of the receiving country, including--* *(i) the total amount transferred; and* *(ii) the total volume of payments made by United States Government agencies to beneficiaries and retirees living abroad;* *(C) the feasibility of such an expansion; and* *(D) the ability of the Federal Reserve System to establish payment gateways in different geographic regions and currency zones to receive remittance transfers and route them through the payments systems in the destination countries.* *(2) REPORT TO CONGRESS- Not later than one calendar year after the date of enactment of this Act, and on April 30 biennially thereafter during the 10-year period beginning on that date of enactment, the Board of Governors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this subsection. The report shall include an analysis of adoption rates of International ACH Transactions rules and formats, the efficacy of increasing adoption rates, and potential recommendations to increase adoption.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(l) Regulatory Guidance on Remittance Transfers- (1) PROVISION OF GUIDELINES TO INSTITUTIONS- The Director shall provide guidelines to all remittance transfer providers regarding-- (A) the offering of low-cost remittance transfers; (B) the availability of agency services to remittance transfer providers; (C) compliance with the provisions of this title; and (D) specific options that allow remittance transfer providers to take advantage of automated clearing systems, including the FedACH International Services offered by the Board of Governors of the Federal Reserve System and the Federal reserve banks, to transmit remittances at low cost. (2) CONTENT OF GUIDELINES- Guidelines provided to remittance transfer providers under this section shall include-- (A) information as to the methods of providing remittance transfer services; (B) the potential economic opportunities in providing low-cost remittance transfers; and (C) the potential value to depository institutions of broadening their financial bases to include persons that use remittance transfers. (3) ASSISTANCE TO FINANCIAL LITERACY COMMISSION- The Secretary of the Treasury and each agency referred to in subsection (a) shall, as part of their duties as members of the Financial Literacy and Education Commission, assist that Commission in improving the financial literacy and education of consumers who send remittances.	***SEC. 1077. REMITTANCE TRANSFERS.*** *(c) Expansion of Financial Institution Provision of Remittance Transfers-* *(1) PROVISION OF GUIDELINES TO INSTITUTIONS- Each of the Federal banking agencies and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.* *(2) ASSISTANCE TO FINANCIAL LITERACY COMMISSION- As part of its duties as members of the Financial Literacy and Education Commission, the Bureau, the Federal banking agencies, and the National Credit Union Administration shall assist the Financial Literacy and Education Commission in executing the Strategy for Assuring Financial Empowerment (or the `SAFE Strategy'), as it relates to remittances.*	
(m) Report on Feasibility of and Impediments to Use of Remittance History in Calculation of Credit Score- Before the end of the 365-day period beginning on the date of the enactment of this title, the Director shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives regarding-- (1) the manner in which a consumer's remittance history could be used to enhance a consumer's credit score; (2) the current legal and business model barriers and impediments that impede the use of a consumer's remittance history to enhance the consumer's credit score; and (3) recommendations on the manner in which maximum		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
transparency and disclosure to consumers of exchange rates for remittance transfers subject to this title may be accomplished, whether or not such exchange rates are known at the time of origination or payment by the consumer for the remittance transfer, including disclosure to the sender of the actual exchange rate used and the amount of currency that the recipient of the remittance transfer received, using the values of the currency into which the funds were exchanged, as contained in section s 919(a)(2)(D) and 919(a)(3) of the Electronic Fund Transfer Act (as amended by subsection (a)). (n) Effective Date- This section shall apply with respect to remittance transfers made after the end of the 180-day period beginning on the date of the enactment of this title.		
SEC. 4310. EFFECTIVE DATE. This subtitle shall take effect on the designated transfer date.		
SEC. 4311. NO AUTHORITY TO REQUIRE THE OFFERING OF FINANCIAL PRODUCTS OR SERVICES. The Director may not prescribe any regulation, issue any order or guidance, or take any other action, including any enforcement action, the effect of which would be to require a covered person to offer to any consumer a specific financial product or service.		
SEC. 4312. APPRAISAL INDEPENDENCE REQUIREMENTS. (a) Promulgation of New Requirements- The Director shall lead a Negotiated Rulemaking Committee under the Federal Advisory Committee Act and the Negotiated Rulemaking Act to promulgate appraisal independence requirements for residential loan purposes, and such Committee shall promulgate such requirements not later than the end of the 60-day period beginning on the date of the enactment of this title. (b) Certain Regulation Requirements- Regulations promulgated by the Negotiated Rulemaking Committee under this section-- (1) shall not prohibit lenders, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation from accepting any appraisal report completed by an appraiser selected, retained, or compensated in any manner by a mortgage loan originator-- (A) licensed or registered in accordance with section 1501 et seq. of the SAFE Mortgage Licensing Act of 2008; and (B) subject to State or Federal laws that make it unlawful		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
for a mortgage loan originator to make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property, except that nothing in this section shall prohibit a person with an interest in a real estate transaction from asking an appraiser to-- (i) consider additional, appropriate property information; (ii) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or (iii) correct errors in the appraisal report; and (2) shall include a requirement that lenders and their agents compensate appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. (c) Sunset- Effective on the date the appraisal independence requirements are promulgated pursuant to subsection (a), the Home Valuation Code of Conduct announced by the Federal Housing Finance Agency on December 23, 2008, shall have no force or effect.		
SEC. 4313. OVERDRAFT PROTECTION NOTICE REQUIREMENTS. Not later than 180 days after the date of the enactment of this Act, the Director shall promulgate a new rule that requires banks to prominently place in each consumer branch office information regarding the fees and charges associated with enrollment in the bank's overdraft protection program.		
SEC. 4314. REVIEW, REPORT, AND PROGRAM WITH RESPECT TO EXCHANGE FACILITATORS. (a) Review- The Director shall review all Federal laws and regulations relating to the protection of persons who utilize exchange facilitators. (b) Report- Not later than 180 days after the effective date of this subtitle, the Director shall submit to Congress a report describing-- (1) recommendations for legislation to ensure the appropriate protection of persons who utilize exchange facilitators; (2) recommendations for updating the regulations of Federal departments and agencies to ensure the appropriate protection of such persons; and (3) recommendations for Agency regulations to ensure the appropriate protection of such persons. (c) Program- Not later than 180 days after the date of the submission of the report under subsection (b), the Director shall establish and carry out a		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
program, utilizing the authorities of the Agency, to protect persons who utilize exchange facilitators. (d) Exchange Facilitator Defined- In this section, the term `exchange facilitator' means a person that-- (1) facilitates, for a fee, an exchange of like-kind property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer's relinquished property and transfers a replacement property to the taxpayer as a qualified intermediary (within the meaning of Treasury Regulations section 1.1031(k)-1(g)(4)) or enters into an agreement with the taxpayer to take title to a property as an exchange accommodation titleholder (within the meaning of Revenue Procedure 2000-37) or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder (within the meaning of Treasury Regulations section 1.1031(k)-1(g)(3)); (2) maintains an office for the purpose of soliciting business as an exchange facilitator; or (3) purports to be an exchange facilitator by advertising any of the services listed in paragraph (1) or soliciting clients in printed publications, direct mail, television or radio advertisements, telephone calls, facsimile transmissions, or other electronic communications directed to the general public for purposes of providing any such services.		
SEC. 4315. REGULATION OF PERSON-TO-PERSON LENDING. (a) Scope of Exemption From Federal Securities Regulation- Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph: `(15) PERSON-TO-PERSON LENDING- `(A) IN GENERAL- Any consumer loan, and any note representing a whole or fractional interest in any such loan, funded or sold through a person-to-person lending platform. `(B) DEFINITIONS- For purposes of this paragraph: `(i) CONSUMER LOAN- The term `consumer loan' means a loan made to a natural person, the proceeds of which are intended primarily for personal, family, educational, household, or business use. `(ii) PERSON-TO-PERSON LENDING PLATFORM- `(I) IN GENERAL- The term `person-to-person lending platform' means an Internet website, the primary purpose of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
which is to provide a transaction platform for the funding or sale of individual consumer loans, or the sale of notes representing whole or fractional interests in individual consumer loans, by matching natural persons who wish to obtain such loans with persons who wish to fund them, or by matching persons who wish to sell such loans or notes with persons who wish to purchase them. `(II) PROHIBITION ON MULTIPLE LOANS IN A SINGLE TRANSACTION- The term `person-to-person lending platform' does not include any platform on which multiple loans may be funded or sold in a single transaction, or on which a note representing an interest in multiple loans or other debt obligations may be sold.'. (b) Regulation by the Agency- (1) IN GENERAL- Primary jurisdiction for the regulation of the lending activities of person-to-person lending and person-to-person lending platforms is hereby vested in the Agency. (2) INTERIM REQUIREMENTS- Until the Director issues and adopts disclosure requirements with respect to the sale of consumer loans, or notes representing whole or fractional interests therein, on person-to-person lending platforms, a person-to-person lending platform that registers the offer and sale of any such notes under the Securities Act of 1933 shall, with respect to such registered offer and sale, provide the disclosure required under the Securities Act of 1933 to be contained in the registration statement and prospectus and provide such disclosure required in any periodic reports required to be filed by such person-to-person lender pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934. (3) DEFINITIONS- For purposes of this subsection, the terms `consumer loan', `person-to-person lending platform', `prospectus', and `registration statement' shall have the meaning given such term under the Securities Act of 1933. (c) Rulemaking- The Director may prescribe such regulations and issue such orders as the Director considers necessary or appropriate to implement the provisions of this section and to provide borrower protection, lender protection, consumer choice, and expanded consumer access to fair and reasonable credit choices.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(d) Effective Date- Notwithstanding section 4310, this section shall take effect on the date of the enactment of this title.		
SEC. 4316. TREATMENT OF REVERSE MORTGAGES. (a) In General- The Director shall examine the practices of covered persons in connection with any reverse mortgage transaction (as defined in section 103(bb) of the Truth in Lending Act (15 U.S.C. 1602)) and shall prescribe regulations identifying any acts or practices as unlawful, unfair, deceptive, or abusive in connection with a reverse mortgage transaction or the offering of a reverse mortgage. (b) Regulations- In prescribing regulations under subsection (a), the Director shall ensure that such regulations shall-- (1) include requirements for-- (A) the purpose of preventing unlawful, unfair, deceptive or abusive acts and practices in connection with a reverse mortgage transaction; and (B) the purpose of providing timely, appropriate, and effective disclosure to consumers in connection with a reverse mortgage transaction that are consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title; (2) with respect to the requirements under paragraph (1), be consistent with requirements prescribed by the Director in connection with other consumer mortgage products or services under this title; and (3) provide for an integrated disclosure standard and model disclosures for reverse mortgage transactions, consistent with section 4302(d), that combines the relevant disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Real Estate Settlement Procedures Act, with the disclosures required to be provided to consumers for Home Equity Conversion Mortgages under section 255 of the National Housing Act. (c) Consultation- In connection with the issuance of any regulations under this section, the Director shall consult with the Federal banking agencies, State bank supervisors, the Federal Trade Commission, and the Department of Housing and Urban Development, as appropriate, to ensure that any proposed regulation-- (1) imposes substantially similar requirements on all covered persons; and (2) is consistent with prudential, consumer protection, civil rights, market or systemic objectives administered by such agencies or supervisors.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(d) Deadline for Rulemaking- The Director shall commence the rulemaking required under subsection (a) not later than 12 months after the date of the enactment of this Act.		
	SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN. *(a) Establishment- The Secretary, in consultation with the Director, shall designate a Private Education Loan Ombudsman (in this section referred to as the `Ombudsman') within the Bureau, to provide timely assistance to borrowers of private education loans.* *(b) Public Information- The Secretary and the Director shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.* *(c) Functions of Ombudsman- The Ombudsman designated under this subsection shall--* *(1) in accordance with regulations of the Director, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;* *(2) not later than 90 days after the designated transfer date, establish a memorandum of understanding with the student loan ombudsman established under section 141(f) of the Higher Education Act of 1965 (20 U.S.C. 1018(f)), to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans;* *(3) compile and analyze data on borrower complaints regarding private education loans; and* *(4) make appropriate recommendations to the Director, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.* *(d) Annual Reports-* *(1) IN GENERAL- The Ombudsman shall prepare an annual report that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.* *(2) SUBMISSION- The report required by paragraph (1) shall be submitted on the same date annually to the Secretary, the Secretary*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives. *(e) Definitions- For purposes of this section, the terms `private education loan' and `institution of higher education' have the same meanings as in section 140 of the Truth in Lending Act (15 U.S.C. 1650).*	
	SEC. 1037. EFFECTIVE DATE. *This subtitle shall take effect on the designated transfer date.*	
Subtitle D--Preservation of State Law **SEC. 4401. RELATION TO STATE LAW.** (a) In General- (1) RULE OF CONSTRUCTION- This title shall not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the laws, regulations, orders, or interpretations, in effect in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this title and then only to the extent of the inconsistency. (2) GREATER PROTECTION UNDER STATE LAW- For the purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords consumers is greater than the protection provided under this title. A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by the Agency on its own motion or in response to a nonfrivolous petition initiated by any interested person. (b) Relation to Other Provisions of Enumerated Consumer Laws That Relate to State Law- No provision of this title, except as provided in section 4803, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law. (c) Additional Consumer Protection Regulations in Response to State Action- (1) NOTICE OF PROPOSED RULE REQUIRED- The Agency shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or	***Subtitle D--Preservation of State Law*** ***SEC. 1041. RELATION TO STATE LAW.*** *(a) In General-* *(1) RULE OF CONSTRUCTION- This title, other than sections 1044 through 1048, may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.* *(2) GREATER PROTECTION UNDER STATE LAW- For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title. A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.* *(b) Relation to Other Provisions of Enumerated Consumer Laws That Relate to State Law- No provision of this title, except as provided in section 1083, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.* *(c) Additional Consumer Protection Regulations in Response to State Action-* *(1) NOTICE OF PROPOSED RULE REQUIRED- The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
modification of a consumer protection regulation by the Agency. (2) AGENCY CONSIDERATIONS REQUIRED FOR ISSUANCE OF FINAL REGULATION- Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Agency shall take into account whether-- (A) the proposed regulation would afford greater protection to consumers than any existing regulation; (B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and (C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions. (3) EXPLANATION OF CONSIDERATIONS- The Agency-- (A) shall include a discussion of the considerations required in subsection (b) in the Federal Register notice of a final regulation prescribed pursuant to this section; and (B) whenever the Agency determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. (4) RESERVATION OF AUTHORITY- No provision of this section shall be construed as limiting or restricting the authority of the Agency to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person. (5) RULE OF CONSTRUCTION- No provision of this section shall be construed as exempt the Agency from complying with subchapter II of chapter 5 of title 5, United States Code. (6) DEFINITION- For purposes of this section, the term `consumer protection regulation' means a regulation that the Agency is authorized to prescribe under this title, the enumerated consumer laws, or any law or authority transferred under subtitle F or H.	*modification of a consumer protection regulation by the Bureau.* *(2) BUREAU CONSIDERATIONS REQUIRED FOR ISSUANCE OF FINAL REGULATION- Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether--* *(A) the proposed regulation would afford greater protection to consumers than any existing regulation;* *(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and* *(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.* *(3) EXPLANATION OF CONSIDERATIONS- The Bureau--* *(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and* *(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.* *(4) RESERVATION OF AUTHORITY- No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.* *(5) RULE OF CONSTRUCTION- No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.* *(6) DEFINITION- For purposes of this subsection, the term `consumer protection regulation' means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.*	
SEC. 4402. PRESERVATION OF ENFORCEMENT POWERS OF STATES. (a) In General- (1) ACTION BY STATE- Any State attorney general may bring a civil action in the name of such State, as parens patriae on behalf of	***SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.*** *(a) In General-* *(1) ACTION BY STATE- Except as provided in paragraph (2), the attorney general (or the equivalent thereof) of any State may bring a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
natural persons residing in such State, in any district court of the United States or State court having jurisdiction of the defendant, to enforce and secure remedies under provisions of this title or regulations issued thereunder, or otherwise provided under other law.	*civil action in the name of such State in any district court of the United States in that State or in State court that is located in that State and that has jurisdiction over the defendant, to enforce provisions of this title or regulations issued under this title, and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued under this title with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law (except as provided in paragraph (2)), and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to such an entity.* *(2) ACTION BY STATE AGAINST NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION TO ENFORCE RULES-* *(A) IN GENERAL- Except as permitted under subparagraph (B), the attorney general (or equivalent thereof) of any State may not bring a civil action in the name of such State against a national bank or Federal savings association with respect to an act or omission that would be a violation of a provision of this title.* *(B) ENFORCEMENT OF RULES PERMITTED- The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State against a national bank or Federal savings association in any district court of the United States in the State or in State court that is located in that State and that has jurisdiction over the defendant to enforce a regulation prescribed by the Bureau under a provision of this title and to secure remedies under provisions of this title or remedies otherwise provided under other law.*	
(2) RULE OF CONSTRUCTION- No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.	*(3) RULE OF CONSTRUCTION- No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.*	
(b) Consultation Required-	*(b) Consultation Required-*	
(1) NOTICE-	*(1) NOTICE-*	
(A) IN GENERAL- Before initiating any action in a court or other administrative or regulatory proceeding against any covered person to enforce any provision of this title, including any regulation prescribed by the Director under this title, a State attorney general or State regulator shall	*(A) IN GENERAL- Before initiating any action in a court or other administrative or regulatory proceeding against any covered person as authorized by subsection (a) to enforce any provision of this title, including any regulation prescribed by the Bureau under this title, a State attorney*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Agency, or the Agency's designee. (B) EMERGENCY ACTION- If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Agency immediately upon instituting the action or proceeding. (C) CONTENTS OF NOTICE- The notification required under this section shall, at a minimum, describe-- (i) the identity of the parties; (ii) the alleged facts underlying the proceeding; and (iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Director or Agency or another Federal agency. (2) AGENCY RESPONSE- In any action described in paragraph (1), the Agency may-- (A) intervene in the action as a party; (B) upon intervening-- (i) remove the action to the appropriate United States district court, if the action was not originally brought there; and (ii) be heard on all matters arising in the action; and (C) appeal any order or judgment to the same extent as any other party in the proceeding may. (c) Regulations- The Director shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators. (d) Preservation of State Authority- (1) STATE CLAIMS- No provision of this section shall be construed as limiting the authority of a State attorney general or State regulator to bring an action or other regulatory proceeding arising solely under the law of that State. (2) STATE SECURITIES REGULATORS- No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like	*general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.* *(B) EMERGENCY ACTION- If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.* *(C) CONTENTS OF NOTICE- The notification required under this paragraph shall, at a minimum, describe--* *(i) the identity of the parties;* *(ii) the alleged facts underlying the proceeding; and* *(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency.* *(2) BUREAU RESPONSE- In any action described in paragraph (1), the Bureau may--* *(A) intervene in the action as a party;* *(B) upon intervening--* *(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and* *(ii) be heard on all matters arising in the action; and* *(C) appeal any order or judgment, to the same extent as any other party in the proceeding may.* *(c) Regulations- The Bureau shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.* *(d) Preservation of State Authority-* *(1) STATE CLAIMS- No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.* *(2) STATE SECURITIES REGULATORS- No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority. (3) STATE INSURANCE REGULATORS- No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.	*functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.* *(3) STATE INSURANCE REGULATORS- No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.*	
SEC. 4403. PRESERVATION OF EXISTING CONTRACTS. This title, and regulations, orders, guidance, and interpretations prescribed, issued, and established by the Agency, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of the enactment of this title, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.	***SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.*** *This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of enactment of this Act, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.*	
SEC. 4404. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED. (a) In General- Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et 1 seq.) is amended by inserting after section 5136B the following new section: **`SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.**  `(a) Definitions- For purposes of this section, the following definitions shall apply: `(1) NATIONAL BANK- The term `national bank' includes-- `(A) any bank organized under the laws of the United States; and `(B) any Federal branch established in accordance with the International Banking Act of 1978. `(2) STATE CONSUMER FINANCIAL LAWS- The term `State consumer financial law' means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of	***SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.*** *(a) In General- Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:* ***`SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.***  *`(a) Definitions- For purposes of this section, the following definitions shall apply:* *`(1) NATIONAL BANK- The term `national bank' includes--* *`(A) any bank organized under the laws of the United States; and* *`(B) any Federal branch established in accordance with the International Banking Act of 1978.* *`(2) STATE CONSUMER FINANCIAL LAWS- The term `State consumer financial law' means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer. `(3) OTHER DEFINITIONS- The terms `affiliate', `subsidiary', `includes', and `including' have the same meaning as in section 3 of the Federal Deposit Insurance Act. `(b) Preemption Standard- `(1) IN GENERAL- State consumer financial laws are preempted only if-- `(A) application of a State consumer financial law would have a discriminatory effect on national banks in comparison with the effect of the law on a bank chartered by that State; `(B) the State consumer financial law prevents, significantly interferes with, or materially impairs the ability of an institution chartered as a national bank to engage in the business of banking. Any preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency in accordance with applicable law, on a case-by-case basis. Any such determination by a court shall comply with the standards set forth in subsection (d) of this section, with the court making the subsection (d) finding de novo; or `(C) the State consumer financial law is preempted by Federal law other than this Act. `(2) SAVINGS CLAUSE- This Act does not preempt or alter the applicability of any State law to any subsidiary or affiliate of a national bank (other than an institution chartered as a national bank) that is not a depository institution. `(3) CASE-BY-CASE DETERMINATION- `(A) DEFINITION- The term `case-by-case determination pursuant to this section' means a determination made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms. `(B) CONSULTATION- When making case-by-case determination pursuant to this section that a State consumer financial law of another State has a substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Consumer Financial Protection Agency and shall take such Agency's views into	*any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.* *`(3) OTHER DEFINITIONS- The terms `affiliate', `subsidiary', `includes', and `including' have the same meanings as in section 3 of the Federal Deposit Insurance Act.* *`(b) Preemption Standard-* *`(1) IN GENERAL- State consumer financial laws are preempted, only if--* *`(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;* *`(B) the State consumer financial law is preempted in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996), and any preemption determination under this subparagraph may be made by a court, or by regulation or order of the Comptroller of the Currency on a case-by-case basis, in accordance with applicable law; or* *`(C) the State consumer financial law is preempted by a provision of Federal law other than this title.* *`(2) SAVINGS CLAUSE- This title and section 24 of the Federal Reserve Act (12 U.S.C. 371) do not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).* *`(3) CASE-BY-CASE BASIS-* *`(A) DEFINITION- As used in this section the term `case-by-case basis' refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.* *`(B) CONSULTATION- When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
account when making the determination. `(4) RULE OF CONSTRUCTION- This Act does not occupy the field in any area of State law. `(5) STANDARDS OF REVIEW- `(A) PREEMPTION- A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this Act shall assess the validity of such determinations depending upon the thoroughness evident in the agency's consideration, the validity of the agency's reasoning, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision. `(B) SAVINGS CLAUSE- Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws. `(6) COMPTROLLER DETERMINATION NOT DELEGABLE- Any regulation, order or determination made by the Comptroller of the Currency under subsection (b)(1)(B) shall be made by the Comptroller and shall not be delegable to another officer or employee of the Comptroller of the Currency.	*making the determination.* *`(4) RULE OF CONSTRUCTION- This title does not occupy the field in any area of State law.* *`(5) STANDARDS OF REVIEW-* *`(A) PREEMPTION- A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.* *`(B) SAVINGS CLAUSE- Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.* *`(6) COMPTROLLER DETERMINATION NOT DELEGABLE- Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.*	
`(c) Substantial Evidence- No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law unless substantial evidence, made on the record of the proceeding, supports the specific finding that the provision prevents, significantly interferes with, or materially impairs the ability of a national bank to engage in the business of banking.	*`(c) Substantial Evidence- No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).*	
`(d) Other Federal Laws- Notwithstanding any other provision of law, the Comptroller of the Currency may not prescribe a regulation or order pursuant to subsection (b)(1)(B) until the Comptroller of the Currency, after consultation with the Consumer Financial Protection Agency, makes a finding, in writing, that a Federal law provides a substantive standard, applicable to a national bank, which regulates the particular conduct, activity, or authority that is subject to such provision of the State consumer financial law.		
`(e) Periodic Review of Preemption Determinations- The Comptroller of the	*`(d) Periodic Review of Preemption Determinations-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall timely propose to continue, amend or rescind it, as may be appropriate, in accordance with the procedures set forth in subsections (a) and (b) of section 5244 (12 U.S.C. 43(a) and (b)).	*`(1) IN GENERAL- The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).*	
	`(2) REPORTS TO CONGRESS- At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.	
`(f) Application of State Consumer Financial Law to Subsidiaries and Affiliates- Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.	*`(e) Application of State Consumer Financial Law to Subsidiaries and Affiliates- Notwithstanding any provision of this title or section 24 of Federal Reserve Act (12 U.S.C. 371), a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.*	
`(g) Preservation of Powers Related to Charging Interest- No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory or district where the bank is located, including with respect to the meaning of `interest' under such provision.	*`(f) Preservation of Powers Related to Charging Interest- No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of `interest' under such provision.*	
`(h) Transparency of Occ Preemption Determinations- The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.'.	*`(g) Transparency of OCC Preemption Determinations- The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.'.*	
(b) Clerical Amendment- The table of sections for chapter one of title LXII of	*(b) Clerical Amendment- The table of sections for chapter one of title LXII of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item: `5136C. State law preemption standards for national banks and subsidiaries clarified.'.	*the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:* *`Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.'.*	
SEC. 4405. VISITORIAL STANDARDS. Section 5136C of the Revised Statutes of the United States (as added by section 4404) is amended by adding at the end the following new subsections: `(g) Visitorial Powers- `(1) RULE OF CONSTRUCTION- No provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction-- `(A) to enforce any applicable Federal or State law, as authorized by such law; or `(B) on behalf of residents of such State, to enforce any applicable provision of any Federal or nonpreempted State law against a national bank, as authorized by such law, or to seek relief as authorized by such law. `(2) CONSULTATION- The attorney general (or other chief law enforcement officer) of any State shall consult with the head of the agency responsible for chartering and regulating national banks before acting under paragraph (1). `(h) Enforcement Actions- The ability of the head of the agency responsible for chartering and regulating national banks to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act shall not be construed as precluding private parties from enforcing rights granted under Federal or State law in the courts.'.	***SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.*** *(a) National Banks- Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:* *`(i) Visitorial Powers-* *`(1) IN GENERAL- In accordance with the decision of the Supreme Court of the United States in Cuomo v. Clearing House Assn., L. L. C. (129 S. Ct. 2710 (2009)), no provision of this title which relates to visitorial powers or otherwise limits or restricts the visitorial authority to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring an action against a national bank in a court of appropriate jurisdiction to enforce an applicable law and to seek relief as authorized by such law.* *`(j) Enforcement Actions- The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.'.*	
SEC. 4406. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES. Section 5136C of the Revised Statutes of the United States is amended by inserting after subsection (h) (as added by section 4405) the following new subsection: `(i) Clarification of Law Applicable to Nondepository Institution Subsidiaries and Affiliates of National Banks- `(1) DEFINITIONS- For purposes of this section, the following definitions shall apply: `(A) DEPOSITORY INSTITUTION, SUBSIDIARY,	***SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.*** *Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:* *`(h) Clarification of Law Applicable to Nondepository Institution Subsidiaries and Affiliates of National Banks-* *`(1) DEFINITIONS- For purposes of this subsection, the terms `depository institution', `subsidiary', and `affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
AFFILIATE- The terms `depository institution', `subsidiary', and `affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act. `(B) NONDEPOSITORY INSTITUTION- The term `nondepository institution' means any entity that is not a depository institution. `(2) IN GENERAL- No provision of this title shall be construed as annulling, altering, or affecting the applicability of State law to any nondepository institution, subsidiary, other affiliate, or agent of a national bank.'.	*`(2) RULE OF CONSTRUCTION- No provision of this title or section 24 of the Federal Reserve Act (12 U.S.C. 371) shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).'.*	
SEC. 4407. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED. (a) In General- The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section: **`SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.**  `(a) State Consumer Financial Law Defined- For purposes of this section, the term `State consumer financial law' means a State law that does not directly or indirectly discriminate against Federal savings associations and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for Federal savings associations to engage in), or any account related thereto, with respect to a consumer. `(b) Preemption Standard- `(1) IN GENERAL- State consumer financial laws are preempted only if-- `(A) application of a State consumer financial law would have a discriminatory effect on Federal savings associations in comparison with the effect of the law on a bank chartered by that State; `(B) the State consumer financial law prevents, significantly interferes with, or materially impairs the ability of an institution chartered as a Federal savings association to engage in the business of banking. Any preemption determination under this subparagraph may be made by a court or by regulation or order of the Director of the Office of Thrift Supervision in accordance with applicable law, on a case-by-case basis. Any such determination by a court	***SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.*** *(a) In General- The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:* ***`SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.***  *`(a) In General- Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.* *`(b) Principles of Conflict Preemption Applicable- Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall comply with the standards set forth in subsection (d) of this section, with the court making the subsection (d) finding de novo; or `(C) the State consumer financial law is preempted by Federal law other than this Act. `(2) SAVINGS CLAUSE- This Act does not preempt or alter the applicability of any State law to any subsidiary or affiliate of a Federal savings association (other than an institution chartered as a Federal savings association) that is not a depository institution. `(3) CASE-BY-CASE DETERMINATION- `(A) DEFINITION- The term `case-by-case determination pursuant to this section' means a determination made by the Director concerning the impact of a particular State consumer financial law on any Federal savings association that is subject to that law, or the law of any other State with substantively equivalent terms. `(B) CONSULTATION- When making case-by-case determination pursuant to this section that a State consumer financial law of another State has a substantively equivalent terms as one that the Director of the Office of Thrift Supervision is preempting, the Director shall first consult with the Consumer Financial Protection Agency and shall take such Agency's views into account when making the determination. `(4) RULE OF CONSTRUCTION- This Act does not occupy the field in any area of State law. `(5) STANDARDS OF REVIEW- `(A) PREEMPTION- A court reviewing any determinations made by the Director regarding preemption of a State law by this Act shall assess the validity of such determinations depending upon the thoroughness evident in the agency's consideration, the validity of the agency's reasoning, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision. `(B) SAVINGS CLAUSE- Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Director in making determinations regarding the meaning or interpretation of the Home Owners' Loan Act or other Federal laws. `(6) OTS DETERMINATION NOT DELEGABLE- Any regulation, order, or determination made by the Director of the Office of Thrift Supervision under subsection (b)(1)(B) shall be made by the Director		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and shall not be delegable to another officer or employee of the Director of the Office of Thrift Supervision. `(c) Other Federal Law- Notwithstanding any other provision of law, the Director of the Office of Thrift Supervision may not prescribe any regulation or order pursuant to subsection (b)(1)(B) until such Director, after consultation with the Consumer Financial Protection Agency, makes a finding, in writing, that a Federal law provides a substantive standard, applicable to a Federal savings association, which regulates the particular conduct, activity, or authority that is subject to such provision of the State consumer financial law. `(d) Substantial Evidence- No regulation or order prescribed by the Director of the Office of Thrift Supervision issued under subsection (b)(1)(B) shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a Federal savings association, the provision of the State consumer financial law unless substantial evidence, made on the record of the proceeding, supports the specific finding that the provision prevents, significantly interferes with, or materially impairs the ability of a Federal savings association to engage in the business of banking. `(e) Periodic Review of Preemption Determinations- The Director of the Office of Thrift Supervision shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall timely propose to continue, amend or rescind it, as may be appropriate, in accordance with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43(a) and (b)). `(f) Application of State Consumer Financial Law to Subsidiaries and Affiliates- Notwithstanding any provision of this Act, a State consumer financial law shall apply to a subsidiary or affiliate of a Federal savings association to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law and consistent with Federal law. `(g) Preservation of Powers Related to Charging of Interest- No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 4(g) of the Home Owners' Loan Act (12 U.S.C. 1463(g)) for the charging of interest by a Federal savings association at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of `interest' under such provision. `(h) Transparency of OTS Preemption Determinations- The Director of the Office of Thrift Supervision shall publish and update no less frequently than		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
quarterly, a list of preemption determinations by such Director then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.'. (b) Clerical Amendment- The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item: `Sec. 6. State law preemption standards for Federal savings associations clarified.'.	*(b) Clerical Amendment- The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:* ***`Sec. 6. State law preemption standards for Federal savings associations and subsidiaries clarified.'.***	
SEC. 4408. VISITORIAL STANDARDS. Section 6 of the Home Owners' Loan Act (as added by section 4407 of this title) is amended by adding at the end the following new subsections: `(g) Visitorial Powers- `(1) IN GENERAL- No provision of this Act shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction-- `(A) to enforce any applicable Federal or State law, as authorized by such law; or `(B) on behalf of residents of such State, to enforce any applicable provision of any Federal or State law against a Federal savings association, as authorized by such law, or to seek relief as authorized by such law. `(2) CONSULTATION- The attorney general (or other chief law enforcement officer) of any State shall consult with the Director or any successor agency before acting under paragraph (1). `(h) Enforcement Actions- The ability of the Director or any successor officer or agency to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act shall not be construed as precluding private parties from enforcing rights granted under Federal or State law in the courts.'.	***SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.*** *(b) Savings Associations- Section 6 of the Home Owners' Loan Act (as added by this title) is amended by adding at the end the following:* *`(c) Visitorial Powers- The provisions of sections 5136C(i) of the Revised Statutes of the United States shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.'* *`(d) Enforcement Actions- The ability of the Comptroller of the Currency to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.'.*	
SEC. 4409. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES. Section 6 of the Home Owners' Loan Act is amended by adding after subsection (h) (as added by section 4408) the following new subsection: `(i) Clarification of Law Applicable to Nondepository Institution Subsidiaries and Affiliates of Federal Savings Associations- `(1) DEFINITIONS- For purposes of this section, the following definitions shall apply: `(A) DEPOSITORY INSTITUTION, SUBSIDIARY, AFFILIATE- The terms `depository institution',		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`subsidiary', and `affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act. `(B) NONDEPOSITORY INSTITUTION- The term `nondepository institution' means any entity that is not a depository institution. `(2) IN GENERAL- No provision of this title shall be construed as preempting the applicability of State law to any nondepository institution, subsidiary, other affiliate, or agent of a Federal savings association.'.		
SEC. 4410. EFFECTIVE DATE. This subtitle shall take effect on the designated transfer date.	***SEC. 1048. EFFECTIVE DATE.*** *This subtitle shall become effective on the designated transfer date.*	
Subtitle E--Enforcement Powers **SEC. 4501. DEFINITIONS.** For purposes of this subtitle, the following definitions shall apply: (1) AGENCY INVESTIGATION- The term `Agency investigation' means any inquiry conducted by an Agency investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that violates this title, any enumerated consumer law, or any regulation prescribed or order issued by the Director under this title or under the authorities transferred under subtitles F and H. (2) AGENCY INVESTIGATOR- The term `Agency investigator' means any attorney or investigator employed by the Agency who is charged with the duty of enforcing or carrying into effect any provisions of this title, any enumerated consumer law, the authorities transferred under subtitles F and H, or any regulation prescribed or order issued under this title or pursuant to any such authority by the Director. (3) COVERED EMPLOYEE- The term `covered employee' means any individual performing tasks related to the provision of a financial product or service to a consumer. (4) CUSTODIAN- The term `custodian' means the custodian or any deputy custodian designated by the Agency. (5) DOCUMENTARY MATERIAL- The term `documentary material' includes the original or any copy of any book, document, record, report, memorandum, paper, communication, tabulation,	***Subtitle E--Enforcement Powers*** ***SEC. 1051. DEFINITIONS.*** *For purposes of this subtitle, the following definitions shall apply:* *(1) BUREAU INVESTIGATION- The term `Bureau investigation' means any inquiry conducted by a Bureau investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that is a violation, as defined in this section.* *(2) BUREAU INVESTIGATOR- The term `Bureau investigator' means any attorney or investigator employed by the Bureau who is charged with the duty of enforcing or carrying into effect any Federal consumer financial law.* *(3) CIVIL INVESTIGATIVE DEMAND AND DEMAND- The terms `civil investigative demand' and `demand' mean any demand issued by the Bureau.* *(4) CUSTODIAN- The term `custodian' means the custodian or any deputy custodian designated by the Bureau.* *(5) DOCUMENTARY MATERIAL- The term `documentary material' includes the original or any copy of any book, document, record, report, memorandum, paper, communication, tabulation, chart, logs,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
chart, log, electronic file, or other data or data compilations stored in any medium. (6) VIOLATION- The term `violation' means any act or omission that, if proved, would constitute a violation of any provision of this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or of any regulation prescribed or order issued by the Director under this title or pursuant to any such authority.	*electronic files, or other data or data compilations stored in any medium.* *(6) VIOLATION- The term `violation' means any act or omission that, if proved, would constitute a violation of any provision of Federal consumer financial law.*	
SEC. 4502. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY. (a) Joint Investigations- (1) IN GENERAL- The Agency or, where appropriate, an Agency representative may engage in joint investigations and requests for information. (2) FAIR LENDING- The authority under paragraph (1) includes matters relating to fair lending, and where appropriate, joint investigations and requests for information with the Secretary of Housing and Urban Development, the Attorney General, or both.	***SEC. 1052. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.*** *(a) Joint Investigations-* *(1) IN GENERAL- The Bureau or, where appropriate, a Bureau investigator, may engage in joint investigations and requests for information, as authorized under this title.* *(2) FAIR LENDING- The authority under paragraph (1) includes matters relating to fair lending, and where appropriate, joint investigations with, and requests for information from, the Secretary of Housing and Urban Development, the Attorney General of the United States, or both.*	
(b) Subpoenas- (1) IN GENERAL- The Agency or an Agency investigator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, or other material in connection with hearings under this title. (2) FAILURE TO OBEY- In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, an appropriate United States district court may, upon application by the Agency or an Agency investigator and after notice to such person, issue an order requiring such person to appear and give testimony or to appear and produce documents or other material, or both.	*(b) Subpoenas-* *(1) IN GENERAL- The Bureau or a Bureau investigator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, or other material in connection with hearings under this title.* *(2) FAILURE TO OBEY- In the case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Bureau or a Bureau investigator and after notice to such person, may issue an order requiring such person to appear and give testimony or to appear and produce documents or other material.* *(3) CONTEMPT- Any failure to obey an order of the court under this subsection may be punished by the court as a contempt thereof.*	
(c) Demands- (1) IN GENERAL- Whenever the Agency has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, the Agency may, before the institution of any proceedings under this title or under any enumerated consumer law or pursuant to the authorities transferred under subtitles F and H, issue in writing, and cause to be served upon	*(c) Demands-* *(1) IN GENERAL- Whenever the Bureau has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, the Bureau may, before the institution of any proceedings under the Federal consumer financial law, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
such person, a civil investigative demand requiring such person to-- (A) produce such documentary material for inspection and copying or reproduction in the form or medium requested by the Agency; (B) submit such tangible things; (C) file written reports or answers to questions; (D) give oral testimony concerning documentary material or other information; or (E) furnish any combination of such material, answers, or testimony. (2) REQUIREMENTS- Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation. (3) PRODUCTION OF DOCUMENTS- Each civil investigative demand for the production of documentary material shall-- (A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified; (B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and (C) identify the custodian to whom such material shall be made available. (4) PRODUCTION OF THINGS- Each civil investigative demand for the submission of tangible things shall-- (A) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified; (B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and (C) identify the custodian to whom such things shall be submitted. (5) DEMAND FOR WRITTEN REPORTS OR ANSWERS- Each civil investigative demand for written reports or answers to questions shall-- (A) propound with definiteness and certainty the reports to be produced or the questions to be answered; (B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and (C) identify the custodian to whom such reports or answers	*(A) produce such documentary material for inspection and copying or reproduction in the form or medium requested by the Bureau;* *(B) submit such tangible things;* *(C) file written reports or answers to questions;* *(D) give oral testimony concerning documentary material, tangible things, or other information; or* *(E) furnish any combination of such material, answers, or testimony.* *(2) REQUIREMENTS- Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.* *(3) PRODUCTION OF DOCUMENTS- Each civil investigative demand for the production of documentary material shall--* *(A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;* *(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and* *(C) identify the custodian to whom such material shall be made available.* *(4) PRODUCTION OF THINGS- Each civil investigative demand for the submission of tangible things shall--* *(A) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified;* *(B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and* *(C) identify the custodian to whom such things shall be submitted.* *(5) DEMAND FOR WRITTEN REPORTS OR ANSWERS- Each civil investigative demand for written reports or answers to questions shall--* *(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;* *(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and* *(C) identify the custodian to whom such reports or answers*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall be submitted.	*shall be submitted.*	
(6) ORAL TESTIMONY- Each civil investigative demand for the giving of oral testimony shall--	*(6) ORAL TESTIMONY- Each civil investigative demand for the giving of oral testimony shall--*	
(A) prescribe a date, time, and place at which oral testimony shall be commenced; and	*(A) prescribe a date, time, and place at which oral testimony shall be commenced; and*	
(B) identify a Agency investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.	*(B) identify a Bureau investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.*	
(7) SERVICE-	*(7) SERVICE- Any civil investigative demand and any enforcement petition filed under this section may be served--*	
(A) Any civil investigative demand may be served by any Agency investigator at any place within the territorial jurisdiction of any court of the United States.	*(A) by any Bureau investigator at any place within the territorial jurisdiction of any court of the United States; and*	
(B) Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation.	*(B) upon any person who is not found within the territorial jurisdiction of any court of the United States--* *(i) in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation; and* *(ii) to the extent that the courts of the United States have authority to assert jurisdiction over such person, consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.*	
(8) METHOD OF SERVICE- Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a person, including any legal entity, by--	*(8) METHOD OF SERVICE- Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a person, including any legal entity, by--*	
(A) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;	*(A) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;*	
(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the person to be served; or	*(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the person to be served; or*	
(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at its principal office or place of business.	*(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at the principal office or place of business of such person.*	
(9) PROOF OF SERVICE-	*(9) PROOF OF SERVICE-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service. (B) In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition. (10) PRODUCTION OF DOCUMENTARY MATERIAL- The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian. (11) SUBMISSION OF TANGIBLE THINGS- The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian. (12) SEPARATE ANSWERS- Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. (13) TESTIMONY- (A) PROCEDURE- (i) OATH AND RECORDATION- The examination of any person pursuant to a demand for oral testimony served under this subsection	*(A) IN GENERAL- A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service.* *(B) RETURN RECEIPTS- In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.* *(10) PRODUCTION OF DOCUMENTARY MATERIAL- The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.* *(11) SUBMISSION OF TANGIBLE THINGS- The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.* *(12) SEPARATE ANSWERS- Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.* *(13) TESTIMONY-* *(A) IN GENERAL-* *(i) OATH OR AFFIRMATION- Any Bureau investigator before whom oral testimony is to be taken shall put the witness under oath or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by any individual acting under the direction of and in the presence of the officer, record the testimony of the witness.	*affirmation, and shall personally, or by any individual acting under the direction of and in the presence of the Bureau investigator, record the testimony of the witness.*	
(ii) TRANSCRIPTIONS- The testimony shall be taken stenographically and transcribed.	*(ii) TRANSCRIPTION- The testimony shall be taken stenographically and transcribed.*	
(iii) COPY TO CUSTODIAN- After the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.	*(iii) TRANSMISSION TO CUSTODIAN- After the testimony is fully transcribed, the Bureau investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.*	
(B) PARTIES PRESENT- Any Agency investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons except the person giving the testimony, the attorney for such person, the officer before whom the testimony is to be taken, an investigator or representative of an agency with which the Agency is engaged in a joint investigation, and any stenographer taking such testimony.	*(B) PARTIES PRESENT- Any Bureau investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons, except the person giving the testimony, the attorney of that person, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.*	
(C) LOCATION- The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Agency investigator before whom the oral testimony of such person is to be taken and such person.	*(C) LOCATION- The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Bureau investigator before whom the oral testimony of such person is to be taken and such person.*	
(D) ATTORNEY REPRESENTATION-	*(D) ATTORNEY REPRESENTATION-*	
(i) IN GENERAL- Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.	*(i) IN GENERAL- Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.*	
(ii) CONFIDENTIAL ADVICE- The attorney may advise the person summoned, in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.	*(ii) AUTHORITY- The attorney may advise a person described in clause (i), in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.*	
(iii) OBJECTIONS- The person summoned or the	*(iii) OBJECTIONS- A person described in clause*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection.	*(i), or the attorney for that person, may object on the record to any question, in whole or in part, and such person shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and such person or attorney shall not otherwise interrupt the oral examination.*	
(iv) REFUSAL TO ANSWER- An objection may properly be made, received, and entered upon the record when it is claimed that the person summoned is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and shall not otherwise interrupt the oral examination, directly or through such person's attorney.	*(iv) REFUSAL TO ANSWER- If a person described in clause (i) refuses to answer any question--* *(I) the Bureau may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question; and* *(II) on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.*	
(v) PETITION FOR ORDER- If such person refuses to answer any question, the Agency may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.		
(vi) BASIS FOR COMPELLING TESTIMONY- If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.		
(E) TRANSCRIPTS-	*(E) TRANSCRIPTS- For purposes of this subsection--*	
(i) RIGHT TO EXAMINE- After the testimony of any witness is fully transcribed, the Agency investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript.	*(i) after the testimony of any witness is fully transcribed, the Bureau investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript;*	
(ii) READING THE TRANSCRIPT- The transcript shall be read to or by the witness, unless	*(ii) the transcript shall be read to or by the witness, unless such examination and reading are*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
such examination and reading are waived by the witness. (iii) REQUEST FOR CHANGES- Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Agency investigator with a statement of the reasons given by the witness for making such changes. (iv) SIGNATURE- The transcript shall be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. (v) AGENCY ACTION IN LIEU OF SIGNATURE- If the transcript is not signed by the witness during the 30-day period following the date upon which the witness is first afforded a reasonable opportunity to examine it, the officer or the Agency investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign. (F) CERTIFICATION BY INVESTIGATOR- The officer shall certify on the transcript that the witness was duly sworn by the investigator and that the transcript is a true record of the testimony given by the witness, and the officer or the Agency investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian. (G) COPY OF TRANSCRIPT- The Agency investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Agency may for good cause limit such witness to inspection of the official transcript of the testimony of such witness. (H) WITNESS FEES- Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.	*waived by the witness;* *(iii) any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Bureau investigator, with a statement of the reasons given by the witness for making such changes;* *(iv) the transcript shall be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign; and* *(v) if the transcript is not signed by the witness during the 30-day period following the date on which the witness is first afforded a reasonable opportunity to examine the transcript, the Bureau investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.* *(F) CERTIFICATION BY INVESTIGATOR- The Bureau investigator shall certify on the transcript that the witness was duly sworn by him or her and that the transcript is a true record of the testimony given by the witness, and the Bureau investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.* *(G) COPY OF TRANSCRIPT- The Bureau investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Bureau may for good cause limit such witness to inspection of the official transcript of his testimony.* *(H) WITNESS FEES- Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.*	
(d) Confidential Treatment of Demand Material- (1) IN GENERAL- Materials received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in accordance with regulations established	*(d) Confidential Treatment of Demand Material-* *(1) IN GENERAL- Documentary materials and tangible things received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
by the Director. (2) DISCLOSURE TO CONGRESS- No regulation established by the Director regarding the confidentiality of materials submitted to, or otherwise obtained by, the Agency shall be intended to prevent disclosure to either House of the Congress or to an appropriate committee of the Congress, except that the Director may prescribe regulations allowing prior notice to any party that owns or otherwise provided the material to the Agency and has designated such material as confidential.	*accordance with rules established by the Bureau.* *(2) DISCLOSURE TO CONGRESS- No rule established by the Bureau regarding the confidentiality of materials submitted to, or otherwise obtained by, the Bureau shall be intended to prevent disclosure to either House of Congress or to an appropriate committee of the Congress, except that the Bureau is permitted to adopt rules allowing prior notice to any party that owns or otherwise provided the material to the Bureau and had designated such material as confidential.*	
(e) Petition for Enforcement- (1) IN GENERAL- Whenever any person fails to comply with any civil investigative demand duly served upon such person under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Agency, through such officers or attorneys as the Director may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section. (2) SERVICE OF PROCESS- All process of any court to which application may be made as provided in this subsection may be served in any judicial district.	*(e) Petition for Enforcement-* *(1) IN GENERAL- Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Bureau, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.* *(2) SERVICE OF PROCESS- All process of any court to which application may be made as provided in this subsection may be served in any judicial district.*	
(f) Petition for Order Modifying or Setting Aside Demand- (1) IN GENERAL- Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Agency investigator named in the demand, such person may file with the Agency a petition for an order by the Agency modifying or setting aside the demand. (2) COMPLIANCE DURING PENDENCY- The time permitted for compliance with the demand in whole or in part, as deemed proper and ordered by the Agency, shall not run during the pendency of such petition at the Agency, except that such person shall comply with any portions of the demand not sought to be modified or set aside. (3) SPECIFIC GROUNDS- Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.	*(f) Petition for Order Modifying or Setting Aside Demand-* *(1) IN GENERAL- Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Bureau investigator named in the demand, such person may file with the Bureau a petition for an order by the Bureau modifying or setting aside the demand.* *(2) COMPLIANCE DURING PENDENCY- The time permitted for compliance with the demand in whole or in part, as determined proper and ordered by the Bureau, shall not run during the pendency of a petition under paragraph (1) at the Bureau, except that such person shall comply with any portions of the demand not sought to be modified or set aside.* *(3) SPECIFIC GROUNDS- A petition under paragraph (1) shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(g) Custodial Control- At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon such custodian by this section or regulation prescribed by the Director.	*(g) Custodial Control- At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or rule promulgated by the Bureau.*	
(h) Jurisdiction of Court- (1) IN GENERAL- Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. (2) APPEAL- Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code.	*(h) Jurisdiction of Court-* *(1) IN GENERAL- Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section.* *(2) APPEAL- Any final order entered as described in paragraph (1) shall be subject to appeal pursuant to section 1291 of title 28, United States Code.*	
SEC. 4503. HEARINGS AND ADJUDICATION PROCEEDINGS. (a) In General- The Agency may conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with— (1) the provisions of this title, including any regulations prescribed by the Director under this title; and (2) any other Federal law that the Agency is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the Agency from conducting a hearing or adjudication proceeding and only to the extent of such limitation.	***SEC. 1053. HEARINGS AND ADJUDICATION PROCEEDINGS.*** *(a) In General- The Bureau is authorized to conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with--* *(1) the provisions of this title, including any rules prescribed by the Bureau under this title; and* *(2) any other Federal law that the Bureau is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the Bureau from conducting a hearing or adjudication proceeding and only to the extent of such limitation.*	
(b) Special Rules for Cease-and-desist Proceedings- (1) ISSUANCE- (A) NOTICE OF CHARGES- If, in the opinion of the Agency, any covered person or service provider is engaging or has engaged in an activity that violates a law, regulation, or any condition imposed in writing on the person by the Agency, the Agency may issue and serve upon the person a notice of charges with respect to such violation. (B) CONTENTS OF NOTICE- The notice shall contain a statement of the facts constituting any alleged violation and shall fix a time and place at which a hearing will be held to determine whether an order to cease-and-desist there from	*(b) Special Rules for Cease-and-desist Proceedings-* *(1) ORDERS AUTHORIZED-* *(A) IN GENERAL- If, in the opinion of the Bureau, any covered person or service provider is engaging or has engaged in an activity that violates a law, rule, or any condition imposed in writing on the person by the Bureau, the Bureau may, subject to sections 1024, 1025, and 1026, issue and serve upon the covered person or service provider a notice of charges in respect thereof.* *(B) CONTENT OF NOTICE- The notice under subparagraph (A) shall contain a statement of the facts constituting the alleged violation or violations, and shall fix*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
should issue against the person. (C) TIME OF HEARING- A hearing under this subsection shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Agency at the request of any party so served. (D) NONAPPEARANCE DEEMED TO BE CONSENT TO ORDER- Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. (E) ISSUANCE OF ORDER- In the event of such consent, or if upon the record made at any such hearing, the Agency shall find that any violation specified in the notice of charges has been established, the Agency may issue and serve upon the person an order to cease-and-desist from any such violation or practice. (F) INCLUDES REQUIREMENT FOR CORRECTIVE ACTION- Such order may, by provisions which may be mandatory or otherwise, require the person to cease-and-desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation.	*a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the covered person or service provider, such hearing to be held not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Bureau, at the request of any party so served.* *(C) CONSENT- Unless the party or parties served under subparagraph (B) appear at the hearing personally or by a duly authorized representative, such person shall be deemed to have consented to the issuance of the cease-and-desist order.* *(D) PROCEDURE- In the event of consent under subparagraph (C), or if, upon the record, made at any such hearing, the Bureau finds that any violation specified in the notice of charges has been established, the Bureau may issue and serve upon the covered person or service provider an order to cease and desist from the violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the covered person or service provider to cease and desist from the subject activity, and to take affirmative action to correct the conditions resulting from any such violation.*	
(2) EFFECTIVENESS OF ORDER- A cease-and-desist order shall take effect at the end of the 30-day period beginning on the date of the service of such order upon the covered person or service provider concerned (except in the case of a cease-and-desist order issued upon consent, which shall take effect at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Agency or a reviewing court.	*(2) EFFECTIVENESS OF ORDER- A cease-and-desist order shall become effective at the expiration of 30 days after the date of service of an order under paragraph (1) upon the covered person or service provider concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as the order is stayed, modified, terminated, or set aside by action of the Bureau or a reviewing court.*	
(3) DECISION AND APPEAL- (A) PLACE OF AND PROCEDURES FOR HEARING- Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or home office of the person is located unless the person consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. (B) TIME LIMIT FOR DECISION- After such hearing, and within 90 days after the Agency has notified the parties that the case has been submitted to it for final decision, the	*(3) DECISION AND APPEAL- Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or principal office or place of business of the person is located unless the person consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. After such hearing, and within 90 days after the Bureau has notified the parties that the case has been submitted to the Bureau for final decision, the Bureau shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Agency shall-- (i) render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue; and (ii) serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. (C) MODIFICATION OF ORDER GENERALLY- Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (4), and thereafter until the record in the proceeding has been filed as so provided, the Agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. (D) MODIFICATION OF ORDER AFTER FILING RECORD ON APPEAL- Upon such filing of the record, the Agency may modify, terminate, or set aside any such order with permission of the court.	*consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4), and thereafter until the record in the proceeding has been filed as provided in paragraph (4), the Bureau may at any time, upon such notice and in such manner as the Bureau shall determine proper, modify, terminate, or set aside any such order. Upon filing of the record as provided, the Bureau may modify, terminate, or set aside any such order with permission of the court.*	
(4) APPEAL TO COURT OF APPEALS- (A) IN GENERAL- Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 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. (B) TRANSMITTAL OF COPY TO THE AGENCY- 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. (C) JURISDICTION OF COURT- Upon the filing of a petition under subparagraph (A), such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of paragraph (3) be exclusive, to affirm, modify, terminate, or set aside, in	*(4) APPEAL TO COURT OF APPEALS- Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Bureau be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Bureau, and thereupon the Bureau 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 paragraph (3) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Bureau. 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 of the United States, upon certiorari, as provided in section 1254 of title 28 of the United States Code.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
whole or in part, the order of the Agency. (D) SCOPE OF REVIEW- Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. (E) FINALITY- 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. (5) NO STAY- The commencement of proceedings for judicial review under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Agency.	*(5) NO STAY- The commencement of proceedings for judicial review under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Bureau.*	
(c) Special Rules for Temporary Cease-and-desist Proceedings- (1) ISSUANCE- (A) IN GENERAL- Whenever the Agency determines that the violation specified in the notice of charges served upon a person, including a service provider, pursuant to subsection (b), or the continuation of such violation, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to subsection (b), the Agency may issue a temporary order requiring the person to cease-and-desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings. (B) OTHER REQUIREMENTS- Any temporary order issued under this paragraph may include any requirement authorized under this subtitle. (C) EFFECT DATE OF ORDER- Any temporary order issued under this paragraph shall take effect upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order. (2) APPEAL- Within 10 days after the person concerned has been served with a temporary cease-and-desist order, the person may apply to the United States district court for the judicial district in which the home office of the person is located, or the United States District Court for the District of Columbia, for an injunction setting	*(c) Special Rules for Temporary Cease-and-desist Proceedings-* *(1) IN GENERAL- Whenever the Bureau determines that the violation specified in the notice of charges served upon a person, including a service provider, pursuant to subsection (b), or the continuation thereof, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to subsection (b), the Bureau may issue a temporary order requiring the person to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings. Such order may include any requirement authorized under this subtitle. Such order shall become effective upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Bureau shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order.* *(2) APPEAL- Not later than 10 days after the covered person or service provider concerned has been served with a temporary cease-and-desist order, the person may apply to the United States district court for the judicial district in which the residence or principal office or place of business of the person is located, or the United*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the person under subsection (b), and such court shall have jurisdiction to issue such injunction. (3) INCOMPLETE OR INACCURATE RECORDS- (A) TEMPORARY ORDER- If a notice of charges served under subsection (b) specifies, on the basis of particular facts and circumstances, that a person's books and records are so incomplete or inaccurate that the Agency is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the Agency may issue a temporary order requiring-- (i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or (ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1). (B) EFFECTIVE PERIOD- Any temporary order issued under subparagraph (A)-- (i) shall take effect upon service; and (ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of-- (I) the completion of the proceeding initiated under subsection (b) in connection with the notice of charges; or (II) the date the Agency determines, by examination or otherwise, that the person's books and records are accurate and reflect the financial condition of the person.	*States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the person under subsection (b), and such court shall have jurisdiction to issue such injunction.* *(3) INCOMPLETE OR INACCURATE RECORDS-* *(A) TEMPORARY ORDER- If a notice of charges served under subsection (b) specifies, on the basis of particular facts and circumstances, that the books and records of a covered person or service provider are so incomplete or inaccurate that the Bureau is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the Bureau may issue a temporary order requiring--* *(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or* *(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).* *(B) EFFECTIVE PERIOD- Any temporary order issued under subparagraph (A)--* *(i) shall become effective upon service; and* *(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of--* *(I) the completion of the proceeding initiated under subsection (b) in connection with the notice of charges; or* *(II) the date the Bureau determines, by examination or otherwise, that the books and records of the covered person or service provider are accurate and reflect the financial condition thereof.*	
(d) Special Rules for Enforcement of Orders- (1) IN GENERAL- The Agency may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the person is located, for the enforcement of any	*(d) Special Rules for Enforcement of Orders-* *(1) IN GENERAL- The Bureau may in its discretion apply to the United States district court within the jurisdiction of which the principal office or place of business of the person is located, for the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith. (2) EXCEPTION- Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.	*enforcement of any effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith.* *(2) EXCEPTION- Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.*	
(e) Regulations- The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this section.	*(e) Rules- The Bureau shall prescribe rules establishing such procedures as may be necessary to carry out this section.*	
SEC. 4504. LITIGATION AUTHORITY.	***SEC. 1054. LITIGATION AUTHORITY.***	
(a) In General- If any person violates a provision of this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or any regulation prescribed or order issued by the Director under this title or pursuant to any such authority, the Agency may commence a civil action against such person to impose a civil penalty and to seek all appropriate legal and equitable relief including a permanent or temporary injunction as permitted by law.	*(a) In General- If any person violates a Federal consumer financial law, the Bureau may, subject to sections 1024, 1025, and 1026, commence a civil action against such person to impose a civil penalty or to seek all appropriate legal and equitable relief including a permanent or temporary injunction as permitted by law.*	
(b) Representation- The Agency may act in its own name and through its own attorneys in enforcing any provision of this title, regulations under this title, or any other law or regulation, or in any action, suit, or proceeding to which the Agency is a party.	*(b) Representation- The Bureau may act in its own name and through its own attorneys in enforcing any provision of this title, rules thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Bureau is a party.*	
(c) Compromise of Actions- The Agency may compromise or settle any action if such compromise is approved by the court.	*(c) Compromise of Actions- The Bureau may compromise or settle any action if such compromise is approved by the court.*	
(d) Notice to the Attorney General- When commencing a civil action under this title, any enumerated consumer law, any law for which authorities were transferred under subtitles F and H, or any regulation thereunder, the Agency shall notify the Attorney General.	*(d) Notice to the Attorney General- When commencing a civil action under Federal consumer financial law, or any rule thereunder, the Bureau shall notify the Attorney General and, with respect to a civil action against an insured depository institution or insured credit union, the appropriate prudential regulator.*	
(e) Appearance Before the Supreme Court- The Agency may represent itself in its own name before the Supreme Court of the United States, if-- (1) the Agency makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari; and (2) the Attorney General concurs with such request or fails to take action within 60 days of the Agency's request.	*(e) Appearance Before the Supreme Court- The Bureau may represent itself in its own name before the Supreme Court of the United States, provided that the Bureau makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari, and the Attorney General concurs with such request or fails to take action within 60 days of the request of the Bureau.*	
(f) Forum- Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a state in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with this title, any enumerated consumer law, any law for which	*(f) Forum- Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a state in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with any Federal consumer financial law.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
authorities were transferred under subtitles F and H, or any regulation prescribed or order issued by the Director under this title or pursuant to any such authority. (g) Time for Bringing Action- (1) IN GENERAL- Except as otherwise permitted by law or equity, no action may be brought under this title more than 3 years after the date of the discovery of the violation to which an action relates. (2) LIMITATIONS UNDER OTHER FEDERAL LAWS- (A) For purposes of this section, an action arising under this title shall not include claims arising solely under enumerated consumer laws. (B) In any action arising solely under an enumerated consumer law, the Agency may commence, defend, or intervene in the action in accordance with the requirements of that law, as applicable. (C) In any action arising solely under the laws for which authorities were transferred by subtitles F and H, the Agency may commence, defend, or intervene in the action in accordance with the requirements of that law, as applicable.	*(g) Time for Bringing Action-* *(1) IN GENERAL- Except as otherwise permitted by law or equity, no action may be brought under this title more than 3 years after the date of discovery of the violation to which an action relates.* *(2) LIMITATIONS UNDER OTHER FEDERAL LAWS-* *(A) IN GENERAL- For purposes of this subsection, an action arising under this title does not include claims arising solely under enumerated consumer laws.* *(B) BUREAU AUTHORITY- In any action arising solely under an enumerated consumer law, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.* *(C) TRANSFERRED AUTHORITY- In any action arising solely under laws for which authorities were transferred under subtitles F and H, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.*	
SEC. 4505. RELIEF AVAILABLE. (a) Administrative Proceedings or Court Actions- (1) JURISDICTION- The court (or Agency, as the case may be) in an action or adjudication proceeding brought under this title, any enumerated consumer law, or any law for which authorities were transferred by subtitles F and H, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of this title, any enumerated consumer law, and any law for which authorities were transferred by subtitles F and H, including a violation of a regulation prescribed or order issued under this title, any enumerated consumer law and any law for which authorities were transferred by subtitles F and H. (2) RELIEF- Such relief may include— (A) rescission or reformation of contracts; (B) refund of moneys or return of real property; (C) restitution; (D) disgorgement or compensation for unjust enrichment; (E) payment of damages; (F) public notification regarding the violation, including the costs of notification;	***SEC. 1055. RELIEF AVAILABLE.*** *(a) Administrative Proceedings or Court Actions-* *(1) JURISDICTION- The court (or the Bureau, as the case may be) in an action or adjudication proceeding brought under Federal consumer financial law, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law, including a violation of a rule or order prescribed under a Federal consumer financial law.* *(2) RELIEF- Relief under this section may include, without limitation--* *(A) rescission or reformation of contracts;* *(B) refund of moneys or return of real property;* *(C) restitution;* *(D) disgorgement or compensation for unjust enrichment;* *(E) payment of damages or other monetary relief;* *(F) public notification regarding the violation, including the costs of notification;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(G) limits on the activities or functions of the person; and (H) civil money penalties under subsection (c).	*(G) limits on the activities or functions of the person; and* *(H) civil money penalties, as set forth more fully in subsection (c).*	
(3) NO EXEMPLARY OR PUNITIVE DAMAGES- Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.	*(3) NO EXEMPLARY OR PUNITIVE DAMAGES- Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.*	
(b) Recovery of Costs- In any action brought by the Agency, a State attorney general, or a State bank supervisor to enforce any provision of this title, any enumerated consumer law, any law for which authorities were transferred by subtitles F and H, or any regulation prescribed or order issued by the Director under this title or pursuant to any such authority, the Agency, State attorney general, or State bank supervisor may recover the costs incurred by such Agency, attorney general, or supervisor in connection with prosecuting such action if the Agency, State attorney general, or State bank supervisors (as the case may be) is the prevailing party in the action.	*(b) Recovery of Costs- In any action brought by the Bureau, a State attorney general, or any State regulator to enforce any Federal consumer financial law, the Bureau, the State attorney general, or the State regulator may recover its costs in connection with prosecuting such action if the Bureau, the State attorney general, or the State regulator is the prevailing party in the action.*	
(c) Civil Money Penalty in Court and Administrative Actions-	*(c) Civil Money Penalty in Court and Administrative Actions-*	
(1) Any person that violates, through any act or omission, any provision of this title, any enumerated consumer law, or any regulation prescribed or order issued by the Director under this title shall forfeit and pay a civil penalty pursuant to this subsection determined as follows:	*(1) IN GENERAL- Any person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty pursuant to this subsection.* *(2) PENALTY AMOUNTS-*	
(A) FIRST TIER- For any violation of any law, regulation, final order or condition imposed in writing by the Agency, or for any failure to pay any fee or assessment imposed by the Agency (including any fee or assessment for which a related person may be liable), a civil penalty shall not exceed $5,000 for each day during which such violation continues.	*(A) FIRST TIER- For any violation of a law, rule, or final order or condition imposed in writing by the Bureau, a civil penalty may not exceed $5,000 for each day during which such violation or failure to pay continues.*	
(B) SECOND TIER- Notwithstanding paragraph (A), for any person that recklessly engages in a violation of this title, any enumerated consumer law, or any regulation prescribed or order issued by the Director under this title, relating to the provision of an alternative consumer financial product or service, a civil penalty shall not exceed $25,000 for each day during which such violation continues.	*(B) SECOND TIER- Notwithstanding paragraph (A), for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed $25,000 for each day during which such violation continues.*	
(C) THIRD TIER- Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates this title, any enumerated consumer law, or any regulation prescribed or order issued by the Director under this title, a civil penalty shall not exceed $1,000,000 for each day during which such violation continues.	*(C) THIRD TIER- Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed $1,000,000 for each day during which such violation continues.*	
(2) MITIGATING FACTORS- In determining the amount of any penalty assessed under paragraph (1), the Agency or the court shall	*(3) MITIGATING FACTORS- In determining the amount of any penalty assessed under paragraph (2), the Bureau or the court shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
take into account the appropriateness of the penalty with respect to-- (A) the size of financial resources and good faith of the person charged; (B) the gravity of the violation or failure to pay; (C) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided; (D) the history of previous violations; and (E) such other matters as justice may require. (3) AUTHORITY TO MODIFY OR REMIT PENALTY- The Agency may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (1). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged. (4) NOTICE AND HEARING- No civil penalty may be assessed with respect to a violation of this title, any enumerated consumer law, or any regulation prescribed or order issued by the Director, unless-- (A) the Agency gives notice and an opportunity for a hearing to the person accused of the violation; or (B) the appropriate court has ordered such assessment and entered judgment in favor of the Agency.	*take into account the appropriateness of the penalty with respect to--* *(A) the size of financial resources and good faith of the person charged;* *(B) the gravity of the violation or failure to pay;* *(C) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided;* *(D) the history of previous violations; and* *(E) such other matters as justice may require.* *(4) AUTHORITY TO MODIFY OR REMIT PENALTY- The Bureau may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (2). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged.* *(5) NOTICE AND HEARING- No civil penalty may be assessed under this subsection with respect to a violation of any Federal consumer financial law, unless—* *(A) the Bureau gives notice and an opportunity for a hearing to the person accused of the violation; or* *(B) the appropriate court has ordered such assessment and entered judgment in favor of the Bureau.*	
SEC. 4506. REFERRALS FOR CRIMINAL PROCEEDINGS. Whenever the Agency obtains evidence that any person, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the Agency shall transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate law. No provision of this section shall be construed as affecting any other authority of the Agency to disclose information.	***SEC. 1056. REFERRALS FOR CRIMINAL PROCEEDINGS.*** *If the Bureau obtains evidence that any person, domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the Bureau shall have the power to transmit such evidence to the Attorney General of the United States, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the Bureau to disclose information.*	
SEC. 4507. EMPLOYEE PROTECTION. (a) No covered person shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee) has— (1) provided information to the Agency or to any other state, local,	***SEC. 1057. EMPLOYEE PROTECTION.*** *(a) In General- No covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee (or any person acting pursuant to a request of the employee), has--* *(1) provided, caused to be provided, or is about to provide or cause*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Federal, or tribal government entity, filed, instituted or caused to be filed or instituted any proceeding under this title, any enumerated consumer law, any law for which authorities were transferred by subtitles F and H, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this title; or	*to be provided, information to the employer, the Bureau, or any other State, local, or Federal, government authority or law enforcement agency relating to any violation of, or any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;* *(2) testified or will testify in any proceeding resulting from the administration or enforcement of any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;* *(3) filed, instituted, or caused to be filed or instituted any proceeding under any Federal consumer financial law; or*	
(2) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, or regulation, or to be unfair, deceptive, or abusive and likely to cause specific and substantial injury to one or more consumers.	*(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Bureau.*	
	(b) Definition of Covered Employee- For the purposes of this section, the term `covered employee' means any individual performing tasks related to the offering or provision of a consumer financial product or service.	
	(c) Procedures and Timetables- *(1) COMPLAINT-*	
(b)(1) A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act.	*(A) IN GENERAL- A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such alleged violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act.*	
Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).	*(B) ACTIONS OF SECRETARY OF LABOR- Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint who is alleged to have committed the violation, of--* *(i) the filing of the complaint;* *(ii) the allegations contained in the complaint;* *(iii) the substance of evidence supporting the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	complaint; and *(iv) opportunities that will be afforded to such person under paragraph (2).*	
(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph	*(2) INVESTIGATION BY SECRETARY OF LABOR-* *(A) IN GENERAL- Not later than 60 days after the date of receipt of a complaint filed under paragraph (1), and after affording the complainant and the person named in the complaint who is alleged to have committed the violation that is the basis for the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall--* *(i) initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit; and* *(ii) notify the complainant and the person alleged to have committed the violation of subsection (a), in writing, of such determination.* *(B) NOTICE OF RELIEF AVAILABLE- If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall, together with the notice under subparagraph (A)(ii), issue a preliminary order providing the relief prescribed by paragraph (4)(B).*	
(3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.	*(C) REQUEST FOR HEARING- Not later than 30 days after the date of receipt of notification of a determination of the Secretary of Labor under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously, and if a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.*	
(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.	*(3) GROUNDS FOR DETERMINATION OF COMPLAINTS-* *(A) IN GENERAL- The Secretary of Labor shall dismiss a complaint filed under this subsection, and shall not conduct an investigation otherwise required under paragraph (2), unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(ii) Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior. (iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint. (iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior. (3)(A) Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation. (B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation— (i) to take affirmative action to abate the violation; (ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and	*subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.* *(B) REBUTTAL EVIDENCE- Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under subparagraph (A), no investigation otherwise required under paragraph (2) shall be conducted, if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.* *(C) EVIDENTIARY STANDARDS- The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint. Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.* *(4) ISSUANCE OF FINAL ORDERS; REVIEW PROCEDURES-* *(A) TIMING- Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.* *(B) PENALTIES-* *(i) ORDER OF SECRETARY OF LABOR- If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation--* *(I) to take affirmative action to abate the violation;* *(II) to reinstate the complainant to his or her former position, together with compensation (including back pay) and restore the terms, conditions, and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(iii) to provide compensatory damages to the complainant. If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.	*privileges associated with his or her employment; and* *(III) to provide compensatory damages to the complainant.* *(ii) PENALTY- If an order is issued under clause (i), the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued, a sum equal to the aggregate amount of all costs and expenses (including attorney fees and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.*	
(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $ 1,000, to be paid by the complainant.	*(C) PENALTY FOR FRIVOLOUS CLAIMS- If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney fee, not exceeding $1,000, to be paid by the complainant.*	
(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including-- (A) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination; (B) the amount of back pay, with interest; and (C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness	*(D) DE NOVO REVIEW-* *(i) FAILURE OF THE SECRETARY TO ACT- If the Secretary of Labor has not issued a final order within 210 days after the date of filing of a complaint under this subsection, or within 90 days after the date of receipt of a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States having jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.* *(ii) PROCEDURES- A proceeding under clause (i) shall be governed by the same legal burdens of proof specified in paragraph (3). The court shall*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
fees, and reasonable attorney's fees.	*have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including--* *(I) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;* *(II) the amount of back pay, with interest; and* *(III) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.*	
(5)(A) Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order. (B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.	*(E) OTHER APPEALS- Unless the complainant brings an action under subparagraph (D), any person adversely affected or aggrieved by a final order issued under subparagraph (A) may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation, not later than 60 days after the date of the issuance of the final order of the Secretary of Labor under subparagraph (A). Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order. An order of the Secretary of Labor with respect to which review could have been obtained under this subparagraph shall not be subject to judicial review in any criminal or other civil proceeding.*	
(6) Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.	*(5) FAILURE TO COMPLY WITH ORDER-* *(A) ACTIONS BY THE SECRETARY- If any person has failed to comply with a final order issued under paragraph (4), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to have occurred, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including injunctive relief and compensatory damages.*	
(7)(A) A person on whose behalf an order was issued under paragraph (3)	*(B) CIVIL ACTIONS TO COMPEL COMPLIANCE- A person on whose behalf an order was issued under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order. (B) The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate. (c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code. (d)(1) Except as provided under paragraph (3), the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement. (2) Except as provided under paragraph (3), no predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising under this section. (e) Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under paragraph (a)(2) of this section unless the Agency determines by rule that such provision is inconsistent with the purposes of this Act. (f) Any employer receiving covered funds shall post notice of the rights and remedies provided under this section.	*paragraph (4) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.* *(C) AWARD OF COSTS AUTHORIZED- The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.* *(D) MANDAMUS PROCEEDINGS- Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.* *(d) Unenforceability of Certain Agreements-* *(1) NO WAIVER OF RIGHTS AND REMEDIES- Except as provided under paragraph (3), and notwithstanding any other provision of law, the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.* *(2) NO PREDISPUTE ARBITRATION AGREEMENTS- Except as provided under paragraph (3), and notwithstanding any other provision of law, no predispute arbitration agreement shall be valid or enforceable to the extent that it requires arbitration of a dispute arising under this section.* *(3) EXCEPTION- Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under subsection (a)(4), unless the Bureau determines, by rule, that such provision is inconsistent with the purposes of this title.*	
SEC. 4508. NO PRIVATE RIGHT OF ACTION. Nothing in this title shall be construed to create a private right of action, but this section shall not be construed or interpreted to deny any private right of action arising under the enumerated consumer laws or the authorities transferred under subtitle F or H.		
SEC. 4509. EFFECTIVE DATE.	***SEC. 1058. EFFECTIVE DATE.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
This subtitle shall take effect on the designated transfer date.	*This subtitle shall become effective on the designated transfer date.*	
Subtitle F--Transfer of Functions and Personnel; Transitional Provisions **SEC. 4601. TRANSFER OF CERTAIN FUNCTIONS.** (a) In General- Except as provided in subsection (b), consumer financial protection functions are transferred as follows: (1) BOARD OF GOVERNORS- (A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Board of Governors are transferred to the Director. (B) BOARD OF GOVERNORS' AUTHORITY- The Director shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date. (C) RETENTION OF CONSUMER ADVISORY COUNCIL- (i) RETENTION AND CONTINUATION- Notwithstanding the transfer of functions under subparagraph (A), the Consumer Advisory Council established by the Board of Governors pursuant to section 703(b) of Public Law 90-321 (15 U.S.C. 1691b(b)) shall continue as an entity within the Federal Reserve System. (ii) ADDITIONAL FUNCTIONS- In addition to the functions performed by the Consumer Advisory Council as of the designated transfer date, the Consumer Advisory Council shall-- (I) submit to the Director (and make available to the public) an annual set of recommendations for consumer protection regulations and meet with the Director to discuss the annual recommendations; (II) meet with the Board of Governors of the Federal Reserve System at least once a year and provide oral or written representations concerning matters within the jurisdiction of the Board; and (III) call for information and make	***Subtitle F--Transfer of Functions and Personnel; Transitional Provisions*** ***SEC. 1061. TRANSFER OF CONSUMER FINANCIAL PROTECTION FUNCTIONS.*** *(b) In General- Except as provided in subsection (c), consumer financial protection functions are transferred as follows:* *(1) BOARD OF GOVERNORS-* *(A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Board of Governors are transferred to the Bureau.* *(B) BOARD OF GOVERNORS AUTHORITY- The Bureau shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
recommendations in regard to consumer protection regulations. (iii) RESPONSE TO RECOMMENDATIONS- When the Chair of the Federal Reserve testifies before Congress, the Chair shall also testify about the recommendations of the Consumer Advisory Council under clause (ii)(II) and its recommendations for consumer protection regulations. (2) COMPTROLLER OF THE CURRENCY- (A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Comptroller of the Currency are transferred to the Director. (B) Comptroller'S AUTHORITY- The Director shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date. (3) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION- (A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the Director. (B) Director'S AUTHORITY- The Director shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date. (4) FEDERAL DEPOSIT INSURANCE CORPORATION- (A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the Director. (B) Corporation'S AUTHORITY- The Director shall have all powers and duties that were vested in the Federal Deposit Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date. (5) FEDERAL TRADE COMMISSION- (A) TRANSFER OF FUNCTIONS- Except as provided in subparagraph (C), the consumer financial protection functions of the Federal Trade Commission that are contained within the enumerated consumer laws are transferred to the Agency, except as provided in section 4202(e). This transfer shall not be subject to the provisions of section 3503 of title 5, United States Code.	*(2) COMPTROLLER OF THE CURRENCY-* *(A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Comptroller of the Currency are transferred to the Bureau.* *(B) COMPTROLLER AUTHORITY- The Bureau shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date.* *(3) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION-* *(A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the Bureau.* *(B) DIRECTOR AUTHORITY- The Bureau shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.* *(4) FEDERAL DEPOSIT INSURANCE CORPORATION-* *(A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the Bureau.* *(B) CORPORATION AUTHORITY- The Bureau shall have all powers and duties that were vested in the Federal Deposit Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date.* *(5) FEDERAL TRADE COMMISSION-* *(A) TRANSFER OF FUNCTIONS- The authority of the Federal Trade Commission under an enumerated consumer law to prescribe rules, issue guidelines, or conduct a study or issue a report mandated under such law shall be transferred to the Bureau on the designated transfer date. Nothing in this title shall be construed to require a mandatory transfer of any employee of the Federal Trade*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) FEDERAL TRADE COMMISSION AUTHORITY- The Agency shall have all powers and duties that were vested in the Federal Trade Commission that were contained within the enumerated statutes, except as provided in section 4202(e), on the day before the designated transfer date.	*Commission.* *(B) BUREAU AUTHORITY-* *(i) IN GENERAL- The Bureau shall have all powers and duties under the enumerated consumer laws to prescribe rules, issue guidelines, or to conduct studies or issue reports mandated by such laws, that were vested in the Federal Trade Commission on the day before the designated transfer date.* *(ii) FEDERAL TRADE COMMISSION ACT- Subject to subtitle B, the Bureau may enforce a rule prescribed under the Federal Trade Commission Act by the Federal Trade Commission with respect to an unfair or deceptive act or practice to the extent that such rule applies to a covered person or service provider with respect to the offering or provision of a consumer financial product or service as if it were a rule prescribed under section 1031 of this title.* *(C) AUTHORITY OF THE FEDERAL TRADE COMMISSION-* *(i) IN GENERAL- No provision of this title shall be construed as modifying, limiting, or otherwise affecting the authority of the Federal Trade Commission under the Federal Trade Commission Act or any other law, other than the authority under an enumerated consumer law to prescribe rules, issue official guidelines, or conduct a study or issue a report mandated under such law.* *(ii) COMMISSION AUTHORITY RELATING TO RULES PRESCRIBED BY THE BUREAU- Subject to subtitle B, the Federal Trade Commission shall have authority to enforce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) a rule prescribed by the Bureau under this title with respect to a covered person subject to the jurisdiction of the Federal Trade Commission under that Act, and a violation of such a rule by such a person shall be treated as a violation of a rule issued under section 18 of that Act (15 U.S.C. 57a) with respect to unfair or deceptive acts or practices.* *(D) COORDINATION- To avoid duplication of or conflict*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	between rules prescribed by the Bureau under section 1031 of this title and the Federal Trade Commission under section 18(a)(1)(B) of the Federal Trade Commission Act that apply to a covered person or service provider with respect to the offering or provision of consumer financial products or services, the agencies shall negotiate an agreement with respect to rulemaking by each agency, including consultation with the other agency prior to proposing a rule and during the comment period. *(E) DEFERENCE- No provision of this title shall be construed as altering, limiting, expanding, or otherwise affecting the deference that a court affords to the--* *(i) Federal Trade Commission in making determinations regarding the meaning or interpretation of any provision of the Federal Trade Commission Act, or of any other Federal law for which the Commission has authority to prescribe rules; or* *(ii) Bureau in making determinations regarding the meaning or interpretation of any provision of a Federal consumer financial law (other than any law described in clause (i)).*	
(6) NATIONAL CREDIT UNION ADMINISTRATION- (A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the National Credit Union Administration are transferred to the Director. (B) NATIONAL CREDIT UNION ADMINISTRATION'S AUTHORITY- The Director shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.	*(6) NATIONAL CREDIT UNION ADMINISTRATION-* *(A) TRANSFER OF FUNCTIONS- All consumer financial protection functions of the National Credit Union Administration are transferred to the Bureau.* *(B) NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY- The Bureau shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.*	
(7) SECRETARY OF HOUSING AND URBAN DEVELOPMENT- (A) TRANSFER OF FUNCTIONS- All consumer protection functions of the Secretary of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 are transferred to the Director. (B) SECRETARY OF HUD'S AUTHORITY- The Director shall have all powers and duties that were vested in the Secretary of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of	*(7) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-* *(A) TRANSFER OF FUNCTIONS- All consumer protection functions of the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) are transferred to the Bureau.* *(B) AUTHORITY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT- The Bureau shall have all powers and duties that were vested in the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
2008, on the day before the designated transfer date. (b) Transfers of Functions Subject to Enforcement Authority Remaining With Transferor Agencies- The transfers of functions in subsection (a) shall not affect the authority of the agencies identified in subsection (a) from initiating enforcement proceedings under the circumstances described in paragraph (2) or (3) of section 4202(e). (c) Termination of Authority of Transferor Agencies To Collect Fees for Consumer Financial Protection Purposes- Authorities of the agencies identified in subsection (a) to assess and collect fees to cover the cost of conducting consumer financial protection functions transferred under subsection (a) shall terminate on the day before the designated transfer date. (d) Consumer Financial Protection Functions Defined- For purposes of this subtitle, the term `consumer financial protection functions' means research, rulemaking, issuance of orders or guidance, supervision, examination, and enforcement activities, powers, and duties relating to the provision of consumer financial products or services, including the authority to assess and collect fees for those purposes, except that such term shall not include any such function relating to an agency's responsibilities under the Community Reinvestment Act of 1977. (e) Effective Date- Subsections (a) and (b) shall take effect on the designated transfer date.	*U.S.C. 2601 et seq.), and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), on the day before the designated transfer date.* *(c) Transfers of Functions Subject to Examination and Enforcement Authority Remaining With Transferor Agencies- The transfers of functions in subsection (b) do not affect the authority of the agencies identified in subsection (b) from conducting examinations or initiating and maintaining enforcement proceedings, including performing appropriate supervisory and support functions relating thereto, in accordance with sections 1024, 1025, and 1026.* *(a) Defined Terms- For purposes of this subtitle--* *(1) the term `consumer financial protection functions' means research, rulemaking, issuance of orders or guidance, supervision, examination, and enforcement activities, powers, and duties relating to the offering or provision of consumer financial products or services; and* *(2) the terms `transferor agency' and `transferor agencies' mean, respectively--* *(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and* *(B) the agencies listed in subparagraph (A), collectively.* *(d) Effective Date- Subsections (b) and (c) shall become effective on the designated transfer date.*	
SEC. 4602. DESIGNATED TRANSFER DATE. The designated transfer date shall be 180 days after the date of enactment of this title.	***SEC. 1062. DESIGNATED TRANSFER DATE.*** *(a) In General- Not later than 60 days after the date of enactment of this Act, the Secretary shall--* *(1) in consultation with the Chairman of the Board of Governors, the Chairperson of the Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Management and Budget, designate a single calendar date for the transfer of functions to the Bureau under section 1061; and *(2) publish notice of that designated date in the Federal Register.* *(b) Changing Designation- The Secretary--* *(1) may, in consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of Management and Budget, change the date designated under subsection (a); and* *(2) shall publish notice of any changed designated date in the Federal Register.* *(c) Permissible Dates-* *(1) IN GENERAL- Except as provided in paragraph (2), any date designated under this section shall be not earlier than 180 days, nor later than 18 months, after the date of enactment of this Act.* *(2) EXTENSION OF TIME- The Secretary may designate a date that is later than 18 months after the date of enactment of this Act if the Secretary transmits to appropriate committees of Congress--* *(A) a written determination that orderly implementation of this title is not feasible before the date that is 18 months after the date of enactment of this Act;* *(B) an explanation of why an extension is necessary for the orderly implementation of this title; and* *(C) a description of the steps that will be taken to effect an orderly and timely implementation of this title within the extended time period.* *(3) EXTENSION LIMITED- In no case may any date designated under this section be later than 24 months after the date of enactment of this Act.*	
SEC. 4603. SAVINGS PROVISIONS. (a) Board of Governors- (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(1) shall not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that-- (A) arises under any provision of law relating to any consumer financial protection function of the Board of Governors transferred to the Director by this title; and (B) existed on the day before the designated transfer date.	***SEC. 1063. SAVINGS PROVISIONS.*** *(a) Board of Governors-* *(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(1) does not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that--* *(A) arises under any provision of law relating to any consumer financial protection function of the Board of Governors transferred to the Bureau by this title; and* *(B) existed on the day before the designated transfer date.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any consumer financial protection function of the Board of Governors (or any Federal reserve bank) transferred to the Director by this title, except that the Director shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.	*(2) CONTINUATION OF SUITS- No provision of this Act shall abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any consumer financial protection function of the Board of Governors (or any Federal reserve bank) transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.*	
(b) Federal Deposit Insurance Corporation-	*(b) Federal Deposit Insurance Corporation-*	
(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(4) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that--	*(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(4) does not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that--*	
(A) arises under any provision of law relating to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Director by this title; and	*(A) arises under any provision of law relating to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title; and*	
(B) existed on the day before the designated transfer date.	*(B) existed on the day before the designated transfer date.*	
(2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the Federal Deposit Insurance Corporation (or the Board of Directors of that Corporation) before the designated transfer date with respect to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Director by this title, except that the Director shall be substituted for the Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such proceeding as of the designated transfer date.	*(2) CONTINUATION OF SUITS- No provision of this Act shall abate any proceeding commenced by or against the Federal Deposit Insurance Corporation (or the Board of Directors of that Corporation) before the designated transfer date with respect to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such proceeding as of the designated transfer date.*	
(c) Federal Trade Commission- Section 4601(a)(5) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that--	*(c) Federal Trade Commission- Section 1061(b)(5) does not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that--*	
(1) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the Director by this title; and	*(1) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the Bureau by this title; and*	
(2) existed on the day before the designated transfer date.	*(2) existed on the day before the designated transfer date.*	
(d) National Credit Union Administration-	*(d) National Credit Union Administration-*	
(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(6) shall not affect the validity of any right, duty, or obligation of the United States, the National Credit Union Administration, the National Credit Union Administration Board, or any other person, that--	*(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(6) does not affect the validity of any right, duty, or obligation of the United States, the National Credit Union Administration, the National Credit Union Administration Board, or any other person, that--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) arises under any provision of law relating to any consumer financial protection function of the National Credit Union Administration transferred to the Director by this title; and (B) existed on the day before the designated transfer date. (2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the National Credit Union Administration (or the National Credit Union Administration Board) before the designated transfer date with respect to any consumer financial protection function of the National Credit Union Administration transferred to the Director by this title, except that the Director shall be substituted for the National Credit Union Administration (or National Credit Union Administration Board) as a party to any such proceeding as of the designated transfer date. (e) Comptroller of the Currency- (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(2) shall not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that-- (A) arises under any provision of law relating to any consumer financial protection function of the Comptroller of the Currency transferred to the Director by this title; and (B) existed on the day before the designated transfer date. (2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the Comptroller of the Currency (or the Office of the Comptroller of the Currency) with respect to any consumer financial protection function of the Comptroller of the Currency transferred to the Director by this title before the designated transfer date, except that the Director shall be substituted for the Comptroller of the Currency (or the Office of the Comptroller of the Currency) as a party to any such proceeding as of the designated transfer date. (f) Director of the Office of Thrift Supervision- (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(3) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that-- (A) arises under any provision of law relating to any consumer financial protection function of the Director of the	*(A) arises under any provision of law relating to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title; and* *(B) existed on the day before the designated transfer date.* *(2) CONTINUATION OF SUITS- No provision of this Act shall abate any proceeding commenced by or against the National Credit Union Administration (or the National Credit Union Administration Board) before the designated transfer date with respect to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the National Credit Union Administration (or National Credit Union Administration Board) as a party to any such proceeding as of the designated transfer date.* *(e) Office of the Comptroller of the Currency-* *(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(2) does not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that--* *(A) arises under any provision of law relating to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title; and* *(B) existed on the day before the designated transfer date.* *(2) CONTINUATION OF SUITS- No provision of this Act shall abate any proceeding commenced by or against the Comptroller of the Currency (or the Office of the Comptroller of the Currency) with respect to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Comptroller of the Currency (or the Office of the Comptroller of the Currency) as a party to any such proceeding as of the designated transfer date.* *(f) Office of Thrift Supervision-* *(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(3) does not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that—* *(A) arises under any provision of law relating to any consumer financial protection function of the Director of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Office of Thrift Supervision transferred to the Director by this title; and (B) that existed on the day before the designated transfer date. (2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the Director of the Office of Thrift Supervision (or the Office of Thrift Supervision) with respect to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Director by this title before the designated transfer date, except that the Director shall be substituted for the Director (or the Office of Thrift Supervision) as a party to any such proceeding as of the designated transfer date.	*the Office of Thrift Supervision transferred to the Bureau by this title; and* *(B) that existed on the day before the designated transfer date.* *(2) CONTINUATION OF SUITS- No provision of this Act shall abate any proceeding commenced by or against the Director of the Office of Thrift Supervision (or the Office of Thrift Supervision) with respect to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Director (or the Office of Thrift Supervision) as a party to any such proceeding as of the designated transfer date.*	
(g) Secretary of Housing and Urban Development- (1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 4601(a)(7) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of Housing and Urban Development, the Department of Housing and Urban Development, or any other person, that-- (A) arises under any provision of law relating to any function of the Secretary of Housing and Urban Development under the Real Estate Settlement Procedures Act of 1974 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 transferred to the Director by this title; and (B) that existed on the day before the designated transfer date. (2) CONTINUATION OF SUITS- this title shall not abate any proceeding commenced by or against the Secretary of Housing and Urban Development (or the Department of Housing and Urban Development) with respect to any consumer financial protection function of the Secretary of Housing and Urban Development transferred to the Director by this title before the designated transfer date, except that the Director shall be substituted for the Secretary of Housing and Urban Development (or such Department) as a party to any such proceeding as of the designated transfer date.	*(g) Department of Housing and Urban Development-* *(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED- Section 1061(b)(7) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development), or any other person, that--* *(A) arises under any provision of law relating to any function of the Secretary of the Department of Housing and Urban Development with respect to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) or the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) transferred to the Bureau by this title; and* *(B) existed on the day before the designated transfer date.* *(2) CONTINUATION OF SUITS- This title shall not abate any proceeding commenced by or against the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) with respect to any consumer financial protection function of the Secretary of the Department of Housing and Urban Development transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) as a party to any such proceeding as of the designated transfer date.*	
(h) Continuation of Existing Orders, Regulations, Determinations, Agreements, and Resolutions- All orders, resolutions, determinations, agreements, and regulations that have been issued, made, prescribed, or allowed to become effective by the Board of Governors (or any Federal reserve bank), the Federal Deposit Insurance Corporation, the Federal Trade	*(h) Continuation of Existing Orders, Rules, Determinations, Agreements, and Resolutions- All orders, resolutions, determinations, agreements, and rules that have been issued, made, prescribed, or allowed to become effective by any transferor agency or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission, the National Credit Union Administration, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of Housing and Urban Development, or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred by this title and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and regulations, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, by any court of competent jurisdiction, or by operation of law.	*by this title and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and rules, and shall not be enforceable by or against the Bureau.*	
(i) Identification of Regulations Continued- Not later than the designated transfer date, the Director--	*(i) Identification of Rules Continued- Not later than the designated transfer date, the Bureau--*	
(1) shall, after consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Secretary of Housing and Urban Development identify the regulations continued under subsection (g) that will be enforced by the Director; and	*(1) shall, after consultation with the head of each transferor agency, identify the rules continued under subsection (h) that will be enforced by the Bureau; and*	
(2) shall publish a list of such regulations in the Federal Register.	*(2) shall publish a list of such rules in the Federal Register.*	
(j) Status of Regulations Proposed or Not Yet Effective-	*(j) Status of Rules Proposed or Not Yet Effective-*	
(1) PROPOSED REGULATIONS- Any proposed regulation of the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the Secretary of Housing and Urban Development which that agency, in performing consumer financial protection functions transferred by this title, has proposed before the designated transfer date but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Director.	*(1) PROPOSED RULES- Any proposed rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has proposed before the designated transfer date, but has not been published as a final rule before that date, shall be deemed to be a proposed rule of the Bureau.*	
(2) REGULATIONS NOT YET EFFECTIVE- Any interim or final regulation of Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or the Secretary of Housing and Urban Development which that agency, in performing consumer financial protection functions transferred by this title, has published before the designated transfer date but which has not become effective before that date, shall take effect as a regulation of the Director according to its terms.	*(2) RULES NOT YET EFFECTIVE- Any interim or final rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has published before the designated transfer date, but which has not become effective before that date, shall become effective as a rule of the Bureau according to its terms.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 4604. TRANSFER OF CERTAIN PERSONNEL. (a) In General- (1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED- (A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Director and the Board of Governors shall-- (i) jointly determine the number of employees of the Board necessary to perform or support the consumer financial protection functions of the Board of Governors that are transferred to the Director by this title; and (ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Agency in a manner that the Director and the Board of Governors, in their sole discretion, deem equitable. (B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Agency for employment. (C) FEDERAL RESERVE BANK EMPLOYEES- Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing consumer financial protection functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B). (2) CERTAIN FDIC EMPLOYEES TRANSFERRED- (A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Director and the Board of Directors of the Federal Deposit Insurance Corporation shall-- (i) jointly determine the number of employees of that Corporation necessary to perform or support the consumer financial protection functions of the Corporation that are transferred to the Director by this title; and (ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Agency in a manner that the Director and the Board of Directors of the Corporation, in their discretion, deem equitable.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(a) In General-* *(1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED-* *(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the Board of Governors shall--* *(i) jointly determine the number of employees of the Board of Governors necessary to perform or support the consumer financial protection functions of the Board of Governors that are transferred to the Bureau by this title; and* *(ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Bureau, in a manner that the Bureau and the Board of Governors, in their sole discretion, determine equitable.* *(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.* *(C) FEDERAL RESERVE BANK EMPLOYEES- Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing consumer financial protection functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B).* *(2) CERTAIN FDIC EMPLOYEES TRANSFERRED-* *(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the Board of Directors of the Federal Deposit Insurance Corporation shall--* *(i) jointly determine the number of employees of that Corporation necessary to perform or support the consumer financial protection functions of the Corporation that are transferred to the Bureau by this title; and* *(ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Bureau, in a manner that the Bureau and the Board of Directors of the Corporation, in their sole discretion,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	determine equitable.	
(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.	*(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.*	
(3) CERTAIN NCUA EMPLOYEES TRANSFERRED-	*(3) CERTAIN NCUA EMPLOYEES TRANSFERRED-*	
(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Director and the National Credit Union Administration Board shall--	*(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the National Credit Union Administration Board shall--*	
(i) jointly determine the number of employees of the National Credit Union Administration necessary to perform or support the consumer financial protection functions of the National Credit Union Administration that are transferred to the Director by this title; and	*(i) jointly determine the number of employees of the National Credit Union Administration necessary to perform or support the consumer financial protection functions of the National Credit Union Administration that are transferred to the Bureau by this title; and*	
(ii) consistent with the number determined under clause (i), jointly identify employees of the National Credit Union Administration for transfer to the Agency in a manner that the Director and the National Credit Union Administration Board, in their discretion, deem equitable.	*(ii) consistent with the number determined under clause (i), jointly identify employees of the National Credit Union Administration for transfer to the Bureau, in a manner that the Bureau and the National Credit Union Administration Board, in their sole discretion, determine equitable.*	
(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the National Credit Union Administration identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.	*(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the National Credit Union Administration identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.*	
(4) CERTAIN HUD EMPLOYEES TRANSFERRED-	*(6) CERTAIN EMPLOYEES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TRANSFERRED-*	
(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Director and the Secretary of Housing and Urban Development shall—	*(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the Secretary of the Department of Housing and Urban Development shall--*	
(i) jointly determine the number of employees of the Department of Housing and Urban Development necessary to perform or support the consumer financial protection functions of the Secretary of Housing and Urban Development that are transferred to the Director by this title; and	*(i) jointly determine the number of employees of the Department of Housing and Urban Development necessary to perform or support the consumer protection functions of the Department that are transferred to the Bureau by this title; and*	
(ii) consistent with the number determined under clause (i), jointly identify employees of the Department of Housing and Urban Development for transfer to the Agency in a manner that the Director and the Secretary of Housing and Urban Development, in their discretion, deem equitable.	*(ii) consistent with the number determined under clause (i), jointly identify employees of the Department of Housing and Urban Development for transfer to the Bureau in a manner that the Bureau and the Secretary of the Department of Housing and Urban Development, in their sole discretion, deem equitable.*	
(B) IDENTIFIED EMPLOYEES TRANSFERRED- All	*(B) IDENTIFIED EMPLOYEES TRANSFERRED- All*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
employees of the Department of Housing and Urban Development identified under subparagraph (A)(ii) shall be transferred to the Agency for employment.	*employees of the Department of Housing and Urban Development identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.* *(4) CERTAIN OFFICE OF THE COMPTROLLER OF THE CURRENCY EMPLOYEES TRANSFERRED-* *(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the Comptroller of the Currency shall--* *(i) jointly determine the number of employees of the Office of the Comptroller of the Currency necessary to perform or support the consumer financial protection functions of the Office of the Comptroller of the Currency that are transferred to the Bureau by this title; and* *(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of the Comptroller of the Currency for transfer to the Bureau, in a manner that the Bureau and the Office of the Comptroller of the Currency, in their sole discretion, determine equitable.* *(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Office of the Comptroller of the Currency identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.* *(5) CERTAIN OFFICE OF THRIFT SUPERVISION EMPLOYEES TRANSFERRED-* *(A) IDENTIFYING EMPLOYEES FOR TRANSFER- The Bureau and the Director of the Office of Thrift Supervision shall--* *(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the consumer financial protection functions of the Office of Thrift Supervision that are transferred to the Bureau by this title; and* *(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Bureau, in a manner that the Bureau and the Office of Thrift Supervision, in their sole discretion, determine equitable.* *(B) IDENTIFIED EMPLOYEES TRANSFERRED- All employees of the Office of Thrift Supervision identified under subparagraph (A)(ii) shall be transferred to the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(5) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE SERVICE TRANSFERRED- (A) IN GENERAL- In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Director of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B). (B) DECLINING TRANSFERS ALLOWED- An agency or entity may decline to make a transfer of authority under subparagraph (A) (and the employees appointed pursuant to such subparagraph) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and non-career positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).	*Bureau for employment.* *(7) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE SERVICE TRANSFERRED-* *(A) IN GENERAL- In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).* *(B) DECLINING TRANSFERS ALLOWED- An agency or entity may decline to make a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and non-career positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).*	
(b) Timing of Transfers and Position Assignments- Each employee to be transferred under this section shall-- (1) be transferred not later than 90 days after the designated transfer date; and (2) receive notice of such employee's position assignment not later than 120 days after the effective date of the employee's transfer.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(b) Timing of Transfers and Position Assignments- Each employee to be transferred under this section shall--* *(1) be transferred not later than 90 days after the designated transfer date; and* *(2) receive notice of a position assignment not later than 120 days after the effective date of his or her transfer.*	
(c) Transfer of Function- (1) IN GENERAL- Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code. (2) PRIORITY OF THIS TITLE- If any provisions of this title conflict with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this title shall control.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(c) Transfer of Function-* *(1) IN GENERAL- Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.* *(2) PRIORITY OF THIS TITLE- If any provisions of this title conflict with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this title shall control.*	
(d) Equal Status and Tenure Positions- (1) EMPLOYEES TRANSFERRED FROM FDIC, FTC, HUD, NCUA, OCC, AND OTS- Each employee transferred from the Federal Deposit Insurance Corporation, the Federal Trade	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(d) Equal Status and Tenure Positions-* *(1) EMPLOYEES TRANSFERRED FROM FDIC, HUD, NCUA, OCC, AND OTS- Each employee transferred from the Federal Deposit Insurance Corporation, the National Credit Union*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission, the Department of Housing and Urban Development, the National Credit Union Administration, the Office of the Comptroller of the Currency, or the Office of Thrift Supervision shall be placed in a position at the Agency with the same status and tenure as he or she held on the day before the designated transfer date. (2) EMPLOYEES TRANSFERRED FROM THE FEDERAL RESERVE SYSTEM- (A) COMPARABILITY- Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of employees transferring to the Agency from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service. (B) SERVICE PERIODS CREDITED- For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.	*Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Department of Housing and Urban Development shall be placed in a position at the Bureau with the same status and tenure as that employee held on the day before the designated transfer date.* *(2) EMPLOYEES TRANSFERRED FROM THE FEDERAL RESERVE SYSTEM-* *(A) COMPARABILITY- Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of an employee transferring to the Bureau from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service.* *(B) SERVICE PERIODS CREDITED- For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.*	
(e) Additional Certification Requirements Limited- Examiners transferred to the Agency shall not be subject to any additional certification requirements before being placed in a comparable examiner's position at the Agency examining the same types of institutions as the transferred examiners examined before such examiners were transferred.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(e) Additional Certification Requirements Limited- Examiners transferred to the Bureau are not subject to any additional certification requirements before being placed in a comparable examiner position at the Bureau examining the same types of institutions as they examined before they were transferred.*	
(f) Personnel Actions Limited- (1) 5-year PROTECTION- Except as provided in paragraph (2), each transferred employee holding a permanent position on the day before the designated transfer date shall not, during the 5-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside such transferred employee's local locality pay area as defined by the Director of the Office of Personnel Management. (2) EXCEPTIONS- Paragraph (1) shall not be construed as limiting the right of the Director to-- (A) separate an employee for cause or for unacceptable performance; (B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(f) Personnel Actions Limited-* *(1) 2-year PROTECTION- Except as provided in paragraph (2), each transferred employee holding a permanent position on the day before the designated transfer date may not, during the 2-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside his or her locality pay area, as defined by the Office of Personnel Management.* *(2) EXCEPTIONS- Paragraph (1) does not limit the right of the Bureau--* *(A) to separate an employee for cause or for unacceptable performance;* *(B) to terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character; or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(C) reassign a supervisory employee outside such employee's locality pay area as defined by the Director of the Office of Personnel Management when the Director determines that the reassignment is necessary for the efficient operation of the Agency.	*(C) to reassign a supervisory employee outside his or her locality pay area, as defined by the Office of Personnel Management, when the Bureau determines that the reassignment is necessary for the efficient operation of the Bureau.*	
(g) Pay- (1) 1-year PROTECTION- Except as provided in paragraph (2), each transferred employee shall, during the 1-year period beginning on the designated transfer date, receive pay at a rate not less than the basic rate of pay (including any geographic differential) that the employee received during the 1-year period immediately before the transfer. (2) EXCEPTIONS- Paragraph (1) shall not be construed as limiting the right of the Agency to reduce the rate of basic pay of a transferred employee-- (A) for cause; (B) for unacceptable performance; or (C) with the employee's consent. (3) PROTECTION ONLY WHILE EMPLOYED- Paragraph (1) applies to a transferred employee only while that employee remains employed by the Agency. (4) PAY INCREASES PERMITTED- Paragraph (1) shall not be construed as limiting the authority of the Agency to increase a transferred employee's pay.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(g) Pay-* *(1) 2-year PROTECTION- Except as provided in paragraph (2), each transferred employee shall, during the 2-year period beginning on the designated transfer date, receive pay at a rate equal to not less than the basic rate of pay (including any geographic differential) that the employee received during the pay period immediately preceding the date of transfer.* *(2) EXCEPTIONS- Paragraph (1) does not limit the right of the Bureau to reduce the rate of basic pay of a transferred employee--* *(A) for cause;* *(B) for unacceptable performance; or* *(C) with the consent of the employee.* *(3) PROTECTION ONLY WHILE EMPLOYED- Paragraph (1) applies to a transferred employee only while that employee remains employed by the Bureau.* *(4) PAY INCREASES PERMITTED- Paragraph (1) does not limit the authority of the Bureau to increase the pay of a transferred employee.*	
(h) Reorganization- (1) BETWEEN 1ST AND 3RD YEAR- (A) IN GENERAL- If the Agency determines, during the period beginning 1 year after the designated transfer date and ending 3 years after the designated transfer date, that a reorganization of the staff of the Agency is required-- (i) that reorganization shall be deemed a `major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code; (ii) before the reorganization occurs, all employees in the same locality pay area as defined by the Director of the Office of Personnel Management shall be placed in a uniform position classification system; and	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(h) Reorganization-* *(1) BETWEEN 1ST AND 3RD YEAR-* *(A) IN GENERAL- If the Bureau determines, during the 2-year period beginning 1 year after the designated transfer date, that a reorganization of the staff of the Bureau is required--* *(i) that reorganization shall be deemed a `major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code;* *(ii) before the reorganization occurs, all employees in the same locality pay area as defined by the Office of Personnel Management shall be placed in a uniform position classification system; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(iii) any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Agency shall--	*(iii) any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall--*	
(I) establish competitive areas (as that term is defined in regulations issued by the Director of the Office of Personnel Management) to include at a minimum all employees in the same locality pay area as defined by the Office of Personnel Management;	*(I) establish competitive areas (as that term is defined in regulations issued by the Office of Personnel Management) to include at a minimum all employees in the same locality pay area as defined by the Office of Personnel Management;*	
(II) establish competitive levels (as that term is defined in regulations issued by the Director of the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and	*(II) establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and*	
(III) afford employees appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Agency as employees appointed to positions in the competitive service.	*(III) afford employees appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Bureau as employees appointed to positions in the competitive service.*	
(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE- For purposes of this paragraph, periods of service with the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Home Loan Bank Board or any successor to such Board shall be credited as periods of service with a Federal agency.	*(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE- For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.*	
(2) AFTER 3RD YEAR-	*(2) AFTER 3RD YEAR-*	
(A) IN GENERAL- If the Agency determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the staff of the Agency is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Agency shall establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of	*(A) IN GENERAL- If the Bureau determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the staff of the Bureau is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appointment held by particular employees transferred under this section. (B) SERVICE CREDIT FOR REDUCTIONS IN FORCE- For purposes of this paragraph, periods of service with the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Federal Home Loan Bank Board or any successor to such Board shall be credited as periods of service with a Federal agency.	*appointment held by particular employees transferred under this section.* *(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE- For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.*	
(i) Benefits- (1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES- (A) IN GENERAL- (i) CONTINUATION OF EXISTING RETIREMENT PLAN- Except as provided in subparagraph (B), each transferred employee shall remain enrolled in such employee's existing retirement plan as long as the employee remains employed by the Agency. (ii) Employer'S CONTRIBUTION- The Director shall pay any employer contributions to the existing retirement plan of each transferred employee as required under that plan. (B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM- (i) ELECTION- Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before the date of the employee's transfer to the Agency may, during the period beginning 6 months after the designated transfer date and ending 1 year after the designated transfer date, elect to be subject to the Federal employee retirement program. (ii) EFFECTIVE DATE OF COVERAGE- For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date. (C) AGENCY PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN-	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(i) Benefits-* *(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES-* *(A) IN GENERAL-* *(i) CONTINUATION OF EXISTING RETIREMENT PLAN- Except as provided in subparagraph (B), each transferred employee shall remain enrolled in his or her existing retirement plan, through any period of continuous employment with the Bureau.* *(ii) EMPLOYER CONTRIBUTION- The Bureau shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under that plan.* *(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM-* *(i) ELECTION- Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before his or her transfer to the Bureau may, during the 1-year period beginning 6 months after the designated transfer date, elect to be subject to the Federal employee retirement program.* *(ii) EFFECTIVE DATE OF COVERAGE- For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date.* *(C) BUREAU PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED- A separate account in the Federal Reserve System retirement plan shall be established for Agency employees who do not make the election under subparagraph (B).	*(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED- Notwithstanding any other provision of law, and subject to the terms and conditions of this section, a separate account in the Federal Reserve System retirement plan shall be established for Bureau employees who do not make the election under subparagraph (B).*	
(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED- The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).	*(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED- The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).*	
(iii) EMPLOYER CONTRIBUTIONS DEPOSITED- The Director shall deposit into the account established under clause (i) the employer contributions that the Agency makes on behalf of employees who do not make the election under subparagraph (B).	*(iii) EMPLOYER CONTRIBUTIONS DEPOSITED- The Bureau shall deposit into the account established under clause (i) the employer contributions that the Bureau makes on behalf of employees who do not make the election under subparagraph (B).*	
(iv) ACCOUNT ADMINISTRATION- The Director shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.	*(iv) ACCOUNT ADMINISTRATION- The Bureau shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.*	
(D) DEFINITIONS- For purposes of this paragraph, the following definitions shall apply:	*(D) DEFINITIONS- For purposes of this paragraph--*	
(i) EXISTING RETIREMENT PLAN- The term `existing retirement plan' means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, which the employee was enrolled in on the day before the designated transfer date.	*(i) the term `existing retirement plan' means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, in which the employee was enrolled on the day before the designated transfer date; and*	
(ii) FEDERAL EMPLOYEE RETIREMENT PLAN- The term `Federal employee retirement program' means the retirement program for Federal	*(ii) the term `Federal employee retirement program' means the retirement program for Federal employees established by chapter 84 of title 5, United States Code.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
employees established by chapters 83 and 84 of title 5, United States Code.		
(2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES-	*(2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES-*	
(A) DURING 1ST YEAR-	*(A) DURING 1ST YEAR-*	
(i) EXISTING PLANS CONTINUE- Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a dental, vision, long-term care, or life insurance program, to which the employee belonged on the day before the designated transfer date.	*(i) EXISTING PLANS CONTINUE- Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a dental, vision, long term care, or life insurance program, to which the employee belonged on the day before the designated transfer date.*	
(ii) Employer'S CONTRIBUTION- The Director shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee as required under that program or negotiated agreements.	*(ii) EMPLOYER CONTRIBUTION- The Bureau shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee, as required under that program or negotiated agreements.*	
(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the designated transfer date, the Director decides not to continue participation in any dental, vision, or life insurance program of an agency or bank from which employees transferred, a transferred employee who is a member of such a program may, before the Director's decision takes effect, elect to enroll, without regard to any regularly scheduled open season, in--	*(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any dental, vision, or life insurance program of an agency or bank from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to enroll, without regard to any regularly scheduled open season, in--*	
(i) the enhanced dental benefits established by chapter 89A of title 5, United States Code;	*(i) the enhanced dental benefits established by chapter 89A of title 5, United States Code;*	
(ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; and	*(ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; or*	
(iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.	*(iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.*	
(C) LONG-TERM CARE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the designated transfer date, the Director decides not to continue participation in any long-term care insurance program of an agency or bank from which employees	*(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR- If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any long term care insurance program of an agency or bank from which an employee transferred, a*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
transferred, a transferred employee who is a member of such a program may, before the Director's decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in Part 875, title 5, Code of Federal Regulations). (D) Employee'S CONTRIBUTION- An individual enrolled in the Federal Employees Health Benefits program shall pay any employee contribution required by the plan. (E) ADDITIONAL FUNDING- The Director shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Director and the Director of the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph. (F) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For employees transferred under this section, enrollment in a health benefits plan administered by the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Board of Governors, the Secretary of Housing and Urban Development, or a Federal reserve bank, immediately before enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code. (G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS- (i) IN GENERAL- An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the Comptroller of the Currency, or the Director of the	*transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in part 875, title 5, Code of Federal Regulations).* *(D) EMPLOYEE CONTRIBUTION- An individual enrolled in the Federal Employees Health Benefits program shall pay any employee contribution required by the plan.* *(E) ADDITIONAL FUNDING- The Bureau shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this paragraph.* *(F) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For employees transferred under this title, enrollment in a health benefits plan administered by a transferor agency or a Federal reserve bank, as the case may be, immediately before enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code.* *(G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS-* *(i) IN GENERAL- An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by a transferor agency on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Bureau, without regard to any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Office of Thrift Supervision on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Agency, without regard to any regularly scheduled open season and requirement of insurability. (ii) Employee'S CONTRIBUTION- An individual enrolled in a life insurance plan under this clause shall pay any employee contribution required by the plan. (iii) ADDITIONAL FUNDING- The Director shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Director and the Director of the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (ii). (iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For employees transferred under this section, enrollment in a life insurance plan administered by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, or a Federal reserve bank immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.	*regularly scheduled open season and requirement of insurability.* *(ii) EMPLOYEE CONTRIBUTION- An individual enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.* *(iii) ADDITIONAL FUNDING- The Bureau shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (ii).* *(iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS- For employees transferred under this title, enrollment in a life insurance plan administered by a transferor agency immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.* *(3) OPM RULES- The Office of Personnel Management shall issue such rules as are necessary to carry out this subsection.*	
	SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(j) Implementation of Uniform Pay and Classification System- Not later than 2 years after the designated transfer date, the Director shall implement a uniform pay and classification system for all transferred employees.	*(j) Implementation of Uniform Pay and Classification System- Not later than 2 years after the designated transfer date, the Bureau shall implement a uniform pay and classification system for all employees transferred under this title.*	
(k) Equitable Treatment- In administering the provisions of this section, the Director-- (1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Secretary of Housing and Urban Development, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, the Federal Home Loan Bank Board or any successor to such Board, a Federal home loan bank, or a joint office of the Federal home loan banks; and (2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to those employees' status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time, for prior periods of service with any Federal agency, including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the Department of Housing and Urban Development, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, the Federal Home Loan Bank Board or any successor to such Board, a Federal home loan bank, or a joint office of the Federal home loan banks.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(k) Equitable Treatment- In administering the provisions of this section, the Bureau--* *(1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks; and* *(2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time of those employees, for prior periods of service with any Federal agency, including the Board of Governors, the Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks.*	
(l) Implementation- In implementing the provisions of this section, the Director shall work with the Director of the Office of Personnel Management and other entities with expertise in matters related to employment to ensure a fair and orderly transition for affected employees.	***SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.*** *(l) Implementation- In implementing the provisions of this section, the Bureau shall coordinate with the Office of Personnel Management and other entities having expertise in matters related to employment to ensure a fair and orderly transition for affected employees.*	
SEC. 4605. INCIDENTAL TRANSFERS. (a) Incidental Transfers Authorized- The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental transfers and dispositions of assets and liabilities held, used, arising from, available, or to be made available, in connection with the	***SEC. 1065. INCIDENTAL TRANSFERS.*** *(a) Incidental Transfers Authorized- The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental transfers and dispositions of assets and liabilities held, used, arising from, available, or to be made available, in connection with the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this title. (b) Sunset- The authority provided in this section shall terminate 5 years after the date of the enactment of this title.	*functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this title.* *(b) Sunset- The authority provided in this section shall terminate 5 years after the date of enactment of this Act.*	
SEC. 4606. INTERIM AUTHORITY OF THE SECRETARY. (a) In General- The Secretary is authorized to perform the functions of the Director under this subtitle until the appointment of the Director in accordance with section 4102. (b) Interim Administrative Services by the Department of the Treasury- The Secretary of the Treasury may provide administrative services necessary to support the Agency during the 24-month period beginning on the date of the enactment of this title. (c) Interim Funding for the Department of the Treasury- For the purposes of carrying out the authorities granted in this section, there are appropriated to the Secretary of the Treasury such sums as are necessary. Notwithstanding any other provision of law, such amounts shall be subject to apportionment under section 1517 of title 31, United States Code, and restrictions that generally apply to the use of appropriated funds in title 31, United States Code, and other laws.	***SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.*** *(a) In General- The Secretary is authorized to perform the functions of the Bureau under this subtitle until the Director of the Bureau is confirmed by the Senate in accordance with section 1011.* *(b) Interim Administrative Services by the Department of the Treasury- The Department of the Treasury may provide administrative services necessary to support the Bureau before the designated transfer date.*	
	SEC. 1067. TRANSITION OVERSIGHT. *(a) Purpose- The purpose of this section is to ensure that the Bureau--* *(1) has an orderly and organized startup;* *(2) attracts and retains a qualified workforce; and* *(3) establishes comprehensive employee training and benefits programs.* *(b) Reporting Requirement-* *(1) IN GENERAL- The Bureau shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).* *(2) PLANS- The plans described in this paragraph are as follows:* *(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN- The Bureau shall submit a training and workforce development plan that includes, to the extent practicable--* *(i) identification of skill and technical expertise needs and actions taken to meet those requirements;* *(ii) steps taken to foster innovation and creativity;* *(iii) leadership development and succession planning; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(iv) effective use of technology by employees. *(B) WORKPLACE FLEXIBILITIES PLAN- The Bureau shall submit a workforce flexibility plan that includes, to the extent practicable--* *(i) telework;* *(ii) flexible work schedules;* *(iii) phased retirement;* *(iv) reemployed annuitants;* *(v) part-time work;* *(vi) job sharing;* *(vii) parental leave benefits and childcare assistance;* *(viii) domestic partner benefits;* *(ix) other workplace flexibilities; or* *(x) any combination of the items described in clauses (i) through (ix).* *(C) RECRUITMENT AND RETENTION PLAN- The Bureau shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to--* *(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;* *(ii) streamlined employment application processes;* *(iii) the provision of timely notification of the status of employment applications to applicants; and* *(iv) the collection of information to measure indicators of hiring effectiveness.* *(c) Expiration- The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.* *(d) Rule of Construction- Nothing in this section may be construed to affect--* *(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or* *(2) the rights of employees under chapter 71 of title 5, United States Code.*	
Subtitle G--Regulatory Improvements **SEC. 4701. COLLECTION OF DEPOSIT ACCOUNT DATA.** (a) Purpose- The purpose of this section is to promote awareness and understanding of the access of individuals and communities to financial services, and to identify business and community development needs and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
opportunities. (b) In General- (1) RECORDS REQUIRED- For each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution, the financial institution shall maintain records of the number and dollar amounts of deposit accounts of customers. (2) GEO-CODED ADDRESSES OF DEPOSITORS- The customers' addresses maintained pursuant to paragraph (1) shall be geo-coded so that data shall be collected regarding the census tracts of the residence or business location of the customers. (3) IDENTIFICATION OF DEPOSITOR TYPE- In maintaining records on any deposit account under this section, the financial institution shall also record whether the deposit account is for a residential or commercial customer. (4) PUBLIC AVAILABILITY- (A) IN GENERAL- The following information shall be publicly available on an annual basis-- (i) the address and census tracts of each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution; (ii) the type of deposit account including whether the account was a checking or savings account; (iii) data on the number and dollar amounts of the accounts, presented by census tract location of the residential and commercial customers; and (iv) any other data deemed appropriate by the Director. (B) PROTECTION OF IDENTITY- In the publicly available data, any personally identifiable data element shall be removed so as to protect the identities of the commercial and residential customers. (c) Availability of Information- (1) SUBMISSION TO AGENCIES- The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Agency, or to a Federal banking agency, in accordance with regulations prescribed by the Director. (2) AVAILABILITY OF INFORMATION- Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under regulations		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
prescribed by the Director. (d) Agency Use- The Director-- (1) shall assess the distribution of residential and commercial accounts at such financial institution across income and minority level of census tracts; and (2) may use the data for any other purpose as permitted by law. (e) Regulations and Guidance- (1) IN GENERAL- The Director shall prescribe such regulations and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section. (2) DATA COMPILATION REGULATIONS- The Director shall prescribe regulations regarding the provision of data compiled under this section to the Federal banking agencies to carry out the purposes of this section and shall issue guidance to financial institutions regarding measures to facilitate compliance with the this section and the requirements of regulations prescribed under this section. (f) Definitions- For purposes of this section, the following definitions shall apply: (1) AGENCY- The term `Agency' means the Consumer Financial Protection Agency. (2) CREDIT UNION- The term `credit union' means a Federal credit union or a State-chartered credit union (as such terms are defined in section 101 of the Federal Credit Union Act). (3) DEPOSIT ACCOUNT- The term `deposit account' includes any checking account, savings account, credit union share account, and other type of account as defined by the Director. (4) DIRECTOR- The term `Director' means the Director of the Agency. (5) FEDERAL BANKING AGENCY- The term `Federal banking agency' means the Board of Governors of the Federal Reserve System, the head of the agency responsible for chartering and regulating national banks, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and the term `Federal banking agencies' means all of those agencies. (6) FINANCIAL INSTITUTION- The term `financial institution'-- (A) has the meaning given to the term `insured depository institution' in section 3(c)(2) of the Federal Deposit Insurance Act; and (B) includes any credit union. (g) Effective Date- This section shall take effect on the designated transfer date.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Subtitle G--Regulatory Improvements	
SEC. 4702. SMALL BUSINESS DATA COLLECTION.	***SEC. 1071. SMALL BUSINESS DATA COLLECTION.***	
(a) In General- The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704A the following new section:	*(a) In General- The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704A the following:*	
`Sec. 704B. Small business loan data collection	***`SEC. 740B. SMALL BUSINESS LOAN DATA COLLECTION.***	
`(a) Purpose- The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women- and minority-owned small businesses. `(b) In General- Subject to the requirements of this section, in the case of any application to a financial institution for credit for a small business, the financial institution shall-- `(1) inquire whether the business is a women- or minority-owned business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means and whether or not such application is in response to a solicitation by the financial institution; and `(2) maintain a record of the responses to such inquiry separate from the application and accompanying information. `(c) Right to Refuse- Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit. `(d) No Access by Underwriters- `(1) IN GENERAL- Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application. `(2) EXCEPTION- If a financial institution determines that loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution will provide notice to the applicant of the access of the underwriter to this information, along with notice that the financial institution may not	*`(a) Purpose- The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned and minority-owned small businesses.* *`(b) Information Gathering- Subject to the requirements of this section, in the case of any application to a financial institution for credit for a small business, the financial institution shall--* *`(1) inquire whether the small business is a women- or minority-owned small business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means, and whether or not such application is in response to a solicitation by the financial institution; and* *`(2) maintain a record of the responses to such inquiry, separate from the application and accompanying information.* *`(c) Right To Refuse- Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.* *`(d) No Access by Underwriters-* *`(1) LIMITATION- Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.* *`(2) LIMITED ACCESS- If a financial institution determines that a loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution shall provide notice to the applicant of the access of the underwriter to such information, along with notice that the financial institution*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
discriminate on this basis of this information.	*may not discriminate on the basis of such information.*	
`(e) Form and Manner of Information-	*`(e) Form and Manner of Information-*	
`(1) IN GENERAL- Each financial institution shall compile and maintain, in accordance with regulations of the Agency, a record of the information provided by any loan applicant pursuant to a request under subsection (b).	*`(1) IN GENERAL- Each financial institution shall compile and maintain, in accordance with regulations of the Bureau, a record of the information provided by any loan applicant pursuant to a request under subsection (b).*	
`(2) ITEMIZATION- Information compiled and maintained under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:	*`(2) ITEMIZATION- Information compiled and maintained under paragraph (1) shall be itemized in order to clearly and conspicuously disclose--*	
`(A) The number of the application and the date the application was received.	*`(A) the number of the application and the date on which the application was received;*	
`(B) The type and purpose of the loan or other credit being applied for.	*`(B) the type and purpose of the loan or other credit being applied for;*	
`(C) The amount of the credit or credit limit applied for and the amount of the credit transaction or the credit limit approved for such applicant.	*`(C) the amount of the credit or credit limit applied for, and the amount of the credit transaction or the credit limit approved for such applicant;*	
`(D) The type of action taken with respect to such application and the date of such action.	*`(D) the type of action taken with respect to such application, and the date of such action;*	
`(E) The census tract in which is located the principal place of business of the small business loan applicant.	*`(E) the census tract in which is located the principal place of business of the small business loan applicant;*	
`(F) The gross annual revenue of the business in the last fiscal year of the small business loan applicant preceding the date of the application.	*`(F) the gross annual revenue of the business in the last fiscal year of the small business loan applicant preceding the date of the application;*	
`(G) The race, sex, and ethnicity of the principal owners of the business.	*`(G) the race and ethnicity of the principal owners of the business; and*	
`(H) Any additional data the Agency determines would aid in fulfilling the purposes of this section.	*`(H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.*	
`(3) INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION PROHIBITED- In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)), telephone number, electronic mail address, and any other personally identifiable information concerning any individual who is, or is connected with, the small business loan applicant.	*`(3) NO PERSONALLY IDENTIFIABLE INFORMATION- In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)), telephone number, electronic mail address, or any other personally identifiable information concerning any individual who is, or is connected with, the small business loan applicant.*	
`(4) DISCRETION TO DELETE OR MODIFY PUBLICLY AVAILABLE DATA- The Agency may, in the discretion of the Agency, delete or modify data collected under this section which is or will be available to the public if the Agency determines that the deletion or modification of the data would advance a compelling privacy interest.	*`(4) DISCRETION TO DELETE OR MODIFY PUBLICLY AVAILABLE DATA- The Bureau may, at its discretion, delete or modify data collected under this section which is or will be available to the public, if the Bureau determines that the deletion or modification of the data would advance a compelling privacy interest.*	
`(f) Availability of Information-	*`(f) Availability of Information-*	
`(1) SUBMISSION TO AGENCY- The data required to be compiled	*`(1) SUBMISSION TO BUREAU- The data required to be compiled*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and maintained under this section by any financial institution shall be submitted annually to the Agency. `(2) AVAILABILITY OF INFORMATION- `(A) IN GENERAL- Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under regulations prescribed by the Agency. `(B) ANNUAL DISCLOSURE TO THE PUBLIC- In addition to the availability by request under subparagraph (A) of data compiled and maintained under this section, the Agency shall annually provide such data to the public. `(C) PROCEDURES- The procedures for disclosing data compiled and maintained under this section to the public shall be determined by the Agency by regulation. `(3) COMPILATION OF AGGREGATE DATA- `(A) IN GENERAL- The Agency may, in the discretion of the Agency, compile for the Agency's own use compilations of aggregate data. `(B) PUBLIC AVAILABILITY OF AGGREGATE DATA- The Agency may, in the discretion of the Agency, make public compilations of aggregate data in such manner as the Agency may determine to be appropriate.	*and maintained under this section by any financial institution shall be submitted annually to the Bureau.* *`(2) AVAILABILITY OF INFORMATION- Information compiled and maintained under this section shall be--* *`(A) retained for not less than 3 years after the date of preparation;* *`(B) made available to any member of the public, upon request, in the form required under regulations prescribed by the Bureau;* *`(C) annually made available to the public generally by the Bureau, in such form and in such manner as is determined appropriate by the Bureau.* *`(3) COMPILATION OF AGGREGATE DATA- The Bureau may, at its discretion--* *`(A) compile and aggregate data collected under this section for its own use; and* *`(B) make public such compilations of aggregate data.*	
	`(g) Bureau Action-* *`(1) IN GENERAL- The Bureau shall prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section. *`(2) EXCEPTIONS- The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.* *`(3) GUIDANCE- The Bureau shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women- or minority-owned for purposes of this section.*	
`(g) Definitions- For purposes of this section, the following definitions shall apply: `(1) FINANCIAL INSTITUTION- The term `financial institution' means any partnership, company, corporation, association	*`(h) Definitions- For purposes of this section, the following definitions shall apply:* *`(1) FINANCIAL INSTITUTION- The term `financial institution' means any partnership, company, corporation, association*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity. `(2) MINORITY-OWNED BUSINESS- The term `minority-owned business' means a business-- `(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and `(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals. `(3) WOMEN-OWNED BUSINESS- The term `women-owned business' means a business-- `(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and `(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women. `(4) MINORITY- The term `minority' has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. `(5) SMALL BUSINESS LOAN- The term `small business loan' shall be defined by the Agency, which may take into account-- `(A) the gross revenues of the borrower; `(B) the total number of employees of the borrower; `(C) the industry in which the borrower has its primary operations; and `(D) the size of the loan. `(h) Agency Action- `(1) IN GENERAL- The Agency shall prescribe such regulations and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section. `(2) EXCEPTIONS- The Agency, by regulation or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of institutions from the requirements of this section as the Agency determines to be necessary or appropriate to carry out the purposes and objectives of this section. `(3) GUIDANCE- The Agency shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women- or minority-owned for the purposes of this section.'.	*(incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.* *`(3) MINORITY-OWNED SMALL BUSINESS- The term `minority-owned small business' means a small business--* *`(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and* *`(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.* *`(5) WOMEN-OWNED SMALL BUSINESS- The term `women-owned small business' means a business--* *`(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and* *`(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.'.* *`(2) MINORITY- The term `minority' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.* *`(4) SMALL BUSINESS LOAN- The term `small business loan' shall be defined by the Bureau, which may take into account--* *`(A) the gross revenues of the borrower;* *`(B) the total number of employees of the borrower;* *`(C) the industry in which the borrower has its primary operations; and* *`(D) the size of the loan.*	
(b) Technical and Conforming Amendment- Section 701(b) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is amended-- (1) by striking `or' after the semicolon at the end of paragraph (3); (2) by striking the period at the end of paragraph (4) and inserting `;	*(b) Technical and Conforming Amendments- Section 701(b) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is amended--* *(1) in paragraph (3), by striking `or' at the end;* *(2) in paragraph (4), by striking the period at the end and inserting*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or'; and (3) by inserting after paragraph (4), the following new paragraph: `(5) to make an inquiry under section 704B in accordance with the requirements of such section.'. (c) Clerical Amendment- The table of sections for the Equal Credit Opportunity Act is amended by inserting after the item relating to section 704A the following new item: `704B. Small business loan data collection.'. (d) Effective Date- This section shall take effect on the designated transfer date.	*`; or'; and* *(3) by inserting after paragraph (4), the following:* *`(5) to make an inquiry under section 704B, in accordance with the requirements of that section.'.* *(c) Clerical Amendment- The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704A the following new item:* *`704B. Small business loan data collection.'.* *(d) Effective Date- This section shall become effective on the designated transfer date.*	
SEC. 4703. ANNUAL FINANCIAL AUTOPSY. (a) Study Required- Not later than March 31 of each calendar year, the Director shall-- (1) conduct a scientific sampling of foreclosures and bankruptcies during the previous calendar year in each State or territory of the United States; and (2) identify any underlying causes of such bankruptcies or foreclosures, including any specific financial products or services that have been the cause of substantial numbers of such bankruptcies or foreclosures. (b) Report- After the completion of each study required under subsection (a), the Director shall submit a report to the Congress containing-- (1) any conclusions made by the Director in carrying out such study; (2) any specific financial products or services that the Director has identified to have caused a substantial number of bankruptcies or foreclosures, as well as which companies or individuals provided such financial products or services; and (3) any recommendations the Director has for legislation that would reduce the underlying causes of bankruptcies and foreclosures identified in such study.		
SEC. 4704. REPORTING OF MORTGAGE DATA BY STATE. (a) In General- Section 104(a) of the Helping Families Save Their Homes Act of 2009 (division A of Public Law 111-22) is amended-- (1) in paragraph (2), by striking `resulting' and inserting `in each State that result'; (2) in paragraph (3), by inserting `each State for' after `modifications in'; and (3) in paragraph (4), by inserting `in each State' after `total number of loans'. (b) Conforming Amendment- Section 104(b)(1)(A) of such Act is amended		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
by adding at the end the following sentence: `Not later than 60 days after the date of the enactment of the Wall Street Reform and Consumer Protection Act of 2009, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.'.		
Subtitle H--Conforming Amendments **SEC. 4801. AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.** (a) Establishment- Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting `the Consumer Financial Protection Agency,' before `the Consumer Product Safety Commission,'. (b) Effective Date- This section shall take effect on the date of the enactment of this title.	***Subtitle H--Conforming Amendments*** ***SEC. 1081. AMENDMENTS TO THE INSPECTOR GENERAL ACT.*** *Effective on the date of enactment of this Act, the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended--* *(1) in section 8G(a)(2), by inserting `and the Bureau of Consumer Financial Protection' after `Board of Governors of the Federal Reserve System';* *(2) in section 8G(c), by adding at the end the following: `For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.'; and* *(3) in section 8G(g)(3), by inserting `and the Bureau of Consumer Financial Protection' after `Board of Governors of the Federal Reserve System' the first place that term appears.*	
SEC. 4802. AMENDMENTS TO THE PRIVACY ACT OF 1974. (a) Applicability- Section 552a of title 5, United States Code, is amended by adding at the end the following new subsection: `(w) Applicability to Consumer Financial Protection Agency- Except as provided in the Consumer Financial Protection Agency Act of 2009, this section shall apply with respect to the Consumer Financial Protection Agency.'. (b) Effective Date- This section shall take effect on the date of the enactment of this title.	***SEC. 1082. AMENDMENTS TO THE PRIVACY ACT OF 1974.*** *Effective on the date of enactment of this Act, section 552a of title 5, United States Code, is amended by adding at the end the following:* *`(w) Applicability to Bureau of Consumer Financial Protection- Except as provided in the Consumer Financial Protection Act of 2010, this section shall apply with respect to the Bureau of Consumer Financial Protection.'.*	
SEC. 4803. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.	***SEC. 1083. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(a) Section 803(1)- Section 803(1) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3802(1)) is amended by striking paragraphs (B) and (C).	*(a) In General- The Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) is amended--* *(1) in section 803 (12 U.S.C. 3802(1)), by striking `1974' and all that follows through `described and defined' and inserting the following: `1974), in which the interest rate or finance charge may be adjusted or renegotiated, described and defined'; and*	
(b) Section 804(a)- Section 804(a) of the Alternative Mortgage Transaction Parity Act of l982 (12 U.S.C. 3803(a)) is amended-- (1) in paragraphs (1), (2), and (3), by inserting `on or before the designated transfer date, as determined in section 4602 of the Consumer Financial Protection Agency Act of 2009' after `transactions made' each place such term appears; (2) in paragraph (2), by striking `and' at the end; (3) in paragraph (3), by striking the period at the end and inserting `; and'; and (4) by adding at the end the following new paragraph: `(4) with respect to transactions made after the designated transfer date, as determined in section 4602 of the Consumer Financial Protection Agency Act of 2009, only in accordance with regulations governing alternative mortgage transactions as issued by the Consumer Financial Protection Agency for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Consumer Financial Protection Agency with regard to federally chartered housing creditors under laws other than this section.'.	*(2) in section 804 (12 U.S.C. 3803)--* *(A) in subsection (a)--* *(i) in each of paragraphs (1), (2), and (3), by inserting after `transactions made' each place that term appears `on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010,';* *(ii) in paragraph (2), by striking `and' at the end;* *(iii) in paragraph (3), by striking the period at the end and inserting `; and'; and* *(iv) by adding at the end the following new paragraph:* *`(4) with respect to transactions made after the designated transfer date, only in accordance with regulations governing alternative mortgage transactions, as issued by the Bureau of Consumer Financial Protection for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Bureau of Consumer Financial Protection with regard to federally chartered housing creditors under provisions of law other than this section.';*	
(c) Section 804- Section 804 of the Alternative Mortgage Transaction Parity Act of l982 (12 U.S.C. 3803) is amended-- (1) by striking subsection (c) and inserting the following new subsection: `(c) Effect of State Law- `(1) IN GENERAL- An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State Constitution, law, or regulation that prohibits an alternative mortgage transaction. `(2) RULE OF CONSTRUCTION- For purposes of this subsection, a State Constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State Constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.'; and	*(B) by striking subsection (c) and inserting the following:* *`(c) Preemption of State Law- An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation that prohibits an alternative mortgage transaction. For purposes of this subsection, a State constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.'; and*	
(2) by adding at the end the following new subsection:	*(C) by adding at the end the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(d) Duties of Consumer Financial Protection Agency- The Consumer Financial Protection Agency shall-- `(1) review the regulations identified by the Comptroller of the Currency, the National Credit Union Administration, and the Director of the Office of Thrift Supervision (as those regulations exist on the designated transfer date, as determined in section 4602 of the Consumer Financial Protection Agency Act of 2009) as applicable under paragraphs (1), (2), and (3) of subsection (a); `(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of section 4201 of the Consumer Financial Protection Agency Act of 2009; and `(3) prescribe regulations under subsection (a)(4) after the designated transfer date, as determined under such Act.'.	*`(d) Bureau Actions- The Bureau of Consumer Financial Protection shall--* *`(1) review the regulations identified by the Comptroller of the Currency and the National Credit Union Administration, (as those rules exist on the designated transfer date), as applicable under paragraphs (1) through (3) of subsection (a);* *`(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of the Consumer Financial Protection Act of 2010; and* *`(3) promulgate regulations under subsection (a)(4) after the designated transfer date.*	
(d) Effective Date and Scope of Application- (1) EFFECTIVE DATE- This section shall take effect on the designated transfer date. (2) SCOPE OF APPLICATION- The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of l982 which is entered into on or before the designated transfer date.	*`(e) Designated Transfer Date- As used in this section, the term `designated transfer date' means the date determined under section 1062 of the Consumer Financial Protection Act of 2010.'.* *(b) Effective Date- This section and the amendments made by this section shall become effective on the designated transfer date.* *(c) Rule of Construction- The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of l982 (12 U.S.C. 3801 et seq.) and entered into on or before the designated transfer date.*	
SEC. 4804. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.	***SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.***	
(a) Truth in Lending Act- (1) SECTION 103- Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by striking subsection (b) and inserting the following new subsection: `(b) Agency Definitions- `(1) BOARD- The term `Board' means the `Board of Governors of the Federal Reserve System'. `(2) AGENCY- The term `Agency' means the Consumer Financial Protection Agency.'.	*The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended--* *(1) in section 103 (5 U.S.C. 1602)--* *(A) by redesignating subsections (b) through (bb) as subsections (c) through (cc), respectively; and* *(B) by inserting after subsection (a) the following:* *`(b) Bureau- The term `Bureau' means the Bureau of Consumer Financial Protection.';*	
	SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT. *(2) by striking `Board' each place that term appears, other than in section 140(d) and section 108(a), as amended by this section, and inserting `Bureau';*	
(2) UNIVERSAL AMENDMENT RELATING TO BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM- (A) IN GENERAL- Except as provided in subparagraph (B), the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by striking `Board' each place such term appears, including in chapters 4 and 5 relating to credit billing and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
consumer leases, and inserting `Agency'. (B) EXCEPTIONS- The amendment described in subparagraph (A) shall not apply to sections 108(a) (as amended by paragraph (4)) and 140(d) and shall not apply to the term `Board' when used in reference to the Federal Deposit Insurance Corporation or the National Credit Union Administration.		
(3) SECTION 105- Section 105(b) of the Truth in Lending Act (15 U.S.C. 1604(b)) is amended by striking the first sentence and inserting the following: `The Agency shall publish a single, integrated disclosure for mortgage loan transactions, including real estate settlement cost statements, which include the disclosure requirements of this title, in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act that, taken together, may apply to transactions subject to both or either law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of those titles, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.'.	***SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.*** *(5) in section 105(b) (15 U.S.C. 1604(b)), by striking the first sentence and inserting the following: `The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act of 1974 that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Real Estate Settlement Procedures Act of 1974, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.';*	
(4) SECTION 108- Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended-- (A) by striking subsection (a) and inserting the following new subsection: `(a) Enforcing Agencies- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title shall be enforced as follows: `(1) Under section 8 of the Federal Deposit Insurance Act, in the case of-- `(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks; `(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;	***SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.*** *(7) in section 108 (15 U.S.C. 1607)--* *(A) by striking subsection (a) and inserting the following:* *`(a) Enforcing Agencies- Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under--* *`(1) section 8 of the Federal Deposit Insurance Act, in the case of--* *`(A) any national bank, and Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;* *`(B) any member bank of the Federal Reserve System (other than a national bank), any branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), any commercial lending company owned or controlled by a foreign bank, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(C) depository institution insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and `(D) Federal savings associations and savings and loan holding companies, by the Director of the Office of Thrift Supervision.	*`(C) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and an insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;*	
`(2) Under subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency. `(3) Under the Federal Credit Union Act, by the head of the agency responsible for chartering and regulating Federal credit unions. `(4) Under the Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act. `(5) Under the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act. `(6) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.'; and	*`(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;* *`(3) the Federal Credit Union Act, by the Director of the National Credit Union Administration, with respect to any Federal credit union;* *`(4) the Federal Aviation Act of 1958, by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;* *`(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act; and* *`(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.'; and*	
(B) by striking subsection (c) and inserting the following new subsection: `(c) Overall Enforcement Authority of the Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency (other than the Consumer Financial Protection Agency) under subsection (a) and subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.'.	*(B) by striking subsection (c) and inserting the following:* *`(c) Overall Enforcement Authority of the Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.';*	
	SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.	
(5) UNIVERSAL AMENDMENT RELATING TO THE FEDERAL	*(3) by striking `Federal Trade Commission' each place that term*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TRADE COMMISSION- (A) IN GENERAL- Except as provided in subparagraph (B) (and except for any insertion of `Federal Trade Commission' made by this subtitle), the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by striking `Federal Trade Commission' each place such term appears and inserting `Agency'. (B) EXCEPTIONS- The amendment described in subparagraph (A) shall not apply to sections 108(c) (as amended by paragraph (4)) 129(m) (as amended by paragraph (7)), 140A, or 149 (as amended by paragraph (8)).	*appears, other than in section 108(c) and section 129(m), as amended by this Act, and other than in the context of a reference to the Federal Trade Commission Act, and inserting `Bureau';*	
(6) SECTION 127- Subparagraph (C) of section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)(11)) is amended to read as follows: `(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Agency, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: `Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5 percent minimum monthly payment on a balance of $300 at an interest rate of 17 percent would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Consumer Financial Protection Agency at this toll-free number: **XXXXXXXXX** [the blank space to be filled in by the creditor].' A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).'.		
(7) SECTION 129- Section 129(m) of the Truth in Lending Act (15 U.S.C. 1639(m)) is amended to read as follows: `(m) Civil Penalties in Federal Trade Commission Enforcement Actions- For purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued by the Agency pursuant to subsection (l)(2) of this section shall be treated as a violation of a regulation promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.'.	***SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.*** *(8) in section 129 (15 U.S.C. 1639), by striking subsection (m) and inserting the following:* *`(m) Civil Penalties in Federal Trade Commission Enforcement Actions- For purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued by the Bureau pursuant to subsection (l)(2) shall be treated as a violation of a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.'; and* *(9) in chapter 5 (15 U.S.C. 1667 et seq.)--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) by striking `the Board' each place that term appears and inserting `the Bureau'; and *(B) by striking `The Board' each place that term appears and inserting `The Bureau'.*	
(8) SECTION 149- Section 149(b) of the Truth in Lending Act (15 U.S.C. 1665d(b)) is amended by inserting `the Federal Trade Commission,' after `in consultation with'.		
	SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT. *(4) in section 105(a) (15 U.S.C. 1604(a)), in the second sentence--* *(A) by striking `Except in the case of a mortgage referred to in section 103(aa), these regulations may contain such' and inserting `Except with respect to the provisions of section 129 that apply to a mortgage referred to in section 103(aa), such regulations may contain such additional requirements,'; and* *(B) by inserting `all or' after `exceptions for';*	
	SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT. *(6) in section 105(f)(1) (15 U.S.C. 1604(f)(1)), by inserting `all or' after `from all or part of this title';*	
(b) Fair Credit Reporting Act- (1) SECTION 603- Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended-- (A) by redesignating subsections (w) and (x) as subsections (x) and (y), respectively; and (B) by inserting after subsection (v) the following new subsection: `(w) Agency- The term `Agency' means the Consumer Financial Protection Agency.'. (2) UNIVERSAL AMENDMENTS RELATING TO THE FEDERAL TRADE COMMISSION- Other than in connection with the amendment made by paragraphs (7)(B), (8)(A), (8)(C), and (8)(D) of this subsection (and except for any insertion of `Federal Trade Commission' made by this subtitle), the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended-- (A) by striking `Federal Trade Commission' each place such term appears and inserting `Agency';	***SEC. 1088. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT AND THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT.*** *(a) Fair Credit Reporting Act- The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended--* *(1) in section 603 (15 U.S.C. 1681a)--* *(A) by redesignating subsections (w) and (x) as subsections (x) and (y), respectively; and* *(B) by inserting after subsection (v) the following :* *`(w) The term `Bureau' means the Bureau of Consumer Financial Protection.'; and* *(2) except as otherwise specifically provided in this subsection—* *(A) by striking `Federal Trade Commission' each place that term appears and inserting `Bureau';*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(B) by striking `Commission' each place such term appears (other than in connection with the term amended in subparagraph (A)) and inserting `Agency'; and (C) by striking `Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly' each place such term appears in sections 605(h)(2) and 623(a)(8)(A) and inserting `Agency shall'.	*(B) by striking `FTC' each place that term appears and inserting `Bureau';* *(C) by striking `the Commission' each place that term appears and inserting `the Bureau'; and* *(D) by striking `The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly' each place that term appears and inserting `The Bureau shall';*	
(3) SECTION 603- Section 603(k)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681a(k)(2)) is amended by striking `Board of Governors of the Federal Reserve System' and inserting `Agency'. (4) SECTION 604- Subsection 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended-- (A) by striking subparagraph (C) of paragraph (3) and inserting the following new subparagraph: `(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Agency (with respect to any covered person subject to the jurisdiction of such agency under paragraph (2) of section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).'; and (B) by striking paragraph (5) and inserting the following new paragraph: `(5) REGULATIONS REQUIRED- The Agency may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.'.	*(3) in section 603(k)(2) (15 U.S.C. 1681a(k)(2)), by striking `Board of Governors of the Federal Reserve System' and inserting `Bureau';* *(4) in section 604(g) (15 U.S.C. 1681b(g))--* *(A) in paragraph (3), by striking subparagraph (C) and inserting the following:* *`(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau (consistent with the enforcement authorities prescribed under section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).';* *(B) by striking paragraph (5) and inserting the following:* *`(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2)-* *`(A) REGULATIONS REQUIRED- The Bureau may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.'; and* *(C) by striking paragraph (6);*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(5) SECTION 609- Section 609(d)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(d)(1)) is amended by inserting `the Federal Trade Commission,' after `in consultation with'.		
(6) SECTION 611- Section 611(e) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)) is amended--	*(5) in section 611(e)(2) (15 U.S.C. 1681i(e)), by striking paragraph (2) and inserting the following:*	
(A) by amending paragraph (2) to read as follows:		
`(2) EXCLUSION- Complaints received or obtained by the Agency pursuant to its investigative authority under the Consumer Financial Protection Agency Act of 2009 shall not be subject to paragraph (1).'; and	*`(2) EXCLUSION- Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).';*	
(B) in the heading of paragraph (3) by inserting `CONSUMER REPORTING' before `AGENCY'.		
(7) SECTION 615- Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended--		
(A) in subsection (d)(2)(B), by inserting `the Federal Trade Commission,' after `in consultation with';		
(B) in subsection (e)(1), by striking `and the Commission' and inserting `the Federal Trade Commission, the Securities and Exchange Commission, and the Commodities Futures Trading Commission'; and		
(C) by striking subparagraph (A) of subsection (h)(6) and inserting the following:	*(6) in section 615(h)(6) (15 U.S.C. 1681m(h)(6)), by striking subparagraph (A) and inserting the following:*	
`(A) RULES REQUIRED- The Agency shall prescribe rules.'.	*`(A) RULES REQUIRED- The Bureau shall prescribe rules to carry out this subsection.';*	
(8) SECTION 621- Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended--	*(7) in section 621 (15 U.S.C. 1681s)--*	
(A) by striking subsection (a) and inserting the following new subsection:	*(A) by striking subsection (a) and inserting the following:*	
`(a) Enforcement by Federal Trade Commission-	*`(a) Enforcement by Federal Trade Commission-*	
`(1) IN GENERAL- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other government agency (other than the Consumer Financial Protection Agency) under subsection (b) hereof. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an	*`(1) IN GENERAL- Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission, with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (b). For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of such Act with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers (subject to section 4202 of the Consumer Financial Protection Agency Act of 2009), including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions thereof were part of this title. `(2) CIVIL MONEY PENALTIES- `(A) IN GENERAL- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation. `(B) FACTORS IN DETERMINING AMOUNT- In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. `(3) EXCEPTION- Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1) unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission or the Agency, as the case may be, and has violated the injunction or order, and the court may not impose any civil penalty for any	*practice in commerce, in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of that Act with respect to any consumer reporting agency or person that is subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers (except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010), including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions of such Act are part of this title.* *`(2) PENALTIES-* *`(A) KNOWING VIOLATIONS- Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Federal Trade Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation.* *`(B) DETERMINING PENALTY AMOUNT- In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of such prior conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.* *`(C) LIMITATION- Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1), unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
violation occurring before the date of the violation of the injunction or order.'; (B) by striking subsection (b) and inserting the following new subsection: `(b) Enforcement by Other Agencies- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) of section 615 shall be enforced as follows: `(1) Under section 8 of the Federal Deposit Insurance Act, in the case of-- `(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks; `(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; `(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and `(D) Federal savings associations and savings and loan holding companies, by the Director of the Office of Thrift Supervision. `(2) Under subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency in the case of a covered person under that Act. `(3) Under the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union. `(4) Under subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board.	*civil penalty for any violation occurring before the date of the violation of the injunction or order.';* *(8) by striking subsection (b) and inserting the following:* *`(b) Enforcement by Other Agencies-* *`(1) IN GENERAL- Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to section 615(d) shall be enforced under--* *`(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of--* *`(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;* *`(ii) any member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and* *`(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and any insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;* *`(B) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;* *`(C) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union;* *`(D) subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(5) Under the Federal Aviation Act of 1958, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that Act. `(6) Under the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act. `(7) Under the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission. `(8) Under the Federal securities law and any other laws subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person subject to the jurisdiction of the Securities and Exchange Commission.	*Board;* *`(E) the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.), by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;* *`(F) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act;* *`(G) the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission; and* *`(H) the Federal securities laws, and any other laws that are subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person that is subject to the jurisdiction of the Securities and Exchange Commission.*	
Any term used in paragraph (1) that is not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the meaning given to such term in section 1(b) of the International Banking Act of 1978.'; (C) in paragraph (2) of subsection (c)-- (i) by inserting `the Agency and' before `the Federal Trade Commission' in the first sentence; (ii) by inserting `Agency and the Federal Trade' after `provide the'; and (iii) by inserting `Agency,' before `Federal Trade Commission' in the second sentence; (D) in paragraph (4) of subsection (c)-- (i) by inserting `Agency', before `the Federal Trade Commission'; and (ii) inserting `Agency, the Federal Trade' after `complaint of the'; (E) in paragraph (2) of subsection (f), by inserting `the Federal Trade Commission' after `in consultation with'; (F) by striking subsection (e) and inserting the following new subsection: `(e) Regulatory Authority- The Agency shall prescribe such regulations as necessary to carry out the purposes of this Act, except that, with respect to sections 615(e) and 628 of this title, the agencies identified in subsections (a) and (b) of this section shall prescribe such regulations as necessary to carry out the purposes of such sections with respect to entities within their enforcement authority under such subsections.'; and (G) in the heading of subsection (g) by striking `FTC'.	*`(2) INCORPORATED DEFINITIONS- The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).';* *(9) by striking subsection (e) and inserting the following:* *`(e) Regulatory Authority- The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this Act. The regulations prescribed by the Bureau under this subsection shall apply to any person that is subject to this Act, notwithstanding the enforcement authorities granted to other agencies under this section.'; and* *(10) in section 623 (15 U.S.C. 1681s-2)--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(8) SECTION 623- Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s-2) is amended--		
(A) by amending subparagraph (a)(7)(D) to read as follows:	*(A) in subsection (a)(7), by striking subparagraph (D) and inserting the following:*	
`(D) MODEL DISCLOSURE-	*`(D) MODEL DISCLOSURE-*	
`(i) DUTY OF AGENCY TO PREPARE- The Agency shall prescribe a brief model disclosure a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.	*`(i) DUTY OF BUREAU- The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.*	
`(ii) USE OF MODEL NOT REQUIRED- No provision of this paragraph shall be construed as requiring a financial institution to use any such model form prescribed by the Agency.	*`(ii) USE OF MODEL NOT REQUIRED- No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.*	
`(iii) COMPLIANCE USING MODEL- A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any such model form prescribed by the Agency, or the financial institution uses any such model form and rearranges its format.'.	*`(iii) COMPLIANCE USING MODEL- A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any model form prescribed by the Bureau under this subparagraph, or the financial institution uses any such model form and rearranges its format.'; and*	
(B) by amending subsection (e) to read as follows:	*(B) by striking subsection (e) and inserting the following:*	
`(e) Accuracy Guidelines and Regulations Required-	*`(e) Accuracy Guidelines and Regulations Required-*	
`(1) GUIDELINES- The Agency shall, with respect to the entities that are subject to its enforcement authority under section 621—	*`(1) GUIDELINES- The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 621--*	
`(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and	*`(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and*	
`(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures or implementing the guidelines established pursuant to subparagraph (A).	*`(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).*	
`(2) CRITERIA- In developing the guidelines required by paragraph (1)(A), the Agency shall--	*`(2) CRITERIA- In developing the guidelines required by paragraph (1)(A), the Bureau shall--*	
`(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;	*`(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;*	
`(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;	*`(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and `(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.'.	*`(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and* *`(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.'.*	
(c) Equal Credit Opportunity Act- (1) SECTION 701- Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by striking `Board' each place such term appears and inserting `Agency'. (2) SECTION 702- Section 702(c) of the Equal Credit Opportunity Act (15 U.S.C. 1691a) is amended to read as follows: `(c) The term `Agency' means the Consumer Financial Protection Agency.'. (3) SECTION 703- Section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691b) is amended-- (A) by striking subsection (b); (B) in subsection (a)-- (i) by striking `(1)'; and (ii) by redesignating paragraphs (2), (3), (4), and (5) as subsections (b), (c), (d), and (e), respectively; (C) in subsection (c) (as so redesignated)-- (i) by striking `paragraph (2)' and inserting `subsection (b)'; and (ii) by striking `such paragraph' and inserting `such subsection'; (D) in subsection (d) (as so redesignated)-- (i) by striking `subsection' and inserting `section'; (ii) by striking `Act' and inserting `title'; and (iii) by striking `this paragraph' and inserting `this subsection'; and (E) by striking `Board' each place such term appears in such section and inserting `Agency'. (4) SECTION 704- Section 704 of the Equal Credit Opportunity Act (15 U.S.C. 1691c) is amended-- (A) in subsection (a)-- (i) in the matter preceding paragraph (1), by striking `Compliance' and inserting `Subject to	***SEC. 1085. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT.*** *The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended--* *(1) by striking `Board' each place that term appears and inserting `Bureau';* *(2) in section 702 (15 U.S.C. 1691a), by striking subsection (c) and inserting the following:* *`(c) The term `Bureau' means the Bureau of Consumer Financial Protection.';* *(3) in section 703 (15 U.S.C. 1691b)--* *(A) by striking the section heading and inserting the following:* ***`SEC. 703. PROMULGATION OF REGULATIONS BY THE BUREAU.';***  *(B) by striking `(a) Regulations- ';* *(C) by striking subsection (b);* *(D) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively; and* *(E) in subsection (c), as so redesignated, by striking `paragraph (2)' and inserting `subsection (b)';* *(4) in section 704 (15 U.S.C. 1691c)--* *(A) in subsection (a)--* *(i) by striking `Compliance' and inserting `Except as otherwise provided by subtitle B of the Consumer Protection Financial Protection Act of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance'; (ii) in paragraph (1)(A), by striking `Office of the Comptroller of the Currency' and inserting `head of the agency responsible for chartering and regulating national banks'; (iii) in paragraph (1)(B)-- (I) by inserting `of Governors of the Federal Reserve System' after `Board'; and (II) by striking `and' after the semicolon; (iv) in paragraph (1)(C), by inserting `and' after the semicolon; (v) by inserting after subparagraph (C) of paragraph (1) the following new subparagraph: `(D) savings associations and savings and loan holding companies by the Director of the Office of Thrift Supervision;'; and (vi) by amending paragraph (2) to read as follows:  `(2) Subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency.'; (B) by striking subsection (c) and inserting the following new subsection: `(c) Overall Enforcement Authority of Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency (other than the Consumer Financial Protection Agency) under subsection (a) and subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any regulation prescribed by the Director under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.'; and (C) in subsection (d), by striking `Board' and inserting `Agency'.	*2010'; and* *(ii) by striking paragraph (2) and inserting the following:* *`(2) Subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.';* *(B) by striking subsection (c) and inserting the following:*  *`(c) Overall Enforcement Authority of Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce any rule prescribed by the Bureau under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.'; and* *(C) in subsection (d), by striking `Board' and inserting `Bureau'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(5) SECTION 704a- Section 704A(a)(1) of the Equal Credit Opportunity Act (15 U.S.C. 1691c-1(a)(1)) is amended in by striking `Board' and inserting `Agency'.		
(6) SECTION 705- Section 705 of the Equal Credit Opportunity Act (15 U.S.C. 1691d) is amended-- (A) in subsection (f), by striking `Board' each place such term appears and inserting `Agency'; and (B) in subsection (g), by striking `Board' and inserting `Agency'.		
(7) SECTION 706- Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended-- (A) in subsection (e)-- (i) by striking `Board' each place such term appears and inserting `Agency'; and (ii) by striking `Federal Reserve System' and inserting `Consumer Financial Protection Agency'; (B) in subsection (f), by striking `two years' each place such term appears and inserting `5 years'; (C) in subsection (g)-- (i) by striking `The agencies having', in the 1st sentence, and inserting `The Agency and the agencies having'; (ii) by striking `Each agency referred', in the 2nd sentence, and inserting `The Agency and each agency referred'; (iii) by striking `Each such agency', in the 3rd sentence, and inserting `The Agency and each such agency'; and (iv) by striking `whenever the agency' in the 3rd sentence, and inserting `whenever the Agency or an agency having responsibility for administrative enforcement under section 704'; and (D) in subsection (k)-- (i) by striking `Whenever an agency' and inserting `Whenever the Agency or an agency'; and (ii) by striking `the agency shall notify' and inserting `the Agency, or an agency referred to in any such paragraph, as the case may be, shall notify'.	*(5) in section 706(e) (15 U.S.C. 1691e(e))--* *(A) in the subsection heading--* *(i) by striking `Board' each place that term appears and inserting `Bureau'; and* *(ii) by striking `Federal Reserve System' and inserting `Bureau of Consumer Financial Protection'; and* *(B) by striking `Federal Reserve System' and inserting `Bureau of Consumer Financial Protection'.*	
(8) SECTION 707- Section 707 of the Equal Credit Opportunity Act		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(15 U.S.C. 1691f) is amended by striking `Board' each place such term appears and inserting `Agency'.		
	SEC. 1089. AMENDMENTS TO THE FAIR DEBT COLLECTION PRACTICES ACT.	
(d) Fair Debt Collection Practices Act- (1) SECTION 803- Section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a) is amended-- (A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively; and (B) by inserting before paragraph (2) (as so redesignated) the following new paragraph: `(1) The term `Agency' means the Consumer Financial Protection Agency.'. (2) SECTION 813- Section 813(e) of the Fair Debt Collection Practices Act (15 U.S.C. 1692k(e)) is amended by striking `Commission' and inserting `Agency'. (3) SECTION 814- Section 814 of the Fair Debt Collection Practices Act (15 U.S.C. 1692l) is amended-- (A) by striking subsection (a) and inserting the following new subsection: `(a) Federal Trade Commission- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance with this title shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another agency (other than the Consumer Financial Protection Agency) under subsection (b). For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.'; (B) in subsection (b)-- (i) in the matter preceding paragraph (1), by striking `Compliance' and inserting `Enforcement by Other Agency- Subject to section 4202 of the Consumer Financial Protection Agency Act of	*The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended--* *(1) by striking `Commission' each place that term appears and inserting `Bureau';* *(2) in section 803 (15 U.S.C. 1692a)--* *(A) by striking paragraph (1) and inserting the following:* *`(1) The term `Bureau' means the Bureau of Consumer Financial Protection.';* *(3) in section 814 (15 U.S.C. 1692l)--* *(A) by striking subsection (a) and inserting the following:* *`(a) Federal Trade Commission- Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with this title shall be enforced by the Federal Trade Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another Government agency under subsection (b). For purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this title, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.'; and* *(B) in subsection (b)--* *(i) by striking `Compliance' and inserting `Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
2009, compliance'; (ii) in paragraph (1)(A), by striking `Office of the Comptroller of the Currency;' and inserting `head of the agency responsible for chartering and regulating national banks;'; (iii) in paragraph (1)(B), by striking `and' after the semicolon; (iv) in paragraph (1)(C), by inserting `and' after the semicolon; (v) by inserting after subparagraph (C) of paragraph (1) the following new subparagraph: `(D) savings associations and savings and loan holding companies by the Director of the Office of Thrift Supervision;'; and (vi) by striking paragraph (2) and inserting the following new paragraph: `(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency;'; and (C) by striking subsection (d) and inserting the following new subsection: `(d) Regulations- The Agency may prescribe regulations with respect to the collection of debts by any debt collector.'.  (4) SECTION 815- Section 815 (15 U.S.C. 1692m) is amended-- (A) in the section heading, by striking `**Commission**' and inserting `**Agency**'; and (B) by striking `Commission' each place such term appears and inserting `Agency'. (5) SECTION 817- Section 817 (15 U.S.C. 1692o) is amended by striking `Commission' each place such term appears and inserting `Agency'.	*(ii) by striking paragraph (2) and inserting the following:* *`(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;'; and* *(4) in subsection (d), by striking `Neither the Commission' and all that follows through the end of the subsection and inserting the following: `The Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this Act.'.*	
	SEC. 1084. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.	
(e) Electronic Fund Transfer Act- (1) SECTION 903- Section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a) is amended-- (A) by striking paragraph (3) and inserting the following new paragraph: `(3) the term `Agency' means the Consumer Financial Protection Agency;'; and (B) in paragraph (6), by striking `Board' and inserting `Agency'.	*The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--* *(1) by striking `Board' each place that term appears and inserting `Bureau', except in section 918 (as so designated by the Credit Card Act of 2009) (15 U.S.C. 1693o);* *(2) in section 903 (15 U.S.C. 1693a), by striking paragraph (3) and inserting the following:* *`(3) the term `Bureau' means the Bureau of Consumer Financial Protection;';* *(3) in section 916(d) (as so designated by section 401 of the Credit CARD Act of 2009) (15 U.S.C. 1693m)--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) by striking `Federal Reserve System' and inserting `Bureau of Consumer Financial Protection'; and *(B) by striking `Federal Reserve System' and inserting `Bureau of Consumer Financial Protection'; and* *(4) in section 918 (as so designated by the Credit CARD Act of 2009) (15 U.S.C. 1693o)--* *(A) in subsection (a)--* *(i) by striking `Compliance' and inserting `Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance'; and*	
(2) SECTION 904- Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended by striking `Board' each place such term appears and inserting `Agency'. (3) SECTION 905- Section 905 of the Electronic Fund Transfer Act (15 U.S.C. 1693c) is amended by striking `Board' each place such term appears and inserting `Agency'. (4) SECTION 906- Section 906(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693d(b)) is amended by striking `Board' and inserting `Agency'. (5) SECTION 907- Section 907(b) of the Electronic Fund Transfer Act (15 U.S.C. 1693e(b)) is amended by striking `Board' and inserting `Agency'. (6) SECTION 908- Section 908(f)(7) of the Electronic Fund Transfer Act (15 U.S.C. 1693f(f)(7)) is amended by striking `Board' and inserting `Agency'. (7) SECTION 910- Section 910(a)(1)(E) of the Electronic Fund Transfer Act (15 U.S.C. 1693h(a)(1)(E)) is amended by striking `Board' and inserting `Agency'. (8) SECTION 911- Section 911(b)(3) of the Electronic Fund Transfer Act (15 U.S.C. 1693i(b)(3) is amended by striking `Board' and inserting `Agency'. (9) SECTION 915- Section 915(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693m(d)) is amended-- (A) by striking `Board' each place such term appears and inserting `Agency'; and (B) by striking `Federal Reserve System' and inserting `Consumer Financial Protection Agency'. (10) SECTION 917- Section 917 of the Electronic Fund Transfer Act (15 U.S.C. 1693o) is amended-- (A) in subsection (a)-- (i) by striking `Compliance' and inserting `Subject		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance'; (ii) in paragraph (1)(A), by striking `Office of the Comptroller of the Currency' and inserting `head of the agency responsible for chartering and regulating national banks'; (iii) in paragraph (l)(B), by inserting `of Governors of the Federal Reserve System' after `Board'; and (iv) by striking paragraph (2) and inserting: `(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency;'; and (B) by striking subsection (c) and inserting the following new subsection: `(c) Overall Enforcement Authority of the Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency (other than the Consumer Financial Protection Agency) under subsection (a) and subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.'. (11) SECTION 918- Section 918 of the Electronic Fund Transfer Act (15 U.S.C. 1693p) is amended by striking `Board' each place such term appears and inserting `Agency'. (12) SECTION 919- Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q) is amended by striking `Board' each place such term appears and inserting `Agency'. (13) SECTION 920- Section 920 of the Electronic Fund Transfer Act (15 U.S.C. 1693r) is amended by striking `Board' each place such term appears and inserting `Agency'.	*(ii) by striking paragraph (2) and inserting the following:* *`(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;'; and* *(B) by striking subsection (c) and inserting the following:*  *`(c) Overall Enforcement Authority of the Federal Trade Commission- Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person subject to the jurisdiction of the Federal Trade Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.'.*	
(f) Amendments to HOEPA Relating to the Truth in Lending Act- Section 158 of the Home Ownership and Equity Protection Act of 1994 (15 U.S.C.	***SEC. 1094. AMENDMENTS TO THE HOME OWNERSHIP AND EQUITY PROTECTION ACT OF 1994.*** *The Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note) is amended--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
1601 note) (relating to hearings on home equity lending) is amended-- (1) in subsection (a), by striking `Board of Governors of the Federal Reserve System, in consultation with the Consumer Advisory Council of the Board,' and inserting `Consumer Financial Protection Agency, in consultation with the Advisory Board to the Agency'; and (2) in subsection (b), by striking `Board of Governors of the Federal Reserve System' and inserting `Consumer Financial Protection Agency'.	*(1) in section 158(a), by striking `Consumer Advisory Council of the Board' and inserting `Advisory Board to the Bureau'; and* *(2) by striking `Board' each place that term appears and inserting `Bureau'.*	
(g) Amendment to the Fair and Accurate Credit Transactions Act of 2003 Relating to the Fair Credit Reporting Act- Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681s-3 note) is amended by striking `The Federal banking agencies, the National Credit Union Administration, and the Commission, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act and' and inserting `The Consumer Financial Protection Agency, with respect to a person subject to the enforcement authority of the Agency, the Commodity Futures Trading Commission, and'.	***SEC. 1088. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT AND THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT.*** *(b) Fair and Accurate Credit Transactions Act of 2003- Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681s-3 note) is amended by striking paragraph (1) and inserting the following:* *`(1) IN GENERAL- Regulations to carry out section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s-3), shall be prescribed, as described in paragraph (2), by--* *`(A) the Commodity Futures Trading Commission, with respect to entities subject to its enforcement authorities;* *`(B) the Securities and Exchange Commission, with respect to entities subject to its enforcement authorities; and* *`(C) the Bureau, with respect to other entities subject to this Act.'.*	
SEC. 4805. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT. (a) Section 605- Section 605(f)(1) of the Expedited Funds Availability Act (12 U.S.C. 4004(f)(1)) is amended by inserting `, in consultation with the Director of the Consumer Financial Protection Agency,' after `Board'.	***SEC. 1086. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.*** *(a) Amendment to Section 603- Section 603(d)(1) of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended by inserting after `Board' the following `, jointly with the Director of the Bureau of Consumer Financial Protection,'.* *(b) Amendments to Section 604- Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended--* *(1) by inserting after `Board' each place that term appears, other than in subsection (f), the following: `, jointly with the Director of the Bureau of Consumer Financial Protection,'; and* *(2) in subsection (f), by striking `Board.' each place that term appears and inserting the following: `Board, jointly with the Director of the Bureau of Consumer Financial Protection.'.* *(c) Amendments to Section 605- Section 605 of the Expedited Funds Availability Act (12 U.S.C. 4004) is amended--* *(1) by inserting after `Board' each place that term appears, other than in the heading for section 605(f)(1), the following: `, jointly with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Section 609- Section 609(a) of the Expedited Funds Availability Act (12 U.S.C. 4008(a)) is amended by inserting `, in consultation with the Director of the Consumer Financial Protection Agency,' after `Board'.	*the Director of the Bureau of Consumer Financial Protection,'; and* *(2) in subsection (f)(1), in the paragraph heading, by inserting `AND BUREAU' after `BOARD'.* *(d) Amendments to Section 609- Section 609 of the Expedited Funds Availability Act (12 U.S.C. 4008) is amended:* *(1) in subsection (a), by inserting after `Board' the following `, jointly with the Director of the Bureau of Consumer Financial Protection,'; and* *(2) by striking subsection (e) and inserting the following:* *`(e) Consultations- In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.'.* *(e) Expedited Funds Availability Improvements- Section 603 of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended--* *(1) in subsection (a)(2)(D), by striking `$100' and inserting `$200'; and* *(2) in subsection (b)(3)(C), in the subparagraph heading, by striking `$100' and inserting `$200'; and* *(3) in subsection (c)(1)(B)(iii), in the clause heading, by striking `$100' and inserting `$200'.* *(f) Regular Adjustments for Inflation- Section 607 of the Expedited Funds Availability Act (12 U.S.C. 4006) is amended by adding at the end the following:* *`(f) Adjustments to Dollar Amounts for Inflation- The dollar amounts under this title shall be adjusted every 5 years after December 31, 2011, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $25.'.*	
SEC. 4806. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT. (a) Section 8- Section 8(t) the Federal Deposit Insurance Act (12 U.S.C. 1818(t)), as amended by section 1111(b)(2), is further amended by adding at the end the following new paragraph: `(7) REFERRAL TO CONSUMER FINANCIAL PROTECTION COMMISSION- Each appropriate Federal banking agency shall make a referral to the Consumer Financial Protection Agency when the Federal banking agency has a reasonable belief that a violation of an enumerated consumer law, as defined in section 4202(e)(2) of the Consumer Financial Protection Agency Act of 2009, by any insured	***SEC. 1090. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.*** *The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended--* *(1) in section 8(t) (12 U.S.C. 1818(t)), by adding at the end the following:* *`(6) REFERRAL TO BUREAU OF CONSUMER FINANCIAL PROTECTION- Subject to subtitle B of the Consumer Financial Protection Act of 2010, each appropriate Federal banking agency shall make a referral to the Bureau of Consumer Financial Protection when the Federal banking agency has a reasonable belief that a violation of an enumerated consumer law, as defined in the Consumer Financial Protection Act of 2010, has been committed by*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
depository institution or institution-affiliated party within the jurisdiction of that appropriate Federal banking agency.'. (b) Section 43- Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended-- (1) in subsection (c), by striking `Federal Trade Commission' and inserting `Agency'; (2) in subsection (d), by striking `Federal Trade Commission' and inserting `Agency'; (3) in subsection (e)-- (A) in paragraph (2)(B), by striking `Federal Trade Commission' and inserting `Agency'; and (B) by adding at the end the following new paragraph: `(5) AGENCY- The term `Agency' means the Consumer Financial Protection Agency.'. (c) Section 43(f)- Section 43(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(f)) is amended-- (1) by striking paragraph (1) and inserting the following new paragraph: `(1) LIMITED ENFORCEMENT AUTHORITY- Compliance with the requirements of subsections (b), (c), and (e), and any regulation prescribed or order issued under such subsection, shall be enforced under the Consumer Financial Protection Agency Act of 2009 by the Agency with respect to any person (and without regard to the provision of a consumer financial product or service).'; and (2) in paragraph (2), by striking subparagraph (C) and inserting the following new subparagraph: `(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING- If the Agency has instituted an enforcement action for a violation of this section, no appropriate State supervisory may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Agency for any violation of this section that is alleged in that complaint.'.	*any insured depository institution or institution-affiliated party within the jurisdiction of that appropriate Federal banking agency.'; and* *(2) in section 43 (12 U.S.C. 1831t)--* *(A) in subsection (c), by striking `Federal Trade Commission' and inserting `Bureau';* *(B) in subsection (d), by striking `Federal Trade Commission' and inserting `Bureau';* *(C) in subsection (e)--* *(i) in paragraph (2), by striking `Federal Trade Commission' and inserting `Bureau'; and* *(ii) by adding at the end the following new paragraph:* *`(5) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection.'; and* *(D) in subsection (f)—* *(i) by striking paragraph (1) and inserting the following:* *`(1) LIMITED ENFORCEMENT AUTHORITY- Compliance with the requirements of subsections (b), (c), and (e), and any regulation prescribed or order issued under such subsection, shall be enforced under the Consumer Financial Protection Act of 2010, by the Bureau, subject to subtitle B of the Consumer Financial Protection Act of 2010, and under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission.'; and* *(ii) in paragraph (2), by striking subparagraph (C) and inserting the following:* *`(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING- If the Bureau or Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisory agency may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Bureau or Federal Trade Commission for any violation of this section that is alleged in that complaint.'.*	
SEC. 4807. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT. (a) Section 501- Section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801(b)) is amended by inserting `(other than the Consumer Financial Protection Agency)' after `title'.	***SEC. 1091. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Section 502- Section 502(e)(5) of the Gramm-Leach-Bliley Act (15 U.S.C. 6802(e)(5)) is amended by inserting `the Consumer Financial Protection Agency,' after `(including'.		
(c) Section 503- Section 503(e)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6803(e)(1)) is amended-- (1) by inserting `Consumer Financial Protection Agency in consultation with the other' before `agencies'; and (2) by striking `jointly'.		
(d) Section 504- Section 504(a)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)(1)) is amended-- (1) by striking `The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury,' and inserting `The Consumer Financial Protection Agency and'; (2) by striking `, and the Federal Trade Commission'; and (3) by inserting `the Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Federal Trade Commission, and' before `representatives of State insurance authorities'.	*Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended--* *(1) in section 504(a)(1) (15 U.S.C. 6804(a)(1))--* *(A) by striking `The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury,' and inserting `The Bureau of Consumer Financial Protection and'; and* *(B) by striking `, and the Federal Trade Commission';*	
(e) Section 505- (1) Section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)) is amended-- (A) in the matter preceding paragraph (1), by striking `This subtitle and the regulations prescribed thereunder shall be enforced by' and inserting `Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, this subtitle and the regulations prescribed under this title shall be enforced by the Consumer Financial Protection Agency,'; and (B) by inserting after paragraph (7) the following new paragraph: `(8) Under the Consumer Financial Protection Agency Act of 2009, by the Consumer Financial Protection Agency in the case of financial institutions and other covered persons and service providers subject to the jurisdiction of the Agency under that Act, but not with respect to the standards under section 501.'.	*(2) in section 505(a) (15 U.S.C. 6805(a))--* *(A) by striking `This subtitle' and all that follows through `as follows:' and inserting `Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, this subtitle and the regulations prescribed thereunder shall be enforced by the Bureau of Consumer Financial Protection, the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:';* *(B) in paragraph (1)--* *(i) in subparagraph (B), by inserting `and' after the semicolon;* *(ii) in subparagraph (C), by striking `; and' and inserting a period; and* *(iii) by striking subparagraph (D); and* *(C) by adding at the end the following:* *`(8) Under the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection, in the case of any financial institution and other covered person or service provider that is subject to the jurisdiction of the Bureau under that Act, but not with respect to the standards under section 501.'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) Section 505(b)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(b)(1)) is amended by inserting `, other than the Consumer Financial Protection Agency,' after `described in subsection (a)'. (f) Section 507- Subsection 507(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6807(b)) is amended by striking `Federal Trade Commission' and inserting `Consumer Financial Protection Agency, or in the case of a rule under section 501(b), the Federal Trade Commission or the Securities and Exchange Commission'.	*(3) in section 505(b)(1) (15 U.S.C. 6805(b)(1)), by inserting `, other than the Bureau of Consumer Financial Protection,' after `subsection (a)'.*	
SEC. 4808. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT OF 1975. (a) Section 303- Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended-- (1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (2), (3), (4), (5), (6), and (7), respectively; and (2) by inserting before paragraph (2) (as so redesignated) the following new paragraph: `(1) The term `Agency' means the Consumer Financial Protection Agency.'. (b) Universal Amendment Relating to Agency- Except as provided in subsections (c), (d), (e), and (f), the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801-11) is amended by striking `Board' each place such term appears and inserting `Agency'. (c) Section 304- Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended-- (1) in subsection (b)-- (A) by striking `and' after the semicolon at the end of paragraph (3); (B) by striking `and gender' in paragraph (4), and inserting `age, and gender'; (C) by striking the period at the end of paragraph (4) and inserting a semicolon; and (D) by inserting after paragraph (4) the following new paragraphs: `(5) the number and dollar amount of mortgage loans grouped according to the following measurements: `(A) the total points and fees payable at origination in connection with the mortgage as determined by the Agency, taking into account section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); `(B) the difference between the annual percentage rate	***SEC. 1092. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.*** *The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended--* *(1) except as otherwise specifically provided in this section, by striking `Board' each place that term appears and inserting `Bureau';* *(2) in section 303 (12 U.S.C. 2802)--* *(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and* *(B) by inserting before paragraph (2) the following:* *`(1) the term `Bureau' means the Bureau of Consumer Financial Protection;';* *(3) in section 304 (12 U.S.C. 2803)--* *(A) in subsection (b)--* *(i) in paragraph (4), by inserting `age,' before `and gender';* *(ii) in paragraph (3), by striking `and' at the end;*  *(iii) in paragraph (4), by striking the period at the end and inserting a semicolon; and* *(iv) by adding at the end the following:*  *`(5) the number and dollar amount of mortgage loans grouped according to measurements of--* *`(A) the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4);*  *`(B) the difference between the annual percentage rate*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
associated with the loan and a benchmark rate or rates for all loans; `(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and `(D) such other information as the Agency may require; and `(6) the number and dollar amount of mortgage loans and completed applications grouped according to the following measurements: `(A) the value of the real property pledged or proposed to be pledged as collateral; `(B) the actual or proposed term in months of any introductory period after which the rate of interest may change; `(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully-amortizing payments during any portion of the loan term; `(D) the actual or proposed term in months of the mortgage loan; `(E) the channel through which application was made, including retail, broker, and other relevant categories; `(F) as the Agency may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008; `(G) as the Agency may determine to be appropriate, a universal loan identifier; `(H) as the Agency may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral; `(I) the credit score of mortgage applicants and mortgagors in such form as the Agency may prescribe, except that the Agency shall modify or require modification of credit score data that is or will be available to the public to protect the compelling privacy interest of the mortgage applicant or mortgagors; and `(J) such other information as the Agency may require.';	*associated with the loan and a benchmark rate or rates for all loans;* *`(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and* *`(D) such other information as the Bureau may require; and* *`(6) the number and dollar amount of mortgage loans and completed applications grouped according to measurements of--* *`(A) the value of the real property pledged or proposed to be pledged as collateral;* *`(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;* *`(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;* *`(D) the actual or proposed term in months of the mortgage loan;* *`(E) the channel through which application was made, including retail, broker, and other relevant categories;* *`(F) as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008;* *`(G) as the Bureau may determine to be appropriate, a universal loan identifier;* *`(H) as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;* *`(I) the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe, except that the Bureau shall modify or require modification of credit score data that is or will be available to the public to protect the compelling privacy interest of the mortgage applicant or mortgagors; and* *`(J) such other information as the Bureau may require.';* *(B) in subsection (i), by striking `subsection (b)(4)' and inserting `subsections (b)(4), (b)(5), and (b)(6)';* *(C) in subsection (j)--* *(i) in paragraph (1), by striking `(as' and inserting `(containing loan-level and application-level*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	information relating to disclosures required under subsections (a) and (b) and as otherwise'; *(ii) by striking paragraph (3) and inserting the following:* *`(3) CHANGE OF FORM NOT REQUIRED- A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Bureau may require'; and* *(iii) in paragraph (2)(A), by striking `in the format in which such information is maintained by the institution' and inserting `in such formats as the Bureau may require';* *(D) in subsection (m), by striking paragraph (2) and inserting the following:* *`(2) FORM OF INFORMATION- In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require';*	
(2) by striking subsection (h) and inserting the following new subsection:	*(E) by striking subsection (h) and inserting the following:*	
`(h) Submission to Agencies-	*`(h) Submission to Agencies-*	
`(1) IN GENERAL- The data required to be disclosed under subsection (b) shall be submitted to the Agency or to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Agency. Institutions will not be required to report new data required under section 4808(c) before the first January 1 that occurs after the end of the 9-month period beginning on the date that regulations prescribed by the Agency are prescribed in final form.	*`(1) IN GENERAL- The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for the institution reporting under this title, in accordance with rules prescribed by the Bureau. Notwithstanding the requirement of subsection (a)(2)(A) for disclosure by census tract, the Bureau, in cooperation with other appropriate regulators described in paragraph (2), shall develop regulations that--* *`(A) prescribe the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public;* *`(B) require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title;* *`(C) require disclosure of the class of the purchaser of such loans; and* *`(D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.*	
`(2) REGULATIONS- Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Agency, in	*`(2) OTHER APPROPRIATE AGENCIES- The appropriate regulators described in this paragraph are--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
cooperation with other appropriate regulators, including-- `(A) the head of the agency responsible for chartering and regulating national banks for national banks and Federal branches, Federal agencies of foreign banks, and savings associations; `(B) the Federal Deposit Insurance Corporation for depository institutions insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks; `(C) the Director of the Office of Thrift Supervision for Federal savings associations and savings and loan holding companies; `(D) the National Credit Union Administration Board for credit unions; and `(E) the Secretary of Housing and Urban Development for other lending institutions not regulated by an agency referred to in subparagraph (A), (B), (C), or (D), shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public.	*`(A) the Office of the Comptroller of the Currency (hereafter referred to in this Act as `Comptroller') for national banks and Federal branches, Federal agencies of foreign banks, and savings associations;* *`(B) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;* *`(C) the National Credit Union Administration Board for credit unions; and* *`(D) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in subparagraphs (A) through (C).'; and* *(F) by adding at the end the following:*	
	`(n) Timing of Certain Disclosures- The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Bureau. Institutions shall not be required to report new data under paragraph (5) or (6) of subsection (b) before the first January 1 that occurs after the end of the 9-month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.';	
`(3) REQUIRED DISCLOSURES- The regulations prescribed under paragraph (2) shall require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans. `(4) ADDITIONAL DATA OR EXPLANATIONS- Any reporting institution may submit in writing to the Agency or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.'; (3) in subsection (i), by striking `subsection (b)(4)' and inserting		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`paragraphs (4), (5), and (6) of subsection (b)'; (4) in subsection (j)-- (A) by striking `(as' where such term appears in paragraph (1) and inserting `(containing loan-level and application-level information relating to disclosures required under subsections (a) and (b) and as otherwise'; (B) by striking `in the format in which such information is maintained by the institution' where such term appears in paragraph (2)(A), and inserting `in such formats as the Agency may require'; and (C) by striking paragraph (3) and inserting the following new paragraph: `(3) CHANGE OF FORM NOT REQUIRED- A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Agency may require.'; and (5) by striking paragraph (2) of subsection (m) and inserting the following new paragraph: `(2) FORM OF INFORMATION- In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Agency may require.'.		
(d) Section 305- Section 305 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804) is amended-- (1) by striking subsection (b) and inserting the following new subsection: `(b) Powers of Certain Other Agencies- Compliance with the requirements imposed under this title shall be enforced under— `(1) section 8 of the Federal Deposit Insurance Act, in the case of— `(A) national banks, and Federal branches and Federal agencies of foreign banks, by the head of the agency responsible for chartering and regulating national banks; `(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;	*(4) in section 305 (12 U.S.C. 2804)--* *(A) by striking subsection (b) and inserting the following:* *`(b) Powers of Certain Other Agencies-* *`(1) IN GENERAL- Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements of this title shall be enforced--* *`(A) under section 8 of the Federal Deposit Insurance Act, in the case of--* *`(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;* *`(ii) any member bank of the Federal Reserve System (other than a national bank), branch or agency of a foreign bank (other than a Federal branch, Federal agency, and insured State branch of a foreign bank), commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(C) depository institutions insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System, Federal savings associations, and savings and loan holding companies) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and	*`(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), any mutual savings bank as, defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), any insured State branch of a foreign bank, and any other depository institution not referred to in this paragraph or subparagraph (B) or (C), by the Federal Deposit Insurance Corporation;*	
`(D) Federal savings associations, and savings and loan holding companies, by the Director of the Office of Thrift Supervision;		
`(2) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency;	*`(B) under subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;*	
`(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union; and	*`(C) under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any insured credit union; and*	
`(4) other lending institutions, by the Secretary of Housing and Urban Development. The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).	*`(D) with respect to other lending institutions, by the Secretary of Housing and Urban Development.*	
	`(2) INCORPORATED DEFINITIONS- The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).'; and	
The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978.'; and		
(2) by inserting at the end of section 305 the following new subsection:	*(B) by adding at the end the following:*	
`(d) Overall Enforcement Authority of the Consumer Financial Protection Agency- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). The Agency may exercise its authorities under the Consumer Financial Protection Agency Act of 2009 to exercise principal authority to examine and enforce compliance by any person with the requirements under this title.'.	*`(d) Overall Enforcement Authority of the Bureau of Consumer Financial Protection- Subject to subtitle B of the Consumer Financial Protection Act of 2010, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). The Bureau may exercise its authorities under the Consumer Financial Protection Act of 2010 to exercise principal authority to examine and enforce compliance by any person with the requirements of this title.';*	
(e) Section 306- Subsection 306(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)) is amended to read as follows:	*(5) in section 306 (12 U.S.C. 2805(b)), by striking subsection (b) and inserting the following:*	
`(b) The Agency may, by regulation, exempt from the requirements of this title any State chartered depository institution within any State or subdivision of any state if the Agency determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to	*`(b) Exemption Authority- The Bureau may, by regulation, exempt from the requirements of this title any State-chartered depository institution within any State or subdivision thereof, if the agency determines that, under the law of such State or subdivision, that institution is subject to requirements that are*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the head of the agency responsible for chartering and regulating national banks under section 8 of the Federal Deposit Insurance Act in the case of national banks and savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.'. (f) Section 307- Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended to read as follows: **`SEC. 307. RESEARCH AND IMPROVED METHODS.**  `(a) Enhanced Compliance in Economical Manner- `(1) IN GENERAL- The Director of the Consumer Financial Protection Agency, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Consumer Financial Protection Agency deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title. `(2) AUTHORIZATION OF APPROPRIATION- There is authorized to be appropriated such sums as may be necessary to carry out this subsection. `(3) AUTHORITY OF AGENCY- The Director of the Consumer Financial Protection Agency is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection. `(b) Recommendations to the Congress- The Director of the Consumer Financial Protection Agency shall recommend to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate such additional legislation as the Director of the Consumer Financial Protection Agency deems appropriate to carry out the purpose of this title.'.	*substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the Office of the Comptroller of the Currency under section 8 of the Federal Deposit Insurance Act, in the case of national banks and savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation.'; and* *(6) by striking section 307 (12 U.S.C. 2806) and inserting the following:* ***`SEC. 307. COMPLIANCE IMPROVEMENT METHODS.***  *`(a) In General-* *`(1) CONSULTATION REQUIRED- The Director of the Bureau of Consumer Financial Protection, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.* *`(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated, such sums as may be necessary to carry out this subsection.* *`(3) CONTRACTING AUTHORITY- The Director of the Bureau of Consumer Financial Protection is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.* *`(b) Recommendations to Congress- The Director of the Bureau of Consumer Financial Protection shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional legislation as the Director of the Bureau of Consumer Financial Protection deems appropriate to carry out the purpose of this title.'.*	
SEC. 4809. AMENDMENTS TO DIVISION D OF THE OMNIBUS APPROPRIATIONS ACT, 2009. (a) Section 626(a) of title VI of division D of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 note) (as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009) is amended-- (1) by striking by paragraph (1) and inserting the following new	***SEC. 1095. AMENDMENTS TO THE OMNIBUS APPROPRIATIONS ACT, 2009.*** *Section 626 of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 note) is amended--* *(1) by striking subsection (a) and inserting the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
paragraph: `(1) The Director of the Consumer Financial Protection Agency shall have authority to prescribe regulations with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a regulation prescribed under this subsection shall be treated as a violation of a regulation prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Agency Act of 2009.'; (2) by striking paragraph (2); (3) by striking paragraph (3); and (4) by striking paragraph (4) and inserting the following new paragraph: `(2) The Director of the Consumer Financial Protection Agency shall enforce the regulations issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Consumer Financial Protection Agency Act of 2009 were incorporated into and made part of this section.'. (b) Section 626(b) of title VI of division D of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 note) (as amended by the Credit Card Accountability Responsibility and Disclosure Act of 2009) is amended by striking `primary Federal regulator' each place it appears and inserting `Consumer Financial Protection Agency'.	*`(a)(1) The Bureau of Consumer Financial Protection shall have authority to prescribe rules with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this paragraph shall be treated as a violation of a rule prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act of 2010 and a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.* *`(2) The Bureau of Consumer Financial Protection shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Consumer Financial Protection Act of 2010 were incorporated into and made part of this subsection.'; and* *(2) in subsection (b)--* *(A) by striking paragraph (1) and inserting the following:* *`(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in practices that violate such rule, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States or other court of competent jurisdiction--* *`(A) to enjoin that practice;* *`(B) to enforce compliance with the rule;* *`(C) to obtain damages, restitution, or other compensation on behalf of the residents of the State; or* *`(D) to obtain penalties and relief provided under the Consumer Financial Protection Act of 2010, the Federal Trade Commission Act, and such other relief as the court deems appropriate.';* *(B) in paragraphs (2) and (3), by striking `the primary Federal regulator' each time the term appears and inserting `the Bureau of Consumer Financial Protection or the Commission, as appropriate';* *(C) in paragraph (3), by inserting `and subject to subtitle B of the Consumer Financial Protection Act of 2010,' after*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`paragraph (2),'; and* *(D) in paragraph (6), by striking `the primary Federal regulator' each place that term appears and inserting `the Bureau of Consumer Financial Protection or the Commission'.	
SEC. 4810. AMENDMENTS TO THE HOMEOWNERS PROTECTION ACT OF 1998. Section 10 of the Homeowners Protection Act of 1998 (12 U.S.C. 4909) is amended-- (1) in the matter preceding paragraph (1) of subsection (a), by striking `Compliance' and inserting `Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance'; (2) in subsection (a)(2), by striking `and' after the semicolon at the end; (3) in subsection (a)(3), by striking the period at the end and inserting `; and'; (4) by inserting after subsection (a)(3), the following new paragraph: `(4) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Consumer Financial Protection Agency.'; and (5) in subsection (b)(2), by inserting `, subject to section 4202 of the Consumer Financial Protection Agency Act of 2009' before the period at the end.	***SEC. 1093. AMENDMENTS TO THE HOMEOWNERS PROTECTION ACT OF 1998.*** *Section 10 of the Homeowners Protection Act of 1998 (12 U.S.C. 4909) is amended--* *(1) in subsection (a)--* *(A) by striking `Compliance' and inserting `Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance';* *(B) in paragraph (2), by striking `and' at the end;*  *(C) in paragraph (3), by striking the period at the end and inserting `; and'; and* *(D) by adding at the end the following:* *`(4) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection.'; and* *(2) in subsection (b)(2), by inserting before the period at the end the following: `, subject to subtitle B of the Consumer Financial Protection Act of 2010'.*	
SEC. 4811. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974. (a) Section 3- Section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602) is amended- - (1) in paragraph (7), by striking `and' after the semicolon at the end; (2) in paragraph (8), by striking the period at the end and inserting `; and'; and (3) by adding at the end the following new paragraph: `(9) the term `Agency' means the Consumer Financial Protection Agency.'. (b) Section 4- Section 4 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2603) is amended-- (1) in subsection (a), by striking the first sentence and inserting the following: `The Agency shall publish a single, integrated disclosure for mortgage loan transactions, including real estate settlement cost statements, which include the disclosure requirements of this title, in	***SEC. 1096. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT.*** *The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended--* *(1) in section 3 (12 U.S.C. 2602)--* *(A) in paragraph (7), by striking `and' at the end;*  *(B) in paragraph (8), by striking the period at the end and inserting `; and'; and* *(C) by adding at the end the following:* *`(9) the term `Bureau' means the Bureau of Consumer Financial Protection.';* *(2) in section 4 (12 U.S.C. 2603)--* *(A) in subsection (a), by striking the first sentence and inserting the following: `The Bureau shall publish a single, integrated disclosure for mortgage loan transactions*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
conjunction with the disclosure requirements of the Truth in Lending Act (15 U.S.C. 1601 note et seq.) that, taken together, may apply to transactions subject to both or either law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of those titles, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.';	*(including real estate settlement cost statements) which includes the disclosure requirements of this title, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.';*	
(2) by striking `Secretary' each place such term appears and inserting `Agency'; and (3) by striking `form' each place such term appears and inserting `forms'.	*(B) by striking `Secretary' each place that term appears and inserting `Bureau'; and* *(C) by striking `form' each place that term appears and inserting `forms';*	
(c) Section 5- Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended--	*(3) in section 5 (12 U.S.C. 2604)--*	
(1) by striking `Secretary' each place such term appears, and inserting `Agency'; and (2) by striking the first sentence of subsection (a), and inserting `The Agency shall prepare and distribute booklets jointly complying with the requirements of the Truth in Lending Act (15 U.S.C. 1601 note et seq.) and the provisions of this title, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.'.	*(A) by striking `Secretary' each place that term appears and inserting `Bureau'; and* *(B) in subsection (a), by striking the first sentence and inserting the following: `The Bureau shall prepare and distribute booklets jointly addressing compliance with the requirements of the Truth in Lending Act and the provisions of this title, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.';*	
(d) Section 6- Section 6(j)(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(j)(3)) is amended--	*(4) in section 6(j)(3) (12 U.S.C. 2605(j)(3))--*	
(1) by striking `Secretary' and inserting `Director of the Agency'; and (2) by striking `by regulations that shall take effect not later than April 20, 1991,' and inserting `by regulation,'.	*(A) by striking `Secretary' and inserting `Bureau'; and* *(B) by striking `, by regulations that shall take effect not later than April 20, 1991,';*	
(e) Section 7- Section 7 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2606) is amended by striking `Secretary' and inserting `the Director of the Agency'.	*(5) in section 7(b) (12 U.S.C. 2606(b)) by striking `Secretary' and inserting `Bureau';*	
(f) Section 8- Section 8 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607) is amended--	*(6) in section 8(d) (12 U.S.C. 2607(d))--*	
(1) in subsection (c)(5), by striking `prescribed by the Secretary' and inserting `prescribed by the Director of the Agency'; and	*(A) in the subsection heading, by inserting `Bureau and' before `SECRETARY'; and*	
(2) in subsection (d)(4)--	*(B) by striking paragraph (4), and inserting the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(A) by striking `The Secretary,' and inserting `The Agency, the Secretary,'; and (B) by adding at the end the following new sentence: `However, to the extent that a Federal law authorizes the Agency and other Federal and State agencies to enforce or administer the law, the Agency shall have primary authority to enforce or administer that Federal law in accordance with section 4202 of the Consumer Financial Protection Agency Act of 2009.'.	*`(4) The Bureau, the Secretary, or the attorney general or the insurance commissioner of any State may bring an action to enjoin violations of this section. Except, to the extent that a person is subject to the jurisdiction of the Bureau, the Secretary, or the attorney general or the insurance commissioner of any State, the Bureau shall have primary authority to enforce or administer this section, subject to subtitle B of the Consumer Financial Protection Act of 2010.'.*	
(g) Section 10- Section 10(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609(d)) is amended by striking `Secretary' and inserting `Agency'.	*(7) in section 10(c) (12 U.S.C. 2609(c) and (d)), by striking `Secretary' and inserting `Bureau';*	
(h) Section 16- Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended by inserting `the Agency,' before `the Secretary'.	*(8) in section 16 (12 U.S.C. 2614), by inserting `the Bureau,' before `the Secretary';*	
(i) Section 18- Section 18 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2616) is amended by striking `Secretary' each place such term appears and inserting `Agency'.	*(9) in section 18 (12 U.S.C. 2616), by striking `Secretary' each place that term appears and inserting `Bureau'; and*	
(j) Section 19- Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617) is amended-- (1) in the section heading, by striking `SECRETARY' and inserting `AGENCY'; and (2) by striking `Secretary' each place such term appears and inserting `Agency'.	*(10) in section 19 (12 U.S.C. 2617)--* *(A) in the section heading by striking `secretary' and inserting `bureau';* *(B) by striking `Secretary' each place that term appears and inserting `Bureau';* *(C) in subsection (b), by inserting `the Bureau' before `the Secretary'; and* *(D) in subsection (c), by inserting `or the Bureau' after `the Secretary' each time that term appears.*	
SEC. 4812. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.	***SEC. 1097. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.***	
(a) Amendments to Section 1101- Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended-- (1) by striking paragraph (1) and inserting the following new paragraph: `(1) `financial institution' means any bank, savings association, card issuer as defined in section 103(n) of the Truth in Lending Act, credit union, or consumer finance institution located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;'; and	*The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended--* *(1) in section 1101--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) in paragraph (7), by inserting after subparagraph (A) the following new subparagraph: `(B) the Consumer Financial Protection Agency;'. (b) Amendments to Section 1112- Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by striking `and the Commodity Futures Trading Commission is permitted' and inserting `the Commodity Futures Trading Commission, and the Consumer Financial Protection Agency is permitted'. (c) Amendments to Section 1113- Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection-- `(r) Disclosure to the Consumer Financial Protection Agency- Nothing in this chapter shall apply to the examination by or disclosure to the Consumer Financial Protection Agency of financial records or information in the exercise of its authority with respect to a financial institution.'.	*(A) in paragraph (6)--* *(i) in subparagraph (A), by inserting `and' after the semicolon;* *(ii) in subparagraph (B), by striking `and' at the end; and* *(iii) by striking subparagraph (C); and* *(B) in paragraph (7), by striking subparagraph (E), and inserting the following:* *`(E) the Bureau of Consumer Financial Protection;';* *(2) in section 1112(e) (12 U.S.C. 3412(e)), by striking `and the Commodity Futures Trading Commission is permitted' and inserting `the Commodity Futures Trading Commission, and the Bureau of Consumer Financial Protection is permitted'; and*  *(3) in section 1113 (12 U.S.C. 3413), by adding at the end the following new subsection:*  *`(r) Disclosure to the Bureau of Consumer Financial Protection- Nothing in this title shall apply to the examination by or disclosure to the Bureau of Consumer Financial Protection of financial records or information in the exercise of its authority with respect to a financial institution.'.*	
SEC. 4813. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008. (a) Section 1503- Section 1503 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102) is amended-- (1) by striking paragraph (9); (2) by redesignating paragraph (1) as paragraph (4), and transferring paragraph (4) (as so redesignated) and inserting such paragraph after paragraph (3) (as added by paragraph (5)); (3) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (10), (11), and (12) as paragraphs (5), (6), (7), (8), (9), (10), (11), (12), and (13), respectively; (4) by inserting before paragraph (2) the following new paragraph: `(1) AGENCY- The term `Agency' means the Consumer Financial Protection Agency.'; and (5) by inserting after paragraph (2) the following new paragraph: `(3) DIRECTOR- The term `Director' means the Director of the Agency.'.	***SEC. 1098. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008.*** *The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended--* *(4) in section 1503 (12 U.S.C. 5102)--* *(A) by redesignating paragraphs (2) through (12) as (3) through (13), respectively;* *(B) by striking paragraph (1) and inserting the following:* *`(1) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection.* *`(2) FEDERAL BANKING AGENCY- The term `Federal banking agency' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.'; and* *(C) by striking paragraph (10), as so designated by this section, and inserting the following:* *`(10) DIRECTOR- The term `Director' means the Director of the Bureau of Consumer Financial Protection.'; and* *(1) by striking `a Federal banking agency' each place that term*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	appears, other than in paragraphs (7) and (11) of section 1503 and section 1507(a)(1), and inserting `the Bureau';* *(2) by striking `Federal banking agencies' each place that term appears and inserting `Bureau'; and* *(3) by striking `Secretary' each place that term appears and inserting `Director';	
(b) Universal Amendments Relating to Agency- The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended-- (1) by striking `Federal banking agencies' each place such term appears (other than in subsection (a)(4) (as so redesignated by subsection (a), relating to the definition of Federal banking agencies) or in connection with a reference that is specifically amended by another provision of this section) and inserting `Agency'; and (2) by striking `Secretary' each place such term appears (other than in connection with a reference that is specifically amended by another provision of this section) and inserting `Director'.		
(c) Section 1507- Section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5106) is amended-- (1) in subsection (a)-- (A) by striking paragraph (1) and inserting the following new paragraph: `(1) IN GENERAL- The Agency shall develop and maintain a system for registering employees of any depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before July 30, 2010.'; and	*(5) in section 1507 (12 U.S.C. 5106)--* *(A) in subsection (a)--* *(i) by striking paragraph (1) and inserting the following:* *`(1) IN GENERAL- The Bureau shall develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of enactment of the Consumer Financial Protection Act of 2010.'; and*	
(B) by striking `appropriate Federal banking agency and the Farm Credit Administration' in paragraph (2) and inserting `Agency'; and	*(ii) in paragraph (2)--* *(I) by striking `appropriate Federal banking agency and the Farm Credit Administration' and inserting `Bureau'; and* *(II) by striking `employees's identity' and inserting `identity of the employee'; and*	
(2) in subsection (b), by striking `Federal banking agencies, through the Financial Institutions Examination Council, and the Farm Credit Administration' each place such term appears and inserting `Agency'.	*(B) in subsection (b), by striking `through the Financial Institutions Examination Council, and the Farm Credit Administration', and inserting `and the Bureau of Consumer Financial Protection';*	
(d) Section 1508- (1) IN GENERAL- Section 1508 of the Secure and Fair Enforcement for Mortgage	*(6) in section 1508 (12 U.S.C. 5107)--* *(A) by striking the section heading and inserting the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Licensing Act of 2008 (12 U.S.C. 5107) is amended by adding at the end the following new subsection:	*following: `sec. 1508. bureau of consumer financial protection backup authority to establish loan originator licensing system.'; and*	
	(B) by adding at the end the following:	
`(f) Regulations-	*`(f) Regulation Authority-*	
`(1) IN GENERAL- The Agency may prescribe regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.	*`(1) IN GENERAL- The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.*	
`(2) FACTORS TAKEN INTO ACCOUNT- Such regulations shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans as well as the need to ensure a competitive origination market that maximizes consumers' access to affordable and sustainable mortgage loans.'.	*`(2) CONSIDERATIONS- In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.';*	
(2) CLERICAL AMENDMENT- The heading for section 1508 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 is amended by striking `secretary of housing and urban development' and inserting `consumer financial protection agency'.		
	(7) by striking section 1510 (12 U.S.C. 5109) and inserting the following:	
(e) Section 1510- Section 1510 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5109) is amended to read as follows:		
`SEC. 1510. FEES.	***`SEC. 1510. FEES.***	
`The Agency and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.'.	*`The Bureau, the Farm Credit Administration, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.';*	
(f) Section 1513- Section 1513 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5112) is amended to read as follows:	*(8) by striking section 1513 (12 U.S.C. 5112) and inserting the following:*	
`SEC. 1513. LIABILITY PROVISIONS.	***`SEC. 1513. LIABILITY PROVISIONS.***	
`The Agency, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 1509, or any officer or employee of any such entity, shall not by subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.'.	*`The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	are applying for licensing or registration as loan originators.'; and	
(g) Section 1514- The heading for section 1514 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5113) is amended by striking `under hud backup licensing system' and inserting `by the agency'.	*(9) in section 1514 (12 U.S.C. 5113) in the section heading, by striking `under hud backup licensing system' and inserting `by the bureau'.*	
SEC. 4814. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.	***SEC. 1100. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.***	
(a) Section 263- Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended in subsection (b) by striking `Board' each place such term appears and inserting `Agency'.	*The Truth in Savings Act (12 U.S.C. 4301 et seq.) is amended--* *(1) by striking `Board' each place that term appears and inserting `Bureau';*	
(b) Section 265- Section 265 of the Truth in Savings Act (12 U.S.C. 4304) is amended by striking `Board' each place such term appears and inserting `Agency'.		
(c) Section 266- Section 266(e) of the Truth in Savings Act is amended (12 U.S.C. 4305) by striking `Board' and inserting `Agency'.		
(d) Section 269- Section 269 of the Truth in Savings Act (12 U.S.C. 4308) is amended by striking `Board' each place such term appears and inserting `Agency'.		
(e) Section 270- Section 270 of the Truth in Savings Act (12 U.S.C. 4309) is amended-- (1) in subsection (a)-- (A) by striking `Compliance' and inserting `Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, compliance'; (B) by striking subparagraph (A) of paragraph (1) and inserting the following new subparagraph: `(A) by the head of the agency responsible for chartering and regulating national banks for national banks, and Federal branches and Federal agencies of foreign banks;'; and	*(2) in section 270(a) (12 U.S.C. 4309)--* *(A) by striking `Compliance' and inserting `Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance';* *(B) in paragraph (1)--* *(i) in subparagraph (B), by striking `and' at the end; and* *(ii) by striking subparagraph (C);* *(C) in paragraph (2), by striking the period at the end and inserting `; and'; and*	
(C) by adding at the end, the following new paragraph: `(3) subtitle E of the Consumer Financial Protection Agency Act of 2009, by the Agency.'; and	*(D) by adding at the end the following:* *`(3) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.';*	
(2) in subsection (c)-- (A) in the subsection heading, by striking `Board' and insert `Agency'; and (B) by striking `Board' and inserting `Agency'.		
(f) Section 272- Section 272 of the Truth in Savings Act (12 U.S.C. 4311) is amended-- (1) in subsection (a), by striking `Board' and inserting `Agency'; and (2) in subsection (b), by striking `regulation prescribed by the Board' each place such term appears and inserting `regulation prescribed by the Agency'.	*(3) in section 272(b) (12 U.S.C. 4311(b)), by striking `regulation prescribed by the Board' each place that term appears and inserting `regulation prescribed by the Bureau'; and*	
(g) Section 273- Section 273 of the Truth in Savings Act (12 U.S.C. 4312) is amended in the last sentence by striking `Board' and inserting `Agency'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(h) Section 274- Section 274 of the Truth in Savings Act (12 U.S.C. 4313) is amended-- (1) in paragraph (2) by striking `Board' and inserting `Agency'; and (2) by striking paragraph (4) and inserting the following new paragraph: `(4) AGENCY- The term `Agency' means the Consumer Financial Protection Agency.'.	*(4) in section 274 (12 U.S.C. 4313), by striking paragraph (4) and inserting the following:* *`(4) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection.'.*	
SEC. 4815. AMENDMENTS TO THE TELEMARKETING AND CONSUMER FRAUD ABUSE AND PREVENTION ACT.	***SEC. 1101. AMENDMENTS TO THE TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT.***	
	(a) Amendments to Section 3- Section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102) is amended by striking subsections (b) and (c) and inserting the following: *`(b) Rulemaking Authority- The Commission shall have authority to prescribe rules under subsection (a), in accordance with section 553 of title 5, United States Code. In prescribing a rule under this section that relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Act of 2010, including any enumerated consumer law thereunder, the Commission shall consult with the Bureau of Consumer Financial Protection regarding the consistency of a proposed rule with standards, purposes, or objectives administered by the Bureau of Consumer Financial Protection.* *`(c) Violations- Any violation of any rule prescribed under subsection (a)--* *`(1) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act regarding unfair or deceptive acts or practices; and* *`(2) that is committed by a person subject to the Consumer Financial Protection Act of 2010 shall be treated as a violation of a rule under section 1031 of that Act regarding unfair, deceptive, or abusive acts or practices.'.*	
(a) Section 4 of the Telemarketing and Consumer Fraud Abuse and Prevention Act (15 U.S.C. 6102) is amended-- (1) in subsection (b)-- (A) by inserting `and the Consumer Financial Protection Agency with respect to a person subject to the authority of that Agency under the Consumer Financial Protection Agency Act' after `Commission' each of the first 2 places it appears; and (B) by inserting `or the Consumer Financial Protection Agency' after `Commission' the last place it appears; and (2) in subsection (d), by inserting `or the Consumer Financial Protection Agency' after `Commission' each place such term appears.	*(b) Amendments to Section 4- Section 4(d) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6103(d)) is amended by inserting after `Commission' each place that term appears the following:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`or the Bureau of Consumer Financial Protection'.	
(b) Section 5 of the Telemarketing and Consumer Fraud Abuse and Prevention Act (15 U.S.C. 6102) is amended-- (1) in subsection (b)-- (A) by inserting `and the Consumer Financial Protection Agency with respect to a person subject to the authority of that Agency under the Consumer Financial Protection Agency Act' after `Commission' each of the first 2 places it appears; and (B) by inserting `or the Consumer Financial Protection Agency' after `Commission' the last place it appears; and		
(2) in subsection (c), by inserting `or the Consumer Financial Protection Agency' after `Commission' each place such term appears.	*(c) Amendments to Section 5- Section 5(c) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6104(c)) is amended by inserting after `Commission' each place that term appears the following: `or the Bureau of Consumer Financial Protection'.*	
(c) Section 6 of the Telemarketing and Consumer Fraud Abuse and Prevention Act (15 U.S.C. 6102) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following: `(c) Enforcement by the Consumer Financial Protection Agency- Subject to section 4202 of the Consumer Financial Protection Agency Act of 2009, this Act shall be enforced by the Consumer Financial Protection Agency, under subtitle E of that Act, with respect to a person subject to the authority of that Agency under that Act. For the purpose of the exercise by the Consumer Financial Protection Agency of its powers under subtitle E, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under the Consumer Financial Protection Agency Act. In addition to its powers under subtitle E of that Act, the Agency may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.'.	*(d) Amendment to Section 6- Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6105) is amended by adding at the end the following:* *`(d) Enforcement by Bureau of Consumer Financial Protection- Except as otherwise provided in sections 3(d), 3(e), 4, and 5, and subject to subtitle B of the Consumer Financial Protection Act of 2010, this Act shall be enforced by the Bureau of Consumer Financial Protection under subtitle E of the Consumer Financial Protection Act of 2010.'.*	
SEC. 4816. MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION COMMISSION. Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended-- (1) in subparagraph (B), by striking `and' at the end; (2) by redesignating subparagraph (C) as subparagraph (D); and (3) by inserting after subparagraph (B) the following new subparagraph: `(C) the Director of the Consumer Financial Protection Agency; and'.		
	SEC. 1087. AMENDMENTS TO THE FAIR CREDIT BILLING ACT. *The Fair Credit Billing Act (15 U.S.C. 1666-1666j) is amended by striking `Board' each place that term appears and inserting `Bureau'.*	
	SEC. 1103. ADJUSTMENTS FOR INFLATION IN THE TRUTH IN LENDING	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	ACT. *(a) Caps-* *(1) CREDIT TRANSACTIONS- Section 104(3) of the Truth in Lending Act (15 U.S.C. 1603(3)) is amended by striking `$25,000' and inserting `$50,000'.* *(2) CONSUMER LEASES- Section 181(1) of the Truth in Lending Act (15 U.S.C. 1667(1)) is amended by striking `$25,000' and inserting `$50,000'.* *(b) Adjustments for Inflation- On and after December 31, 2011, the Bureau may adjust annually the dollar amounts described in sections 104(3) and 181(1) of the Truth in Lending Act (as amended by this section), by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $100, or $1,000, as applicable.*	
	SEC. 1104. SMALL BUSINESS FAIRNESS AND REGULATORY TRANSPARENCY. *(a) Panel Requirement- Section 609(d) of title 5, United States Code, is amended by striking `means the' and all that follows and inserting the following: `means--* *`(1) the Environmental Protection Agency;* *`(2) the Consumer Financial Protection Bureau of the Federal Reserve System; and* *`(3) the Occupational Safety and Health Administration of the Department of Labor.'.* *(b) Initial Regulatory Flexibility Analysis- Section 603 of title 5, United States Code, is amended by adding at the end the following:* *`(d)(1) For a covered agency, as defined in section 609(d)(2), each initial regulatory flexibility analysis shall include a description of--* *`(A) any projected increase in the cost of credit for small entities;* *`(B) any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities; and* *`(C) advice and recommendations of representatives of small entities relating to issues described in subparagraphs (A) and (B) and subsection (b).* *`(2) A covered agency, as defined in section 609(d)(2), shall, for purposes of complying with paragraph (1)(C)--* *`(A) identify representatives of small entities in consultation with the Chief Counsel for Advocacy of the Small Business Administration; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(B) collect advice and recommendations from the representatives identified under subparagraph (A) relating to issues described in subparagraphs (A) and (B) of paragraph (1) and subsection (b).'. *(c) Final Regulatory Flexibility Analysis- Section 604(a) of title 5, United States Code, is amended--* *(1) in paragraph (4), by striking `and' at the end;* *(2) in paragraph (5), by striking the period at the end and inserting `; and'; and* *(3) by adding at the end the following:* *`(6) for a covered agency, as defined in section 609(d)(2), a description of the steps the agency has taken to minimize any additional cost of credit for small entities.'.*	
SEC. 4817. EFFECTIVE DATE. The amendments made by sections 4803 through 4815 shall take effect on the designated transfer date.	***SEC. 1105. EFFECTIVE DATE.*** *Except as otherwise provided in this subtitle and the amendments made by this subtitle, this subtitle and the amendments made by this subtitle, other than sections 1081 and 1082, shall become effective on the designated transfer date.*	
SEC. 4818. AMENDMENTS TO TRUTH IN LENDING ACT. (a) In General- Section 128(e) of the Truth in Lending Act is amended-- (1) by striking paragraph (3) and inserting the following new paragraph (3): `(3) INSTITUTIONAL CERTIFICATION REQUIRED- (A) Except as provided in subparagraph (B), before a creditor may issue any funds with respect to an extension of credit described in paragraph (1), the creditor shall obtain from the relevant institution of higher education such institution's certification-- `(i) of the enrollment status of the borrower; `(ii) of the borrower's cost of attendance at the institution as determined by the institution under part F of title IV of the Higher Education Act of 1965; `(iii) of the difference between the borrower's cost of attendance and the borrower's estimated financial assistance received under title IV of the Higher Education Act of 1965 and other assistance known to the institution, as applicable; and `(iv) that the institution has-- `(I) informed the borrower-- `(aa) about the availability of, and the borrower's potential eligibility for, Federal financial assistance under this title, including disclosing the terms, conditions, and interest rates of Federal student loans; `(bb) of the borrower's ability to select a private educational lender of the borrower's choice; `(cc) about the impact of a proposed private education loan on the borrowers' potential eligibility for other financial assistance, including Federal financial assistance under the Higher Education Act of 1965; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(dd) about a borrower's right to accept or reject a private education loan within the 30-day period following a private educational lender's approval of a borrower's application and about a borrower's 3-day right to cancel altogether; `(II) determined whether the borrower has applied for and exhausted the Federal financial assistance available to the borrower under the Higher Education Act of 1965 and informed the borrower accordingly; and `(III) counseled the borrower on the borrower's financial aid options. `(B) A creditor may issue funds with respect to an extension of credit described in paragraph (1) without obtaining from the relevant institution of higher education such institution's certification if such institution fails to provide such certification within 21 calendar days or 15 business days, whichever comes first, of the creditor's request for such certification.'; (2) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and (3) by inserting after paragraph (8) the following new paragraph (9): `(9) PROVISION OF INFORMATION- On or before the date a creditor issues any funds with respect to an extension of credit described in paragraph (1), the creditor shall notify the relevant institution of higher education, in writing, of the amount of the extension of credit and the student on whose behalf credit is extended. The form of such written notification shall be subject to the regulations of the Agency.'. (b) Regulations- (1) DEADLINE FOR REGULATIONS- Not later than 365 days after the date of enactment of this Act, the Agency shall issue regulations in final form to implement paragraphs (3) and (9) of section 128(e) of the Truth in Lending Act, as amended by subsection (a). Such regulations shall become effective not later than 6 months after their date of issuance. (2) EFFECTIVE DATE- The regulations in effect pursuant to section 128(e) of the Truth in Lending Act as of the date of the enactment of this Act shall remain in effect until the effective date of the regulations issued under paragraph (1). (c) Study and Report on Private Education Loans and Private Educational Lenders- (1) REPORT- Not later than 2 years after the date of enactment of this Act, the Director and the Secretary of Education, in consultation with the Commissioners of the Federal Trade Commission, and the Attorney General, shall submit a report to the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Health Education, Labor, and Pensions of the Senate on private education loans (as that term is defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650)) and private educational lenders (as that term is defined in such section). (2) CONTENT- The report required by this subsection shall examine, at a minimum, the following: (A) the growth and changes of the private education loan market in the United States; (B) factors influencing such growth and changes; (C) the extent to which students and parents of students rely on private education loans		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to finance postsecondary education and the private education loan indebtedness of borrowers; (D) the characteristics of private education loan borrowers, including the types of institutions of higher education they attend, socioeconomic characteristics (including income and education levels, racial characteristics, geographical background, age, and gender), what other forms of financing borrowers use to pay for education, whether they exhaust their Federal loan options before taking out a private loan, whether such borrowers are dependent or independent students (as determined under part F of title IV of the Higher Education Act of 1965) or parents of such students, whether such borrowers are students enrolled in a program leading to a certificate, license or credential other than a degree, an associates degree, a baccalaureate degree, or a graduate or professional degree and, if practicable, employment and repayment behaviors; (E) the characteristics of private educational lenders, including whether such creditors are for-profit, non-profit, or institutions of higher education; (F) the underwriting criteria used by private educational lenders, including the use of cohort default rate (as such term is defined in section 435(m) of the Higher Education Act of 1965); (G) the terms, conditions, and pricing of private education loans; (H) the consumer protections available to private education loan borrowers, including the effectiveness of existing disclosures and requirements and borrowers' awareness and understanding about terms and conditions of various financial products; (I) whether Federal regulators and the public have access to information sufficient to provide them with assurances that private education loans are provided in accord with the Nation's fair lending laws and that allows public officials to determine lenders' compliance with fair lending laws; and (J) any statutory or legislative recommendations necessary to improve consumer protections for private education loan borrowers and to better enable Federal regulators and the public to ascertain private educational lender compliance with fair lending laws. (d) Report- Not later than 18 months after the issuance of regulations under subsection (b)(1), the Consumer Financial Protection Agency and the Secretary of Education shall jointly submit to Congress a report on the compliance of institutions and private educational lenders with the amendments made by this section. The report shall include the degree to which specific institutions utilize certifications in effectively encouraging the exhaustion of Federal student loan eligibility and lowering student debt.		
Subtitle I--Improvements to the Federal Trade Commission Act **SEC. 4901. AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT.** (a) Section 5(m)(1)(A) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(A)) is amended--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) by inserting `this Act or' after `violates' the first place such term appears; (2) by inserting a comma after `under this Act'; (3) by inserting a comma after `subsection (a)(1))'; and (4) by inserting `a violation of this Act or is' before `prohibited'. (b) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection: `(o) Unlawful Assistance- It is unlawful for any person, partnership, or corporation, knowingly or recklessly, to provide substantial assistance to another in violating any provision of this Act or of any other Act enforceable by the Commission that relates to unfair or deceptive acts or practices. Any such violation shall constitute an unfair or deceptive act or practice described in section 5(a)(1) of this Act. Nothing in this section shall be construed as limiting or superseding the protection provided to any provider or user qualifying for protection under section 230(c)(1) of the Communications Act of 1934 (47 U.S.C. 230(c)(1)).'. (c) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended-- (1) in subsection (a)(1), by striking `(h)' and inserting `(f)'; (2) by amending subsection (b) to read as follows: `(b) Procedure Applicable- When prescribing a rule under subsection (a)(1)(B) of this section, the Commission shall proceed in accordance with section 553 of title 5.'; (3) by striking subsection (c); (4) in subsection (d), by striking `(d)(1) The Commission's' and all that follows through the end of paragraph (2) and by redesignating paragraph (3) of such subsection as subsection (c); (5) In such subsection (c) (as so redesignated), by inserting `prescribed' after `any rule'; (6) by striking subsections (f), (i), and (j) and redesignating subsections (e), (g), and (h) as subsections (d), (e), and (f), respectively; (7) in subsection (c) (as redesignated), by inserting `prescribed' after `rule'; and (8) in subsection (d) (as redesignated)-- (A) in paragraph (1)(A) by striking `promulgated' and inserting `prescribed'; (B) in paragraph (1)(B), by striking `the transcript required by subsection (c)(5),'; (C) in paragraph (3), by striking `The court shall hold unlawful' and all that follows through the end of the paragraph; and (D) by striking paragraphs (4) and (5) and inserting the following: `(4) The procedure set forth in this subsection for judicial review of a rule prescribed under subsection (a)(1)(B) is the exclusive means for such review, other than in an enforcement proceeding.'; and (9) in subsection (e)(2) (as so redesignated), by striking `class or persons' and inserting `class of persons'. (d) Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended-- (1) in subparagraph (D), by striking `; or' and inserting a semicolon; and (2) by inserting after subparagraph (E) the following: `(F) to obtain a civil penalty authorized under any provision of law enforced by the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Commission.'. (e) Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(l)) is amended in the first sentence by inserting `the Commission or' after `brought by'.		
Subtitle J--Miscellaneous **SEC. 4951. REQUIREMENTS FOR STATE-LICENSED LOAN ORIGINATORS.** Paragraph (2) of section 1505 (b) of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5104(b)(2)) is amended by inserting after and below subparagraph (B), the following: `Notwithstanding the preceding sentence, a State loan originator supervisory authority may provide for review of applicants and for granting exceptions, on a case-by-case basis, to the minimum standard under subparagraph (B), but only to the extent that any such exception otherwise complies with the purposes of this title.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE V--CAPITAL MARKETS **Subtitle A--Private Fund Investment Advisers Registration Act** **SEC. 5001. SHORT TITLE.** This subtitle may be cited as the `Private Fund Investment Advisers Registration Act of 2009'.	***TITLE IV--REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS*** ***SEC. 401. SHORT TITLE.*** *This title may be cited as the `Private Fund Investment Advisers Registration Act of 2010'.*	
SEC. 5002. DEFINITIONS. Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by adding at the end the following new paragraphs: `(29) PRIVATE FUND- The term `private fund' means an issuer that would be an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) but for the exception provided from that definition by either section 3(c)(1) or section 3(c)(7) of such Act. `(30) FOREIGN PRIVATE FUND ADVISER- The term `foreign private fund adviser' means an investment adviser who-- `(A) has no place of business in the United States; `(B) during the preceding 12 months has had-- `(i) in total, fewer than 15 clients and investors in the United States in private funds advised by the investment adviser; and `(ii) aggregate assets under management attributable to clients and investors in the United States in private funds advised by the investment adviser of less than $25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in the public interest or for the protection of investors; and `(C) neither holds itself out generally to the public in the United States as an investment adviser, nor acts as an investment adviser to any investment company registered under the Investment Company Act of 1940, or a company which has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a-53) and has not withdrawn such election.'.	***SEC. 402. DEFINITIONS.*** *(a) Investment Advisers Act of 1940 Definitions- Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by adding at the end the following:* *`(29) The term `private fund' means an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3), but for section 3(c)(1) or 3(c)(7) of that Act.* *`(30) The term `foreign private adviser' means any investment adviser who--* *`(A) has no place of business in the United States;* *`(B) has, in total, fewer than 15 clients who are domiciled in or residents of the United States;* *`(C) has aggregate assets under management attributable to clients in the United States and investors in the United States in private funds advised by the investment adviser of less than $25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title; and* *`(D) neither--* *`(i) holds itself out generally to the public in the United States as an investment adviser; nor* *`(ii) acts as--* *`(I) an investment adviser to any investment company registered under the Investment Company Act of 1940; or* *`(II) a company that has elected to be a business development company pursuant to section 54 of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Investment Company Act of 1940 (15 U.S.C. 80a-53), and has not withdrawn its election.'. *(b) Other Definitions- As used in this title, the terms `investment adviser' and `private fund' have the same meanings as in section 202 of the Investment Advisers Act of 1940, as amended by this title.*	
SEC. 5003. ELIMINATION OF PRIVATE ADVISER EXEMPTION; LIMITED EXEMPTION FOR FOREIGN PRIVATE FUND ADVISERS; LIMITED INTRASTATE EXEMPTION. (a) Exemption- Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended-- (1) in paragraph (1), by inserting `, except an investment adviser who acts as an investment adviser to any private fund,' after `any investment adviser'; (2) by amending paragraph (3) to read as follows: `(3) any investment adviser that is a foreign private fund adviser;'; (3) in paragraph (5), by striking `or' at the end; (4) in paragraph (6)-- (A) in subparagraph (A), by striking `or'; (B) in subparagraph (B), by striking the period at the end and adding `; or'; and (C) by adding at the end the following new subparagraph: `(C) a private fund; or'; and (5) by adding at the end the following: `(7) any investment adviser who solely advises-- `(A) small business investment companies licensed under the Small Business Investment Act of 1958; `(B) entities that have received from the Small Business Administration notice to proceed to qualify for a license, which notice or license has not been revoked; or `(C) applicants, related to one or more licensed small business investment companies covered in subparagraph (A), that have applied for another license, which application remains pending.' (b) Consideration of Risk- Section 203(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(c)) is amended by adding at the end the following: `(3) The Commission shall take into account the relative risk profile of different classes of private funds	***SEC. 403. ELIMINATION OF PRIVATE ADVISER EXEMPTION; LIMITED EXEMPTION FOR FOREIGN PRIVATE ADVISERS; LIMITED INTRASTATE EXEMPTION.*** *Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended--* *(1) in paragraph (1), by inserting `, other than an investment adviser who acts as an investment adviser to any private fund,' before `all of whose';* *(2) by striking paragraph (3) and inserting the following:* *`(3) any investment adviser that is a foreign private adviser;'; and* *(3) in paragraph (5), by striking `or' at the end;* *(4) in paragraph (6), by striking the period at the end and inserting `; or'; and* *(5) by adding at the end the following:* *`(7) any investment adviser, other than any entity that has elected to be regulated or is regulated as a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a-54), who solely advises--* *`(A) small business investment companies that are licensees under the Small Business Investment Act of 1958;* *`(B) entities that have received from the Small Business Administration notice to proceed to qualify for a license as a small business investment company under the Small Business Investment Act of 1958, which notice or license has not been revoked; or* *`(C) applicants that are affiliated with 1 or more licensed small business investment companies described in subparagraph (A) and that have applied for another license under the Small Business Investment Act of 1958, which application remains pending.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
as it establishes, by rule or regulation, the registration requirements for private funds.'.		
	SEC. 409. FAMILY OFFICES. *(a) In General- Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended by striking `or (G)' and inserting the following: `; (G) any family office, as defined by rule, regulation, or order of the Commission, in accordance with the purposes of this title; or (H)'.* *(b) Rulemaking- The rules, regulations, or orders issued by the Commission pursuant to section 202(a)(11)(G) of the Investment Advisers Act of 1940, as added by this section, regarding the definition of the term `family office' shall provide for an exemption that--* *(1) is consistent with the previous exemptive policy of the Commission, as reflected in exemptive orders for family offices in effect on the date of enactment of this Act; and* *(2) recognizes the range of organizational, management, and employment structures and arrangements employed by family offices.*	
SEC. 5004. COLLECTION OF DATA. Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended-- (1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and (2) by inserting after subsection (a) the following new subsection: `(b) Records and Reports of Private Funds- `(1) IN GENERAL- The Commission is authorized to require any investment adviser registered under this Act to maintain such records of and file with the Commission such reports regarding private funds advised by the investment adviser as are necessary or appropriate in the public interest and for the protection of investors or for the assessment of systemic risk as the Commission determines in consultation with the Board of Governors of the Federal Reserve System. The Commission is authorized to provide or make available to the Board of Governors of the Federal Reserve System and to the Financial Services Oversight Council, those reports or records or the	***SEC. 404. COLLECTION OF SYSTEMIC RISK DATA; REPORTS; EXAMINATIONS; DISCLOSURES.*** *Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended--* *(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and* *(2) by inserting after subsection (a) the following:* *`(b) Records and Reports of Private Funds-* *`(1) IN GENERAL- The Commission may require any investment adviser registered under this title--* *`(A) to maintain such records of, and file with the Commission such reports regarding, private funds advised by the investment adviser, as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk by the Financial Stability Oversight Council (in this subsection referred to as the `Council'); and* *`(B) to provide or make available to the Council those reports or records or the information contained*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
information contained therein. The records and reports of any private fund, to which any such investment adviser provides investment advice, maintained or filed by an investment adviser registered under this Act, shall be deemed to be the records and reports of the investment adviser.	*therein.`*	
	2) TREATMENT OF RECORDS- The records and reports of any private fund to which an investment adviser registered under this title provides investment advice shall be deemed to be the records and reports of the investment adviser.	
`(2) REQUIRED INFORMATION- The records and reports required to be maintained or filed with the Commission under this subsection shall include, for each private fund advised by the investment adviser-- `(A) the amount of assets under management; `(B) the use of leverage (including off-balance sheet leverage); `(C) counterparty credit risk exposures; `(D) trading and investment positions; `(E) trading practices; and `(F) such other information as the Commission, in consultation with the Board of Governors of the Federal Reserve System, determines necessary or appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.	*`(3) REQUIRED INFORMATION- The records and reports required to be maintained by a private fund and subject to inspection by the Commission under this subsection shall include, for each private fund advised by the investment adviser, a description of--* *`(A) the amount of assets under management and use of leverage;* *`(B) counterparty credit risk exposure;* *`(C) trading and investment positions;* *`(D) valuation policies and practices of the fund;* *`(E) types of assets held;* *`(F) side arrangements or side letters, whereby certain investors in a fund obtain more favorable rights or entitlements than other investors;* *`(G) trading practices; and* *`(H) such other information as the Commission, in consultation with the Council, determines is necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk, which may include the establishment of different reporting requirements for different classes of fund advisers, based on the type or size of private fund being advised.*	
`(3) OPTIONAL INFORMATION- The Commission may require the reporting of such additional information from private fund advisers as the Commission determines necessary. In making such determination, the Commission, taking into		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
account the public interest and potential to contribute to systemic risk, may set different reporting requirements for different classes of private fund advisers, based on the particular types or sizes of private funds advised by such advisers.		
`(4) MAINTENANCE OF RECORDS- An investment adviser registered under this Act is required to maintain and keep such records of private funds advised by the investment adviser for such period or periods as the Commission, by rule or regulation, may prescribe as necessary or appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.	*`(4) MAINTENANCE OF RECORDS- An investment adviser registered under this title shall maintain such records of private funds advised by the investment adviser for such period or periods as the Commission, by rule, may prescribe as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.*	
	`(5) FILING OF RECORDS- The Commission shall issue rules requiring each investment adviser to a private fund to file reports containing such information as the Commission deems necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.	
`(5) EXAMINATION OF RECORDS- `(A) PERIODIC AND SPECIAL EXAMINATIONS- All records of a private fund maintained by an investment adviser registered under this Act shall be subject at any time and from time to time to such periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. `(B) AVAILABILITY OF RECORDS- An investment adviser registered under this Act shall make available to the Commission or its representatives any copies or extracts from such records as may be prepared without undue effort, expense, or delay as the Commission or its representatives may reasonably request.	*`(6) EXAMINATION OF RECORDS-* *`(A) PERIODIC AND SPECIAL EXAMINATIONS- The Commission--* *`(i) shall conduct periodic inspections of all records of private funds maintained by an investment adviser registered under this title in accordance with a schedule established by the Commission; and* *`(ii) may conduct at any time and from time to time such additional, special, and other examinations as the Commission may prescribe as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.* *`(B) AVAILABILITY OF RECORDS- An investment adviser registered under this title shall make available to the Commission any copies or extracts from such records as may be prepared without undue effort, expense, or delay, as the Commission or its representatives may reasonably request.*	
`(6) INFORMATION SHARING- The Commission shall make available to the Board of Governors of the Federal Reserve	*`(7) INFORMATION SHARING-* *`(A) IN GENERAL- The Commission shall make*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
System and to the Financial Services Oversight Council, copies of all reports, documents, records, and information filed with or provided to the Commission by an investment adviser under this subsection as the Board, or the Financial Services Oversight Council, may consider necessary for the purpose of assessing the systemic risk of a private fund. All such reports, documents, records, and information obtained by the Board, or such other entity, from the Commission under this subsection shall be kept confidential in a manner consistent with confidentiality established by the Commission pursuant to paragraph (8). `(7) DISCLOSURES OF CERTAIN PRIVATE FUND INFORMATION- An investment adviser registered under this Act shall provide such reports, records, and other documents to investors, prospective investors, counterparties, and creditors, of any private fund advised by the investment adviser as the Commission, by rule or regulation, may prescribe as necessary or appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.	*available to the Council copies of all reports, documents, records, and information filed with or provided to the Commission by an investment adviser under this subsection as the Council may consider necessary for the purpose of assessing the systemic risk posed by a private fund.* *`(B) CONFIDENTIALITY- The Council shall maintain the confidentiality of information received under this paragraph in all such reports, documents, records, and information, in a manner consistent with the level of confidentiality established by the Commission pursuant to paragraph (8). The Council shall be exempt from section 552 of title 5, United States Code, with respect to any information in any report, document, record, or information made available, to the Council under this subsection.'.*	
`(8) APPLICABLE PRIVILEGES NOT WAIVED- An investment advisor, and investment advisor to a private fund, a private fund, foreign private fund advisor, a foreign private fund, an advisor to a venture capital fund, a venture capital fund, or other person shall not be compelled to waive and shall not be deemed to have waived any privilege otherwise applicable to any data or information by transferring the data or information to, or permitting that data or information to be used by-- `(A) the Financial Services Oversight Council; `(B) the Commission; `(C) any Federal financial regulator or State financial regulator, in any capacity; or `(D) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).		
`(9) NON-DISCLOSURE OF CERTAIN PROPRIETARY INFORMATION AND CONFIDENTIALITY OF REPORTS- Any proprietary information of an investment adviser ascertained by the Commission from any report required to be filed with the Commission pursuant to this section 204(b) shall be subject to the same limitations on public disclosure as any facts ascertained during an examination as provided by section 210(b) of this title. The Commission may not compel the private fund to disclose such proprietary information to counterparties and creditors. For purposes of this section, proprietary information shall include sensitive, non-public information	*`(8) COMMISSION CONFIDENTIALITY OF REPORTS- Notwithstanding any other provision of law, the Commission may not be compelled to disclose any report or information contained therein required to be filed with the Commission under this subsection, except that nothing in this subsection authorizes the Commission--* *`(A) to withhold information from Congress, upon an agreement of confidentiality; or* *`(B) prevent the Commission from complying with--* *`(i) a request for information from any other Federal department or agency or any self-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
regarding the investment adviser's investment or trading strategies, analytical or research methodologies, trading data, computer hardware or software containing intellectual property, and any additional information that the Commission determines to be proprietary. Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any report or information contained therein required to be filed with the Commission under this subsection. Nothing in this paragraph shall authorize the Commission to withhold information from the Congress or to prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the report or information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section.'.	*regulatory organization requesting the report or information for purposes within the scope of its jurisdiction; or* *`(ii) an order of a court of the United States in an action brought by the United States or the Commission.* *`(9) OTHER RECIPIENTS CONFIDENTIALITY- Any department, agency, or self-regulatory organization that receives reports or information from the Commission under this subsection shall maintain the confidentiality of such reports, documents, records, and information in a manner consistent with the level of confidentiality established for the Commission under paragraph (8).* *`(10) PUBLIC INFORMATION EXCEPTION-* *`(A) IN GENERAL- The Commission, the Council, and any other department, agency, or self-regulatory organization that receives information, reports, documents, records, or information from the Commission under this subsection, shall be exempt from the provisions of section 552 of title 5, United States Code, with respect to any such report, document, record, or information. Any proprietary information of an investment adviser ascertained by the Commission from any report required to be filed with the Commission pursuant to this subsection shall be subject to the same limitations on public disclosure as any facts ascertained during an examination, as provided by section 210(b) of this title.* *`(B) PROPRIETARY INFORMATION- For purposes of this paragraph, proprietary information includes--* *`(i) sensitive, non-public information regarding the investment or trading strategies of the investment adviser;* *`(ii) analytical or research methodologies;* *`(iii) trading data;* *`(iv) computer hardware or software containing intellectual property; and* *`(v) any additional information that the Commission determines to be proprietary.*	
	`(11) ANNUAL REPORT TO CONGRESS- The Commission	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	shall report annually to Congress on how the Commission has used the data collected pursuant to this subsection to monitor the markets for the protection of investors and the integrity of the markets.'.	
SEC. 5005. ELIMINATION OF DISCLOSURE PROVISION. Section 210 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10) is amended by striking subsection (c).	***SEC. 405. DISCLOSURE PROVISION ELIMINATED.*** *Section 210(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10(c)) is amended by inserting before the period at the end the following: `or for purposes of assessment of potential systemic risk'.*	
SEC. 5006. EXEMPTION OF AND REPORTING BY VENTURE CAPITAL FUND ADVISERS. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end the following new subsection: `(l) Exemption of and Reporting by Venture Capital Fund Advisers- The Commission shall identify and define the term `venture capital fund' and shall provide an adviser to such a fund an exemption from the registration requirements under this section (excluding any such fund whose adviser is exempt from registration pursuant to paragraph (7) of subsection (b)). The Commission shall require such advisers to maintain such records and provide to the Commission such annual or other reports as the Commission determines necessary or appropriate in the public interest or for the protection of investors.'.	***SEC. 407. EXEMPTION OF VENTURE CAPITAL FUND ADVISERS.*** *Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end the following:* *`(l) Exemption of Venture Capital Fund Advisers- No investment adviser shall be subject to the registration requirements of this title with respect to the provision of investment advice relating to a venture capital fund. Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules to define the term `venture capital fund' for purposes of this subsection.'.*	
SEC. 5007. EXEMPTION OF AND REPORTING BY CERTAIN PRIVATE FUND ADVISERS. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3), as amended by section 5006, is further amended by adding at the end the following new subsections: `(m) Exemption of and Reporting by Certain Private Fund Advisers- `(1) IN GENERAL- The Commission shall provide an exemption from the registration requirements under this section to any investment adviser of private funds, if each of such investment adviser acts solely as an adviser to private funds and has assets under management in the United States of less than $150,000,000. `(2) REPORTING- The Commission shall require investment advisers exempted by reason of this subsection to maintain such records and provide to the Commission such annual or other reports as the Commission determines necessary or appropriate		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
in the public interest or for the protection of investors. `(n) Registration and Examination of Mid-sized Private Fund Advisers- In prescribing regulations to carry out the requirements of this section with respect to investment advisers acting as investment advisers to mid-sized private funds, the Commission shall take into account the size, governance, and investment strategy of such funds to determine whether they pose systemic risk, and shall provide for registration and examination procedures with respect to the investment advisers of such funds which reflect the level of systemic risk posed by such funds.'.		
	SEC. 408. EXEMPTION OF AND RECORD KEEPING BY PRIVATE EQUITY FUND ADVISERS. *Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end the following:* *`(m) Exemption of and Reporting by Private Equity Fund Advisers-* *`(1) IN GENERAL- Except as provided in this subsection, no investment adviser shall be subject to the registration or reporting requirements of this title with respect to the provision of investment advice relating to a private equity fund or funds.* *`(2) MAINTENANCE OF RECORDS AND ACCESS BY COMMISSION- Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules--* *`(A) to require investment advisers described in paragraph (1) to maintain such records and provide to the Commission such annual or other reports as the Commission taking into account fund size, governance, investment strategy, risk, and other factors, as the Commission determines necessary and appropriate in the public interest and for the protection of investors; and* *`(B) to define the term `private equity fund' for purposes of this subsection.'.*	
SEC. 5008. CLARIFICATION OF RULEMAKING AUTHORITY. Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) is amended-- (1) by amending subsection (a) to read as follows: `(a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers	***SEC. 406. CLARIFICATION OF RULEMAKING AUTHORITY.*** *Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) is amended--* *(1) in subsection (a), by inserting before the period at the end of the first sentence the following: `, including rules and regulations defining technical, trade, and other terms used in this title, except that the Commission may not define the term*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
conferred upon the Commission elsewhere in this title, including rules and regulations defining technical, trade, and other terms used in this title. For the purposes of its rules and regulations, the Commission may-- `(1) classify persons and matters within its jurisdiction based upon, but not limited to-- `(A) size; `(B) scope; `(C) business model; `(D) compensation scheme; or `(E) potential to create or increase systemic risk; `(2) prescribe different requirements for different classes of persons or matters; and `(3) ascribe different meanings to terms (including the term `client', except the Commission shall not ascribe a meaning to the term `client' that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser) used in different sections of this title as the Commission determines necessary to effect the purposes of this title.'; and (2) by adding at the end the following new subsection: `(e) The Commission and the Commodity Futures Trading Commission shall, after consultation with the Board of Governors of the Federal Reserve System, within 12 months after the date of enactment of the Private Fund Investment Advisers Registration Act of 2009, jointly promulgate rules to establish the form and content of the reports required to be filed with the Commission under sections 203(l), 203(m), and 204(b) and with the Commodity Futures Trading Commission by investment advisers that are registered both under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) and the Commodity Exchange Act (7 U.S.C. 1 et seq.).'.	*`client' for purposes of paragraphs (1) and (2) of section 206 to include an investor in a private fund managed by an investment adviser, if such private fund has entered into an advisory contract with such adviser'; and* *(2) by adding at the end the following:* *`(e) Disclosure Rules on Private Funds- The Commission and the Commodity Futures Trading Commission shall, after consultation with the Council but not later than 12 months after the date of enactment of the Private Fund Investment Advisers Registration Act of 2010, jointly promulgate rules to establish the form and content of the reports required to be filed with the Commission under subsection 204(b) and with the Commodity Futures Trading Commission by investment advisers that are registered both under this title and the Commodity Exchange Act (7 U.S.C. 1a et seq.).'.*	
SEC. 5009. GAO STUDY. (a) Study Required- The Comptroller General of the United States shall carry out a study to assess the annual costs on industry members and their investors due to the registration requirements and ongoing reporting requirements under this subtitle and the amendments made by this subtitle. (b) Report to the Congress- Not later than the end of the 2-year period beginning on the date of the enactment of this title, the Comptroller General of the United States shall submit a report to the Congress containing the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a).		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 5010. EFFECTIVE DATE; TRANSITION PERIOD. (a) Effective Date- This subtitle, and the amendments made by this subtitle, shall take effect with respect to investment advisers after the end of the 1-year period beginning on the date of the enactment of this title. (b) Transition Period- The Securities and Exchange Commission shall prescribe rules and regulations to the extent necessary to permit an investment adviser who will be required to register with the Securities and Exchange Commission by reason of this subtitle with the option of registering with the Securities and Exchange Commission before the date described under subsection (a).	***SEC. 416. TRANSITION PERIOD.*** *Except as otherwise provided in this title, this title and the amendments made by this title shall become effective 1 year after the date of enactment of this Act, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission.*	
SEC. 5011. QUALIFIED CLIENT STANDARD. Section 205(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(e)) is amended by adding at the end the following: `With respect to any factor used in any rule or regulation by the Commission in making a determination under this subsection, if the Commission uses a dollar amount test in connection with such factor, such as a net asset threshold, the Commission shall, by order, not later than 1 year after the date of the enactment of the Private Fund Investment Advisers Registration Act of 2009, and every 5 years thereafter, adjust for the effects of inflation on such test. Any such adjustment that is not a multiple of $100,000 shall be rounded to the nearest multiple of $100,000.'.		
	SEC. 410. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS. *Section 203A(a)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)(1)) is amended--* *(1) in subparagraph (A)--* *(A) by striking `$25,000,000' and inserting `$100,000,000'; and* *(B) by striking `or' at the end;* *(2) in subparagraph (B), by striking the period at the end and inserting `; or'; and* *(3) by adding at the end the following:* *`(C) is an adviser to a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn its election.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 411. CUSTODY OF CLIENT ASSETS. *The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by adding at the end the following new section:* ***`SEC. 223. CUSTODY OF CLIENT ACCOUNTS.***  *`An investment adviser registered under this title shall take such steps to safeguard client assets over which such adviser has custody, including, without limitation, verification of such assets by an independent public accountant, as the Commission may, by rule, prescribe.'.*	
	SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD. *(a) In General- The Commission shall adjust any net worth standard for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, so that the individual net worth of any natural person, or joint net worth with the spouse of that person, at the time of purchase, is more than $1,000,000 (as such amount is adjusted periodically by rule of the Commission), excluding the value of the primary residence of such natural person, except that during the 4-year period that begins on the date of enactment of this Act, any net worth standard shall be $1,000,000, excluding the value of the primary residence of such natural person.* *(b) Review and Adjustment-* *(1) INITIAL REVIEW AND ADJUSTMENT-* *(A) INITIAL REVIEW- The Commission may undertake a review of the definition of the term `accredited investor', as such term applies to natural persons, to determine whether the requirements of the definition, excluding the requirement relating to the net worth standard described in subsection (a), should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.* *(B) ADJUSTMENT OR MODIFICATION- Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term `accredited investor', excluding adjusting or modifying the requirement relating to the net worth standard described in subsection (a), as such term applies to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy. *(2) SUBSEQUENT REVIEWS AND ADJUSTMENT-* *(A) SUBSEQUENT REVIEWS- Not earlier than 4 years after the date of enactment of this Act, and not less frequently than once every 4 years thereafter, the Commission shall undertake a review of the definition, in its entirety, of the term `accredited investor', as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, to determine whether the requirements of the definition should be adjusted or modified for the protection of investors, in the public interest, and in light of the economy.* *(B) ADJUSTMENT OR MODIFICATION- Upon completion of a review under subparagraph (A), the Commission may, by notice and comment rulemaking, make such adjustments to the definition of the term `accredited investor', as defined in section 230.215 of title 17, Code of Federal Regulations, or any successor thereto, as such term applies to natural persons, as the Commission may deem appropriate for the protection of investors, in the public interest, and in light of the economy.*	
	SEC. 413. GAO STUDY AND REPORT ON ACCREDITED INVESTORS. *The Comptroller General of the United States shall conduct a study on the appropriate criteria for determining the financial thresholds or other criteria needed to qualify for accredited investor status and eligibility to invest in private funds, and shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study not later than 3 years after the date of enactment of this Act.*	
	SEC. 414. GAO STUDY ON SELF-REGULATORY ORGANIZATION FOR PRIVATE FUNDS. *The Comptroller General of the United States shall--* *(1) conduct a study of the feasibility of forming a self-regulatory*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	organization to oversee private funds; and *(2) submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study, not later than 1 year after the date of enactment of this Act.*	
	SEC. 415. COMMISSION STUDY AND REPORT ON SHORT SELLING. *(a) Study- The Division of Risk, Strategy, and Financial Innovation of the Commission shall conduct a study, taking into account current scholarship, on the state of short selling on national securities exchanges and in the over-the-counter markets, with particular attention to the impact of recent rule changes and the incidence of--* *(1) the failure to deliver shares sold short; or* *(2) delivery of shares on the fourth day following the short sale transaction.* *(b) Report- The Division of Risk, Strategy, and Financial Innovation shall submit a report, together with any recommendations for market improvements, including consideration of real time reporting of short sale positions, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under subsection (a), not later than 2 years after the date of enactment of this Act.*	
Subtitle B--Accountability and Transparency in Rating Agencies Act **SEC. 6001. SHORT TITLE.** This subtitle may be cited as the `Accountability and Transparency in Rating Agencies Act of 2009'.	***TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES*** ***Subtitle C--Improvements to the Regulation of Credit Rating Agencies***	
	SEC. 931. FINDINGS. *Congress finds the following:* *(1) Because of the systemic importance of credit ratings and the reliance placed on credit ratings by individual and institutional investors and financial regulators, the activities and performances of credit rating agencies, including nationally recognized statistical rating organizations, are matters of*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	national public interest, as credit rating agencies are central to capital formation, investor confidence, and the efficient performance of the United States economy. *(2) Credit rating agencies, including nationally recognized statistical rating organizations, play a critical `gatekeeper' role in the debt market that is functionally similar to that of securities analysts, who evaluate the quality of securities in the equity market, and auditors, who review the financial statements of firms. Such role justifies a similar level of public oversight and accountability.* *(3) Because credit rating agencies perform evaluative and analytical services on behalf of clients, much as other financial `gatekeepers' do, the activities of credit rating agencies are fundamentally commercial in character and should be subject to the same standards of liability and oversight as apply to auditors, securities analysts, and investment bankers.* *(4) In certain activities, particularly in advising arrangers of structured financial products on potential ratings of such products, credit rating agencies face conflicts of interest that need to be carefully monitored and that therefore should be addressed explicitly in legislation in order to give clearer authority to the Securities and Exchange Commission.* *(5) In the recent financial crisis, the ratings on structured financial products have proven to be inaccurate. This inaccuracy contributed significantly to the mismanagement of risks by financial institutions and investors, which in turn adversely impacted the health of the economy in the United States and around the world. Such inaccuracy necessitates increased accountability on the part of credit rating agencies.*	
SEC. 6002. ENHANCED REGULATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS. (a) In General- Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7) is amended--		
(1) in subsection (a)-- (A) by amending paragraph (1)(A) to read as follows: `(A) IN GENERAL- Each credit rating agency shall register as a nationally recognized statistical rating organization for the purposes of this title (in this section referred to as the `applicant'), and shall file with		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).'. (B) in paragraph (2)(A), by striking `furnished to' and inserting `filed with'; (C) in paragraph (2)(B)(i)(II), by striking `furnished to' and inserting `filed with'; and (D) by adding at the end of paragraph (1) the following: `(F) EXEMPTIONS- The registration requirement in subparagraph (A) shall not apply to-- `(i) a credit rating agency if the credit rating agency-- `(I) does not engage in the provision of credit ratings to issuers of securities for a fee; and `(II) issues credit ratings only in any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation; or `(ii) such other persons as the Commission may designate by rules and regulations or order when in the public interest and for the protection of investors.'. (2) in subsection (b)-- (A) in paragraph (1)(A), by striking `furnished' and inserting `filed' and by striking `furnishing' and inserting `filing'; (B) in paragraph (1)(B), by striking `furnishing' and inserting `filing'; and (C) in the first sentence of paragraph (2), by striking `furnish to' and inserting `file with';		
(3) in subsection (c)-- (A) paragraph (2)-- (i) in the second sentence by inserting `including the requirements of this section,' after `Notwithstanding any other provision of law,'; and (ii) by inserting before the period at the end of	***SEC. 932. ENHANCED REGULATION, ACCOUNTABILITY, AND TRANSPARENCY OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.*** *Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7) is amended--* *(1) in subsection (c)--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the last sentence `, provided that this paragraph does not afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provision of the securities laws'; (B) by adding at the end the following new paragraph: `(3) REVIEW OF INTERNAL PROCESSES FOR DETERMINING CREDIT RATINGS- `(A) IN GENERAL- The Commission shall examine credit ratings issued by, and the policies, procedures, and methodologies employed by, each nationally recognized statistical rating organization to review whether-- `(i) the nationally recognized statistical rating organization has established and documented a system of internal controls, due diligence and implementation of methodologies for determining credit ratings, taking into consideration such factors as the Commission may prescribe by rule; `(ii) the nationally recognized statistical rating organization adheres to such system; and `(iii) the public disclosures of the nationally recognized statistical rating organization required under this section about its credit ratings, methodologies, and procedures are consistent with such system. `(B) MANNER AND FREQUENCY- The Commission shall conduct reviews required by this paragraph no less frequently than annually in a manner to be determined by the Commission. `(4) PROVISION OF INFORMATION TO THE COMMISSION- Each nationally recognized statistical rating organization shall make available and maintain such records and information, for such a period of time, as the Commission may prescribe, by rule, as necessary for the Commission to conduct the reviews under paragraph (3).	*(A) in paragraph (2)--* *(i) in the second sentence, by inserting `any other provision of this section, or' after `Notwithstanding'; and* *(ii) by inserting after the period at the end the following: `Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.'; and* *(B) by adding at the end the following:* *`(3) INTERNAL CONTROLS OVER PROCESSES FOR DETERMINING CREDIT RATINGS-* *`(A) IN GENERAL- Each nationally recognized statistical rating organization shall establish, maintain, enforce, and document an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings, taking into consideration such factors as the Commission may prescribe, by rule.*	
`(5) DISCLOSURES WITH RESPECT TO STRUCTURED SECURITIES- `(A) REGULATIONS REQUIRED- The rules and regulations prescribed by the Commission pursuant to this section with respect to nationally recognized		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
statistical rating organizations shall, with respect to disclosure of the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings for structured securities-- `(i) specify the information required to be disclosed to such rating organizations by the sponsor, issuers, and underwriters of such structured securities on the collateral underlying such structured securities; and `(ii) establish and implement procedures to collect and disclose information about the processes used by such sponsor, issuers, and underwriters to assess the accuracy and integrity of their data and fraud detection. `(B) DEFINITION- For purposes of this paragraph, the Commission shall, by rule or regulation, define the term `structured securities' as appropriate in the public interest and for the protection of investors.		
`(6) HISTORICAL DEFAULT RATE DISCLOSURES- The rules and regulations prescribed by the Commission pursuant to this section with respect to nationally recognized statistical rating organizations shall require each nationally recognized statistical rating organization to establish and maintain, on a publicly accessible Internet site, a facility to disclose, in a central database, the historical default rates of all classes of financial products rated by such organization.';		
(4) in subsection (d)-- (A) in the heading, by inserting `Fine,' after `Censure,'; (B) by striking `shall censure' and all that follows through `revocation' and inserting the following: `shall censure, fine in accordance with section 21B(a), place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization (or with respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a nationally recognized statistical rating organization, the Commission, by order, shall censure, fine in accordance with section 21B(a), place limitations on the activities or functions of such person,		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
suspend for a period not exceeding 12 months, or bar such person from being associated with a nationally recognized statistical rating organization), if the Commission finds, on the record after notice and opportunity for hearing, that such censure, fine, placing of limitations, bar, suspension, or revocation'; (C) in paragraph (2), by striking `furnished to' and inserting `filed with'; (D) in paragraph (4)-- (i) by striking `furnish' and inserting `file'; and (ii) by striking `or' at the end; (E) in paragraph (5), by striking the period at the end and inserting a semicolon; and		
	`(B) ATTESTATION REQUIREMENT- The Commission shall prescribe rules requiring each nationally recognized statistical rating organization to submit to the Commission an annual internal controls report, which shall contain--* *`(i) a description of the responsibility of the management of the nationally recognized statistical rating organization in establishing and maintaining an effective internal control structure under subparagraph (A); *`(ii) an assessment of the effectiveness of the internal control structure of the nationally recognized statistical rating organization; and* *`(iii) the attestation of the chief executive officer, or equivalent individual, of the nationally recognized statistical rating organization.';* *(2) in subsection (d)--* *(A) in the subsection heading, by inserting `Fine,' after `Censure,';* *(B) by inserting `fine,' after `censure,' each place that term appears;* *(C) in paragraph (2), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;* *(D) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and adjusting the subparagraph margins accordingly;* *(E) in the matter preceding subparagraph (A), as so*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	redesignated, by striking `The Commission' and inserting the following:* *`(2) SUSPENSION OR REVOCATION FOR PARTICULAR CLASS OF SECURITIES- *`(A) IN GENERAL- The Commission may temporarily suspend or permanently revoke the registration of a nationally recognized statistical rating organization with respect to a particular class or subclass of securities, if the Commission finds, on the record after notice and opportunity for hearing, that the nationally recognized statistical rating organization does not have adequate financial and managerial resources to consistently produce credit ratings with integrity.* *`(B) CONSIDERATIONS- In making any determination under subparagraph (A), the Commission shall consider--* *`(i) whether the nationally recognized statistical rating organization has failed over a sustained period of time, as determined by the Commission, to produce ratings that are accurate for that class or subclass of securities; and* *`(ii) such other factors as the Commission may determine.';*	
(F) by adding at the end the following:` (6) has failed reasonably to supervise another person who commits a violation of the securities laws, the rules or regulations there under, or any rules of the Municipal Securities Rulemaking Board if such other person is subject to his or her supervision, except that no person shall be deemed to have failed reasonably to supervise any other person under this paragraph, if-- `(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person; and `(B) such person has reasonably discharged the duties and obligations incumbent upon him or her by reason of such procedures and system without reasonable cause to believe that such procedures and system were	***SEC. 932****. (adding matter preceding subparagraph (A) of 15 U.S.C. 78o-7(d) as redesignated)* *`(1) IN GENERAL- The Commission';* *(F) in subparagraph (D), as so redesignated, by striking `or' at the end;* *(G) in subparagraph (E), as so redesignated, by striking the period at the end and inserting a semicolon; and* *(H) by adding at the end the following:* *`(F) has failed reasonably to supervise, with a view to preventing a violation of the securities laws, an individual who commits such a violation, if the individual is subject to the supervision of that person.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
not being complied with; or `(7) fails to conduct sufficient surveillance to ensure that credit ratings remain current, as applicable.';		
(5) in subsection (e), by striking paragraph (1) and inserting the following new paragraph (1): `(1) VOLUNTARY WITHDRAWAL- A nationally recognized statistical rating organization may, upon such terms and conditions as the Commission may establish as necessary in the public interest or for the protection of investors, withdraw from registration by furnishing a written notice of withdrawal to the Commission, provided that such nationally recognized statistical rating organization certifies that it received less than $250,000,000 during its last full fiscal year in net revenue for providing credit ratings on securities and money market instruments issued in the United States.'; (6) by amending subsection (h) to read as follows:		
`(h) Corporate Governance, Organization, and Management of Conflicts of Interest- `(1) BOARD OF DIRECTORS- `(A) IN GENERAL- Each nationally recognized statistical rating organization shall have a board of directors. `(B) INDEPENDENT DIRECTORS- At least 1/3 of such board, but no less than 2 of the members of the board of directors, shall be independent directors. In order to be considered independent for purposes of this subsection, a director of a nationally recognized statistical rating organization may not, other than in his or her capacity as a member of the board of directors or any committee thereof-- `(i) accept any consulting, advisory, or other compensatory fee from the nationally recognized statistical rating organization; or `(ii) be a person associated with the nationally recognized statistical rating organization or with any affiliated company thereof. `(C) COMPENSATION AND TERM- The compensation of the independent directors shall not be linked to the business performance of the nationally recognized statistical rating organization and shall be arranged so as to ensure the independence of their	***SEC. 932***. *(adding 15 U.S.C. 78o-7(t))* *`(t) Corporate Governance, Organization, and Management of Conflicts of Interest-* *`(1) BOARD OF DIRECTORS- Each nationally recognized statistical rating organization shall have a board of directors.* *`(2) INDEPENDENT DIRECTORS-* *`(A) IN GENERAL- At least 1/2 of the board of directors, but not fewer than 2 of the members thereof, shall be independent of the nationally recognized statistical rating agency. A portion of the independent directors shall include users of ratings from a nationally recognized statistical rating organization.* *`(B) INDEPENDENCE DETERMINATION- In order to be considered independent for purposes of this subsection, a member of the board of directors of a nationally recognized statistical rating organization--* *`(i) may not, other than in his or her capacity as a member of the board of directors or any committee thereof--* *`(I) accept any consulting, advisory, or other compensatory fee from the nationally recognized statistical rating organization; or* *`(II) be a person associated with the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
judgment. The term of office of the independent directors shall be for a pre-agreed fixed period not exceeding 5 years and shall not be renewable. `(D) DUTIES- In addition to the overall responsibility of the board of directors, the board shall oversee-- `(i) the establishment, maintenance, and enforcement of policies and procedures for determining credit ratings; `(ii) the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest; `(iii) the effectiveness of the internal control system with respect to policies and procedures for determining credit ratings; and `(iv) the compensation and promotion policies and practices of the nationally recognized statistical rating organization.	*nationally recognized statistical rating organization or with any affiliated company thereof; and* *`(ii) shall be disqualified from any deliberation involving a specific rating in which the independent board member has a financial interest in the outcome of the rating.* *`(C) COMPENSATION AND TERM- The compensation of the independent members of the board of directors of a nationally recognized statistical rating organization shall not be linked to the business performance of the nationally recognized statistical rating organization, and shall be arranged so as to ensure the independence of their judgment. The term of office of the independent directors shall be for a pre-agreed fixed period, not to exceed 5 years, and shall not be renewable.* *`(3) DUTIES OF BOARD OF DIRECTORS- In addition to the overall responsibilities of the board of directors, the board shall oversee--* *`(A) the establishment, maintenance, and enforcement of policies and procedures for determining credit ratings;* *`(B) the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest;* *`(C) the effectiveness of the internal control system with respect to policies and procedures for determining credit ratings; and* *`(D) the compensation and promotion policies and practices of the nationally recognized statistical rating organization.* *`(4) TREATMENT OF NRSRO SUBSIDIARIES- If a nationally recognized statistical rating organization is a subsidiary of a parent entity, the board of the directors of the parent entity may satisfy the requirements of this subsection by assigning to a committee of such board of directors the duties under paragraph (3), if--* *`(A) at least 1/2 of the members of the committee (including the chairperson of the committee) are independent, as defined in this section; and* *`(B) at least 1 member of the committee is a user of ratings from a nationally recognized statistical rating*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	organization. *`(5) EXCEPTION AUTHORITY- If the Commission finds that compliance with the provisions of this subsection present an unreasonable burden on a small nationally recognized statistical rating organization, the Commission may permit the nationally recognized statistical rating organization to delegate such responsibilities to a committee that includes at least one individual who is a user of ratings of a nationally recognized statistical rating organization.'.*	
`(2) ORGANIZATION POLICIES AND PROCEDURES- Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of the nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address, manage, and disclose any conflicts of interest that can arise from such business.		
`(3) COMMISSION RULES- The Commission shall issue rules to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including rules regarding-- `(A) conflicts of interest relating to the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services; `(B) conflicts of interest relating to business relationships, ownership interests, and affiliations of nationally recognized statistical rating organization board members with obligors, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor; `(C) conflicts of interest relating to any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person who underwrites securities, money market instruments, or other instruments that are the subject of a credit rating;	***SEC. 932****. (adding to indicated subsections of 15 U.S.C. 78o-7(t))****.*** *(3) in subsection (h), by adding at the end the following:* *`(3) SEPARATION OF RATINGS FROM SALES AND MARKETING-* *`(A) RULES REQUIRED- The Commission shall issue rules to prevent the sales and marketing considerations of a nationally recognized statistical rating organization from influencing the production of ratings by the nationally recognized statistical rating organization.* *`(B) CONTENTS OF RULES- The rules issued under subparagraph (A) shall provide for--* *`(i) exceptions for small nationally recognized statistical rating organizations with respect to which the Commission determines that the separation of the production of ratings and sales and marketing activities is not appropriate; and* *`(ii) suspension or revocation of the registration of a nationally recognized statistical rating organization, if the Commission finds, on the record, after notice and opportunity for a hearing, that--* *`(I) the nationally recognized*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(D) a requirement that each nationally recognized statistical rating organization disclose on such organization's website a consolidated report at the end of each fiscal year that shows-- `(i) the percent of net revenue earned by the nationally recognized statistical rating organization or an affiliate of a nationally recognized statistical rating organization, or any person associated with a nationally recognized statistical rating organization, to the extent determined appropriate by the Commission, for that fiscal year for providing services and products other than credit rating services to each person who paid for a credit rating; and `(ii) the relative standing of each person who paid for a credit rating that was outstanding as of the end of the fiscal year in terms of the amount of net revenue earned by the nationally recognized statistical rating organization attributable to each such person and classified by the highest 5, 10, 25, and 50 percentiles and lowest 50 and 25 percentiles; `(E) the establishment of a system of payment for credit ratings issued by each nationally recognized statistical rating organization that requires that payments are structured in a manner designed to ensure that the nationally recognized statistical rating organization conducts accurate and reliable surveillance of credit ratings over time, as applicable, and that incentives for reliable credit ratings are in place; `(F) a requirement that a nationally recognized statistical rating organization disclose with the publication of a credit rating the type and number of credit ratings it has provided to the person being rated or affiliates of such person, the fees it has billed for the credit rating, and the aggregate amount of net revenue earned by the nationally recognized statistical rating organization in the preceding 2 fiscal years attributable to the person being rated and its affiliates; and `(G) any other potential conflict of interest, as the Commission determines necessary or appropriate in the	*statistical rating organization has committed a violation of a rule issued under this subsection; and* *`(II) the violation of a rule issued under this subsection affected a rating.';* *(4) in subsection (j)--* *(A) by striking `Each' and inserting the following:* *`(1) IN GENERAL- Each'; and* *(B) by adding at the end the following:* *`(2) LIMITATIONS-* *`(A) IN GENERAL- Except as provided in subparagraph (B), an individual designated under paragraph (1) may not, while serving in the designated capacity--* *`(i) perform credit ratings;* *`(ii) participate in the development of ratings methodologies or models;* *`(iii) perform marketing or sales functions; or* *`(iv) participate in establishing compensation levels, other than for employees working for that individual.* *`(B) EXCEPTION- The Commission may exempt a small nationally recognized statistical rating organization from the limitations under this paragraph, if the Commission finds that compliance with such limitations would impose an unreasonable burden on the nationally recognized statistical rating organization.* *`(3) OTHER DUTIES- Each individual designated under paragraph (1) shall establish procedures for the receipt, retention, and treatment of--* *`(A) complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures developed under this section; and* *`(B) confidential, anonymous complaints by employees or users of credit ratings.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
public interest or for the protection of investors.		
`(4) LOOK-BACK REQUIREMENT- `(A) REVIEW BY THE NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION- Each nationally recognized statistical rating organization shall establish, maintain, and enforce policies and procedures reasonably designed to ensure that, in any case in which an employee of a person subject to a credit rating of the nationally recognized statistical rating organization or the issuer, underwriter, or sponsor of a security or money market instrument subject to a credit rating of the nationally recognized statistical rating organization was employed by the nationally recognized statistical rating organization and participated in any capacity in determining credit ratings for the person or the securities or money market instruments during the 1-year period preceding the date an action was taken with respect to the credit rating, the nationally recognized statistical rating organization shall-- `(i) conduct a review to determine whether any conflicts of interest of the employee influenced the credit rating; and `(ii) take action to revise the rating if appropriate, in accordance with such rules as the Commission shall prescribe. `(B) REVIEW BY COMMISSION- `(i) IN GENERAL- The Commission shall conduct periodic reviews of the policies described in subparagraph (A) and the implementation of the policies at each nationally recognized statistical rating organization to ensure they are reasonably designed and implemented to most effectively eliminate conflicts of interest. `(ii) TIMING OF REVIEWS- The Commission shall review the code of ethics and conflict of interest policy of each nationally recognized statistical rating organization-- `(I) not less frequently than annually; and `(II) whenever such policies are		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
materially modified or amended.		
`(5) REPORT TO COMMISSION ON CERTAIN EMPLOYMENT TRANSITIONS- `(A) REPORT REQUIRED- Each nationally recognized statistical rating organization shall report to the Commission any case such organization knows or can reasonably be expected to know where a person associated with such organization within the previous 5 years obtains employment with any obligor, issuer, underwriter, or sponsor of a security or money market instrument for which the organization issued a credit rating during the 12-month period prior to such employment, if such employee-- `(i) was a senior officer of such organization; `(ii) participated in any capacity in determining credit ratings for such obligor, issuer, underwriter, or sponsor; or `(iii) supervised an employee described in clause (ii). `(B) PUBLIC DISCLOSURE- Upon receiving such a report, the Commission shall make such information publicly available.'; (7) by amending subsection (j) to read as follows: `(j) Designation of Compliance Officer- `(1) IN GENERAL- Each nationally recognized statistical rating organization shall designate an individual to serve as a compliance officer. `(2) DUTIES- The compliance officer shall-- `(A) report directly to the board of the nationally recognized statistical rating organization; `(B) review compliance with policies and procedures to manage conflicts of interest and assess the risk that the compliance (or lack of such compliance) may compromise the integrity of the credit rating process; `(C) review compliance with the internal control system with respect to the procedures and methodologies for determining credit ratings, including qualitative methodologies and quantitative inputs used in the rating process, and assess the risk that such internal control system is reasonably designed to ensure the integrity and quality of the credit rating process; `(D) in consultation with the board of the nationally		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
recognized statistical rating organization, resolve any conflicts of interest that may arise; `(E) be responsible for administering the policies and procedures required to be established pursuant to this section; `(F) ensure compliance with securities laws and the rules and regulations issued thereunder, including rules prescribed by the Commission pursuant to this section; and `(G) establish procedures-- `(i) for the receipt, retention, and treatment of complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures required under this section; `(ii) for the receipt, retention, and treatment of confidential, anonymous complaints by employees, obligors, issuers, and investors; `(iii) for the remediation of non-compliance issues found during compliance office reviews, the reviews required under paragraph (7), internal or external audit findings, self-reported errors, or through validated complaints; and `(iv) designed so that ratings that the nationally recognized statistical rating organization disseminates reflect consideration of all information in a manner generally consistent with the nationally recognized statistical rating organization's published rating methodology, including information which is provided, received, or otherwise obtained from obligor, issuer and non-issuer sources, such as investors, the media, and other interested or informed parties.		
`(3) LIMITATIONS- The compliance officer shall not, while serving in that capacity-- `(A) determine credit ratings; `(B) participate in the establishment of the procedures and methodologies or the qualitative methodologies and quantitative inputs used to determine credit ratings; `(C) perform marketing or sales functions; or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(D) participate in establishing compensation levels, other than for employees working for the compliance officer.		
`(4) ANNUAL REPORTS REQUIRED- The compliance officer shall annually prepare and sign a report on the compliance of the nationally recognized statistical rating organization with the securities laws and such organization's internal policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. Such compliance report shall accompany the financial reports of the nationally recognized statistical rating organization that are required to be filed with the Commission pursuant to this section and shall include a certification that, under penalty of law, the report is accurate and complete.	*`(4) ANNUAL REPORTS REQUIRED-* *`(A) ANNUAL REPORTS REQUIRED- Each individual designated under paragraph (1) shall submit to the nationally recognized statistical rating organization an annual report on the compliance of the nationally recognized statistical rating organization with the securities laws and the policies and procedures of the nationally recognized statistical rating organization that includes--* *`(i) a description of any material changes to the code of ethics and conflict of interest policies of the nationally recognized statistical rating organization; and* *`(ii) a certification that the report is accurate and complete.* *`(B) SUBMISSION OF REPORTS TO THE COMMISSION- Each nationally recognized statistical rating organization shall file the reports required under subparagraph (A) together with the financial report that is required to be submitted to the Commission under this section.'; and* *(5) by striking subsection (p) and inserting the following:* *`(p) Regulation of Nationally Recognized Statistical Rating Organizations-*	
`(5) COMPENSATION- The compensation of the compliance officer shall not be linked to the business performance of the nationally recognized statistical rating organization and shall be arranged so as to ensure the independence of the officer's judgment.'; (8) in subsection (k)-- (A) by striking `, on a confidential basis,'; (B) by striking `furnish to' and inserting `file with'; (C) by striking `Each nationally' and inserting the following: `(1) IN GENERAL- Each nationally'; and (D) by adding at the end the following new paragraph: `(2) EXCEPTION- The Commission may treat as confidential any information provided by a nationally recognized statistical rating organization under this section consistent with applicable		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Federal laws or Commission rules.'; (9) in subsection (l)(2)(A)(i), by striking `furnished' and inserting `filed'; (10) by amending subsection (p) to read as follows:		
`(p) Establishment of SEC Office- `(1) IN GENERAL- The Commission shall establish an office that administers the rules of the Commission with respect to the practices of nationally recognized statistical rating organizations. `(2) STAFFING- The office of the Commission established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section.	***SEC. 932****. (adding 15 U.S.C. 78o-7(p)).* *`(1) ESTABLISHMENT OF OFFICE OF CREDIT RATINGS-* *`(A) OFFICE ESTABLISHED- The Commission shall establish within the Commission an Office of Credit Ratings (referred to in this subsection as the `Office') to administer the rules of the Commission--* *`(i) with respect to the practices of nationally recognized statistical rating organizations in determining ratings, for the protection of users of credit ratings and in the public interest;* *`(ii) to promote accuracy in credit ratings issued by nationally recognized statistical rating organizations; and* *`(iii) to ensure that such ratings are not unduly influenced by conflicts of interest.* *`(B) DIRECTOR OF THE OFFICE- The head of the Office shall be the Director, who shall report to the Chairman.* *`(2) STAFFING- The Office established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section. The staff shall include persons with knowledge of and expertise in corporate, municipal, and structured debt finance.* *`(3) COMMISSION EXAMINATIONS-* *`(A) ANNUAL EXAMINATIONS REQUIRED- The Office shall conduct an examination of each nationally recognized statistical rating organization at least annually.* *`(B) CONDUCT OF EXAMINATIONS- Each examination under subparagraph (A) shall include a review of--* *`(i) whether the nationally recognized statistical rating organization conducts business in accordance with the policies, procedures, and rating methodologies of the nationally recognized statistical rating organization;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(ii) the management of conflicts of interest by the nationally recognized statistical rating organization;* *`(iii) implementation of ethics policies by the nationally recognized statistical rating organization; *`(iv) the internal supervisory controls of the nationally recognized statistical rating organization;* *`(v) the governance of the nationally recognized statistical rating organization;* *`(vi) the activities of the individual designated by the nationally recognized statistical rating organization under subsection (j)(1);* *`(vii) the processing of complaints by the nationally recognized statistical rating organization; and* *`(viii) the policies of the nationally recognized statistical rating organization governing the post-employment activities of former staff of the nationally recognized statistical rating organization.* *`(C) INSPECTION REPORTS- The Commission shall make available to the public, in an easily understandable format, an annual report summarizing--* *`(i) the essential findings of all examinations conducted under subparagraph (A), as deemed appropriate by the Commission;* *`(ii) the responses by the nationally recognized statistical rating organizations to any material regulatory deficiencies identified by the Commission under clause (i); and* *`(iii) whether the nationally recognized statistical rating organizations have appropriately addressed the recommendations of the Commission contained in previous reports under this subparagraph.*	
`(3) RULEMAKING AUTHORITY- The Commission shall-- `(A) establish, by rule, fines and other penalties for any	*`(4) RULEMAKING AUTHORITY- The Commission shall--* *`(A) establish, by rule, fines, and other penalties*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
nationally recognized statistical rating organization that violates the applicable requirements of this title; and `(B) issue such rules as may be necessary to carry out this section with respect to nationally recognized statistical rating organizations.'; and (11) by adding after subsection (p) the following new subsections: `(q) Transparency of Ratings Performance- `(1) RULEMAKING REQUIRED- The Commission shall, by rule, require each nationally recognized statistical rating organization to publicly disclose information on initial ratings and subsequent changes to such ratings for the purpose of providing a gauge of the performance of ratings and allowing investors to compare performance of ratings by different nationally recognized statistical rating organizations. `(2) CONTENT- The rules of the Commission under this subsection shall require, at a minimum, disclosures that-- `(A) are comparable among nationally recognized statistical rating organizations, so that investors can compare rating performance across rating organizations; `(B) are clear and informative for a wide range of investor sophistication; `(C) include performance information over a range of years and for a variety of classes of credit ratings, as determined by the Commission; `(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website and in written form when requested by investors; and `(E) each nationally recognized statistical rating organization include an attestation with any credit rating it issues affirming that no part of the rating was influenced by any other business activities, that the rating was based solely on the merits of the instruments being rated, and that such rating was an independent evaluation of the risks and merits of the instrument.	*applicable to any nationally recognized statistical rating organization that violates the requirements of this subsection and the rules thereunder; and* *`(B) issue such rules as may be necessary to carry out this subsection.* *`(q) Transparency of Ratings Performance-* *`(1) RULEMAKING REQUIRED- The Commission shall, by rule, require that each nationally recognized statistical rating organization publicly disclose information on the initial credit ratings determined by the nationally recognized statistical rating organization for each type of obligor, security, and money market instrument, and any subsequent changes to such credit ratings, for the purpose of allowing users of credit ratings to evaluate the accuracy of ratings and compare the performance of ratings by different nationally recognized statistical rating organizations.* *`(2) CONTENT- The rules of the Commission under this subsection shall require, at a minimum, disclosures that--* *`(A) are comparable among nationally recognized statistical rating organizations, to allow users of credit ratings to compare the performance of credit ratings across nationally recognized statistical rating organizations;* *`(B) are clear and informative for investors who use or might use credit ratings;* *`(C) include performance information over a range of years and for a variety of types of credit ratings, including for credit ratings withdrawn by the nationally recognized statistical rating organization;* *`(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website, and in writing, when requested; and* *`(E) are appropriate to the business model of a nationally recognized statistical rating organization.*	
`(r) Credit Ratings Methodologies- `(1) IN GENERAL- The Commission shall prescribe rules, in the public interest and for the protection of investors, that require each nationally recognized statistical rating organization to establish, maintain, and enforce written procedures and	***SEC. 932.*** *`(r) Credit Ratings Methodologies- The Commission shall prescribe rules, for the protection of investors and in the public interest, with respect to the procedures and methodologies, including qualitative and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
methodologies and an internal control system with respect to such procedures and methodologies that are reasonably designed to-- `(A) ensure that credit ratings are determined using procedures and methodologies, including qualitative methodologies and quantitative inputs that are determined in accordance with the policies and procedures of the nationally recognized statistical rating organization for developing and modifying credit rating procedures and methodologies; `(B) ensure that when major changes to credit rating procedures and methodologies, including to qualitative methodologies and quantitative inputs, are made, that the changes are applied consistently to all credit ratings to which the changed procedures and methodologies apply and, to the extent the changes are made to credit rating surveillance procedures and methodologies, they are applied to current credit ratings within a time period to be determined by the Commission by rule, and that the reason for the change is publicly disclosed; `(C) notify persons who have access to the credit ratings of the nationally recognized statistical rating organization, regardless of whether they are made readily accessible for free or a reasonable fee, of the procedure or methodology, including qualitative methodologies and quantitative inputs, used with respect to a particular credit rating; and `(D) notify persons who have access to the credit ratings of the nationally recognized statistical rating organization, regardless of whether they are made readily accessible for free or a reasonable fee, when a change is made to a procedure or methodology, including to qualitative methodologies and quantitative inputs, or an error is identified in a procedure or methodology that may result in credit rating actions, and the likelihood of the change resulting in current credit ratings being subject to rating actions.	*quantitative data and models, used by nationally recognized statistical rating organizations that require each nationally recognized statistical rating organization--* *`(1) to ensure that credit ratings are determined using procedures and methodologies, including qualitative and quantitative data and models, that are--* *`(A) approved by the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior credit officer of the nationally recognized statistical rating organization; and* *`(B) in accordance with the policies and procedures of the nationally recognized statistical rating organization for the development and modification of credit rating procedures and methodologies;* *`(2) to ensure that when material changes to credit rating procedures and methodologies (including changes to qualitative and quantitative data and models) are made, that--* *`(A) the changes are applied consistently to all credit ratings to which the changed procedures and methodologies apply;* *`(B) to the extent that changes are made to credit rating surveillance procedures and methodologies, the changes are applied to then-current credit ratings by the nationally recognized statistical rating organization within a reasonable time period determined by the Commission, by rule; and* *`(C) the nationally recognized statistical rating organization publicly discloses the reason for the change; and* *`(3) to notify users of credit ratings--* *`(A) of the version of a procedure or methodology, including the qualitative methodology or quantitative inputs, used with respect to a particular credit rating;* *`(B) when a material change is made to a procedure or methodology, including to a qualitative model or quantitative inputs;* *`(C) when a significant error is identified in a procedure or methodology, including a qualitative or quantitative model, that may result in credit rating actions; and* *`(D) of the likelihood of a material change described in subparagraph (B) resulting in a change in current*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	credit ratings.	
`(2) SYMBOLS- The Commission may prescribe rules that require nationally recognized statistical rating organizations to establish credit rating symbols that distinguish credit ratings for structured products from credit ratings for other products that the Commission determines appropriate or necessary in the public interest and for the protection of investors, provided such rules do not prevent public pension funds or other State regulated entities from investing in rated products.		
`(3) RATING CLARITY AND CONSISTENCY- `(A) COMMISSION OBLIGATION- Subject to subparagraphs (B) and (C), the Commission shall require, by rule, each nationally recognized statistical rating organization to establish, maintain, and enforce written policies and procedures reasonably designed-- `(i) with respect to credit ratings of securities and money market instruments, to assess the risk that investors in securities and money market instruments may not receive payment in accordance with the terms of such securities and instruments; `(ii) to define clearly any credit rating symbol used by that organization; and `(iii) to apply such credit rating symbol in a consistent manner for all types of securities and money market instruments. `(B) ADDITIONAL CREDIT FACTORS- Nothing in subparagraph (A)-- `(i) prohibits a nationally recognized statistical rating organization from using additional credit factors that are documented and disclosed by the organization and that have a demonstrated impact on the risk an investor in a security or money market instrument will not receive repayment in accordance with the terms of issuance; `(ii) prohibits a nationally recognized statistical rating organization from considering credit factors that are unique to municipal securities; or `(iii) prohibits a nationally recognized statistical rating organization from using an		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
additional symbol with respect to the ratings described in subparagraph (A)(i) for the purpose of distinguishing the ratings of a certain type of security or money market instrument from ratings of any other types of securities or money market instruments. `(C) COMPLEMENTARY RATINGS- The Commission shall not impose any requirement under subparagraph (A) that prevents nationally recognized statistical rating organizations from establishing ratings that are complementary to the ratings described in subparagraph (A)(i) and that are created to measure a discrete aspect of the security's or instrument's risk.		
`(s) Transparency of Credit Rating Methodologies and Information Reviewed- `(1) IN GENERAL- The Commission shall require, by rule, a nationally recognized statistical rating organization to include with the publication of each credit rating regardless of whether the credit rating is made readily accessible for free or a reasonable fee a form that discloses information about the assumptions underlying the procedures and methodologies used, and the data relied on, to determine the credit rating in the format prescribed in paragraph (2) and containing the information described in paragraph (3). `(2) FORMAT- The Commission shall prescribe a form for use under paragraph (1) that-- `(A) is designed in a user-friendly and helpful manner for investors to understand the information contained in the report; `(B) requires the nationally recognized statistical rating organization to provide the content, as required by paragraph (3), in a manner that is directly comparable across securities; and `(C) the nationally recognized statistical rating organization certifies the information on the form as true and accurate. `(3) CONTENT- The Commission shall prescribe a form that requires a nationally recognized statistical rating organization to disclose-- `(A) the main assumptions included in constructing procedures and methodologies, including qualitative methodologies and quantitative inputs and assumptions	*`(s) Transparency of Credit Rating Methodologies and Information Reviewed-* *`(1) FORM FOR DISCLOSURES- The Commission shall require, by rule, each nationally recognized statistical rating organization to prescribe a form to accompany the publication of each credit rating that discloses--* *`(A) information relating to--* *`(i) the assumptions underlying the credit rating procedures and methodologies;* *`(ii) the data that was relied on to determine the credit rating; and* *`(iii) if applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and* *`(B) information that can be used by investors and other users of credit ratings to better understand credit ratings in each class of credit rating issued by the nationally recognized statistical rating organization.* *`(2) FORMAT- The form developed under paragraph (1) shall--* *`(A) be easy to use and helpful for users of credit ratings to understand the information contained in the report;* *`(B) require the nationally recognized statistical rating organization to provide the content described in paragraph (3)(B) in a manner that is directly comparable across types of securities; and* *`(C) be made readily available to users of credit*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
about the correlation of defaults across underlying assets used in rating certain structured products; `(B) the potential shortcomings of the credit ratings, and the types of risks not measured in the credit ratings that the nationally recognized statistical rating organization is not commenting on, such as liquidity, market, and other risks; `(C) information on the certainty of the rating, including information on the reliability, accuracy, and quality of the data relied on in determining the ultimate credit rating and a statement on the extent to which key data inputs for the credit rating were reliable or limited, including any limits on the reach of historical data, limits in accessibility to certain documents or other forms of information that would have better informed the credit rating, and the completeness of certain information considered; `(D) whether and to what extent third party due diligence services have been utilized, and a description of the information that such third party reviewed in conducting due diligence services; `(E) a description of relevant data about any obligor, issuer, security, or money market instrument that was used and relied on for the purpose of determining the credit rating; `(F) a statement containing an overall assessment of the quality of information available and considered in producing a credit rating for a security in relation to the quality of information available to the nationally recognized statistical rating organization in rating similar obligors, securities, or money market instruments; `(G) an explanation or measure of the potential volatility for the credit rating, including any factors that might lead to a change in the credit rating, and the extent of the change that might be anticipated under different conditions; `(H) information on the content of the credit rating, including-- `(i) the expected default probability; and `(ii) the loss given default; `(I) information on the sensitivity of the rating to assumptions made by the nationally recognized	*ratings, in electronic or paper form, as the Commission may, by rule, determine.* *`(3) CONTENT OF FORM-* *`(A) QUALITATIVE CONTENT- Each nationally recognized statistical rating organization shall disclose on the form developed under paragraph (1)--* *`(i) the credit ratings produced by the nationally recognized statistical rating organization;* *`(ii) the main assumptions and principles used in constructing procedures and methodologies, including qualitative methodologies and quantitative inputs and assumptions about the correlation of defaults across obligors used in rating structured products;* *`(iii) the potential limitations of the credit ratings, and the types of risks excluded from the credit ratings that the nationally recognized statistical rating organization does not comment on, including liquidity, market, and other risks;* *`(iv) information on the uncertainty of the credit rating, including--* *`(I) information on the reliability, accuracy, and quality of the data relied on in determining the credit rating; and* *`(II) a statement relating to the extent to which data essential to the determination of the credit rating were reliable or limited, including--* *`(aa) any limits on the scope of historical data; and* *`(bb) any limits in accessibility to certain documents or other types of information that would have better informed the credit rating;* *`(v) whether and to what extent third party due diligence services have been used by the nationally recognized statistical rating organization, a description of the information*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
statistical rating organization, including-- `(i) 5 assumptions made in the ratings process that, without accounting for any other factor, would have the greatest impact on a rating if such assumptions were proven false or inaccurate; and `(ii) an analysis, using concrete examples, on how each of the 5 assumptions identified under clause (i) impacts a rating; `(J) where applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and `(K) such additional information as may be required by the Commission.	*that such third party reviewed in conducting due diligence services, and a description of the findings or conclusions of such third party;* *`(vi) a description of the data about any obligor, issuer, security, or money market instrument that were relied upon for the purpose of determining the credit rating;* *`(vii) a statement containing an overall assessment of the quality of information available and considered in producing a rating for an obligor, security, or money market instrument, in relation to the quality of information available to the nationally recognized statistical rating organization in rating similar issuances;* *`(viii) information relating to conflicts of interest of the nationally recognized statistical rating organization; and* *`(ix) such additional information as the Commission may require.* *`(B) QUANTITATIVE CONTENT- Each nationally recognized statistical rating organization shall disclose on the form developed under this subsection--* *`(i) an explanation or measure of the potential volatility of the credit rating, including--* *`(I) any factors that might lead to a change in the credit ratings; and* *`(II) the magnitude of the change that a user can expect under different market conditions;* *`(ii) information on the content of the rating, including--* *`(I) the historical performance of the rating; and* *`(II) the expected probability of default and the expected loss in the event of default;* *`(iii) information on the sensitivity of the rating to assumptions made by the nationally recognized statistical rating organization; and* *`(iv) such additional information as may be required by the Commission.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(4) DUE DILIGENCE SERVICES- `(A) CERTIFICATION REQUIRED- In any case in which third-party due diligence services are employed by a nationally recognized statistical rating organization or an issuer, underwriter, or sponsor in connection with the issuance of a credit rating, the firm providing the due diligence services shall provide to the nationally recognized statistical rating organization written certification of such due diligence, which shall be subject to review by the Commission, and the issuer, underwriter, or sponsor shall provide any reports issued by the provider of such due diligence services to the nationally recognized statistical rating organization. `(B) FORMAT AND CONTENT- The Commission shall establish the appropriate format and content for written certifications required under subparagraph (A) to ensure that providers of due diligence services certify that they have conducted a thorough review of data, documentation, and other relevant information necessary for the nationally recognized statistical rating organization to provide a reliable rating. `(C) DISCLOSURE OF CERTIFICATION- The Commission shall adopt rules requiring a nationally recognized statistical rating organization to disclose to persons who have access to the credit ratings of the nationally recognized statistical rating organization regardless of whether they are made readily accessible for free or a reasonable fee the certification described in subparagraph (A) with the publication of the applicable credit rating in a manner that may permit the persons to determine the adequacy and level of due diligence services provided by the third party. .	*`(B) CERTIFICATION REQUIRED- In any case in which third-party due diligence services are employed by a nationally recognized statistical rating organization, an issuer, or an underwriter, the person providing the due diligence services shall provide to any nationally recognized statistical rating organization that produces a rating to which such services relate, written certification, as provided in subparagraph (C).* *`(C) FORMAT AND CONTENT- The Commission shall establish the appropriate format and content for the written certifications required under subparagraph (B), to ensure that providers of due diligence services have conducted a thorough review of data, documentation, and other relevant information necessary for a nationally recognized statistical rating organization to provide an accurate rating.* *`(D) DISCLOSURE OF CERTIFICATION- The Commission shall adopt rules requiring a nationally recognized statistical rating organization, at the time at which the nationally recognized statistical rating organization produces a rating, to disclose the certification described in subparagraph (B) to the public in a manner that allows the public to determine the adequacy and level of due diligence services provided by a third party.*	
`(t) Prohibited Activities- Beginning 180 days from the date of enactment of the Accountability, Reliability, and Transparency in Rating Agencies Act, it shall be unlawful for a nationally recognized statistical rating organization, or an affiliate of a nationally recognized statistical rating organization, or any person associated with a nationally recognized statistical rating organization, that provides a credit rating for an issuer, underwriter, or placement agent of a security to provide any non-rating service to that issuer, underwriter, or placement agent in determining a credit rating, including--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) risk management advisory services; `(2) advice or consultation relating to any merger, sales, or disposition of assets of the issuer; `(3) ancillary assistance, advice, or consulting services unrelated to any specific credit rating issuance; and `(4) such further activities or services as the Commission may determine as necessary or appropriate in the public interest or for the protection of investors.'. (b) Conforming Amendment- Section 3(a)(62) of the Securities Exchange Act of 1934 is amended by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively		
SEC. 6003. STANDARDS FOR PRIVATE ACTIONS. (a) In General- Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(2)) is amended by inserting before the period at the end of the following: `, and in the case of an action brought under this title for money damages against a nationally recognized statistical rating organization, it shall be sufficient for purposes of pleading any required state of mind for purposes of such action that the complaint shall state with particularity facts giving rise to a strong inference that the nationally recognized statistical rating organization was grossly negligent in violating the securities laws'. (b) Pleading Standard- Section 15E(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7(m)) amended to read as follows: `(m) Application of Enforcement Provisions; Pleading Standard in Private Rights of Action- Statements made by nationally recognized statistical rating organizations shall not be deemed forward looking statements for purposes of section 21E. In any private right of action commenced against a nationally recognized statistical rating organization under the securities laws, the same pleading standards with respect to gross negligence shall apply to the nationally recognized statistical rating organization as would apply to any other person in the same private right of action against such person.'. (c) Requirements for Liability- Section 21D of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4) is amended-- (1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and (2) by inserting after subsection (b) the following: `(c) Requirements for Liability- A purchaser of a security given a rating by a nationally recognized statistical rating organization shall have the right to recover for damages if the process of determining the credit rating was--	***SEC. 933. STATE OF MIND IN PRIVATE ACTIONS.*** *(a) Accountability- Section 15E(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7(m)) is amended to read as follows:* *`(m) Accountability-* *`(1) IN GENERAL- The enforcement and penalty provisions of this title shall apply to statements made by a credit rating agency in the same manner and to the same extent as such provisions apply to statements made by a registered public accounting firm or a securities analyst under the securities laws, and such statements shall not be deemed forward-looking statements for the purposes of section 21E.* *`(2) RULEMAKING- The Commission shall issue such rules as may be necessary to carry out this subsection.'.* *(b) State of Mind- Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(2)) is amended--* *(1) by striking `In any' and inserting the following:* *`(A) IN GENERAL- Except as provided in subparagraph (B), in any'; and* *(2) by adding at the end the following:* *`(B) EXCEPTION- In the case of an action for money damages brought against a credit rating agency or a controlling person under this title, it shall be sufficient, for purposes of pleading any required state of mind in relation to such action, that the complaint state with particularity facts giving rise to a strong inference that the credit rating agency knowingly or recklessly failed--* *`(i) to conduct a reasonable investigation of the rated security with respect to the factual elements relied upon by its own methodology*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) grossly negligent, based on the facts and circumstances at the time the rating was issued; and `(2) a substantial factor in the economic loss suffered by the investor. No action shall be maintained to enforce any liability created under this subsection unless brought within 2 years after the discovery of the facts constituting the violation and within 3 years after the initial issuance of the rating.'.	*for evaluating credit risk; or* *`(ii) to obtain reasonable verification of such factual elements (which verification may be based on a sampling technique that does not amount to an audit) from other sources that the credit rating agency considered to be competent and that were independent of the issuer and underwriter.'.*	
SEC. 6004. ISSUER DISCLOSURE OF PRELIMINARY RATINGS. The Securities and Exchange Commission shall adopt rules under authority of the Securities Act of 1933 (15 U.S.C. 77a et seq.) to require issuers to disclose preliminary credit ratings received from nationally recognized statistical rating agencies on structured products and all forms of corporate debt.		
SEC. 6005. CHANGE TO DESIGNATION. The Securities Act of 1933 and the Securities Exchange Act of 1934 are each amended by striking `nationally recognized statistical rating' each place it appears and inserting `nationally registered statistical rating'.		
SEC. 6006. TIMELINE FOR REGULATIONS. Unless otherwise specified in this subtitle, the Securities and Exchange Commission shall adopt rules and regulations, as required by the amendments made by this subtitle, not later than 365 days after the date of enactment.		
SEC. 6007. ELIMINATION OF EXEMPTION FROM FAIR DISCLOSURE RULE. Not later than 90 days after the date of enactment of this subtitle, the Securities Exchange Commission shall revise Regulation FD (17 CFR 243.100) to remove from such regulation the exemption for entities whose primary business is the issuance of credit ratings (17 CFR 243.100(b)(2)(iii)).		
SEC. 6008. ADVISORY BOARD. (a) Establishment- Not later than 90 days after the date of the enactment of this subtitle, the Securities and Exchange Commission shall establish an advisory board to be known as the Credit Ratings Agency Advisory Board (in this section referred to as `the Board'). (b) Appointment and Terms of Service- The Board shall consist of 7		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
members appointed by the Commission, no more than 2 of whom may be former employees of a credit rating agency. Members of the Board shall be prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the role that credit ratings play to a broad range of investors. Terms of service shall be staggered as determined by the Commission. (c) Duties- The Board shall-- (1) advise the Commission concerning the rules and regulations required by the amendments made by this subtitle; (2) ensure that the Commission properly and fully executes its oversight functions and responsibilities with the respect to nationally recognized statistical rating organizations and individual participants; and (3) issue an annual report to Congress detailing its work and recommending any additional Congressional actions necessary to aid the Commission and such additional reports from time to time as appropriate when it feels that the Commission is not properly executing its oversight functions.		
	SEC. 939D. INITIAL CREDIT RATING ASSIGNMENTS. *Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this Act, is amended by adding at the end the following:* *`(w) Initial Credit Rating Assignments-* *`(1) DEFINITIONS- In this subsection the following definitions shall apply:* *`(A) BOARD- The term `Board' means the Credit Rating Agency Board established under paragraph (2).* *`(B) QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION- The term `qualified nationally recognized statistical rating organization', with respect to a category of structured finance products, means a nationally recognized statistical rating organization that the Board determines, under paragraph (3)(B), to be qualified to issue initial credit ratings with respect to such category.* *`(C) REGULATIONS-* *`(i) CATEGORY OF STRUCTURED FINANCE PRODUCTS-* *`(I) IN GENERAL- The term `category of structured finance products'--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(aa) shall include any asset backed security and any structured product based on an asset-backed security; and*  *`(bb) shall be further defined and expanded by the Commission, by rule, as necessary. *`(II) CONSIDERATIONS- In issuing the regulations required under subclause (I), the Commission shall consider--*  *`(aa) the types of issuers that issue structured finance products;* *`(bb) the types of investors who purchase structured finance products;*  *`(cc) the different categories of structured finance products according to--* *`(AA) the types of capital flow and legal structure used;*  *`(BB) the types of underlying products used; and* *`(CC) the types of terms used in debt securities;*  *`(dd) the different values of debt securities; and* *`(ee) the different numbers of units of debt securities that are issued together.*  *`(ii) REASONABLE FEE- The Board shall issue regulations to define the term `reasonable fee'.* *`(2) CREDIT RATING AGENCY BOARD-* *`(A) IN GENERAL- Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall--* *`(i) establish the Credit Rating Agency Board, which shall be a self-regulatory organization;* *`(ii) subject to subparagraph (C), select the initial members of the Board; and* *`(iii) establish a schedule to ensure that the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings not later than 1 year after the selection of the members of the Board. *`(B) SCHEDULE- The schedule established under subparagraph (A)(iii) shall prescribe when--* *`(i) the Board will conduct a study of the securitization and ratings process and provide recommendations to the Commission;* *`(ii) the Commission will issue rules and regulations under this section;* *`(iii) the Board may issue rules under this subsection; and* *`(iv) the Board will--* *`(I) begin accepting applications to select qualified national recognized statistical rating organizations; and* *`(II) begin assigning qualified national recognized statistical rating organizations to provide initial ratings.* *`(C) MEMBERSHIP-* *`(i) IN GENERAL- The Board shall initially be composed of an odd number of members selected from the industry, with the total numerical membership of the Board to be determined by the Commission.* *`(ii) SPECIFICATIONS- Of the members initially selected to serve on the Board--* *`(I) not less than a majority of the members shall be representatives of the investor industry who do not represent issuers;* *`(II) not less than 1 member should be a representative of the issuer industry;* *`(III) not less than 1 member should be a representative of the credit rating agency industry; and* *`(IV) not less than 1 member should be an independent member.* *`(iii) TERMS- Initial members shall be*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	appointed by the Commission for a term of 4 years. *`(iv) NOMINATION AND ELECTION OF MEMBERS-* *`(I) IN GENERAL- Prior to the expiration of the terms of office of the initial members, the Commission shall establish fair procedures for the nomination and election of future members of the Board.* *`(II) MODIFICATIONS OF THE BOARD- Prior to the expiration of the terms of office of the initial members, the Commission--*  *`(aa) may increase the size of the board to a larger odd number and adjust the length of future terms; and* *`(bb) shall retain the composition of members described in clause (ii).*  *`(v) RESPONSIBILITIES OF MEMBERS- Members shall perform, at a minimum, the duties described in this subsection.* *`(vi) RULEMAKING AUTHORITY- The Commission shall, if it determines necessary and appropriate, issue further rules and regulations on the composition of the membership of the Board and the responsibilities of the members.* *`(D) OTHER AUTHORITIES OF THE BOARD- The Board shall have the authority to levy fees from qualified nationally recognized statistical rating organization applicants, and periodically from qualified nationally recognized statistical rating organizations as necessary to fund expenses of the Board.* *`(E) REGULATION- The Commission has the authority to regulate the activities of the Board, and issue any further regulations of the Board it deems necessary, not in contravention with the intent of this section.* *`(3) BOARD SELECTION OF QUALIFIED NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(A) APPLICATION-* *`(i) IN GENERAL- A nationally recognized statistical rating organization may submit an application to the Board, in such form and manner as the Board may require, to become a qualified nationally recognized statistical rating organization with respect to a category of structured finance products. *`(ii) CONTENTS- An application submitted under clause (i) shall contain--* *`(I) information regarding the institutional and technical capacity of the nationally recognized statistical rating organization to issue credit ratings;* *`(II) information on whether the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section; and* *`(III) any additional information the Board may require.* *`(iii) REJECTION OF APPLICATIONS- The Board may reject an application submitted under this paragraph if the nationally recognized statistical rating organization has been exempted by the Commission from any requirements under any other provision of this section.* *`(B) SELECTION- The Board shall select qualified national recognized statistical rating organizations with respect to each category of structured finance products from among nationally recognized statistical rating organizations that submit applications under subparagraph (A).* *`(C) RETENTION OF STATUS AND OBLIGATIONS AFTER SELECTION- An entity selected as a qualified nationally recognized statistical rating organization shall retain its status and obligations under the law as a nationally recognized statistical rating organization, and nothing in this subsection grants authority to the Commission or the Board to exempt qualified*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	nationally recognized statistical rating organizations from obligations or requirements otherwise imposed by Federal law on nationally recognized statistical rating organizations. *`(4) REQUESTING AN INITIAL CREDIT RATING- An issuer that seeks an initial credit rating for a structured finance product--* *`(A) may not request an initial credit rating from a nationally recognized statistical rating organization; and* *`(B) shall submit a request for an initial credit rating to the Board, in such form and manner as the Board may prescribe.* *`(5) ASSIGNMENT OF RATING DUTIES-* *`(A) IN GENERAL- For each request received by the Board under paragraph (4)(B), the Board shall select a qualified nationally recognized statistical rating organization to provide the initial credit rating to the issuer.* *`(B) METHOD OF SELECTION-* *`(i) IN GENERAL- The Board shall--* *`(I) evaluate a number of selection methods, including a lottery or rotating assignment system, incorporating the factors described in clause (ii), to reduce the conflicts of interest that exist under the issuer-pays model; and* *`(II) prescribe and publish the selection method to be used under subparagraph (A).* *`(ii) CONSIDERATION- In evaluating a selection method described in clause (i)(I), the Board shall consider--* *`(I) the information submitted by the qualified nationally recognized statistical rating organization under paragraph (3)(A)(ii) regarding the institutional and technical capacity of the qualified nationally recognized statistical rating organization to issue credit ratings;* *`(II) evaluations conducted under*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	paragraph (7); *`(III) formal feedback from institutional investors; and* *`(IV) information from subclauses (I) and (II) to implement a mechanism which increases or decreases assignments based on past performance.* *`(iii) PROHIBITION- The Board, in choosing a selection method, may not use a method that would allow for the solicitation or consideration of the preferred national recognized statistical rating organizations of the issuer.* *`(iv) ADJUSTMENT OF PROCESS- The Board shall issue rules describing the process by which it can modify the assignment process described in clause (i).* *`(C) RIGHT OF REFUSAL-* *`(i) REFUSAL- A qualified nationally recognized statistical rating organization selected under subparagraph (A) may refuse to accept a selection for a particular request by--* *`(I) notifying the Board of such refusal; and* *`(II) submitting to the Board a written explanation of the refusal.* *`(ii) SELECTION- Upon receipt of a notification under clause (i), the Board shall make an additional selection under subparagraph (A).* *`(iii) INSPECTION REPORTS- The Board shall annually submit any explanations of refusals received under clause (i)(II) to the Commission, and such explanatory submissions shall be published in the annual inspection reports required under subsection (p)(3)(C).* *`(6) DISCLAIMER REQUIRED- Each initial credit rating issued under this subsection shall include, in writing, the following disclaimer: `This initial rating has not been evaluated, approved, or certified by the Government of the United States or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	by a Federal agency.'. *`(7) EVALUATION OF PERFORMANCE-* *`(A) IN GENERAL- The Board shall prescribe rules by which the Board will evaluate the performance of each qualified nationally recognized statistical rating organization, including rules that require, at a minimum, an annual evaluation of each qualified nationally recognized statistical rating organization.* *`(B) CONSIDERATIONS- The Board, in conducting an evaluation under subparagraph (A), shall consider--* *`(i) the results of the annual examination conducted under subsection (p)(3);* *`(ii) surveillance of credit ratings conducted by the qualified nationally recognized statistical rating organization after the credit ratings are issued, including--* *`(I) how the rated instruments perform;* *`(II) the accuracy of the ratings provided by the qualified nationally recognized statistical rating organization as compared to the other nationally recognized statistical rating organizations; and* *`(III) the effectiveness of the methodologies used by the qualified nationally recognized statistical rating organization; and* *`(iii) any additional factors the Board determines to be relevant.* *`(C) REQUEST FOR REEVALUATION- Subject to rules prescribed by the Board, and not less frequently than once a year, a qualified nationally recognized statistical rating organization may request that the Board conduct an evaluation under this paragraph.* *`(D) DISCLOSURE- The Board shall make the evaluations conducted under this paragraph available to Congress.* *`(8) RATING FEES CHARGED TO ISSUERS-* *`(A) LIMITED TO REASONABLE FEES- A qualified nationally recognized statistical rating organization shall charge an issuer a reasonable fee, as determined by the Commission, for an initial credit rating provided*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	under this section. *`(B) FEES- Fees may be determined by the qualified national recognized statistical rating organizations unless the Board determines it is necessary to issue rules on fees.* *`(9) NO PROHIBITION ON ADDITIONAL RATINGS- Nothing in this section shall prohibit an issuer from requesting or receiving additional credit ratings with respect to a debt security, if the initial credit rating is provided in accordance with this section.* *`(10) NO PROHIBITION ON INDEPENDENT RATINGS OFFERED BY NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS-* *`(A) IN GENERAL- Nothing in this section shall prohibit a nationally recognized statistical rating organization from independently providing a credit rating with respect to a debt security, if--* *`(i) the nationally recognized statistical rating organization does not enter into a contract with the issuer of the debt security to provide the initial credit rating; and* *`(ii) the nationally recognized statistical rating organization is not paid by the issuer of the debt security to provide the initial credit rating.* *`(B) RULE OF CONSTRUCTION- For purposes of this section, a credit rating described in subparagraph (A) may not be construed to be an initial credit rating.* *`(11) PUBLIC COMMUNICATIONS- Any communications made with the public by an issuer with respect to the credit rating of a debt security shall clearly specify whether the credit rating was made by--* *`(A) a qualified nationally recognized statistical rating organization selected under paragraph (5)(A) to provide the initial credit rating for such debt security; or* *`(B) a nationally recognized statistical rating organization not selected under paragraph (5)(A).* *`(12) PROHIBITION ON MISREPRESENTATION- With respect to a debt security, it shall be unlawful for any person to misrepresent any subsequent credit rating provided for such debt security as an initial credit rating provided for such debt security by a qualified nationally recognized statistical rating*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	organization selected under paragraph (5)(A). *`(13) INITIAL CREDIT RATING REVISION AFTER MATERIAL CHANGE IN CIRCUMSTANCE- If the Board determines that it is necessary or appropriate in the public interest or for the protection of investors, the Board may issue regulations requiring that an issuer that has received an initial credit rating under this subsection request a revised initial credit rating, using the same method as provided under paragraph (4), each time the issuer experiences a material change in circumstances, as defined by the Board.* *`(14) CONFLICTS-* *`(A) MEMBERS OR EMPLOYEES OF THE BOARD-* *`(i) LOAN OF MONEY OR SECURITIES PROHIBITED-* *`(I) IN GENERAL- A member or employee of the Board shall not accept any loan of money or securities, or anything above nominal value, from any nationally recognized statistical rating organization, issuer, or investor.* *`(II) EXCEPTION- The prohibition in subclause (I) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.* *`(ii) EMPLOYMENT NEGOTIATIONS PROHIBITION- A member or employee of the Board shall not engage in employment negotiations with any nationally recognized statistical rating organization, issuer, or investor, unless the member or employee--* *`(I) discloses the negotiations immediately upon initiation of the negotiations; and* *`(II) recuses himself from all proceedings concerning the entity involved in the negotiations until termination of negotiations or until termination of his employment by the Board, if an offer of employment is*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	accepted. *`(B) CREDIT ANALYSTS-* *`(i) IN GENERAL- A credit analyst of a qualified nationally recognized statistical rating organization shall not accept any loan of money or securities, or anything above nominal value, from any issuer or investor.* *`(ii) EXCEPTION- The prohibition described in clause (i) does not apply to a loan made in the context of disclosed, routine banking and brokerage agreements, or a loan that is clearly motivated by a personal or family relationship.* *`(15) EVALUATION OF CREDIT RATING AGENCY BOARD- Not later than 5 years after the date that the Board begins assigning qualified nationally recognized statistical rating organizations to provide initial ratings, the Commission shall submit to Congress a report that provides recommendations of--* *`(A) the continuation of the Board;* *`(B) any modification to the procedures of the Board; and* *`(C) modifications to the provisions in this subsection.'.*	
SEC. 6009. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS. (a) Federal Deposit Insurance Act- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended-- (1) in section 28(d)-- (A) in the subsection heading, by striking `Not of Investment Grade'; (B) in paragraph (1), by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation'; (C) in paragraph (2), by striking `not of investment grade'; (D) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and (E) in paragraph (3) (as so redesignated)-- (i) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and	***SEC. 939. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS.*** *(a) Federal Deposit Insurance Act- The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended--* *(1) in section 7(b)(1)(E)(i), by striking `credit rating entities, and other private economic' and insert `private economic, credit,';* *(2) in section 28(d)--* *(A) in the subsection heading, by striking `Not of Investment Grade';* *(B) in paragraph (1), by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation';* *(C) in paragraph (2), by striking `not of investment grade';* *(D) by striking paragraph (3);* *(E) by redesignating paragraph (4) as paragraph (3); and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(ii) in subparagraph (B) (as so redesignated), by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation'; (2) in section 28(e)-- (A) in the subsection heading, by striking `Not of Investment Grade'; (B) in paragraph (1), by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation'; and (C) in paragraphs (2) and (3), by striking `not of investment grade' each place that it appears and inserting `that does not meet standards of credit-worthiness established by the Corporation'; and (3) in section 7(b)(1)(E)(i), by striking `credit rating entities, and other private economic' and insert `private economic, credit,'. (b) Federal Housing Enterprises Financial Safety and Soundness Act of 1992- Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended-- (1) in the section heading, by striking `by rating organization'; and (2) by striking `that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934,'. (c) Investment Company Act of 1940- Section 6(a)(5)(A)(iv)(I) Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(5)(A)(iv)(I)) is amended by striking `is rated investment grade by not less than 1 nationally recognized statistical rating organization' and inserting `meets such standards of credit-worthiness that the Commission shall adopt'. (d) Revised Statutes- Section 5136A of title LXII of the Revised Statutes of the United States (12 U.S.C. 24a) is amended-- (1) in subsection (a)(2)(E), by striking `any applicable rating' and inserting `standards of credit-worthiness established by the Comptroller of the Currency'; (2) in the heading for subsection (a)(3) by striking `Rating or Comparable Requirement' and inserting `Requirement'; (3) subsection (a)(3), by amending subparagraph (A) to read as follows:	*(F) in paragraph (3), as so redesignated--* *(i) by striking subparagraph (A);* *(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and* *(iii) in subparagraph (B), as so redesignated, by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation'; and* *(3) in section 28(e)--* *(A) in the subsection heading, by striking `Not of Investment Grade';* *(B) in paragraph (1), by striking `not of investment grade' and inserting `that does not meet standards of credit-worthiness as established by the Corporation'; and* *(C) in paragraphs (2) and (3), by striking `not of investment grade' each place that it appears and inserting `that does not meet standards of credit-worthiness established by the Corporation'.* *(b) Federal Housing Enterprises Financial Safety and Soundness Act of 1992- Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended by striking `that is a nationally registered statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934,'.* *(c) Investment Company Act of 1940- Section 6(a)(5)(A)(iv)(I) Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(5)(A)(iv)(I)) is amended by striking `is rated investment grade by not less than 1 nationally registered statistical rating organization' and inserting `meets such standards of credit-worthiness as the Commission shall adopt'.* *(d) Revised Statutes- Section 5136A of title LXII of the Revised Statutes of the United States (12 U.S.C. 24a) is amended--* *(1) in subsection (a)(2)(E), by striking `any applicable rating' and inserting `standards of credit-worthiness established by the Comptroller of the Currency';* *(2) in the heading for subsection (a)(3) by striking `Rating or Comparable Requirement' and inserting `Requirement';* *(3) subsection (a)(3), by amending subparagraph (A) to read as follows:* *`(A) IN GENERAL- A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(A) IN GENERAL- A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.'. (4) in the heading for subsection (f), by striking `Maintain Public Rating or' and inserting `Meet Standards of Credit-worthiness'; and (5) in subsection (f)(1), by striking `any applicable rating' and inserting `standards of credit-worthiness established by the Comptroller of the Currency'. (e) Securities Exchange Act of 1934- Section 3(a) Securities Exchange Act of 1934 (15 U.S.C. 78a(3)(a)) is amended-- (1) in paragraph (41), by striking `is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization' and inserting `meets standards of credit-worthiness as defined by the Commission'; and (2) in paragraph (53)(A), by striking `is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization' and inserting `meets standards of credit-worthiness as defined by the Commission'. (f) World Bank Discussions- Section 3(a)(6) of the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, as enacted into law by section 555 of Public Law 100-461, (22 U.S.C. 286hh(a)(6)), is amended by striking `rating' and inserting `worthiness'. (g) Effective Date- The amendments made by this section shall take effect after the end of the 6-month period beginning on the date of the enactment of this subtitle.	*issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.'.* *(4) in the heading for subsection (f), by striking `Maintain Public Rating or' and inserting `Meet Standards of Credit-worthiness'; and* *(5) in subsection (f)(1), by striking `any applicable rating' and inserting `standards of credit-worthiness established by the Comptroller of the Currency'.* *(e) Securities Exchange Act of 1934- Section 3(a) Securities Exchange Act of 1934 (15 U.S.C. 78a(3)(a)) is amended--* *(1) in paragraph (41), by striking `is rated in one of the two highest rating categories by at least one nationally registered statistical rating organization' and inserting `meets standards of credit-worthiness as established by the Commission'; and* *(2) in paragraph (53)(A), by striking `is rated in 1 of the 4 highest rating categories by at least 1 nationally registered statistical rating organization' and inserting `meets standards of credit-worthiness as established by the Commission'.* *(f) World Bank Discussions- Section 3(a)(6) of the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, as enacted into law by section 555 of Public Law 100-461, (22 U.S.C. 286hh(a)(6)), is amended by striking `credit rating' and inserting `credit-worthiness'.* *(g) Effective Date- The amendments made by this section shall take effect 2 years after the date of enactment of this Act.*	
SEC. 6010. REVIEW OF RELIANCE ON RATINGS. (a) Agency Review- (1) REVIEW- Not later than 1 year after the date of the enactment of this subtitle, each Federal agency listed in paragraph (4) shall, to the extent applicable, review-- (A) any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and (B) any references to or requirements in such regulations regarding credit ratings. (2) MODIFICATIONS REQUIRED- Each such agency shall		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
modify any such regulations identified by the review conducted under paragraph (1) to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations. In making such determination, such agencies shall seek to establish, to the extent feasible, uniform standards of credit-worthiness for use by each such agency, taking into account the entities regulated by each such agency and the purposes for which such entities would rely on such standards of credit-worthiness. (3) REPORT- Upon conclusion of the review required under paragraph (1), each Federal agency listed in paragraph (4) shall transmit a report to Congress containing a description of any modification of any regulation such agency made pursuant to paragraph (2). (4) APPLICABLE AGENCIES- The agencies required to conduct the review and report required by this subsection are-- (A) the Securities and Exchange Commission; (B) the Federal Deposit Insurance Corporation; (C) the Office of Thrift Supervision; (D) the Office of the Comptroller of the Currency; (E) the Board of Governors of the Federal Reserve; (F) the National Credit Union Administration; and (G) the Federal Housing Finance Agency. (b) GAO Review of Other Agencies- (1) REVIEW- The Comptroller General shall conduct a comprehensive review of the use of credit ratings by Federal agencies other than those listed in subsection (a)(3), including an analysis of the provisions of law or regulation applicable to each such agency that refer to and require the use of credit ratings by the agency, and the policies and practices of each agency with respect to credit ratings. (2) REPORT- Not later than 18 months after the date of the enactment of this subtitle, the Comptroller General shall transmit to Congress a report on the findings of the study conducted pursuant to paragraph (1), including recommendations for any legislation or rulemaking necessary or appropriate in order for such agencies to reduce their reliance on credit ratings.		
SEC. 6011. PUBLICATION OF RATING HISTORIES ON THE EDGAR SYSTEM. Not later than 180 days after the date of the enactment of this subtitle, the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Securities and Exchange Commission shall revise its rules in section 240.17g-2(a) and (d) of title 17, Code of Federal Regulations, to require that the random sample of ratings histories of credit ratings required under such rules to be disclosed on the website of a nationally recognized statistical rating organization also be provided to the Commission in a format consistent with publication by the Commission on the EDGAR system.		
SEC. 6012. EFFECT OF RULE 436(G). Rule 436(g), promulgated by the Securities and Exchange Commission under the Securities Act of 1933, shall have no force or effect.		
	SEC. 934. REFERRING TIPS TO LAW ENFORCEMENT OR REGULATORY AUTHORITIES. *Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this subtitle, is amended by adding at the end the following:* *`(u) Duty To Report Tips Alleging Material Violations of Law-* *`(1) DUTY TO REPORT- Each nationally recognized statistical rating organization shall refer to the appropriate law enforcement or regulatory authorities any information that the nationally recognized statistical rating organization receives from a third party and finds credible that alleges that an issuer of securities rated by the nationally recognized statistical rating organization has committed or is committing a material violation of law that has not been adjudicated by a Federal or State court.* *`(2) RULE OF CONSTRUCTION- Nothing in paragraph (1) may be construed to require a nationally recognized statistical rating organization to verify the accuracy of the information described in paragraph (1).'.*	
	SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS. *Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o-7), as amended by this subtitle, is amended by adding at the end the following:* *`(v) Information From Sources Other Than the Issuer- In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or receives from a source other than the issuer, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS. *Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings--* *(1) meets standards of training, experience, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates; and* *(2) is tested for knowledge of the credit rating process.*	
	SEC. 937. TIMING OF REGULATIONS. *Unless otherwise specifically provided in this subtitle, the Commission shall issue final regulations, as required by this subtitle and the amendments made by this subtitle, not later than 1 year after the date of enactment of this Act.*	
	SEC. 938. UNIVERSAL RATINGS SYMBOLS. *(a) Rulemaking- The Commission shall require, by rule, each nationally recognized statistical rating organization to establish, maintain, and enforce written policies and procedures that--* *(1) assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument;* *(2) clearly define and disclose the meaning of any symbol used by the nationally recognized statistical rating organization to denote a credit rating; and* *(3) apply any symbol described in paragraph (2) in a manner that is consistent for all types of securities and money market instruments for which the symbol is used.* *(b) Rule of Construction- Nothing in this section shall prohibit a nationally recognized statistical rating organization from using distinct sets of symbols to denote credit ratings for different types of securities or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	money market instruments.	
	SEC. 939A. SECURITIES AND EXCHANGE COMMISSION STUDY ON STRENGTHENING CREDIT RATING AGENCY INDEPENDENCE. *(a) Study- The Commission shall conduct a study of--* *(1) the independence of nationally recognized statistical rating organizations; and* *(2) how the independence of nationally recognized statistical rating organizations affects the ratings issued by the nationally recognized statistical rating organizations.* *(b) Subjects for Evaluation- In conducting the study under subsection (a), the Commission shall evaluate--* *(1) the management of conflicts of interest raised by a nationally recognized statistical rating organization providing other services, including risk management advisory services, ancillary assistance, or consulting services;* *(2) the potential impact of rules prohibiting a nationally recognized statistical rating organization that provides a rating to an issuer from providing other services to the issuer; and* *(3) any other issue relating to nationally recognized statistical rating organizations, as the Chairman of the Commission determines is appropriate.* *(c) Report- Not later than 3 years after the date of enactment of this Act, the Chairman of the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for improving the integrity of ratings issued by nationally recognized statistical rating organizations.*	
	SEC. 939B. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ALTERNATIVE BUSINESS MODELS. *(a) Study- The Comptroller General of the United States shall conduct a study on alternative means for compensating nationally recognized statistical rating organizations in order to create incentives for nationally recognized statistical rating organizations to provide more accurate credit ratings, including any statutory changes that would be required to facilitate the use of an alternative means of compensation.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(b) Report- Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for providing incentives to credit rating agencies to improve the credit rating process.	
	SEC. 939C. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE CREATION OF AN INDEPENDENT PROFESSIONAL ANALYST ORGANIZATION. *(a) Study- The Comptroller General of the United States shall conduct a study on the feasibility and merits of creating an independent professional organization for rating analysts employed by nationally recognized statistical rating organizations that would be responsible for--* *(1) establishing independent standards for governing the profession of rating analysts;* *(2) establishing a code of ethical conduct; and* *(3) overseeing the profession of rating analysts.* *(b) Report- Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a).*	
SEC. 6013. STUDIES. (a) GAO Study- (1) IN GENERAL- The Comptroller General shall conduct a study of-- (A) the implementation of this subtitle and the amendments made by this subtitle by the Securities and Exchange Commission; (B) the appropriateness of relying on ratings for use in Federal, State, and local securities and banking regulations, including for determining capital requirements;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(C) the effect of liability in private actions arising under the Securities Exchange Act of 1934; (D) alternative means for compensating credit rating agencies that would create incentives for accurate credit ratings and what, if any, statutory changes would be required to permit or facilitate the use of such alternative means of compensation; and (E) alternative methodologies to assess credit risk, including market-based measures. (2) REPORT- Not later than 30 months after the date of enactment of this subtitle, the Comptroller General shall submit to Congress and the Securities Exchange Commission, a report containing the findings under the study required by subsection (a). (3) ACCESS- (A) IN GENERAL- For purposes of conducting the study described in paragraph (1), the Comptroller General shall have access, upon request and with the consent of the Securities and Exchange Commission, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by each nationally recognized statistical rating organization, and to the officers, directors, employees, independent public accountants, financial advisors, staff and agents and representatives of the organization (as related to the agent's or representative's activities on behalf of the organization) at such reasonable times as the Comptroller General may request. The Comptroller General may make and retain copies of books, records, accounts, and other records as the Comptroller General deems appropriate. (B) CONFIDENTIALITY- The Comptroller General may not disclose reasonably designated proprietary, trade secret or business confidential information obtained from the organization except that such information shall be disclosed by the Comptroller General-- (i) to other Federal Government departments, agencies, and officials for official use upon request; (ii) to committees of Congress upon request; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(iii) to a court in any judicial proceeding under court order. Nothing in this provision shall be construed to limit the requirements imposed by section 1905 of title 18, United States Code.		
(b) SEC Study on Assigning Credit Rating Agencies on a Rotating Basis- The Securities and Exchange Commission shall undertake a study on creating a system whereby nationally recognized statistical rating organizations are assigned on a rotating basis to issuers and obligors seeking a credit rating. Not later than 1 year after the date of enactment of this subtitle, the Securities and Exchange Commission shall transmit to Congress a report containing the findings of the study. (c) SEC Study on Effect of New Requirements on NRSRO Registration- The Securities and Exchange Commission shall conduct a study on the effect of the amendments made by section 2 on credit rating agencies seeking to register as nationally recognized statistical rating organizations, including whether the new requirements in such amendments deter credit rating agencies from registering as nationally recognized statistical rating organizations. Not later than 1 year after the date of enactment of this subtitle, the Commission shall transmit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the findings of such study.		
(d) Study of Credit Ratings of Different Classes of Bonds- (1) STUDY- The Securities and Exchange Commission shall conduct a study of the treatment of different classes of bonds (municipal versus corporate) by the nationally recognized statistical rating organizations. Such study shall examine-- (A) whether there are fundamental differences in the treatment of different classes of bonds by such rating organizations that cause some classes of bonds to suffer from undue discrimination; (B) if there are such differences, what are the causes of such differences and how can they be alleviated; (C) whether there are factors other than risk of loss that are appropriate for the credit ratings agencies to consider when rating bonds, and do those factors vary across different sectors; (D) the types of financing arrangement used by municipal issuers; (E) the differing legal and regulatory regimes governing disclosures for corporate bonds and municipal bonds;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(F) the extent to which retail investors could be disadvantaged by a single ratings scale; and (G) practices, policies, and methodologies by the nationally recognized statistical rating organizations with respect to rating municipal bonds. (2) REPORT- Within 6 months after the date of enactment of this subtitle, the Securities and Exchange Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Development of the Senate. Such report shall include as assessment of each of the issues and subjects described in subparagraphs (A) through (G) of paragraph (1).		
(e) SEC Study on Meaningful Multi-Digit Rating Symbols- (1) STUDY- The Securities and Exchange Commission shall conduct a study on the feasibility and desirability of implementing a standardized rating system whereby ratings symbols contain multiple characters, each representing a range of default probabilities and loss expectations under standardized and increasingly severe levels of market stress. The study shall optimize the definitions of the symbols to maximize their overall usefulness for users of credit ratings. (2) INITIAL EXAMPLE FOR GUIDANCE- An example to provide initial guidance for the study is a ratings symbol consisting of three digits, each of which corresponds to default probabilities under different levels of market stress as follows: (A) The first digit represents the default probability under `normal' market stress, characterized by normal economic fluctuations in addition to a 5 percent decline in asset value and 2 percent increase in unemployment. (B) The second digit represents the default probability under more severe market stress, characterized a 20 percent decline in asset value and 5 percent increase in unemployment. (C) The third digit represents the default probability under extreme market stress, characterized by a 50 percent decline in asset value and 10 percent increase in unemployment. (3) REPORT- Not later than 1 year after the date of the enactment of this subtitle, the Commission shall transmit to Congress a report of the study conducted pursuant to paragraph (1), including recommendations on whether the system similar to that described in paragraph (2) should be implemented and, if	***SEC. 939.*** ***(1) IN GENERAL- Commission shall undertake a study on the feasability and desirability of--*** *(A) standardizing credit ratings terminology, so that all credit rating agencies issue credit ratings using identical terms;* *(B) standardizing the market stress conditions under which ratings are evaluated;* *(C) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and* *(D) standardizing credit rating terminology across asset classes, so that named ratings correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity.* *(2) REPORT- Not later than 1 year after the date of enactment of this Act, the Commission shall submit to Congress a report containing the findings of the study under paragraph (1) and the recommendations, if any, of the Commission with respect to the study.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
so, any necessary legislation required to implement such a system.		
(f) SEC Study on Ratings Standardization- (1) IN GENERAL- The Securities and Exchange Commission shall undertake a study on the feasability and desirability of-- (A) standardizing credit ratings terminology, so that all credit rating agencies issue credit ratings using identical terms; (B) standardizing the market stress conditions under which ratings are evaluated; (C) requiring a quantitative correspondence between credit ratings and a range of default probabilities and loss expectations under standardized conditions of economic stress; and (D) standardizing credit rating terminology across asset classes, so that named ratings shall correspond to a standard range of default probabilities and expected losses independent of asset class and issuing entity. (2) REPORT- Not later than 1 year after the date of enactment of this subtitle, the Securities and Exchange Commission shall transmit to Congress a report containing the findings of the study and the recommendations of the Commission.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Subtitle C--Investor Protection Act **SEC. 7001. SHORT TITLE.** This subtitle may be cited as the `Investor Protection Act of 2009'.	***TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES*** ***Subtitle A--Increasing Investor Protection***	
PART 1--DISCLOSURE **SEC. 7101. INVESTOR ADVISORY COMMITTEE ESTABLISHED.** The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding after section 4C the following new section:	***SEC. 911. INVESTOR ADVISORY COMMITTEE ESTABLISHED.*** *Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:*	
**`SEC. 4D. INVESTOR ADVISORY COMMITTEE.**  `(a) Establishment and Purpose- There is established an Investor Advisory Committee (in this section referred to as the `Committee') to advise and consult with the Commission on-- `(1) regulatory priorities and issues regarding new products, trading strategies, fee structures and the effectiveness of disclosures; `(2) initiatives to protect investor interest; and `(3) initiatives to promote investor confidence in the integrity of the marketplace. `(b) Membership- `(1) APPOINTMENT- The Chairman of the Commission shall appoint the members of the Committee, which members shall-- `(A) represent the interests of individual investors; `(B) represent the interests of institutional investors; and `(C) use a wide range of investment approaches. `(2) MEMBERS NOT COMMISSION EMPLOYEES- Members shall not be considered employees or agents of the Commission solely because of membership on the Committee. `(c) Meetings- The Committee shall meet from time to time at the call of the Commission, but, at a minimum, shall meet at least twice each year. `(d) Compensation and Travel Expenses- Members of the Committee who are not full-time employees of the United States shall-- `(1) be entitled to receive compensation at a rate fixed by the Commission while attending meetings of the Committee, including travel time; and `(2) be allowed travel expenses, including transportation and	***`SEC. 39. INVESTOR ADVISORY COMMITTEE.***  *`(a) Establishment and Purpose-* *`(1) ESTABLISHMENT- There is established within the Commission the Investor Advisory Committee (referred to in this section as the `Committee').* *`(2) PURPOSE- The Committee shall--* *`(A) advise and consult with the Commission on--* *`(i) regulatory priorities of the Commission;* *`(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;* *`(iii) initiatives to protect investor interest; and* *`(iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and* *`(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.* *`(b) Membership-* *`(1) IN GENERAL- The members of the Committee shall be--* *`(A) the Investor Advocate;* *`(B) a representative of State securities commissions;* *`(C) a representative of the interests of senior citizens; and* *`(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
subsistence, while away from their homes or regular places of business. `(e) Committee Findings- Nothing in this section requires the Commission to accept, agree, or act upon the findings or recommendations of the Committee. `(f) Authorization of Appropriations- There is authorized to be appropriated to the Commission such sums as are necessary for the activities of the Committee.'.	*who--* *`(i) represent the interests of individual equity and debt investors, including investors in mutual funds;* *`(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;* *`(iii) are knowledgeable about investment issues and decisions; and* *`(iv) have reputations of integrity.* *`(2) TERM- Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.* *`(3) MEMBERS NOT COMMISSION EMPLOYEES- Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.* *`(c) Chairman; Vice Chairman; Secretary; Assistant Secretary-* *`(1) IN GENERAL- The members of the Committee shall elect, from among the members of the Committee--* *`(A) a chairman, who may not be employed by an issuer;* *`(B) a vice chairman, who may not be employed by an issuer;* *`(C) a secretary; and* *`(D) an assistant secretary.* *`(2) TERM- Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).* *`(d) Meetings-* *`(1) FREQUENCY OF MEETINGS- The Committee shall meet--* *`(A) not less frequently than twice annually, at the call of the chairman of the Committee; and* *`(B) from time to time, at the call of the Commission.* *`(2) NOTICE- The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.* *`(e) Compensation and Travel Expenses- Each member of the Committee who is not a full-time employee of the United States shall--* *`(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	`(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code. *`(f) Staff- The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.* *`(g) Review by Commission- The Commission shall--* *`(1) review the findings and recommendations of the Committee; and* *`(2) each time the Committee submits a finding or recommendation to the Commission, issue a public statement--* *`(A) assessing the finding or recommendation of the Committee; and* *`(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.* *`(h) Committee Findings- Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.* *`(i) Federal Advisory Committee Act- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.* *`(j) Authorization of Appropriations- There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.'.*	
SEC. 7102. CLARIFICATION OF THE COMMISSION'S AUTHORITY TO ENGAGE IN CONSUMER TESTING. (a) Amendment to Securities Act of 1933- Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following new subsection: `(e) For the purposes of evaluating its rules and programs and for considering, proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'.	***SEC. 912. CLARIFICATION OF AUTHORITY OF THE COMMISSION TO ENGAGE IN INVESTOR TESTING.*** *Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following:* *`(e) Evaluation of Rules or Programs- For the purpose of evaluating any rule or program of the Commission issued or carried out under any provision of the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), and the purposes of considering, proposing, adopting, or engaging in any such rule or program or developing new rules or programs, the Commission may--* *`(1) gather information from and communicate with investors or other members of the public;* *`(2) engage in such temporary investor testing programs as the*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(b) Amendment to Securities Exchange Act of 1934- Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following: `(b) For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'. (c) Amendment to Investment Company Act of 1940- Section 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-38) is amended by adding at the end the following new subsection: `(d) Gathering Information- For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'. (d) Amendment to the Investment Advisers Act of 1940- Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) (as amended by section 5008(2)) is further amended by adding at the end the following new subsection: `(f) For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'.	*Commission determines are in the public interest or would protect investors; and* *`(3) consult with academics and consultants, as necessary to carry out this subsection.* *`(f) Rule of Construction- For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), any action taken under subsection (e) shall not be construed to be a collection of information.'.*	
SEC. 7103. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF REGULATION. (a) In General- (1) SECURITIES EXCHANGE ACT OF 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) (as amended by section 1951(c)) is further amended by adding at	***SEC. 913. STUDY AND RULEMAKING REGARDING OBLIGATIONS OF BROKERS, DEALERS, AND INVESTMENT ADVISERS.*** *(a) Definitions- In this section--* *(1) the term `FINRA' means the Financial Industry Regulatory Authority; and* *(2) the term `retail customer' means an individual customer of a broker, dealer, investment adviser, person associated with a*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
the end the following new subsections: `(m) Standard of Conduct- `(1) IN GENERAL- Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission shall promulgate rules to provide that, with respect to a broker or dealer, when providing personalized investment advice about securities to a retail customer (and such other customers as the Commission may by rule provide), the standard of conduct for such broker or dealer with respect to such customer shall be the same as the standard of conduct applicable to an investment adviser under section 211 of the Investment Advisers Act of 1940. The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities. `(2) DISCLOSURE OF RANGE OF PRODUCTS OFFERED- Where a broker or dealer sells only proprietary or other limited range of products, as determined by the Commission, the Commission shall by rule require that such broker or dealer provide notice to each retail customer and obtain the consent or acknowledgment of the customer. The sale of only proprietary or other limited range of products by a broker or dealer shall not, in and of itself, be considered a violation of the standard set forth in paragraph (1). `(3) RETAIL CUSTOMER DEFINED- For purposes of this subsection, the term `retail customer' means a natural person, or the legal representative of such natural person, who-- `(A) receives personalized investment advice about securities from a broker or dealer; and `(B) uses such advice primarily for personal, family, or household purposes. `(n) Other Matters- The Commission shall-- `(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and `(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the	*broker or dealer, or a person associated with an investment adviser.* *(b) In General- The Commission shall conduct a study to evaluate--* *(1) the effectiveness of existing legal or regulatory standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice and recommendations about securities to retail customers imposed by the Commission and FINRA, and other Federal and State legal or regulatory standards; and* *(2) whether there are legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers that should be addressed by rule or statute.* *(c) Considerations- In conducting the study required under subsection (b), the Commission shall consider--* *(1) the regulatory, examination, and enforcement resources devoted to, and activities of, the Commission and FINRA to enforce the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers when providing personalized investment advice and recommendations about securities to retail customers, including--* *(A) the frequency of examinations of brokers, dealers, and investment advisers; and* *(B) the length of time of the examinations;* *(2) the substantive differences, compared and contrasted in detail, in the regulation of brokers, dealers, and investment advisers, when providing personalized investment advice and recommendations about securities to retail customers, including the differences in the amount of resources devoted to the regulation and examination of brokers, dealers, and investment advisers, by the Commission and FINRA;* *(3) the specific instances in which--* *(A) the regulation and oversight of investment advisers provide greater protection to retail customers than the regulation and oversight of brokers and dealers; and* *(B) the regulation and oversight of brokers and dealers provide greater protection to retail customers than the regulation and oversight of investment advisers;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
public interest and the protection of investors.'. (2) INVESTMENT ADVISERS ACT OF 1940- Section 211 of the Investment Advisers Act of 1940, as amended by section 7102(d), is further amended by adding at the end the following new subsections: `(g) Standard of Conduct- `(1) IN GENERAL- The Commission shall promulgate rules to provide that the standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the customer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice. In accordance with such rules, any material conflicts of interest shall be disclosed and may be consented to by the customer. Such rules shall provide that such standard of conduct shall be no less stringent than the standard applicable to investment advisers under section 206(1) and (2) of this Act when providing personalized investment advice about securities, except the Commission shall not ascribe a meaning to the term `customer' that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser. The receipt of compensation based on commission or fees shall not, in and of itself, be considered a violation of such standard applied to a broker, dealer, or investment adviser. `(2) RETAIL CUSTOMER DEFINED- For purposes of this subsection, the term `retail customer' means a natural person, or the legal representative of such natural person, who-- `(A) receives personalized investment advice about securities from a broker, dealer, or investment adviser; and `(B) uses such advice primarily for personal, family, or household purposes. `(h) Other Matters- The Commission shall-- `(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and `(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the	*(4) the existing legal or regulatory standards of State securities regulators and other regulators intended to protect retail customers;* *(5) the potential impact on retail customers, including the potential impact on access of retail customers to the range of products and services offered by brokers and dealers, of imposing upon brokers, dealers, and persons associated with brokers or dealers--* *(A) the standard of care applied under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) for providing personalized investment advice about securities to retail customers of investment advisers; and* *(B) other requirements of the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.);* *(6) the potential impact of--* *(A) imposing on investment advisers the standard of care applied by the Commission and FINRA under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) for providing recommendations about securities to retail customers of brokers and dealers and other Commission and FINRA requirements applicable to brokers and dealers; and* *(B) authorizing the Commission to designate 1 or more self-regulatory organizations to augment the efforts of the Commission to oversee investment advisers;* *(7) the potential impact of eliminating the broker and dealer exclusion from the definition of `investment adviser' under section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)(C)), in terms of--* *(A) the potential benefits or harm to retail customers that could result from such a change, including any potential impact on access to personalized investment advice and recommendations about securities to retail customers or the availability of such advice and recommendations;* *(B) the number of additional entities and individuals that would be required to register under, or become subject to, the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), and the additional requirements to which brokers, dealers, and persons associated with brokers and dealers would become subject, including--* *(i) any potential additional associated person*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
public interest and the protection of investors.'. (b) Harmonization of Enforcement- (1) SECURITIES EXCHANGE ACT OF 1934- Section 15 of the Securities Exchange Act of 1934, as amended by subsection (a)(1), is further amended by adding at the end the following new subsection: `(o) Harmonization of Enforcement- The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer shall include-- `(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and `(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940, including the authority to impose sanctions for such violations, and the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940.'. (2) INVESTMENT ADVISERS ACT OF 1940- Section 211 of the Investment Advisers Act of 1940, as amended by subsection (a)(2), is further amended by adding at the end the following new subsection: `(i) Harmonization of Enforcement- The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment adviser shall include-- `(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and `(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934, including the authority to impose sanctions for such violations, and the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to an investment advisor under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the	*licensing, registration, and examination requirements; and* *(ii) the additional costs, if any, to the additional entities and individuals; and* *(C) the impact on Commission resources to--* *(i) conduct examinations of registered investment advisers and the representatives of registered investment advisers, including the impact on the examination cycle; and* *(ii) enforce the standard of care and other applicable requirements imposed under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.);* *(8) the ability of investors to understand the differences in terms of regulatory oversight and examinations between brokers, dealers, and investment advisers;* *(9) the varying level of services provided by brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers to retail customers and the varying scope and terms of retail customer relationships of brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers with such retail customers;* *(10) any potential benefits or harm to retail customers that could result from any potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers, including any potential impact on--* *(A) protection from fraud;* *(B) access to personalized investment advice, and recommendations about securities to retail customers; or* *(C) the availability of such advice and recommendations;* *(11) the additional costs and expenses to retail customers and to brokers, dealers, and investment advisers resulting from potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Securities Exchange Act of 1934.'.	*(12) any other consideration that the Commission deems necessary and appropriate to effectively execute the study required under subsection (b).* *(d) Report-* *(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (b) to--* *(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and* *(B) the Committee on Financial Services of the House of Representatives.* *(2) CONTENT REQUIREMENTS- The report required under paragraph (1) shall describe the findings, conclusions, and recommendations of the Commission from the study required under subsection (b), including--* *(A) a description of the considerations, analysis, and public and industry input that the Commission considered, as required under subsection (e), to make such findings, conclusions, and policy recommendations; and* *(B) an analysis of--* *(i) whether any identified legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers can be addressed by rule; and* *(ii) whether, and the extent to which, the Commission would require additional statutory authority to address such gaps or overlap.* *(e) Public Comment- The Commission shall seek and consider public input, comments, and data in order to prepare the report required under subsection (d).* *(f) Rulemaking-* *(1) IN GENERAL- If the study required under subsection (b) identifies any gaps or overlap in the legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers,*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to such retail customers, the Commission, not later than 2 years after the date of enactment of this Act, shall-- *(A) commence a rulemaking, as necessary or appropriate in the public interest and for the protection of retail customers, to address such regulatory gaps and overlap that can be addressed by rule, using its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.); and* *(B) consider and take into account the findings, conclusions, and recommendations of the study required under this section.* *(2) RULE OF CONSTRUCTION- Nothing in this section shall be construed to limit the rulemaking authority of the Commission under any other provision of Federal law.*	
SEC. 7104. COMMISSION STUDY AND RULEMAKING ON DISCLOSURE TO RETAIL CUSTOMERS BEFORE PURCHASE OF PRODUCTS OR SERVICES. (a) Study Required- Prior to proposing any rules or regulations pursuant to subsection (b)(1) regarding the provision of documents or information to retail customers prior to the purchase of investment products or services, and within 180 days after the date of the enactment of this subtitle, the Securities and Exchange Commission shall publish a study that examines-- (1) the nature of a `retail customer', taking into consideration the definition in section 15(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 7103 of this subtitle; (2) the range of products and services sold or provided to retail customers, and the sellers or providers of such products and services, that are within the Commission's jurisdiction; (3) how such products and services are sold or provided to retail customers, the fees charged for such products and services, and the conflicts of interest that may arise during the sales process or provision of services; (4) information that retail customers should receive prior to purchasing each product or service, and the appropriate person or entity to provide such information; and	***SEC. 916. STUDY REGARDING FINANCIAL LITERACY AMONG INVESTORS.*** *(a) In General- The Commission shall conduct a study to identify--* *(1) the existing level of financial literacy among retail investors, including subgroups of investors identified by the Commission;* *(2) methods to improve the timing, content, and format of disclosures to investors with respect to financial intermediaries, investment products, and investment services;* *(3) the most useful and understandable relevant information that retail investors need to make informed financial decisions before engaging a financial intermediary or purchasing an investment product or service that is typically sold to retail investors, including shares of open-end companies, as that term is defined in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a-5) that are registered under section 8 of that Act;* *(4) methods to increase the transparency of expenses and conflicts of interests in transactions involving investment services and products, including shares of open-end companies described in paragraph (3);* *(5) the most effective existing private and public efforts to educate investors; and* *(6) in consultation with the Financial Literacy and Education*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(5) ways to ensure that, where possible, reasonably similar products and services are subject to similar regulatory treatment, including with respect to information that must be provided to retail customers prior to the purchase of such products or services and how such information is provided. (b) Rulemaking- (1) Notwithstanding any other provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), following completion of the study required by subsection (a), the Commission is authorized to promulgate rules to require that the appropriate persons or entities provide designated documents or information to retail customers prior to the purchase of identified investment products or services. Any such rules shall-- (A) take into account the findings of the study conducted pursuant to subsection (a); (B) take into consideration, to the extent possible, the need for such documents and information to be consistent and comparable across investment products or services sold or provided to retail customers; and (C) reduce, to the extent possible, disruptions to the purchase process for investment products and services sold or provided to retail customers, by means such as permitting required disclosures to be made via the Internet. (2) Notwithstanding paragraph (1), the Commission is authorized to promulgate rules in connection with-- (A) the implementation of section 7103; and (B) disclosure to retail customers other than rules that require the provision of documents or information to retail customers prior to the purchase of investment products or services.	*Commission, a strategy (including, to the extent practicable, measurable goals and objectives) to increase the financial literacy of investors in order to bring about a positive change in investor behavior.* *(b) Report- Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (a) to--* *(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and* *(2) the Committee on Financial Services of the House of Representatives.*	
SEC. 7105. BENEFICIAL OWNERSHIP AND SHORT-SWING PROFIT REPORTING. (a) Beneficial Ownership Reporting- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended-- (1) in subsection (d)(1)-- (A) by inserting after `within ten days after such acquisition' the following: `or within such shorter time as the Commission may establish by rule'; and (B) by striking `send to the issuer of the security at its principal executive office, by registered or certified		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
mail, send to each exchange where the security is traded, and'; (2) in subsection (d)(2)-- (A) by striking `in the statements to the issuer and the exchange, and'; and (B) by striking `shall be transmitted to the issuer and the exchange and'; (3) in subsection (g)(1), by striking `shall send to the issuer of the security and'; and (4) in subsection (g)(2)-- (A) by striking `sent to the issuer and'; and (B) by striking `shall be transmitted to the issuer and (b) Short-swing Profit Reporting- Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) is amended-- (1) in paragraph (1), by striking `(and, if such security is registered on a national securities exchange, also with the exchange)'; and (2) in paragraph (2)(B), by inserting after `officer' the following: `, or within such shorter time as the Commission may establish by rule'.		
SEC. 7106. REVISION TO RECORDKEEPING RULES. (a) Investment Company Act of 1940 Amendments- Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a-30) is amended-- (1) in subsection (a)(1), by adding at the end the following: `Each person with custody or use of a registered investment company's securities, deposits, or credits shall maintain and preserve all records that relate to the person's custody or use of the registered investment company's securities, deposits, or credits for such period or periods as the Commission, by rules and regulations, may prescribe as necessary or appropriate in the public interest or for the protection of investors.'; and (2) in subsection (b), by adding at the end the following new paragraph: `(4) RECORDS OF PERSONS WITH CUSTODY OR USE- `(A) IN GENERAL- Notwithstanding paragraph (1), records of persons with custody or use of a registered investment company's securities, deposits, or credits, that relate to such custody or use, are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations and other information and document requests by representatives of the Commission as the Commission deems necessary or		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
appropriate in the public interest or for the protection of investors. `(B) CERTAIN PERSONS SUBJECT TO OTHER REGULATION- Persons subject to regulation and examination by a Federal financial institution regulatory agency (as such term is defined under section 212(c)(2) of title 18, United States Code) may satisfy any examination request, information request, or document request described under subparagraph (A), by providing the Commission with a detailed listing, in writing, of the registered investment company's securities, deposits, or credits within such person's custody or use.'. (b) Investment Advisers Act of 1940 Amendment- Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended by adding at the end the following new subsection: `(d) Records of Persons With Custody or Use- `(1) IN GENERAL- Records of persons with custody or use of a client's securities, deposits, or credits, that relate to such custody or use, are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations and other information and document requests by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors. `(2) CERTAIN PERSONS SUBJECT TO OTHER REGULATION- Persons subject to regulation and examination by a Federal financial institution regulatory agency (as such term is defined under section 212(c)(2) of title 18, United States Code) may satisfy any examination request, information request, or document request described under paragraph (1), by providing the Commission with a detailed listing, in writing, of the client's securities, deposits, or credits within such person's custody or use.'.		
SEC. 7107. STUDY ON ENHANCING INVESTMENT ADVISER EXAMINATIONS. (a) Study Required- (1) IN GENERAL- The Commission shall review and analyze the need for enhanced examination and enforcement resources for investment advisers. (2) AREAS OF CONSIDERATION- The study required by this subsection shall examine-- (A) the number and frequency of examinations of		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
investment advisers by the Commission over the 5 years preceding the date of the enactment of this subtitle; (B) the extent to which having Congress authorize the Commission to designate one or more self-regulatory organizations to augment the Commission's efforts in overseeing investment advisers would improve the frequency of examinations of investment advisers; and (C) current and potential approaches to examining the investment advisory activities of dually registered broker-dealers and investment advisers or affiliated broker-dealers and investment advisers. (b) Report Required- The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of enactment of this subtitle, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.		
SEC. 7108. GAO STUDY OF FINANCIAL PLANNING. (a) Study Required- The Comptroller General of the United States shall conduct a study on the regulation and oversight of financial planning. The study shall consider-- (1) the unique role of financial planners in providing comprehensive advice in investment planning, income tax planning, education planning, retirement planning, estate planning, risk management, and other areas with respect to the management of financial resources; and (2) any gaps in the regulation of financial planners given existing State and Federal regulation of financial planning activities and the need to provide related consumer protections for such financial planning activities. (b) Report- Not later than the end of the 180-day period beginning on the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Congress a report containing the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including recommendations for the appropriate regulation of, or standards for, financial planners as a profession and how such regulations or standards should be established.	***SEC. 919B. STUDY ON FINANCIAL PLANNERS AND THE USE OF FINANCIAL DESIGNATIONS.*** *(a) In General- The Comptroller General of the United States shall conduct a study to evaluate--* *(1) the effectiveness of State and Federal regulations to protect consumers from individuals who hold themselves out as financial planners through the use of misleading designations;* *(2) current State and Federal oversight structure and regulations for financial planners; and* *(3) legal or regulatory gaps in the regulation of financial planners and other individuals who provide or offer to provide financial planning services to consumers.* *(b) Considerations- In conducting the study required under subsection (a), the Comptroller General shall consider--* *(1) the role of financial planners in providing advice regarding the management of financial resources, including investment planning, income tax planning, education planning, retirement planning, estate planning, and risk management;* *(2) whether current regulations at the State and Federal level provide adequate ethical and professional standards for financial planners;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(3) the use of the title `financial planner' and misleading designations in connection with sale of financial products, including insurance and securities;* *(4) the possible risk posed to consumers by individuals who hold themselves out as financial planners through the use of misleading designations, including `financial advisor' and `financial consultant'; *(5) the ability of consumers to understand licensing requirements and standards of care that apply to individuals who provide financial advice;* *(6) the possible benefits to consumers of regulation and professional oversight of financial planners; and* *(7) any other consideration that the Comptroller General deems necessary or appropriate to effectively execute the study required under subsection (a).* *(c) Recommendations- In providing recommendations for the appropriate regulation of financial planners and other individuals who provide or offer to provide financial planning services, in order to protect consumers of financial planning services, the Comptroller General shall consider--* *(1) the appropriate structure for regulation of financial planners and individuals providing financial planning services; and* *(2) the appropriate scope of the regulations needed to protect consumers, including but not limited to the need to establish competency standards, practice standards, ethical guidelines, disciplinary authority, and transparency to consumers.* *(d) Report-* *(1) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report on the study required under subsection (a) to--* *(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;* *(B) the Special Committee on Aging of the Senate; and* *(C) the Committee on Financial Services of the House of Representatives.* *(2) CONTENT REQUIREMENTS- The report required under paragraph (1) shall describe the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including a description of the considerations, analysis, and government, public, industry, nonprofit and consumer input that the Comptroller General considered to make such findings, conclusions, and legislative,*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	regulatory, or other recommendations.	
	SEC. 914. OFFICE OF THE INVESTOR ADVOCATE. *Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:* *`(g) Office of the Investor Advocate-* *`(1) OFFICE ESTABLISHED- There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the `Office').* *`(2) INVESTOR ADVOCATE-* *`(A) IN GENERAL- The head of the Office shall be the Investor Advocate, who shall--* *`(i) report directly to the Chairman; and* *`(ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.* *`(B) COMPENSATION- The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for a Senior Executive Service position within the Commission.* *`(C) LIMITATION ON SERVICE- An individual who serves as the Investor Advocate may not be employed by the Commission--* *`(i) during the 2-year period ending on the date of appointment as Investor Advocate; or* *`(ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.* *`(3) STAFF OF OFFICE- The Investor Advocate may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.* *`(4) FUNCTIONS OF THE INVESTOR ADVOCATE- The Investor Advocate shall--* *`(A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;* *`(B) identify areas in which investors would benefit from changes in the regulations of the Commission or*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	the rules of self-regulatory organizations; *`(C) identify problems that investors have with financial service providers and investment products;* *`(D) analyze the potential impact on investors of--* *`(i) proposed regulations of the Commission; and* *`(ii) proposed rules of self-regulatory organizations registered under this title; and* *`(E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.* *`(5) ACCESS TO DOCUMENTS- The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.* *`(6) ANNUAL REPORTS-* *`(A) REPORT ON OBJECTIVES-* *`(i) IN GENERAL- Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.* *`(ii) CONTENTS- Each report required under clause (i) shall contain full and substantive analysis and explanation.* *`(B) REPORT ON ACTIVITIES-* *`(i) IN GENERAL- Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.* *`(ii) CONTENTS- Each report required under clause (i) shall include--*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	`(I) appropriate statistical information and full and substantive analysis;* *`(II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns; *`(III) a summary of the most serious problems encountered by investors during the reporting period;* *`(IV) an inventory of the items described in subclauses (III) that includes--* *`(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;*  *`(bb) the length of time that each item has remained on such inventory; and* *`(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;*  *`(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and* *`(VI) any other information, as determined appropriate by the Investor Advocate.* *`(iii) INDEPENDENCE- Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.* *`(iv) CONFIDENTIALITY- No report required under clause (i) may contain confidential*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	information. *`(7) REGULATIONS- The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.'.*	
	SEC. 915. STREAMLINING OF FILING PROCEDURES FOR SELF-REGULATORY ORGANIZATIONS. *(a) Filing Procedures- Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by striking paragraph (2) (including the undesignated matter immediately following subparagraph (B)) and inserting the following:* *`(2) APPROVAL PROCESS-* *`(A) APPROVAL PROCESS ESTABLISHED-* *`(i) IN GENERAL- Except as provided in clause (ii), not later than 45 days after the date of publication of a proposed rule change under paragraph (1), the Commission shall--* *`(I) by order, approve the proposed rule change; or* *`(II) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved.* *`(ii) EXTENSION OF TIME PERIOD- The Commission may extend the period established under clause (i) by not more than an additional 45 days, if--* *`(I) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or* *`(II) the self-regulatory organization that filed the proposed rule change consents to the longer period.* *`(B) PROCEEDINGS-* *`(i) NOTICE AND HEARING- If the Commission does not approve a proposed rule change under subparagraph (A), the*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	Commission shall provide to the self-regulatory organization that filed the proposed rule change-- *`(I) notice of the grounds for disapproval under consideration; and* *`(II) opportunity for hearing, to be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change.* *`(ii) ORDER OF APPROVAL OR DISAPPROVAL-* *`(I) IN GENERAL- Except as provided in subclause (II), not later than 180 days after the date of publication under paragraph (1), the Commission shall issue an order approving or disapproving the proposed rule change.* *`(II) EXTENSION OF TIME PERIOD- The Commission may extend the period for issuance under clause (I) by not more than 60 days, if--*  *`(aa) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or* *`(bb) the self-regulatory organization that filed the proposed rule change consents to the longer period.*  *`(C) STANDARDS FOR APPROVAL AND DISAPPROVAL-* *`(i) APPROVAL- The Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations issued under this title that are applicable to such organization.* *`(ii) DISAPPROVAL- The Commission shall*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	disapprove a proposed rule change of a self-regulatory organization if it does not make a finding described in clause (i). *`(iii) TIME FOR APPROVAL- The Commission may not approve a proposed rule change earlier than 30 days after the date of publication under paragraph (1), unless the Commission finds good cause for so doing and publishes the reason for the finding.* *`(D) RESULT OF FAILURE TO INSTITUTE OR CONCLUDE PROCEEDINGS- A proposed rule change shall be deemed to have been approved by the Commission, if--* *`(i) the Commission does not approve the proposed rule change or begin proceedings under subparagraph (B) within the period described in subparagraph (A); or* *`(ii) the Commission does not issue an order approving or disapproving the proposed rule change under subparagraph (B) within the period described in subparagraph (B)(ii).* *`(E) PUBLICATION DATE BASED ON FEDERAL REGISTER PUBLISHING- For purposes of this paragraph, if, after filing a proposed rule change with the Commission pursuant to paragraph (1), a self-regulatory organization publishes a notice of the filing of such proposed rule change, together with the substantive terms of such proposed rule change, on a publicly accessible website, the Commission shall thereafter send the notice to the Federal Register for publication thereof under paragraph (1) within 15 days of the date on which such website publication is made. If the Commission fails to send the notice for publication thereof within such 15 day period, then the date of publication shall be deemed to be the date on which such website publication was made.'.* *(b) Clarification of Filing Date-* *(1) RULE OF CONSTRUCTION- Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:* *`(10) RULE OF CONSTRUCTION RELATING TO FILING DATE OF PROPOSED RULE CHANGES-* *`(A) IN GENERAL- For purposes of this subsection,*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	the date of filing of a proposed rule change shall be deemed to be the date on which the Commission receives the proposed rule change. *`(B) EXCEPTION- A proposed rule change has not been received by the Commission for purposes of subparagraph (A) if, not later than 7 days after the date of receipt by the Commission, the Commission notifies the self-regulatory organization that such proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change.'.* *(2) PUBLICATION- Section 19(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(1)) is amended by striking `upon' and inserting `as soon as practicable after the date of'.* *(c) Effective Date of Proposed Rules- Section 19(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(3)) is amended--* *(1) in subparagraph (A)--* *(A) by striking `may take effect' and inserting `shall take effect'; and* *(B) by inserting `on any person, whether or not the person is a member of the self-regulatory organization' after `charge imposed by the self-regulatory organization'; and* *(2) in subparagraph (C)--* *(A) by amending the second sentence to read as follows: `At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1), the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.';* *(B) by inserting after the second sentence the following: `If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) to determine whether the proposed rule should be approved or disapproved.'; and* *(C) in the third sentence, by striking `the preceding sentence' and inserting `this subparagraph'.* *(d) Conforming Change- Section 19(b)(4)(D) of the Securities Exchange*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	Act of 1934 (15 U.S.C. 78s(b)(4)(D)) is amended to read as follows: *`(D)(i) The Commission shall order the temporary suspension of any change in the rules of a clearing agency made by a proposed rule change that has taken effect under paragraph (3), if the appropriate regulatory agency for the clearing agency notifies the Commission not later than 30 days after the date on which the proposed rule change was filed of--* *`(I) the determination by the appropriate regulatory agency that the rules of such clearing agency, as so changed, may be inconsistent with the safeguarding of securities or funds in the custody or control of such clearing agency or for which it is responsible; and* *`(II) the reasons for the determination described in subclause (I).* *`(ii) If the Commission takes action under clause (i), the Commission shall institute proceedings under paragraph (2)(B) to determine if the proposed rule change should be approved or disapproved.'.*	
	SEC. 917. STUDY REGARDING MUTUAL FUND ADVERTISING. *(a) In General- The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify--* *(1) existing and proposed regulatory requirements for open-end investment company advertisements;* *(2) current marketing practices for the sale of open-end investment company shares, including the use of past performance data, funds that have merged, and incubator funds;* *(3) the impact of such advertising on consumers; and* *(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.* *(b) Report- Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to--* *(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(2) the Committee on Financial Services of the House of Representatives. ***SEC. 918. CLARIFICATION OF COMMISSION AUTHORITY TO REQUIRE INVESTOR DISCLOSURES BEFORE PURCHASE OF INVESTMENT PRODUCTS AND SERVICES.*** *Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:* *`(k) Disclosures to Retail Investors-* *`(1) IN GENERAL- Notwithstanding any other provision of the securities laws, the Commission may issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor.* *`(2) CONSIDERATIONS- In developing any rules under paragraph (1), the Commission shall consider whether the rules will promote investor protection, efficiency, competition, and capital formation.* *`(3) FORM AND CONTENTS OF DOCUMENTS AND INFORMATION- Any documents or information designated under a rule promulgated under paragraph (1) shall--* *`(A) be in a summary format; and* *`(B) contain clear and concise information about--* *`(i) investment objectives, strategies, costs, and risks; and* *`(ii) any compensation or other financial incentive received by a broker, dealer, or other intermediary in connection with the purchase of retail investment products.'.*	
	919. STUDY ON CONFLICTS OF INTEREST. *(a) SE In General- The Comptroller General of the United States shall conduct a study--* *(1) to identify and examine potential conflicts of interest that exist between the staffs of the investment banking and equity and fixed income securities analyst functions within the same firm; and* *(2) to make recommendations to Congress designed to protect investors in light of such conflicts.*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(b) Considerations- In conducting the study under subsection (a), the Comptroller General shall-- *(1) consider--* *(A) the potential for investor harm resulting from conflicts, including consideration of the forms of misconduct engaged in by the several securities firms and individuals that entered into the Global Analyst Research Settlements in 2003 (also known as the `Global Settlement');* *(B) the nature and benefits of the undertakings to which those firms agreed in enforcement proceedings, including firewalls between research and investment banking, separate reporting lines, dedicated legal and compliance staffs, allocation of budget, physical separation, compensation, employee performance evaluations, coverage decisions, limitations on soliciting investment banking business, disclosures, transparency, and other measures;* *(C) whether any such undertakings should be codified and applied permanently to securities firms, or whether the Commission should adopt rules applying any such undertakings to securities firms; and* *(D) whether to recommend regulatory or legislative measures designed to mitigate possible adverse consequences to investors arising from the conflicts of interest or to enhance investor protection or confidence in the integrity of the securities markets; and* *(2) consult with State attorneys general, State securities officials, the Commission, the Financial Industry Regulatory Authority (`FINRA'), NYSE Regulation, investor advocates, brokers, dealers, retail investors, institutional investors, and academics.* *(c) Report- The Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 18 months after the date of enactment of this Act.*	
	SEC. 919A. STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS.	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(a) Study- *(1) IN GENERAL- Not later than 6 months after the date of enactment of this Act, the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.* *(2) CONTENTS- The study required by subsection (a) shall include an analysis of the advantages and disadvantages of further centralizing access to the information contained in the 2 systems, including--* *(A) identification of those data pertinent to investors; and* *(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.* *(b) Implementation- Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.*	
	Subtitle B--Increasing Regulatory Enforcement and Remedies	
SEC. 7201. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION. (a) Amendment to Securities Exchange Act of 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 7103, is further amended by adding at the end the following new subsection: `(p) Authority to Restrict Mandatory Pre-dispute Arbitration- The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any future dispute between them arising under the Federal securities laws, the rules and regulations thereunder, or the rules of a self-regulatory organization if it	***SEC. 921. AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.*** *(a) Amendment to Securities Exchange Act of 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 918, is amended by adding at the end the following:* *`(l) Authority To Restrict Mandatory Predispute Arbitration- The Commission may conduct a rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any dispute between them and such broker, dealer, or municipal securities dealer that arises under the securities laws or the rules of a self-regulatory organization, if the Commission*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.'. (b) Amendment to Investment Advisers Act of 1940- Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended by adding at the end the following new subsection: `(f) Authority to Restrict Mandatory Pre-dispute Arbitration- The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any future dispute between them arising under the Federal securities laws, the rules and regulations thereunder, or the rules of a self-regulatory organization if it finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.'.	*finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.'.* *(b) Amendment to Investment Advisers Act of 1940- Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended by adding at the end the following:* *`(f) Authority To Issue Rules Related to Mandatory Predispute Arbitration- The Commission may conduct rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any dispute between them and such investment adviser that arises under the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.'.*	
SEC. 7202. COMPTROLLER GENERAL STUDY TO REVIEW SECURITIES ARBITRATION SYSTEM. (a) Study- The Comptroller General of the United States shall conduct a study to review-- (1) the costs to parties of an arbitration proceeding using the arbitration system operated by the Financial Industry Regulatory Authority and overseen by the Securities and Exchange Commission as compared to litigation; (2) the percentage of recovery of the total amount of a claim in an arbitration proceeding using the arbitration system operated by the Financial Industry Regulatory Authority and overseen by the Securities and Exchange Commission; and (3) other additional issues as may be raised during the course of the study conducted under this subsection. (b) Report- Not later than 1 year after the date of enactment of this subtitle, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study required by subsection (a), including in such report recommendations for improvements to the arbitration system referenced in such subsection.		
SEC. 7203. WHISTLEBLOWER PROTECTION. (a) In General- The Securities Exchange Act of 1934 (15 U.S.C. 78a et	***SEC. 922. WHISTLEBLOWER PROTECTION.*** *(a) In General- The Securities Exchange Act of 1934 (15 U.S.C. 78a et*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
seq.) is amended by adding after section 21E the following new section: **`SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.**  `(a) In General- In any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding $1,000,000, the Commission, under regulations prescribed by the Commission and subject to subsection (b), may pay an award or awards not exceeding an amount equal to 30 percent, in total, of the monetary sanctions imposed in the action or related actions to one or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the action. Any amount payable under the preceding sentence shall be paid from the fund described in subsection (f).	*seq.) is amended by inserting after section 21E the following:* ***`SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.***  *`(b) Awards-* *`(1) IN GENERAL- In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to--* *`(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and* *`(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.* *`(2) PAYMENT OF AWARDS- Any amount paid under paragraph (1) shall be paid from the Fund.*	
`(b) Determination of Amount of Award; Denial of Award- `(1) DETERMINATION OF AMOUNT OF AWARD- The determination of the amount of an award, within the limit specified in subsection (a), shall be in the sole discretion of the Commission. The Commission may take into account the significance of the whistleblower's information to the success of the judicial or administrative action described in subsection (a), the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in such action, the Commission's programmatic interest in deterring violations of the securities laws by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws, and such additional factors as the Commission may establish by rules or regulations. `(2) DENIAL OF AWARD- No award under subsection (a) shall be made-- `(A) to any whistleblower who is, or was at the time he or she acquired the original information submitted to the Commission, a member, officer, or employee of	*`(c) Determination of Amount of Award; Denial of Award-* *`(1) DETERMINATION OF AMOUNT OF AWARD-* *`(A) DISCRETION- The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.* *`(B) CRITERIA- In determining the amount of an award made under subsection (b), the Commission shall take into account--* *`(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;* *`(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;* *`(iii) the programmatic interest of the Commission in deterring violations of the securities laws by making awards to*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
any appropriate regulatory agency, the Department of Justice, the Public Company Accounting Oversight Board, law enforcement agency, or a self-regulatory organization; `(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section; `(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws; or `(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.	*whistleblowers who provide information that lead to the successful enforcement of such laws; and* *`(iv) such additional relevant factors as the Commission may establish by rule or regulation.* *`(2) DENIAL OF AWARD- No award under subsection (b) shall be made--* *`(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of--* *`(i) an appropriate regulatory agency;* *`(ii) the Department of Justice;* *`(iii) a self-regulatory organization;* *`(iv) the Public Company Accounting Oversight Board; or* *`(v) a law enforcement organization;* *`(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;* *`(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws and for whom such submission would be contrary to the requirements of section 101A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1); or* *`(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.*	
`(c) Representation- `(1) PERMITTED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (a) may be represented by counsel. `(2) REQUIRED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (a) must be represented by counsel if the whistleblower submits the information upon which the claim is based anonymously. Prior to the payment of an award, the whistleblower must disclose his or her identity and provide such other information as the Commission may require.	*`(d) Representation-* *`(1) PERMITTED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.* *`(2) REQUIRED REPRESENTATION-* *`(A) IN GENERAL- Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.* *`(B) DISCLOSURE OF IDENTITY- Prior to the*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(d) No Contract Necessary- No contract with the Commission is necessary for any whistleblower to receive an award under subsection (a), unless the Commission, by rule or regulation, so requires. `(e) Appeals- Any determinations under this section, including whether, to whom, or in what amounts to make awards, shall be in the sole discretion of the Commission, and any such determinations shall be final and not subject to judicial review.	*payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.* *`(e) No Contract Necessary- No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission by rule or regulation.*	
	`(f) Appeals- Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission. Any such determination may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission. The court shall review the determination made by the Commission in accordance with section 706 of title 5, United States Code.	
`(f) Investor Protection Fund- `(1) FUND ESTABLISHED- There is established in the Treasury of the United States a fund to be known as the `Securities and Exchange Commission Investor Protection Fund' (referred to in this section as the `Fund'). `(2) USE OF FUND- The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for the following purposes: `(A) Paying awards to whistleblowers as provided in subsection (a). `(B) Funding investor education initiatives designed to help investors protect themselves against securities fraud or other violations of the securities laws, or the rules and regulations thereunder. `(3) DEPOSITS AND CREDITS- There shall be deposited into or credited to the Fund-- `(A) any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission under the securities laws that is not added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 or otherwise distributed to victims of a violation of the securities laws, or the rules and regulations thereunder, underlying such action, unless the balance of the Fund at the time the monetary sanction is collected exceeds $100,000,000; `(B) any monetary sanction added to a disgorgement	*`(g) Investor Protection Fund-* *`(1) FUND ESTABLISHED- There is established in the Treasury of the United States a fund to be known as the `Securities and Exchange Commission Investor Protection Fund'.* *`(2) USE OF FUND- The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for--* *`(A) paying awards to whistleblowers as provided in subsection (b); and* *`(B) funding the activities of the Inspector General of the Commission under section 4(i).* *`(3) DEPOSITS AND CREDITS- There shall be deposited into or credited to the Fund an amount equal to--* *`(A) the amount awarded under subsection (b) from any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission that is based on information provided by a whistleblower under the securities laws, unless, the balance of the Fund at the time the monetary sanction is collected exceeds $200,000,000;* *`(B) any monetary sanction added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) that is not distributed to the victims for whom the disgorgement fund was established, unless the balance of the disgorgement fund at the time the determination*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 that is not distributed to the victims for whom the disgorgement fund or other fund was established, unless the balance of the Fund at the time the determination is made not to distribute the monetary sanction to such victims exceeds $100,000,000; and `(C) all income from investments made under paragraph (4). `(4) INVESTMENTS- `(A) AMOUNTS IN FUND MAY BE INVESTED- The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund. `(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission. `(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund. `(5) REPORTS TO CONGRESS- Not later than October 30 of each year, the Commission shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on-- `(A) the Commission's whistleblower award program under this section, including a description of the number of awards that were granted and the types of cases in which awards were granted during the preceding fiscal year; `(B) investor education initiatives described in paragraph (2)(B) that were funded by the Fund during the preceding fiscal year; `(C) the balance of the Fund at the beginning of the preceding fiscal year; `(D) the amounts deposited into or credited to the Fund during the preceding fiscal year; `(E) the amount of earnings on investments of amounts	*is made not to distribute the monetary sanction to such victims exceeds $100,000,000; and* *`(C) all income from investments made under paragraph (4).* *`(4) INVESTMENTS-* *`(A) AMOUNTS IN FUND MAY BE INVESTED- The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the discretion of the Commission, required to meet the current needs of the Fund.* *`(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission on the record.* *`(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.* *`(5) REPORTS TO CONGRESS- Not later than October 30 of each fiscal year beginning after the date of enactment of this subsection, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on--* *`(A) the whistleblower award program, established under this section, including--* *`(i) a description of the number of awards granted; and* *`(ii) the types of cases in which awards were granted during the preceding fiscal year;* *`(B) the balance of the Fund at the beginning of the preceding fiscal year;* *`(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;* *`(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;* *`(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);* *`(F) the balance of the Fund at the end of the preceding fiscal year; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
in the Fund during the preceding fiscal year; `(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (a); `(G) the amount paid from the Fund during the preceding fiscal year for investor education initiatives described in paragraph (1)(B); `(H) the balance of the Fund at the end of the preceding fiscal year; and `(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.	*`(G) a complete set of audited financial statements, including--* *`(i) a balance sheet;* *`(ii) income statement; and* *`(iii) cash flow analysis.*	
`(g) Protection of Whistleblowers- `(1) PROHIBITION AGAINST RETALIATION- `(A) IN GENERAL- No employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee, contractor, or agent in the terms and conditions of employment because of any lawful act done by the employee, contractor, or agent in providing information to the Commission in accordance with subsection (a), or in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information. `(B) ENFORCEMENT- `(i) CAUSE OF ACTION- An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C). `(ii) SUBPOENAS- A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States. `(iii) STATUTE OF LIMITATIONS- An action under this subsection may not be brought more than 6 years after the date on which the violation of subparagraph (A) occurred, or more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of	*`(h) Protection of Whistleblowers-* *`(1) PROHIBITION AGAINST RETALIATION-* *`(A) IN GENERAL- No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower--* *`(i) in providing information to the Commission in accordance with subsection (a); or* *`(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.* *`(B) ENFORCEMENT-* *`(i) CAUSE OF ACTION- An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).* *`(ii) SUBPOENAS- A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.* *`(iii) STATUTE OF LIMITATIONS-* *`(I) IN GENERAL- An action under this subsection may not be brought--* *`(aa) more than 6 years after the date on which the violation of subparagraph (A)*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
subparagraph (A), but in no event after 10 years after the date on which the violation occurs. `(C) RELIEF- An employee, contractor, or agent prevailing in any action brought under subparagraph (B) shall be entitled to all relief necessary to make that employee, contractor, or agent whole, including reinstatement with the same seniority status that the employee, contractor, or agent would have had, but for the discrimination, 2 times the amount of back pay, with interest, and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorneys' fees. `(2) CONFIDENTIALITY- `(A) IN GENERAL- Except as provided in subparagraph (B), the Commission and any officer or employee of the Commission shall not disclose any information, including information provided by a whistleblower to the Commission, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, United States Code, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B). For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552. `(B) AVAILABILITY TO GOVERNMENT AGENCIES- Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and protect investors, be made available to-- `(i) the Attorney General of the United States, `(ii) an appropriate regulatory authority, `(iii) a self-regulatory organization, `(iv) State attorneys general in connection with any criminal investigation, and	*occurred; or* *`(bb) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subparagraph (A).*  *`(II) REQUIRED ACTION WITHIN 10 YEARS- Notwithstanding subclause (I), an action under this subsection may not in any circumstance be brought more than 10 years after the date on which the violation occurs.* *`(C) RELIEF- Relief for an individual prevailing in an action brought under subparagraph (B) shall include--* *`(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;* *`(ii) 2 times the amount of back pay otherwise owed to the individual, with interest; and* *`(iii) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees.* *`(2) CONFIDENTIALITY-* *`(A) IN GENERAL- Unless and until required to be disclosed to a defendant or respondent in connection with a proceeding instituted by the Commission or any entity described in subparagraph (D), all information provided to the Commission by a whistleblower--* *`(i) in any proceeding in any Federal or State court or administrative agency--* *`(I) shall be confidential and privileged as an evidentiary matter; and* *`(II) shall not be subject to civil discovery or other legal process; and* *`(ii) shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) or under any proceeding under that section.* *`(B) EXEMPTED STATUTE- For purposes of section 552 of title 5, United States Code, this paragraph shall*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(v) any appropriate State regulatory authority, each of which shall not disclose such information in accordance with subparagraph (A).	*be considered a statute described in subsection (b)(3)(B) of such section 552.* *`(C) RULE OF CONSTRUCTION- Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.* *`(D) AVAILABILITY TO GOVERNMENT AGENCIES-* *`(i) IN GENERAL- Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and to protect investors, be made available to--* *`(I) the Attorney General of the United States;* *`(II) an appropriate regulatory authority;* *`(III) a self-regulatory organization;* *`(IV) a State attorney general in connection with any criminal investigation;* *`(V) any appropriate State regulatory authority;* *`(VI) the Public Company Accounting Oversight Board;* *`(VII) a foreign securities authority; and* *`(VIII) a foreign law enforcement authority.* *`(ii) CONFIDENTIALITY-* *`(I) IN GENERAL- Each of the entities described in subclauses (I) through (VI) of clause (i) shall maintain such information as confidential and privileged, in accordance with the requirements established under subparagraph (A).* *`(II) FOREIGN AUTHORITIES-*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate. *`(3) RIGHTS RETAINED- Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.*	
`(h) Provision of False Information- Any whistleblower who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section. `(i) Rulemaking Authority- The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section.	*`(i) Provision of False Information- A whistleblower shall not be entitled to an award under this section if the whistleblower--* *`(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or* *`(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.* *`(j) Rulemaking Authority- The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.'.* *(b) Protection for Employees of Nationally Recognized Statistical Rating Organizations- Section 1514A(a) of title 18, United States Code, is amended--* *(1) by inserting `or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),' after `78o(d)),'; and* *(2) by inserting `or nationally recognized statistical rating organization' after `such company'.*	
`(j) Definitions- For purposes of this section, the following terms have the following meanings: `(1) ORIGINAL INFORMATION- The term `original information' means information that-- `(A) is based on the direct and independent knowledge or analysis of a whistleblower; `(B) is not known to the Commission from any other source, unless the whistleblower is the initial source of the information; and `(C) is not based on allegations in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news	*`(a) Definitions- In this section the following definitions shall apply:* *`(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION- The term `covered judicial or administrative action' means any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding $1,000,000.* *`(2) FUND- The term `Fund' means the Securities and Exchange Commission Investor Protection Fund.* *`(3) ORIGINAL INFORMATION- The term `original information' means information that--* *`(A) is derived from the independent knowledge or analysis of a whistleblower;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
media, unless the whistleblower is the initial source of the information that resulted in the judicial or administrative hearing, governmental report, hearing, audit, or investigation, or the news media's report on the allegations. `(2) MONETARY SANCTIONS- The term `monetary sanctions', when used with respect to any judicial or administrative action, means any monies, including but not limited to penalties, disgorgement, and interest, ordered to be paid, and any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action. `(3) RELATED ACTION- The term `related action', when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subsection (g)(2)(B) that is based upon the same original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action. `(4) WHISTLEBLOWER- The term `whistleblower' means an individual, or two or more individuals acting jointly, who submit information to the Commission as provided in this section.'. (b) Administration and Enforcement- The Securities and Exchange Commission shall establish a separate office within the Commission to administer and enforce the provisions of section 21F of the Securities Exchange Act of 1934, as added by subsection (a). Such office shall report annually to Congress on its activities, whistleblower complaints, and the response of the Commission to such complaints.	*`(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and* *`(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.* *`(4) MONETARY SANCTIONS- The term `monetary sanctions', when used with respect to any judicial or administrative action, means--* *`(A) any monies, including penalties, disgorgement, and interest, ordered to be paid; and* *`(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.* *`(5) RELATED ACTION- The term `related action', when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subclauses (I) through (IV) of subsection (h)(2)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.* *`(6) WHISTLEBLOWER- The term `whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of the securities laws to the Commission, in a manner established, by rule or regulation, by the Commission.*	
SEC. 7204. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION. (a) In General- Each of the following provisions is amended by inserting `and section 21F of the Securities Exchange Act of 1934' after `the Sarbanes-Oxley Act of 2002': (1) Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)). (2) Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(3)(A)). (3) Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)).	***SEC. 923. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.*** *(a) In General-* *(1) SECURITIES ACT OF 1933- Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)) is amended by inserting `and section 21F of the Securities Exchange Act of 1934' after `the Sarbanes-Oxley Act of 2002'.* *(2) INVESTMENT COMPANY ACT OF 1940- Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(3)(A)) is amended by inserting `and section 21F of the Securities Exchange Act of 1934' after `the Sarbanes-Oxley*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(b) Securities Exchange Act- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended-- (1) in section 21(d)(3)(C)(i) (15 U.S.C. 78u(d)(3)(C)(i)), by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002'; (2) in section 21A(d)(1) (15 U.S.C. 78u-1(d)(1))-- (A) by striking `(subject to subsection (e))'; and (B) by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002'; and (3) in section 21A, by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.	*Act of 2002'.* *(3) INVESTMENT ADVISERS ACT OF 1940- Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)) is amended by inserting `and section 21F of the Securities Exchange Act of 1934' after `the Sarbanes-Oxley Act of 2002'.* *(b) Securities Exchange Act-* *(1) SECTION 21- Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)) is amended by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002'.* *(2) SECTION 21A- Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1) is amended--* *(A) in subsection (d)(1) by--* *(i) striking `(subject to subsection (e))'; and* *(ii) inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002';* *(B) by striking subsection (e); and* *(C) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.*	
SEC. 7205. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTIONS. (a) Implementing Rules- The Securities and Exchange Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this part, no later than 270 days after the date of enactment of this subtitle. (b) Original Information- Information submitted to the Commission by a whistleblower in accordance with regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this part, shall not lose its status as original information, as defined in subsection (i)(1) of such section, solely because the whistleblower submitted such information prior to the effective date of such regulations, provided such information was submitted after the date of enactment of this subtitle, or related to insider trading violations for which a bounty could have been paid at the time such information was submitted. (c) Awards- A whistleblower may receive an award pursuant to section 21F of the Securities Exchange Act of 1934, as added by this part, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the	***SEC. 924. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTION.*** *(a) Implementing Rules- The Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, not later than 270 days after the date of enactment of this Act.* *(b) Original Information- Information provided to the Commission by a whistleblower in accordance with the regulations referenced in subsection (a) shall not lose the status of original information (as defined in section 21F(i)(1) of the Securities Exchange Act of 1934, as added by this subtitle) solely because the whistleblower provided the information prior to the effective date of the regulations, provided that the information is--* *(1) provided by the whistleblower after the date of enactment of this subtitle, or monetary sanctions are collected after the date of enactment of this subtitle; or* *(2) related to a violation for which an award under section 21F of the Securities Exchange Act of 1934, as added by this subtitle, could have been paid at the time the information was provided by the whistleblower.* *(c) Awards- A whistleblower may receive an award pursuant to section*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
date of enactment of this subtitle.	*21F of the Securities Exchange Act of 1934, as added by this subtitle, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based, occurred prior to the date of enactment of this subtitle.*	
SEC. 7206. COLLATERAL BARS. (a) Section 15 of the Securities Exchange Act of 1934- Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking `12 months, or bar such person from being associated with a broker or dealer,' and inserting `12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'. (b) Section 15B of the Securities Exchange Act of 1934- Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking `twelve months or bar any such person from being associated with a municipal securities dealer,' and inserting `12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'. (c) Section 17A of the Securities Exchange Act of 1934- Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(4)(C)) is amended by striking `twelve months or bar any such person from being associated with the transfer agent,' and inserting `12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal financial adviser, or nationally recognized statistical rating organization,'. (d) Section 203 of the Investment Advisers Act of 1940- Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking `twelve months or bar any such person from being associated with an investment adviser,' and inserting `12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'.	***SEC. 925. COLLATERAL BARS.*** *(a) Securities Exchange Act of 1934-* *(1) SECTION 15- Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking `12 months, or bar such person from being associated with a broker or dealer,' and inserting `12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.* *(2) SECTION 15B- Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking `twelve months or bar any such person from being associated with a municipal securities dealer,' and inserting `12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.* *(3) SECTION 17A- Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(4)(C)) is amended by striking `twelve months or bar any such person from being associated with the transfer agent,' and inserting `12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or nationally recognized statistical rating organization,'.* *(b) Investment Advisers Act of 1940- Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking `twelve months or bar any such person from being associated with an investment adviser,' and inserting `12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.*	
SEC. 7207. AIDING AND ABETTING AUTHORITY UNDER THE		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
SECURITIES ACT AND THE INVESTMENT COMPANY ACT. (a) Under the Securities Act of 1933- Section 15 of the Securities Act of 1933 (15 U.S.C. 77o) is amended-- (1) by striking `Every person who' and inserting `(a) Controlling Persons- Every person who'; and (2) by adding at the end the following: `(b) Prosecution of Persons Who Aid and Abet Violations- For purposes of any action brought by the Commission under subparagraph (b) or (d) of section 20, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.'. (b) Under the Investment Company Act of 1940- Section 48 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following: `(b) For purposes of any action brought by the Commission under subsection (d) or (e) of section 42, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.'.		
SEC. 7208. AUTHORITY TO IMPOSE PENALTIES FOR AIDING AND ABETTING VIOLATIONS OF THE INVESTMENT ADVISERS ACT. Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by inserting at the end the following new subsection: `(f) Aiding and Abetting- For purposes of any action brought by the Commission under subsection (e), any person that knowingly or recklessly has aided, abetted, counseled, commanded, induced, or procured a violation of any provision of this Act, or of any rule, regulation, or order hereunder, shall be deemed to be in violation of such provision, rule, regulation, or order to the same extent as the person that committed such violation.'.		
SEC. 7209. DEADLINE FOR COMPLETING EXAMINATIONS, INSPECTIONS AND ENFORCEMENT ACTIONS. The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4D (as added by section 7101) the following new section:		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
**`SEC. 4E. DEADLINE FOR COMPLETING ENFORCEMENT INVESTIGATIONS AND COMPLIANCE EXAMINATIONS AND INSPECTIONS.**  `(a) Enforcement Investigations- `(1) IN GENERAL- Not later than 180 days after the date on which Commission staff provide a written Wells notification to any person, the Commission staff shall either file an action against such person or provide notice to the Director of the Division of Enforcement of its intent to not file an action. `(2) EXCEPTIONS FOR CERTAIN COMPLEX ACTIONS- Notwithstanding paragraph (1), if the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the deadline specified in paragraph (1), the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to the Chairman of the Commission, extend such deadline as needed for one additional 180-day period. If after the additional 180-day period the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the additional 180-day period, the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to and receiving approval of the Commission, extend such deadline as needed for one or more additional successive 180-day periods. `(b) Compliance Examinations and Inspections- `(1) IN GENERAL- Not later than 180 days after the date on which Commission staff completes the on-site portion of its compliance examination or inspection or receives all records requested from the entity being examined or inspected, whichever is later, Commission staff shall provide the entity being examined or inspected with written notification indicating either that the examination or inspection has concluded, has concluded without findings, or that the staff requests the entity undertake corrective action. `(2) EXCEPTION FOR CERTAIN COMPLEX ACTIONS-		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Notwithstanding paragraph (1), if the head of any division or office within the Commission responsible for compliance examinations and inspections or his designee determines that a particular compliance examination or inspection is sufficiently complex such that a determination regarding concluding the examination or inspection, or regarding the staff requests the entity undertake corrective action, cannot be completed within the deadline specified in paragraph (1), the head of any division or office within the Commission responsible for compliance examinations and inspections or his designee may, after providing notice to the Chairman of the Commission, extend such deadline as needed for one additional 180-day period.'.		
SEC. 7210. NATIONWIDE SERVICE OF SUBPOENAS. (a) Securities Act of 1933- Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by inserting after the second sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'. (b) Securities Exchange Act of 1934- Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended by inserting after the third sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'. (c) Investment Company Act of 1940- Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a-43) is amended by inserting after the fourth sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'. (d) Investment Advisers Act of 1940- Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by inserting after		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
the third sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'.		
SEC. 7211. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE AND DESIST PROCEEDINGS. (a) Under the Securities Act of 1933- Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection: `(g) Authority to Impose Monetary Penalties- `(1) GROUNDS FOR IMPOSING- In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person if it finds, on the record after notice and opportunity for hearing, that-- `(A) such person-- `(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or `(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and `(B) such penalty is in the public interest.		
`(2) MAXIMUM AMOUNT OF PENALTY- `(A) FIRST TIER- The maximum amount of penalty for each act or omission described in paragraph (1) shall be $7,500 for a natural person or $75,000 for any other person. `(B) SECOND TIER- Notwithstanding paragraph (A), the maximum amount of penalty for each such act or omission shall be $75,000 for a natural person or $375,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement. `(C) THIRD TIER- Notwithstanding paragraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $150,000 for a natural person or $725,000 for any other person if-- `(i) the act or omission described in paragraph		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and `(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.		
`(3) EVIDENCE CONCERNING ABILITY TO PAY- In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.'. (b) Under the Securities Exchange Act of 1934- Subsection (a) of section 21B of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended-- (1) by striking `(a) Commission Authority To Assess Money Penalties- In any proceeding' and inserting the following: `(a) Commission Authority to Assess Monetary Penalties- `(1) IN GENERAL- In any proceeding'; (2) by redesignating paragraphs (1) through (4) of such subsection as subparagraphs (A) through (D), respectively, and moving such redesignated subparagraphs and the matter following such subparagraphs 2 ems to the right; and (3) by adding at the end of such subsection the following new paragraph: `(2) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to section 21C of this title against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person-- `(A) is violating or has violated any provision of this title, or any rule or regulation thereunder; or `(B) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'. (c) Under the Investment Company Act of 1940- Paragraph (1) of section 9(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
amended-- (1) by striking `(1) AUTHORITY OF COMMISSION- In any proceeding' and inserting the following: `(1) AUTHORITY OF COMMISSION- `(A) IN GENERAL- In any proceeding'; (2) by redesignating subparagraphs (A) through (C) of such paragraph as clauses (i) through (iii), respectively, and by moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and (3) by adding at the end of such paragraph the following new subparagraph: `(B) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person-- `(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or `(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'. (d) Under the Investment Advisers Act of 1940- Paragraph (1) of section 203(i) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended-- (1) by striking `(1) AUTHORITY OF COMMISSION- In any proceeding' and inserting the following: `(1) AUTHORITY OF COMMISSION- `(A) IN GENERAL- In any proceeding'; (2) by redesignating subparagraphs (A) through (D) of such paragraph as clauses (i) through (iv), respectively, and moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and (3) by adding at the end of such paragraph the following new subparagraph: `(B) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person-- `(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'.		
SEC. 7212. FORMERLY ASSOCIATED PERSONS. (a) Member or Employee of the Municipal Securities Rulemaking Board- Section 15B(c)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(8)) is amended by striking `any member or employee' and inserting `any person who is, or at the time of the alleged misconduct was, a member or employee'. (b) Person Associated With a Government Securities Broker or Dealer- Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended-- (1) in subsection (c)(1)(C), by striking `or seeking to become associated,' and inserting `seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated'; (2) in subsection (c)(2)(A), by inserting `, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated' after `any person associated'; and (3) in subsection (c)(2)(B), by inserting `, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated' after `any person associated'.		
(c) Person Associated With a Member of a National Securities Exchange or Registered Securities Association- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting `, or, as to any act or practice, or omission to act, while associated with a member, formerly associated' after `member or a person associated'. (d) Participant of a Registered Clearing Agency- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting `or, as to any act or practice, or omission to act, while a participant, was a participant,' after `in which such person is a participant,'. (e) Officer or Director of a Self-regulatory Organization- Section 19(h)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(h)(4)) is amended-- (1) by striking `any officer or director' and inserting `any person who is, or at the time of the alleged misconduct was, an officer or director'; and (2) by striking `such officer or director' and inserting `such person'. (f) Officer or Director of an Investment Company- Section 36(a) of the		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended-- (1) by striking `a person serving or acting' and inserting `a person who is, or at the time of the alleged misconduct was, serving or acting'; and (2) by striking `such person so serves or acts' and inserting `such person so serves or acts, or at the time of the alleged misconduct, so served or acted'.		
(g) Person Associated With a Public Accounting Firm- (1) SARBANES-OXLEY ACT OF 2002 AMENDMENT- Section 2(a)(9) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(9)) is amended by adding at the end the following new subparagraph: `(C) INVESTIGATIVE AND ENFORCEMENT AUTHORITY- For purposes of the provisions of sections 3(c), 101(c), 105, and 107(c) and Board or Commission rules thereunder, except to the extent specifically excepted by such rules, the terms defined in subparagraph (A) shall include any person associated, seeking to become associated, or formerly associated with a public accounting firm, except-- `(i) the authority to conduct an investigation of such person under section 105(b) shall apply only with respect to any act or practice, or omission to act, while such person was associated or seeking to become associated with a registered public accounting firm; and `(ii) the authority to commence a proceeding under section 105(c)(1), or impose disciplinary sanctions under section 105(c)(4), against such person shall apply only on-- `(I) the basis of conduct occurring while such person was associated or seeking to become associated with a registered public accounting firm; or `(II) non-cooperation as described in section 105(b)(3) with respect to a demand in a Board investigation for testimony, documents, or other information relating to a period when such person was associated or seeking to become associated with a registered public accounting firm.'. (2) SECURITIES EXCHANGE ACT OF 1934		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
AMENDMENT- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by striking `or a person associated with such a firm' and inserting `, a person associated with such a firm, or, as to any act, practice, or omission to act while associated with such firm, a person formerly associated with such a firm'.		
(h) Supervisory Personnel of an Audit Firm- Section 105(c)(6) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(6)) is amended-- (1) in subparagraph (A), by striking `the supervisory personnel' and inserting `any person who is, or at the time of the alleged failure reasonably to supervise was, a supervisory person'; and (2) in subparagraph (B)-- (A) by striking `No associated person' and inserting `No current or former supervisory person'; and (B) by striking `any other person' and inserting `any associated person'. (i) Member of the Public Company Accounting Oversight Board- Section 107(d)(3) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7217(d)(3)) is amended by striking `any member' and inserting `any person who is, or at the time of the alleged misconduct was, a member'.		
SEC. 7213. SHARING PRIVILEGED INFORMATION WITH OTHER AUTHORITIES. Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended-- (1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; (2) in subsection (e), as redesignated, by striking `as provided in subsection (e)' and inserting `as provided in subsection (f)'; and (3) by inserting after subsection (c) the following new subsection: `(d) Sharing Privileged Information With Other Authorities- `(1) PRIVILEGED INFORMATION PROVIDED BY THE COMMISSION- The Commission shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by-- `(A) any agency (as defined in section 6 of title 18, United States Code); `(B) any foreign securities authority; `(C) the Public Company Accounting Oversight Board; `(D) any self-regulatory organization; `(E) any foreign law enforcement authority; or		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(F) any State securities or law enforcement authority. `(2) NON-DISCLOSURE OF PRIVILEGED INFORMATION PROVIDED TO THE COMMISSION- The Commission shall not be compelled to disclose privileged information obtained from any foreign securities authority, or foreign law enforcement authority, if the authority has in good faith determined and represented to the Commission that the information is privileged. `(3) NON-WAIVER OF PRIVILEGED INFORMATION PROVIDED TO THE COMMISSION- `(A) IN GENERAL- Federal agencies, State securities and law enforcement authorities, self-regulatory organizations, and the Public Company Accounting Oversight Board shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by the Commission. `(B) EXCEPTION WITH RESPECT TO CERTAIN ACTIONS- The provisions of subparagraph (A) shall not apply to a self-regulatory organization or the Public Company Accounting Oversight Board with respect to information used by the Commission in an action against such organization. `(4) DEFINITIONS- For purposes of this subsection: `(A) The term `privilege' includes any work-product privilege, attorney-client privilege, governmental privilege, or other privilege recognized under Federal, foreign, or State law. `(B) The term `foreign law enforcement authority' means any foreign authority that is empowered under foreign law to detect, investigate or prosecute potential violations of law. `(C) The term `State securities or law enforcement authority' means the authority of any State or territory that is empowered under State or territory law to detect, investigate or prosecute potential violations of law.'.		
SEC. 7214. EXPANDED ACCESS TO GRAND JURY INFORMATION. Subsection (b) of section 3322 of title 18, United States Code, is amended-- (1) in paragraph (1), by striking `matters occurring before a grand jury' and inserting `grand jury information obtained';		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(2) by redesignating paragraph (2) as paragraph (3); (3) in paragraph (3) (as so redesignated), by inserting `or (2)' after `(1)'; and (4) by inserting after paragraph (1), the following new paragraph: `(2) Upon motion of an attorney for the government, a court may direct disclosure of grand jury information obtained during an investigation of a securities law violation to identified personnel of the Securities and Exchange Commission-- `(A) for use in relation to any matter within the jurisdiction of the Commission; or `(B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).'.		
SEC. 7215. AIDING AND ABETTING STANDARD OF KNOWLEDGE SATISFIED BY RECKLESSNESS. Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by inserting `or recklessly' after `knowingly'.		
SEC. 7216. EXTRATERRITORIAL JURISDICTION OF THE ANTIFRAUD PROVISIONS OF THE FEDERAL SECURITIES LAWS. (a) Under the Securities Act of 1933- Section 22 of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by adding at the end the following new subsection: `(c) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of section 17(a) of this title, and all suits in equity and actions at law under that section, involving-- `(1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the securities transaction occurs outside the United States and involves only foreign investors; or `(2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.'. (b) Under the Securities Exchange Act of 1934- Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended-- (1) by striking `The district' and inserting the following: `(a) In General- The district'; and (2) by inserting at the end the following new subsection: `(b) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of the antifraud provisions of		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
this title, and all suits in equity and actions at law under those provisions, involving-- `(1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the securities transaction occurs outside the United States and involves only foreign investors; or `(2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.'. (c) Under the Investment Advisers Act of 1940- Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended-- (1) by striking `The district' and inserting the following: `(a) In General- The district'; and (2) by inserting at the end the following new subsection: `(b) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of section 206, and all suits in equity and actions at law under that section, involving-- `(1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the violation is committed by a foreign adviser and involves only foreign investors; or `(2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.'.		
SEC. 7217. FIDELITY BONDING. Section 17(g) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(g)) is amended to read as follows: `(g) Fidelity Bonding- `(1) IN GENERAL- The Commission is authorized to require that a registered management company provide and maintain a fidelity bond against loss as to any officer or employee who has access to securities or funds of the company, either directly or through authority to draw upon such funds or to direct generally the disposition of such securities (unless the officer or employee has such access solely through his position as an officer or employee of a bank), in such form and amount as the Commission may prescribe by rule, regulation, or order for the protection of investors. `(2) DEFINITIONS- For purposes of this subsection: `(A) MANAGEMENT COMPANY- The term `management company' has the meaning given such term under section 4 of the Investment Company Act of 1940.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(B) OFFICER OR EMPLOYEE- The term `officer or employee' means-- `(i) any officer or employee of the management company; and `(ii) any officer or employee of any investment adviser to the management company, or of any affiliated company of any such investment adviser, as the Commission may prescribe by rule, regulation, or order for the protection of investors. `(C) OTHER DEFINITIONS- The terms `affiliated company' and `investment adviser' shall have the meaning given such terms under section 2 of the Investment Company Act of 1940.'.		
SEC. 7218. ENHANCED SEC AUTHORITY TO CONDUCT SURVEILLANCE AND RISK ASSESSMENT. (a) Securities Exchange Act of 1934 Amendments- Section 17(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)) is amended by adding at the end the following new paragraph: `(5) SURVEILLANCE AND RISK ASSESSMENT- All persons described in subsection (a) of this section are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'.		
(b) Investment Company Act of 1940 Amendments- Section 31(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-30(b)), as amended by section 7106(a)(2), is further amended by adding at the end the following new paragraph: `(5) SURVEILLANCE AND RISK ASSESSMENT- All persons described in paragraph (1) are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'. (c) Investment Advisers Act of 1940 Amendments- Section 204 of the		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Investment Advisers Act of 1940 (15 U.S.C. 80b-4), as amended by section 7106(b), is further amended by adding at the end the following new subsection: `(e) Surveillance and Risk Assessment- All persons described in subsection (a) are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'.		
SEC. 7219. INVESTMENT COMPANY EXAMINATIONS. Section 31(b)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-30) is amended to read as follows: `(1) IN GENERAL- All records of each registered investment company, and each underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of such a company, shall be subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors.'.		
SEC. 7220. CONTROL PERSON LIABILITY UNDER THE SECURITIES EXCHANGE ACT. Section 20(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(a)) is amended by inserting after `controlled person is liable,' the following: `including to the Commission in any action brought under paragraph (1) or (3) of section 21(d),'.		
SEC. 7221. ENHANCED APPLICATION OF ANTI-FRAUD PROVISIONS. The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended-- (1) in section 9-- (A) by striking `registered on a national securities exchange' each place it appears and inserting `other than a government security'; (B) in subsection (b), by striking `by use of any facility of a national securities exchange,'; and (C) in subsection (c), by inserting after `unlawful for any' the following: `broker, dealer, or';		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(2) in section 10(a)(1), by striking `registered on a national securities exchange' and inserting `other than a government security'; and (3) in section 15(c)(1)(A), by striking `otherwise than on a national securities exchange of which it is a member'.		
SEC. 7222. SEC AUTHORITY TO ISSUE RULES ON PROXY ACCESS. Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended-- (1) by inserting `(1)' after `(a)'; and (2) by adding at the end the following: `(2) The authority of the Commission to prescribe rules and regulations under paragraph (1) includes rules and regulations that require the inclusion and set procedures relating to the inclusion, in a solicitation of a proxy or consent or authorization by or on behalf of an issuer, of a nominee or nominees submitted by shareholders to serve on the issuer's board of directors.'.		
	SEC. 926. DISQUALIFYING FELONS AND OTHER `BAD ACTORS' FROM REGULATION D OFFERINGS. *Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that--* *(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and* *(2) disqualify any offering or sale of securities by a person that--* *(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that--* *(i) bars the person from--* *(I) association with an entity regulated by such commission, authority, agency, or officer;* *(II) engaging in the business of*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	securities, insurance, or banking; or *(III) engaging in savings association or credit union activities; or* *(ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or* *(B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.*	
	SEC. 927. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES. *Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking `an exchange required thereby' and inserting `a self-regulatory organization,'.*	
	SEC. 929A. PROTECTION FOR EMPLOYEES OF SUBSIDIARIES AND AFFILIATES OF PUBLICLY TRADED COMPANIES. *Section 1514A of title 18, United States Code, is amended by inserting `including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company' after `the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))'.*	
PART 3--COMMISSION FUNDING AND ORGANIZATION	***Subtitle F--Improvements to the Management of the Securities and Exchange Commission*** ***Subtitle J--Self-funding of the Securities and Exchange Commission***	
SEC. 7301. AUTHORIZATION OF APPROPRIATIONS. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
**`SEC. 35. AUTHORIZATION OF APPROPRIATIONS.**  `In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission-- `(1) for fiscal year 2010, $1,115,000,000; `(2) for fiscal year 2011, $1,300,000,000; `(3) for fiscal year 2012, $1,500,000,000; `(4) for fiscal year 2013, $1,750,000,000; `(5) for fiscal year 2014, $2,000,000,000; and `(6) for fiscal year 2015, $2,250,000,000.'.		
SEC. 7302. INVESTMENT ADVISER REGULATION FUNDING. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) (as amended by sections 5006 and 5007) is further amended by adding at the end the following new subsection: `(o) Annual Assessment- `(1) IN GENERAL- The Commission shall, in accordance with this subsection, promulgate rules pursuant to which it may collect from investment advisers required to register with the Commission under this title, fees designed to help recover the cost of inspections and examinations of registered investment advisers conducted by the Commission pursuant to this title. `(2) FEE PAYMENT REQUIRED- An investment adviser shall, at the time of registration with the Commission, and each fiscal year thereafter during which such adviser is so registered, pay to the Commission a fair and reasonable fee determined by the Commission. In determining such fee, the Commission shall consider objective factors such as-- `(A) the investment adviser's size; `(B) the number of clients of the investment adviser; `(C) the types of clients of the investment adviser; and `(D) such other relevant factors as the Commission determines to be appropriate. `(3) AMOUNT AND USE OF FEES- `(A) MINIMUM AGGREGATE AMOUNT- The aggregate amount of fees determined by the Commission under this subsection for any fiscal year shall be greater than the amount the Commission spent on inspections and examinations of registered investment advisers during the 2009 fiscal year.	***SEC. 991. SECURITIES AND EXCHANGE COMMISSION SELF-FUNDING.*** *(a) Self-funding Authority- Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended--* *(1) in subsection (c), in the second sentence, by striking `credited to the appropriated funds of the Commission' and inserting `deposited in the account described in subsection (i)(4)';* *(2) in subsection (f), in the second sentence, by striking `considered a reimbursement to the appropriated funds of the Commission' and inserting `deposited in the account described in subsection (i)(4)'; and* *(3) by adding at the end the following:* *`(i) Funding of the Commission-* *`(1) BUDGET- For each fiscal year, the Chairman of the Commission shall prepare and submit to Congress a budget to Congress. Such budget shall be submitted at the same time the President submits a budget of the United States to Congress for such fiscal year. The budget submitted by the Chairman of the Commission pursuant to this paragraph shall not be considered a request for appropriations.* *`(2) TREASURY PAYMENT-* *`(A) On the first day of each fiscal year, the Treasury shall pay into the account described in paragraph (4) an amount equal to the budget submitted by the Chairman of the Commission pursuant to paragraph (1) for such fiscal year.* *`(B) At or prior to the end of each fiscal year, the Commission shall pay to the Treasury from fees and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(B) EXCESS FEES- The Commission may retain any excess fees collected under this subsection during a fiscal year for application towards the costs of inspections and examinations of investment advisers in future fiscal years.	*assessments deposited in the account described in paragraph (4) an amount equal to the amount paid by the Treasury pursuant to subparagraph (A) for such fiscal year, unless there are not sufficient fees and assessments deposited in such account at or prior to the end of the fiscal year to make such payment, in which case the Commission shall make such payment in a subsequent fiscal year.* *`(3) OBLIGATIONS AND EXPENSES-* *`(A) IN GENERAL- The Commission shall determine and prescribe the manner in which--* *`(i) the obligations of the Commission shall be incurred; and* *`(ii) the disbursements and expenses of the Commission allowed and paid.* *`(B) INSUFFICIENT FUNDS- If, in the course of any fiscal year, the Chairman of the Commission determines that, due to unforeseen circumstances, the obligations of the Commission will exceed those provided for in the budget submitted under paragraph (1), the Chairman of the Commission may notify Congress of the amount and expected uses of the additional obligations.* *`(C) AUTHORITY TO INCUR EXCESS OBLIGATIONS- The Commission may incur obligations in excess of the budget submitted under paragraph (1) from amounts available in the account described in paragraph (4).* *`(D) RULE OF CONSTRUCTION- Any notification to Congress under this paragraph shall not be considered a request for appropriations.* *`(4) ACCOUNT-* *`(A) ESTABLISHMENT- Fees and assessments collected under this title, section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), and section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) and payments made by the Treasury pursuant to paragraph (2)(A) for any fiscal year shall be deposited into an account established at any regular Government depositary or any State or national bank.* *`(B) RULE OF CONSTRUCTION- Any amounts deposited into the account established under subparagraph (A) shall not be construed to be*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	Government funds or appropriated monies. *`(C) NO APPORTIONMENT- Any amounts deposited into the account established under subparagraph (A) shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.* *`(5) USE OF ACCOUNT FUNDS-* *`(A) PERMISSIBLE USES- Amounts available in the account described in paragraph (4) may be withdrawn by the Commission and used for the purposes described in paragraphs (2) and (3).* *`(B) IMPERMISSIBLE USE- Except as provided in paragraph (6), no amounts available in the account described in paragraph (4) shall be deposited and credited as general revenue of the Treasury.* *`(6) EXCESS FUNDS- If, at the end of any fiscal year and after all payments have been made to the Treasury pursuant to paragraph (2)(B) for such fiscal year and all prior fiscal years, the balance of the account described in paragraph (4) exceeds 25 percent of the budget of the Commission for the following fiscal year, the amount by which the balance exceeds 25 percent of such budget shall be credited as general revenue of the Treasury.'.* *(b) Conforming Amendments to Transaction Fee Provisions- Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended--* *(1) by amending subsection (a) to read as follows:* *`(a) Recovery of Costs and Expenses-* *`(1) IN GENERAL- The Commission shall, in accordance with this section, collect transaction fees and assessments that are designed--* *`(A) to recover the reasonable costs and expenses of the Commission, as set forth in the annual budget of the Commission; and* *`(B) to provide funds necessary to maintain a reserve.* *`(2) OVERPAYMENTS- The authority to collect transaction fees and assessments in accordance with this section shall include the authority to offset from such collection any overpayment of transaction fees or assessments, regardless of the fiscal year in which such overpayment is made.';* *(2) in subsection (e)(2), by striking `September 30' and inserting `September 25';* *(3) in subsection (g), by striking `April 30' and inserting `August 31';*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(4) by amending subsection (i) to read as follows: *`(i) Fee Collections- Fees and assessments collected pursuant to this section shall be deposited and credited in accordance with section 4(g) of this title.';* *(5) by amending subsection (j) to read as follows:* *`(j) Adjustments to Transaction Fee Rates-* *`(1) ANNUAL ADJUSTMENT- For each fiscal year, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve.* *`(2) MID-YEAR ADJUSTMENT- For each fiscal year, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 4 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, not later than March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees estimated to be collected under subsections (b) and (c) during such fiscal year prior to the effective date of the new uniform adjusted rate and assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by paragraph (4).* *`(3) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5 United States Code. An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	not be subject to judicial review. An adjusted rate prescribed under paragraph (1) shall take effect on the first day of the fiscal year to which such rate applies. An adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies. *`(4) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES- For purposes of this subsection, the baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes excluding a narrow-based security index) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 907 of title 2.'; and* *(6) by striking subsections (k) and (l).* *(c) Conforming Amendments to Registration Fee Provisions-* *(1) SECTION 6(B) OF THE SECURITIES ACT OF 1933- Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended--* *(A) by striking `offsetting' each place that term appears and inserting `fee';* *(B) in paragraph (3), in the paragraph heading, by striking `OFFSETTING' and inserting `FEE';* *(C) in paragraph (11)(A), in the subparagraph heading, by striking `OFFSETTING' and inserting `FEE';* *(D) by striking paragraphs (1), (3), (4), (6), (8), and (9);* *(E) by redesignating paragraph (2) as paragraph (1);* *(F) in paragraph (1), as so redesignated, by striking `(5) or (6)' and inserting `(3)';* *(G) by inserting after paragraph (1), as so redesignated, the following:* *`(2) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(i) of the Securities Exchange Act of 1934.';* *(H) by redesignating paragraph (5) as paragraph (3);*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(I) in paragraph (3), as redesignated-- *(i) by striking `of the fiscal years 2003 through 2011' and inserting `fiscal year'; and* *(ii) by striking `paragraph (2)' and inserting `paragraph (1)';* *(J) by redesignating paragraph (7) as paragraph (4);* *(K) by inserting after paragraph (4), as so redesignated, the following:* *`(5) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (3) and published under paragraph (6) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (3) shall take effect on the first day of the fiscal year to which such rate applies.';* *(L) by redesignating paragraphs (10) and (11), as paragraphs (6) and (7);* *(M) in paragraph (6), as redesignated, by striking `April 30' and inserting `August 31'; and* *(N) in paragraph (7), as redesignated--* *(i) by striking `of the fiscal years 2002 through 2011' and inserting `fiscal year'; and* *(ii) by inserting at the end of the table in subparagraph (A) the following:* -- -- ***2012 and each succeeding fiscal year* An amount that is equal to the target fee collection amount for the prior fiscal year adjusted by the rate of inflation.** -- *(2) SECTION 13(E) OF THE SECURITIES EXCHANGE ACT OF 1934- Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended--*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(A) by striking `offsetting' each place that term appears and inserting `fee'; *(B) in paragraph (3) by striking `paragraphs (5) and (6)' and inserting `paragraph (5)';* *(C) by amending paragraph (4) to read as follows:* *`(4) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.';* *(D) in paragraph (5), by striking `of the fiscal years 2003 through 2011' and inserting `fiscal year';* *(E) by striking paragraphs (6), (7), and (8);* *(F) by redesignating paragraph (7) as paragraph (6);* *(G) by inserting after paragraph (6), as so redesignated, the following:* *`(7) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.';* *(H) by striking paragraph (9);* *(I) by redesignating paragraph (10) as paragraph (8); and* *(J) in paragraph (8), as so redesignated, by striking `6(b)(10)' and inserting `6(b)(6)'.* *(3) SECTION 14 OF THE SECURITIES EXCHANGE ACT OF 1934- Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended--* *(A) by striking the word `offsetting' each time that it appears and inserting in its place the word `fee';* *(B) in paragraph (1)(A), by striking `paragraphs (5) and (6)' each time it appears and inserting `paragraph (5)';* *(C) in paragraph (3), by striking `paragraphs (5) and (6)' and inserting `paragraph (5)';* *(D) by amending paragraph (4) to read as follows:* *`(4) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.';* *(E) in paragraph (5), by striking `of the fiscal years 2003 through 2011' and inserting `fiscal year';* *(F) by striking paragraphs (6), (8), and (9);*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(G) by redesignating paragraph (7) as paragraph (6); *(H) by inserting after paragraph (6), as so redesignated, the following:* *`(7) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.';* *(I) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively; and* *(J) in paragraph (9), as so redesignated, by striking `6(b)(10)' and inserting `6(b)(7)'.* *(d) Repeal of Authorization of Appropriations- Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is repealed.* *(e) Effective Date and Transition Provisions-* *(1) IN GENERAL- Except as provided in paragraphs (2) and (3), the amendments made by this section shall be effective on the first day of the fiscal year following the fiscal year in which this Act is enacted.* *(2) TRANSITION PERIOD- For the fiscal year following the fiscal year in which this Act is enacted, the budget of the Commission shall be deemed to be the budget submitted by the Chairman of the Commission to the President for such fiscal year in accordance with the provisions of section 1108 of title 31, United States Code.* *(3) OTHER PROVISIONS- The amendments made by this section to subsections (g) and (j)(1) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) shall be effective on the date of enactment of this Act, and shall require the Commission to make and publish an annual adjustment to the fee rates applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) for the fiscal year following the fiscal year in which this Act is enacted. The adjusted rate described in the preceding sentence shall supersede any previously published adjusted rate applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 for the fiscal year following the fiscal year in which this Act is enacted and shall take effect on the first day of the fiscal year following the fiscal year in which this Act is enacted, except that, if this Act is enacted on or after August 31 and on or prior to September 30, the adjusted rate	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	described in the first sentence shall be published not later than 15 days after the date of enactment of this Act and take effect 30 days thereafter, and the Commission shall continue to collect fees under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 at the rate in effect during the preceding fiscal year until the adjusted rate is effective.	
`(4) REVIEW AND ADJUSTMENT OF FEES- The Commission may review fee rates established pursuant to this section before the end of any fiscal year and make any appropriate adjustments prior to collecting any such fee in the following fiscal year. `(5) PENALTY FEE- The Commission shall prescribe by rule or regulation an additional fee to be assessed as a penalty for late payment of fees required by this subsection. `(6) JUDICIAL REVIEW- Increases or decreases in fees made pursuant to this section shall not be subject to judicial review.'.		
SEC. 7303. AMENDMENTS TO SECTION 31 OF THE SECURITIES EXCHANGE ACT OF 1934. Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended-- (1) in subsection (e)(2), by striking `September 30' and inserting `September 25'; (2) in subsection (g), by striking `April 30' and inserting `August 31'; and (3) in subsection (j)(2)-- (A) by striking `5 months' and inserting `4 months'; and (B) by striking `(including fees collected during such 5-month period and assessments collected under subsection (d))' and inserting `(including fees estimated to be collected under subsections (b) and (c) prior to the effective date of the uniform adjusted rate and assessments estimated to be collected under subsection (d))'.		
SEC. 7304. COMMISSION ORGANIZATIONAL STUDY AND REFORM. (a) Study Required- (1) IN GENERAL- Not later than the end of the 90-day period beginning on the date of the enactment of this subtitle, the Securities and Exchange Commission (hereinafter in this section	***SEC. 961. REPORT AND CERTIFICATION OF INTERNAL SUPERVISORY CONTROLS.*** *(a) Annual Reports and Certification- Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
referred to as the `SEC') shall hire an independent consultant of high caliber and with expertise in organizational restructuring and the operations of capital markets to examine the internal operations, structure, funding, and the need for comprehensive reform of the SEC, as well as the SEC's relationship with and the reliance on self-regulatory organizations and other entities relevant to the regulation of securities and the protection of securities investors that are under the SEC's oversight. (2) SPECIFIC AREAS FOR STUDY- The study required under paragraph (1) shall, at a minimum, include the study of-- (A) the possible elimination of unnecessary or redundant units at the SEC; (B) improving communications between SEC offices and divisions; (C) the need to put in place a clear chain-of-command structure, particularly for enforcement examinations and compliance inspections; (D) the effect of high-frequency trading and other technological advances on the market and what the SEC requires to monitor the effect of such trading and advances on the market; (E) the SEC's hiring authorities, workplace policies, and personal practices, including-- (i) whether there is a need to further streamline hiring authorities for those who are not lawyers, accountants, compliance examiners, or economists; (ii) whether there is a need for further pay reforms; (iii) the diversity of skill sets of SEC employees and whether the present skill set diversity efficiently and effectively fosters the SEC's mission of investor protection; and (iv) the application of civil service laws by the SEC; (F) whether the SEC's oversight and reliance on self-regulatory organizations promotes efficient and effective governance for the securities markets; and (G) whether adjusting the SEC's reliance on self-regulatory organizations is necessary to promote more efficient and effective governance for the securities markets.	*the Committee on Financial Services of the House of Representatives on the conduct by the Commission of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.* *(b) Contents of Reports- Each report under subsection (a) shall contain--* *(1) an assessment, as of the end of the most recent fiscal year, of the effectiveness of--* *(A) the internal supervisory controls of the Commission; and* *(B) the procedures of the Commission applicable to the staff of the Commission who perform examinations of registered entities, enforcement investigations, and reviews of corporate financial securities filings;* *(2) a certification that the Commission has adequate internal supervisory controls to carry out the duties of the Commission described in paragraph (1)(B); and* *(3) a summary by the Comptroller General of the United States of the review carried out under subsection (d).* *(c) Certification-* *(1) SIGNATURE- The certification under subsection (b)(2) shall be signed by the Director of the Division of Enforcement, the Director of the Division of Corporation Finance, and the Director of the Office of Compliance Inspections and Examinations (or the head of any successor division or office).* *(2) CONTENT OF CERTIFICATION- Each individual described in paragraph (1) shall certify that the individual--* *(A) is directly responsible for establishing and maintaining the internal supervisory controls of the Division or Office of which the individual is the head;* *(B) is knowledgeable about the internal supervisory controls of the Division or Office of which the individual is the head;* *(C) has evaluated the effectiveness of the internal supervisory controls during the 90-day period ending on the final day of the fiscal year to which the report relates; and* *(D) has disclosed to the Commission any significant deficiencies in the design or operation of internal supervisory controls that could adversely affect the ability of the Division or Office to consistently conduct inspections, or investigations, or reviews of filings with professional competence and integrity.* *(d) Review by the Comptroller General- Not later than the date on which*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	the first report is submitted under subsection (a), the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an initial report that contains a review of the adequacy and effectiveness of the internal supervisory control structure and procedures described in subsection (b)(1).	
(b) Consultant Report- Not later than the end of the 150-day period after being retained, the independent consultant hired pursuant to subsection (a)(1) shall issue a report to the SEC and the Congress containing-- (1) a detailed description of any findings and conclusions made while carrying out the study required under subsection (a)(1); and (2) recommendations for legislative, regulatory, or administrative action that the consultant determines appropriate to enable the SEC and other entities on which it reports to perform their statutorily or otherwise mandated missions. (c) SEC Report- Not later than the end of the 6-month period beginning on the date the consultant issues the report under subsection (b), and every 6-months thereafter during the 2-year period following the date on which the consultant issues such report, the SEC shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the SEC's implementation of the regulatory and administrative recommendations contained in the consultant's report.		
SEC. 7305. CAPITAL MARKETS SAFETY BOARD. There is established within the Securities and Exchange Commission an office to be known as the Capital Markets Safety Board whose purpose shall be to conduct investigations, at the direction of the Commission, of failed institutions registered with the Commission, to determine what caused such institutions to fail. Upon the conclusion of an investigation, the Board shall make available on the Commission's website a report of its findings, including recommendations regarding how others can avoid similar mistakes. No information that may compromise an ongoing Federal investigation shall be made available in any such report.		
SEC. 7306. REPORT ON IMPLEMENTATION OF `POST-MADOFF REFORMS'. (a) In General- Not later than 6 months after the date of the enactment of this subtitle, the Securities and Exchange Commission shall provide to		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the implementation of reforms outlined by the Commission in the wake of the discovery of fraud by Bernie Madoff. (b) Contents of Report- The report required by subsection (a) shall include an analysis of-- (1) how many of the post-Madoff reforms have been implemented and to what extent; and (2) whether there is overlap between any of the Commission's reform proposals and those recommended by the Inspector General of the Commission. (c) Publication of Report- The Commission and the Committees referred to in subsection (a) shall publish the report required by such subsection on their Web sites.		
SEC. 7307. JOINT ADVISORY COMMITTEE. The Securities and Exchange Commission and the Commodities Futures Trading Commission may jointly form and operate a joint advisory committee composed of members of each Commission and industry experts and participants. The purposes of such an advisory committee include-- (1) considering and developing solutions to emerging and ongoing issues of common interest in the futures and securities markets; (2) identifying emerging regulatory risks and assess and quantify their implications for investors and other market participants, and provide recommendations for solutions; (3) serving as a vehicle for discussion and communication on regulatory issues of mutual concerns affecting each Commission, the regulated markets, and the industry generally; and (4) reporting regularly to each Commission and to Congress on its activities.		
	SEC. 962. TRIENNIAL REPORT ON PERSONNEL MANAGEMENT. *(a) Triennial Report Required- Once every 3 years, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the quality of personnel management by the Commission.* *(b) Contents of Report- Each report under subsection (a) shall include--*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(1) an evaluation of-- *(A) the effectiveness of supervisors in using the skills, talents, and motivation of the employees of the Commission to achieve the goals of the Commission;* *(B) the criteria for promoting employees of the Commission to supervisory positions;* *(C) the fairness of the application of the promotion criteria to the decisions of the Commission;* *(D) the competence of the professional staff of the Commission;* *(E) the efficiency of communication between the units of the Commission regarding the work of the Commission (including communication between divisions and between subunits of a division) and the efforts by the Commission to promote such communication;* *(F) the turnover within subunits of the Commission, including the identification of supervisors whose subordinates have an unusually high rate of turnover;* *(G) whether there are excessive numbers of low-level, mid-level, or senior-level managers;* *(H) any initiatives of the Commission that increase the competence of the staff of the Commission;* *(I) the actions taken by the Commission regarding employees of the Commission who have failed to perform their duties; and* *(J) such other factors relating to the management of the Commission as the Comptroller General determines are appropriate;* *(2) an evaluation of any improvements made with respect to the areas described in paragraph (1) since the date of submission of the previous report; and* *(3) recommendations for how the Commission can use the human resources of the Commission more effectively and efficiently to carry out the mission of the Commission.* *(c) Consultation- In preparing the report under subsection (a), the Comptroller General shall consult with current employees of the Commission, retired employees and other former employees of the Commission, the Inspector General of the Commission, persons that have business before the Commission, any union representing the employees of the Commission, private management consultants, academics, and any other source that the Comptroller General deems appropriate.* *(d) Report by Commission- Not later than 90 days after the date on*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	which the Comptroller General submits each report under subsection (a), the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing the actions taken by the Commission in response to the recommendations contained in the report under subsection (a). *(e) Reimbursements for Cost of Reports-* *(1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under this section, as billed therefor by the Comptroller General.* *(2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall--* *(A) be credited to the appropriation account `Salaries and Expenses, Government Accountability Office' current when the payment is received; and* *(B) remain available until expended.*	
	SEC. 963. ANNUAL FINANCIAL CONTROLS AUDIT. *(a) Reports of Commission-* *(1) ANNUAL REPORTS REQUIRED- Not later than 6 months after the end of each fiscal year, the Commission shall publish and submit to Congress a report that--* *(A) describes the responsibility of the management of the Commission for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and* *(B) contains an assessment of the effectiveness of the internal control structure and procedures for financial reporting of the Commission during that fiscal year.* *(2) ATTESTATION- The reports required under paragraph (1) shall be attested to by the Chairman and chief financial officer of the Commission.* *(b) Report by Comptroller General-* *(1) REPORT REQUIRED- Not later than 6 months after the end of the first fiscal year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that assesses--* *(A) the effectiveness of the internal control structure and procedures of the Commission for financial*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	reporting; and *(B) the assessment of the Commission under subsection (a)(1)(B).* *(2) ATTESTATION- The Comptroller General shall attest to, and report on, the assessment made by the Commission under subsection (a).* *(c) Reimbursements for Cost of Reports-* *(1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (b), as billed therefor by the Comptroller General.* *(2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall--* *(A) be credited to the appropriation account `Salaries and Expenses, Government Accountability Office' current when the payment is received; and* *(B) remain available until expended.*	
	SEC. 964. REPORT ON OVERSIGHT OF NATIONAL SECURITIES ASSOCIATIONS. *(a) Report Required- Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that includes an evaluation of the oversight by the Commission of national securities associations registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) with respect to--* *(1) the governance of such national securities associations, including the identification and management of conflicts of interest by such national securities associations, together with an analysis of the impact of any conflicts of interest on the regulatory enforcement or rulemaking by such national securities associations;* *(2) the examinations carried out by the national securities associations, including the expertise of the examiners;* *(3) the executive compensation practices of such national securities associations;* *(4) the arbitration services provided by the national securities associations;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(5) the review performed by national securities associations of advertising by the members of the national securities associations; *(6) the cooperation with and assistance to State securities administrators by the national securities associations to promote investor protection;* *(7) how the funding of national securities associations is used to support the mission of the national securities associations, including--* *(A) the methods of funding;* *(B) the sufficiency of funds;* *(C) how funds are invested by the national securities association pending use; and* *(D) the impact of the methods, sufficiency, and investment of funds on regulatory enforcement by the national securities associations;* *(8) the policies regarding the employment of former employees of national securities associations by regulated entities;* *(9) the ongoing effectiveness of the rules of the national securities associations in achieving the goals of the rules;* *(10) the transparency of governance and activities of the national securities associations; and* *(11) any other issue that has an impact, as determined by the Comptroller General, on the effectiveness of such national securities associations in performing their mission and in dealing fairly with investors and members;* *(b) Reimbursements for Cost of Reports-* *(1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (a), as billed therefor by the Comptroller General.* *(2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall--* *(A) be credited to the appropriation account `Salaries and Expenses, Government Accountability Office' current when the payment is received; and* *(B) remain available until expended.*	
	SEC. 965. COMPLIANCE EXAMINERS. *Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	amended by adding at the end the following: *`(h) Examiners-* *`(1) DIVISION OF TRADING AND MARKETS- The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall--* *`(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and* *`(B) report to the Director of that Division.* *`(2) DIVISION OF INVESTMENT MANAGEMENT- The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall--* *`(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and* *`(B) report to the Director of that Division.'.*	
	SEC. 966. SUGGESTION PROGRAM FOR EMPLOYEES OF THE COMMISSION. *The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (15 U.S.C. 78d-3) the following:* ***`SEC. 4D. ADDITIONAL DUTIES OF INSPECTOR GENERAL.***  *`(a) Suggestion Submissions by Commission Employees-* *`(1) HOTLINE ESTABLISHED- The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of--* *`(A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and* *`(B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.* *`(2) CONFIDENTIALITY- The Inspector General shall maintain as confidential--* *`(A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	`(B) at the request of any such individual, any specific information provided by the individual.* *`(b) Consideration of Reports- The Inspector General shall consider any suggestions or allegations received by the means established under subsection (a)(1), and shall recommend appropriate action in relation to such suggestions or allegations. *`(c) Recognition- The Inspector General may recognize any employee who makes a suggestion under subsection (a)(1) (or by other means) that would or does--* *`(1) increase the work efficiency, effectiveness, or productivity of the Commission; or* *`(2) reduce waste, abuse, misconduct, or mismanagement within the Commission.* *`(d) Report- The Inspector General of the Commission shall submit to Congress an annual report containing a description of--* *`(1) the nature, number, and potential benefits of any suggestions received under subsection (a);* *`(2) the nature, number, and seriousness of any allegations received under subsection (a);* *`(3) any recommendations made or actions taken by the Inspector General in response to substantiated allegations received under subsection (a); and* *`(4) any action the Commission has taken in response to suggestions or allegations received under subsection (a).* *`(e) Funding- The activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under section 21F.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
PART 4--ADDITIONAL COMMISSION REFORMS **SEC. 7401. REGULATION OF SECURITIES LENDING.** Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following new subsection: `(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. `(2) Nothing in paragraph (1) shall be construed to limit the authority of an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency identified under law as having a systemic risk responsibility from prescribing rules or regulations to impose restrictions on transactions involving the loan or borrowing of securities in order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.'.	***SEC. 984. LOAN OR BORROWING OF SECURITIES.*** *(a) Rulemaking Authority- Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following:* *`(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.* *`(2) Nothing in paragraph (1) may be construed to limit the authority of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency having a responsibility under Federal law to prescribe rules or regulations restricting transactions involving the loan or borrowing of securities in order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.'.* *(b) Rulemaking Required- Not later than 2 years after the date of enactment of this Act, the Commission shall promulgate rules that are designed to increase the transparency of information available to brokers, dealers, and investors, with respect to the loan or borrowing of securities.*	
SEC. 7402. LOST AND STOLEN SECURITIES. Section 17(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)(1)) is amended-- (1) in subparagraph (A), by striking `missing, lost, counterfeit, or stolen securities' and inserting `securities that are missing, lost, counterfeit, stolen, cancelled, or any other category of securities as the Commission, by rule, may prescribe'; and (2) in subparagraph (B), by striking `or stolen' and inserting `stolen, cancelled, or reported in such other manner as the Commission, by rule, may prescribe'.		
SEC. 7403. FINGERPRINTING. Section 17(f)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)(2)) is amended-- (1) by striking `and registered clearing agency,' and inserting `registered clearing agency, registered securities information processor, national securities exchange, and national securities		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
association'; and (2) by striking `or clearing agency,' and inserting `clearing agency, securities information processor, national securities exchange, or national securities association,'.		
SEC. 7404. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES. Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking `an exchange required thereby' and inserting `a self-regulatory organization,'.		
SEC. 7405. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS. Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(a)) is amended-- (1) by striking `, unless exempt from registration pursuant to section 203(b),' and inserting `registered or required to be registered with the Commission'; (2) by striking `make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to'; and (3) by striking `to' after `in any way'.	***SEC. 928. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS.*** *Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(a)) is amended, in the matter preceding paragraph (1)--* *(1) by striking `, unless exempt from registration pursuant to section 203(b),' and inserting `registered or required to be registered with the Commission';* *(2) by striking `make use of the mails or any means or instrumentality of interstate commerce, directly or (3) by striking `to' after `in any way'.* *indirectly, to'; and*	
SEC. 7406. CONFORMING AMENDMENTS FOR THE REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935. (a) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended-- (1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking `the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.),'; and (2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows: `(7) DEFINITION- For purposes of this subsection, the term `emergency' means-- `(A) a major market disturbance characterized by or constituting-- `(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or	***SEC. 986. CONFORMING AMENDMENTS RELATING TO REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.*** *(a) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended--* *(1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking `the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.),';* *(2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows:* *`(7) DEFINITION- For purposes of this subsection, the term `emergency' means--* *`(A) a major market disturbance characterized by or constituting--* *`(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or `(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt-- `(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or `(ii) the transmission or processing of securities transactions.'. (3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking `section 18(c) of the Public Utility Holding Company Act of 1935,'.	*`(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or* *`(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt--* *`(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or* *`(ii) the transmission or processing of securities transactions.'; and* *(3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking `section 18(c) of the Public Utility Holding Company Act of 1935,'.*	
(b) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended-- (1) in section 303 (15 U.S.C. 77ccc), by amending paragraph (17) to read as follows: `(17) The terms `Securities Act of 1933' and `Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.'; (2) in section 308 (15 U.S.C. 77hhh), by striking `Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' each place it appears and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934'; (3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c); (4) in section 311 (15 U.S.C. 77kkk) by striking subsection (c); (5) in section 323(b) (15 U.S.C. 77www(b)), by striking `Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934'; and (6) in section 326 (15 U.S.C. 77zzz), by striking `Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,' and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934'. (c) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended-- (1) in section 2(a)(44) (15 U.S.C. 80a-2(a)(44)), by striking	*(b) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--* *(1) in section 303 (15 U.S.C. 77ccc), by striking paragraph (17) and inserting the following:* *`(17) The terms `Securities Act of 1933' and `Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.';* *(2) in section 308 (15 U.S.C. 77hhh), by striking `Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' each place that term appears and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934';* *(3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c);* *(4) in section 311 (15 U.S.C. 77kkk), by striking subsection (c);* *(5) in section 323(b) (15 U.S.C. 77www(b)), by striking `Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934'; and* *(6) in section 326 (15 U.S.C. 77zzz), by striking `Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,' and inserting `Securities Act of 1933 or the Securities Exchange Act of 1934'.* *(c) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--* *(1) in section 2(a)(44) (15 U.S.C. 80a-2(a)(44)), by striking*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`Public Utility Holding Company Act of 1935','; (2) in section 3(c) (15 U.S.C. 80a-3(c)), by amending paragraph (8) to read as follows: `(8) [Repealed]'; (3) in section 38(b) (15 U.S.C. 80a-37(b)), by striking `the Public Utility Holding Company Act of 1935,'; and (4) in section 50 (15 U.S.C. 80a-49), by striking `the Public Utility Holding Company Act of 1935,'. (d) Investment Advisers Act of 1940- Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(21)) is amended by striking `Public Utility Holding Company Act of 1935','.	*`Public Utility Holding Company Act of 1935',';* *(2) in section 3(c) (15 U.S.C. 80a-3(c)), by striking paragraph (8) and inserting the following:* *`(8) [Repealed]';* *(3) in section 38(b) (15 U.S.C. 80a-37(b)), by striking `the Public Utility Holding Company Act of 1935,'; and* *(4) in section 50 (15 U.S.C. 80a-49), by striking `the Public Utility Holding Company Act of 1935,'.* *(d) Investment Advisers Act of 1940- Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(21)) is amended by striking `Public Utility Holding Company Act of 1935','.*	
SEC. 7407. PROMOTING TRANSPARENCY IN FINANCIAL REPORTING. (a) Findings- Congress finds the following: (1) Transparent and clear financial reporting is integral to the continued growth and strength of our capital markets and the confidence of investors. (2) The increasing detail and volume of accounting, auditing, and reporting guidance pose a major challenge. (3) The complexity of accounting and auditing standards in the United States has added to the costs and effort involved in financial reporting. (b) Testimony Required on Reducing Complexity in Financial Reporting- The Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933 shall annually provide oral testimony by their respective Chairpersons or a designee of the Chairperson, beginning in 2010, and for 5 years thereafter, to the Committee on Financial Services of the House of Representatives on their efforts to reduce the complexity in financial reporting to provide more accurate and clear financial information to investors, including-- (1) reassessing complex and outdated accounting standards; (2) improving the understandability, consistency, and overall usability of the existing accounting and auditing literature; (3) developing principles-based accounting standards; (4) encouraging the use and acceptance of interactive data; and (5) promoting disclosures in `plain English'.		
SEC. 7408. UNLAWFUL MARGIN LENDING. Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C.	***SEC. 929. UNLAWFUL MARGIN LENDING.*** *Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C.*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
78g(c)(1)(A)) is amended by striking `; and' and inserting `; or'.	*78g(c)(1)(A)) is amended by striking `; and' and inserting `; or'.*	
SEC. 7409. PROTECTING CONFIDENTIALITY OF MATERIALS SUBMITTED TO THE COMMISSION. (a) Securities Exchange Act of 1934- Section 17(i) of the Securities Exchange Act of 1934 (as amended by section 1314(2)) is amended to read as follows: `(i) Authority To Limit Disclosure of Information- `(1) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination, surveillance, or risk assessment of a person subject to or described in this section, or the financial or operational condition of such persons, or any information supplied to the Commission by any domestic or foreign regulatory agency or self-regulatory organization that relates to the financial or operational condition of such persons, of any associated person of such persons, or any affiliate of an investment bank holding company. `(2) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from the Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, the Public Company Accounting Oversight Board, or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination, surveillance, or risk assessment of that person or the financial or operational condition of that person or an associated or affiliated person of that person. `(3) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section. `(4) CERTAIN INFORMATION TO BE CONFIDENTIAL- In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(C) of subsection (i)(3) as confidential information for purposes of section 24(b)(2) of this title.'.		
(b) Investment Company Act of 1940- Section 31(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-30(b)), as amended by sections 7106(a)(2) and 7218(b)(4), is further amended by adding at the end the following new paragraph: `(6) CONFIDENTIALITY- `(A) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination, surveillance, or risk assessment of a person subject to or described in this section. `(B) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from the Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, or the Public Company Accounting Oversight Board requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination of that person or the financial or operational condition of that person or an associated or affiliated person of that person. `(C) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.'.		
(c) Investment Advisers Act of 1940- Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4), as amended by sections 7106(b) and 7218(c), is further amended by adding at the end the following new subsection: `(f) Confidentiality- `(1) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination of a person subject to or described in this section.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(2) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, the Public Company Accounting Oversight Board, or a self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination of that person or the financial or operational condition of that person or an associated or affiliated person of that person. `(3) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.'.		
SEC. 7410. TECHNICAL CORRECTIONS. (a) Securities Act of 1933- The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended-- (1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking `individual;' and inserting `individual,'; (2) in the matter following paragraph (5) of section 11(a), by striking `earning statement' and inserting `earnings statement'; (3) in section 18(b)(1)(C) (15 U.S.C. 77r(b)(1)(C)), by striking `is a security' and inserting `a security'; (4) in section 18(c)(2)(B)(i) (15 U.S.C. 77r(c)(2)(B)(i)), by striking `State, or' and inserting `State or'; (5) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking `in paragraph (1) of (3)' and inserting `in paragraph (1) or (3)'; and (6) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z-2(c)(1)(B)(ii)), by striking `business entity;' and inserting `business entity,'. (b) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended-- (1) in section 2(1)(a) (15 U.S.C. 78b(1)(a)), by striking `affected' and inserting `effected'; (2) in section 3(a)(55)(A) (15 U.S.C. 78c(a)(55)(A)), by striking `section 3(a)(12) of the Securities Exchange Act of 1934' and inserting `section 3(a)(12) of this Act'; (3) in section 3(g) (15 U.S.C. 78c(g)), by striking `company,	***SEC. 985. TECHNICAL CORRECTIONS TO FEDERAL SECURITIES LAWS.*** *(a) Securities Act of 1933- The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended--* *(1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking `individual;' and inserting `individual,';* *(2) in section 18 (15 U.S.C. 77r)--* *(A) in subsection (b)(1)(C), by striking `is a security' and inserting `a security'; and* *(B) in subsection (c)(2)(B)(i), by striking `State, or' and inserting `State or';* *(3) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking `in paragraph (1) of (3)' and inserting `in paragraph (1) or (3)'; and* *(4) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z-2(c)(1)(B)(ii)), by striking `business entity;' and inserting `business entity,'.* *(b) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended--* *(1) in section 2 (15 U.S.C. 78b), by striking `affected' and inserting `effected';* *(2) in section 3 (15 U.S.C. 78c)--* *(A) in subsection (a)(55)(A), by striking `section 3(a)(12) of the Securities Exchange Act of 1934' and inserting `section 3(a)(12) of this title'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
account person, or entity' and inserting `company, account, person, or entity'; (4) in section 10A(i)(1)(B)(i) (15 U.S.C. 78j-1(i)(1)(B)(i)), by striking `nonaudit' and inserting `non-audit'; (5) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking `earning statement' and inserting `earnings statement'; (6) in section 15(b)(1) (15 U.S.C. 78o(b)(1))-- (A) by striking the sentence beginning `The order granting' and ending `from such membership.' in subparagraph (B); and (B) by inserting such sentence in the matter following such subparagraph after `are satisfied.'; (7) in section 15C(a)(2) (15 U.S.C. 78o-5(a)(2))-- (A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; (B) by striking the sentence beginning `The order granting' and ending `from such membership.' in such subparagraph (B), as redesignated; and (C) by inserting such sentence in the matter following such redesignated subparagraph after `are satisfied.'; (8) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking `15A(k) gives' and inserting `15A(k), give'; and (9) in section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)), by striking `paragraph (1) subsection' and inserting `Paragraph (1)'. (c) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended-- (1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking `section 2 of such Act' and inserting `section 2(a) of such Act'; (2) in section 313(a)(4) (15 U.S.C. 77mmm(a)(4)) by striking `subsection (b) of section 311' and inserting `section 311(b)'; and (3) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking `(1),' and inserting `(1)'. (d) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended-- (1) in section 2(a)(19)(B) (15 U.S.C. 80a-2(a)(19)(B)) by striking `clause (vi)' both places it appears in the last two sentences and inserting `clause (vii)'; (2) in section 9(b)(4)(B) (15 U.S.C. 80a-9(b)(4)(B)), by inserting `or' after the semicolon at the end; (3) in section 12(d)(1)(J) (15 U.S.C. 80a-12(d)(1)(J)), by striking `any provision of this subsection' and inserting `any provision of this paragraph';	*(B) in subsection (g), by striking `company, account person, or entity' and inserting `company, account, person, or entity';* *(3) in section 10A(i)(1)(B) (15 U.S.C. 78j-1(i)(1)(B))--* *(A) in the subparagraph heading, by striking `MINIMUS' and inserting `MINIMIS'; and* *(B) in clause (i), by striking `nonaudit' and inserting `non-audit';* *(4) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking `earning statement' and inserting `earnings statement';* *(5) in section 15 (15 U.S.C. 78o)--* *(A) in subsection (b)(1)--* *(i) in subparagraph (B), by striking `The order granting' and all that follows through `from such membership.'; and* *(ii) in the undesignated matter immediately following subparagraph (B), by inserting after the first sentence the following: `The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange, if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.';* *(6) in section 15C(a)(2) (15 U.S.C. 78o-5(a)(2))--* *(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;* *(B) in subparagraph (B), as so redesignated, by striking `The order granting' and all that follows through `from such membership.'; and* *(C) in the matter following subparagraph (B), as so redesignated, by inserting after the first sentence the following: `The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(4) in section 13(a)(3) (15 U.S.C. 80a-13(a)(3)), by inserting `or' after the semicolon at the end; (5) in section 17(f)(4) (15 U.S.C. 80a-17(f)(4)), by striking `No such member' and inserting `No member of a national securities exchange'; (6) in section 17(f)(6) (15 U.S.C. 80a-17(f)(6)), by striking `company may serve' and inserting `company, may serve'; and (7) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a-60(a)(3)(B)(iii))-- (A) by striking `paragraph (1) of section 205' and inserting `section 205(a)(1)'; and (B) by striking `clause (A) or (B) of that section' and inserting `section 205(b)(1) or (2)'. (e) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended-- (1) in each of the following sections, by striking `principal business office' or `principal place of business' (whichever and wherever it appears) and inserting `principal office and place of business': sections 203(c)(1)(A), 203(k)(4)(B), 213(a), 222(b), and 222(c) (15 U.S.C. 80b-3(c)(1)(A), 80b-3(k)(4)(B), 80b-13(a), 80b-18a(b), and 80b-18a(c)); and (2) in section 206(3) (15 U.S.C. 80b-6(3)), by inserting `or' after the semicolon at the end.	*has exempted such government securities broker or government securities dealer, by rule or order, from such membership.';* *(7) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking `15A(k) gives' and inserting `15A(k), give'; and* *(8) in section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)), by striking `paragraph (1) subsection' and inserting `Paragraph (1)'.* *(c) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--* *(1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking `section 2 of such Act' and inserting `section 2(a) of such Act'; and* *(2) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking `, in the' and inserting `in the'.* *(d) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--* *(1) in section 2(a)(19) (15 U.S.C. 80a-2(a)(19)), in the matter following subparagraph (B)(vii)--* *(A) by striking `clause (vi)' each place that term appears and inserting `clause (vii)'; and* *(B) in each of subparagraphs (A)(vi) and (B)(vi), by adding `and' at the end of subclause (III);* *(2) in section 9(b)(4)(B) (15 U.S.C. 80a-9(b)(4)(B)), by adding `or' after the semicolon at the end;* *(3) in section 12(d)(1)(J) (15 U.S.C. 80a-12(d)(1)(J)), by striking `any provision of this subsection' and inserting `any provision of this paragraph';* *(4) in section 17(f) (15 U.S.C. 80a-17(f))--* *(A) in paragraph (4), by striking `No such member' and inserting `No member of a national securities exchange'; and* *(B) in paragraph (6), by striking `company may serve' and inserting `company, may serve'; and* *(5) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a-60(a)(3)(B)(iii))--* *(A) by striking `paragraph (1) of section 205' and inserting `section 205(a)(1)'; and* *(B) by striking `clause (A) or (B) of that section' and inserting `paragraph (1) or (2) of section 205(b)'.* *(e) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended--* *(1) in section 203 (15 U.S.C. 80b-3)--* *(A) in subsection (c)(1)(A), by striking `principal business office and' and inserting `principal office, principal place of business, and'; and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(B) in subsection (k)(4)(B), in the matter following clause (ii), by striking `principal place of business' and inserting `principal office or place of business'; *(2) in section 206(3) (15 U.S.C. 80b-6(3)), by adding `or' after the semicolon at the end;* *(3) in section 213(a) (15 U.S.C. 80b-13(a)), by striking `principal place of business' and inserting `principal office or place of business'; and* *(4) in section 222 (15 U.S.C. 80b-18a), by striking `principal place of business' each place that term appears and inserting `principal office and place of business'.*	
	Subtitle H--Municipal Securities ***SEC. 975. REGULATION OF MUNICIPAL SECURITIES AND CHANGES TO THE BOARD OF THE MSRB.*** *(a) Registration of Municipal Securities Dealers and Municipal Advisors- Section 15B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)) is amended--* *(1) in paragraph (1)--* *(A) by inserting `(A)' after `(1)'; and* *(B) by adding at the end the following:* *`(B) It shall be unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered in accordance with this subsection.';* *(2) in paragraph (2), by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;* *(3) in paragraph (3), by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;* *(4) in paragraph (4), by striking `dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers' and inserting `dealer, municipal securities dealer, or municipal advisor, or class of brokers, dealers, municipal securities dealers, or municipal advisors'; and* *(5) by adding at the end the following:* *`(5) No municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, in connection with which such municipal advisor engages in any fraudulent, deceptive, or manipulative act or practice.'.	
SEC. 7411. MUNICIPAL SECURITIES. Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended-- (1) by amending paragraph (1) to read as follows: `(1) COMPOSITION OF THE MUNICIPAL SECURITIES RULEMAKING BOARD- Not later than October 1, 2010, the Municipal Securities Rulemaking Board (hereinafter in this section referred to as the `Board'), shall be composed of members which shall perform the duties set forth in this section and shall consist of-- `(A) a majority of independent public representatives, at least one of whom shall be representative of investors in municipal securities and at least one of whom shall be representative of issuers of municipal securities (which members are hereinafter referred to as `public representatives'); `(B) at least one individual who is representative of municipal securities brokers and municipal securities dealers which are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `broker-dealer representatives'); and `(C) at least one individual who is representative of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `bank representatives').'; and (2) by amending paragraph (2)(B) to read as follows: `(B) Establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of municipal securities brokers and municipal securities dealers. Such rules-- `(i) shall establish requirements regarding the independence of public representatives;	*(b) Municipal Securities Rulemaking Board- Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended--* *(1) in paragraph (1)--* *(A) in the first sentence, by striking `Not later than' and all that follows through `appointed by the Commission' and inserting `The Municipal Securities Rulemaking Board shall be composed of 15 members, or such other number of members as specified by rules of the Board pursuant to paragraph (2)(B),';* *(B) by striking the second sentence and inserting the following: `The members of the Board shall serve as members for a term of 3 years or for such other terms as specified by rules of the Board pursuant to paragraph (2)(B), and shall consist of (A) 8 individuals who are not associated with any broker, dealer, municipal securities dealer, or municipal advisor (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a municipal securities broker or municipal securities dealer), at least 1 of whom shall be representative of institutional or retail investors in municipal securities, at least 1 of whom shall be representative of municipal entities, and at least 1 of whom shall be a member of the public with knowledge of or experience in the municipal industry (which members are hereinafter referred to as `public representatives'); and (B) 7 individuals who are associated with a broker, dealer, municipal securities dealer, or municipal advisor, including at least 1 individual who is associated with and representative of brokers, dealers, or municipal securities dealers that are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `broker-dealer representatives'), at least 1 individual who is associated with and representative*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(ii) shall provide that the number of public representatives of the Board shall at all times exceed the total number of broker-dealer representatives and bank representatives; `(iii) shall establish minimum knowledge, experience, and other appropriate qualifications for individuals to serve as public representatives, which may include, among other things, prior work experience in the securities, municipal finance, or municipal securities industries; `(iv) shall specify the term members shall serve; and `(v) may increase or decrease the number of members which shall constitute the whole Board, but in no case may such number be an even number.'.	*of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `bank representatives'), and at least 1 individual who is associated with a municipal advisor (which member is hereinafter referred to as the `advisor representative').'; and* *(C) in the third sentence, by striking `initial';*	
	(2) in paragraph (2)-- *(A) in the matter preceding subparagraph (A)--* *(i) by inserting before the period at the end of the first sentence the following: `and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors'; and* *(ii) by striking the second sentence;* *(B) in subparagraph (A)--* *(i) in the matter preceding clause (i)--* *(I) by inserting `, and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities' after `sale of, any municipal security'; and* *(II) by inserting `and municipal*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	entities or obligated persons' after `protection of investors';* *(ii) in clause (i), by striking `municipal securities brokers and municipal securities dealers' each place that term appears and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors';* *(iii) in clause (ii), by adding `and' at the end; *(iv) in clause (iii), by striking `; and' and inserting a period; and* *(v) by striking clause (iv);* *(C) in subparagraph (B), by striking `nominations and elections' and all that follows through `specify' and inserting `nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives. Such rules shall provide that the membership of the Board shall at all times be as evenly divided in number as possible between entities or individuals who are subject to regulation by the Board and entities or individuals not subject to regulation by the Board, provided, however, that a majority of the members of the Board shall at all times be public representatives. Such rules shall also specify';* *(D) in subparagraph (C)--* *(i) by inserting `and municipal financial products' after `municipal securities' the first two times that term appears;* *(ii) by inserting `, municipal entities, obligated persons,' before `and the public interest';* *(iii) by striking `between' and inserting `among';* *(iv) by striking `issuers, municipal securities brokers, or municipal securities dealers, to fix' and inserting `municipal entities, obligated persons, municipal securities brokers, municipal securities dealers, or municipal advisors, to fix'; and* *(v) by striking `brokers or municipal securities dealers, to regulate' and inserting `brokers, municipal securities dealers, or municipal advisors, to regulate';*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(E) in subparagraph (D)-- *(i) by inserting `and advice concerning municipal financial products' after `transactions in municipal securities';* *(ii) by striking `That no' and inserting `that no';* *(iii) by inserting `municipal advisor,' before `or person associated'; and* *(iv) by striking `a municipal securities broker or municipal securities dealer may be compelled' and inserting `a municipal securities broker, municipal securities dealer, or municipal advisor may be compelled';* *(F) in subparagraph (E)--* *(i) by striking `municipal securities brokers and municipal securities dealers' and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors'; and* *(ii) by striking `municipal securities broker or municipal securities dealer' and inserting `municipal securities broker, municipal securities dealer, or municipal advisor';* *(G) in subparagraph (G), by striking `municipal securities brokers and municipal securities dealers' and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors';* *(H) in subparagraph (J)--* *(i) by striking `municipal securities broker and each municipal securities dealer' and inserting `municipal securities broker, municipal securities dealer, and municipal advisor'; and* *(ii) by striking the period at the end of the second sentence and inserting `, which may include charges for failure to submit to the Board required information or documents to any information system operated by the Board in a full, accurate, or timely manner, or any other failure to comply with the rules of the Board.';* *(I) in subparagraph (K)--* *(i) by inserting `broker, dealer, or' before*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	`municipal securities dealer' each place that term appears; and* *(ii) by striking `municipal securities investment portfolio' and inserting `related account of a broker, dealer, or municipal securities dealer'; and* *(J) by adding at the end the following:* *`(L) provide continuing education requirements for municipal advisors. *`(M) provide professional standards.* *`(N) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons.';* *(3) by redesignating paragraph (3) as paragraph (7); and* *(4) by inserting after paragraph (2) the following:* *`(3) The Board, in conjunction with or on behalf of any Federal financial regulator or self-regulatory organization, may--* *`(A) establish information systems; and* *`(B) assess such reasonable fees and charges for the submission of information to, or the receipt of information from, such systems from any persons which systems may be developed for the purposes of serving as a repository of information from municipal market participants or otherwise in furtherance of the purposes of the Board, a Federal financial regulator, or a self-regulatory organization.* *`(4) The Board shall provide guidance and assistance in the enforcement of, and examination for, compliance with the rules of the Board to the Commission, a registered securities association under section 15A, or any other appropriate regulatory agency, as applicable.'.* *(c) Discipline of Dealers and Municipal Advisors and Other Matters- Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)) is amended--* *(1) in paragraph (1), by inserting `, and no broker, dealer, municipal securities dealer, or municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person,' after `any*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	municipal security'; *(2) in paragraph (2), by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;* *(3) in paragraph (3)--* *(A) by inserting `or municipal entities or obligated person' after `protection of investors' each place that term appears; and* *(B) by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;* *(4) in paragraph (4), by inserting `or municipal advisor' after `municipal securities dealer or obligated person' each place that term appears;* *(5) in paragraph (6)(B), by inserting `or municipal entities' after `protection of investors';* *(6) in paragraph (7)--* *(A) in subparagraph (A)--* *(i) in clause (i), by striking `; and' and inserting a semicolon;* *(ii) in clause (ii), by striking the period and inserting `; and'; and* *(iii) by adding at the end the following:* *`(iii) the Commission, or its designee, in the case of municipal advisors.'.* *(B) in subparagraph (B), by inserting `or municipal entities or obligated person' after `protection of investors'; and* *(7) by adding at the end the following:* *`(9)(A) Fines collected by the Commission for violations of the rules of the Board shall be equally divided between the Commission and the Board.* *`(B) Fines collected by a registered securities association under section 15A(7) with respect to violations of the rules of the Board shall be accounted for by such registered securities association separately from other fines collected under section 15A(7) and shall be allocated between such registered securities association and the Board at the direction of the Commission.'.* *(d) Issuance of Municipal Securities- Section 15B(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(d)) is amended--* *(1) by striking `through a municipal securities broker or municipal securities dealer or otherwise' and inserting `through a municipal securities broker, municipal securities dealer, municipal advisor, or otherwise'; and* *(2) by inserting `or municipal advisors' before `to furnish'.*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(e) Definitions- Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) is amended by adding at the end the following: *`(e) Definitions- For purposes of this section--* *`(1) the term `Board' means the Municipal Securities Rulemaking Board established under subsection (b)(1);* *`(2) the term `guaranteed investment contract' includes any investment that has specified withdrawal or reinvestment provisions and a specifically negotiated or bid interest rate, and also includes any agreement to supply investments on 2 or more future dates, such as a forward supply contract;* *`(3) the term `investment strategies' includes plans or programs for the investment of the proceeds of municipal securities that are not municipal derivatives, guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments;* *`(4) the term `municipal advisor'--* *`(A) means a person (who is not a municipal entity or an employee of a municipal entity) that--* *`(i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues;* *`(ii) participates in the issuance of municipal securities; or* *`(iii) undertakes a solicitation of a municipal entity;* *`(B) includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors, if such persons are described in any of clauses (i) through (iii) of subparagraph (A); and* *`(C) does not include a broker, dealer, or municipal securities dealer serving as an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)), any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice, attorneys offering legal advice or providing services that are of a traditional legal nature, or engineers providing engineering*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	advice; *`(5) the term `municipal derivative' means any financial instrument or contract designed to hedge a risk (including interest rate swaps, basis swaps, credit default swaps, caps, floors, and collars);* *`(6) the term `municipal financial product' means municipal derivatives, guaranteed investment contracts, and investment strategies;* *`(7) the term `rules of the Board' means the rules proposed and adopted by the Board under subsection (b)(2);* *`(8) the term `person associated with a municipal advisor' or `associated person of an advisor' means--* *`(A) any partner, officer, director, or branch manager of such municipal advisor (or any person occupying a similar status or performing similar functions);* *`(B) any other employee of such municipal advisor who is engaged in the management, direction, supervision, or performance of any activities relating to the provision of advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities; and* *`(C) any person directly or indirectly controlling, controlled by, or under common control with such municipal advisor;* *`(9) the term `municipal entity' means any State, political subdivision of a State, or municipal corporate instrumentality of a State, including--* *`(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;* *`(B) any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and* *`(C) any other issuer of municipal securities;* *`(10) the term `solicitation of a municipal entity or obligated person' means a direct or indirect communication with a municipal entity or obligated person made by a person, for direct or indirect compensation, on behalf of a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined in section 202 of the Investment Advisers Act*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	of 1940) that does not control, is not controlled by, or is not under common control with the person undertaking such solicitation for the purpose of obtaining or retaining an engagement by a municipal entity or obligated person of a broker, dealer, municipal securities dealer, or municipal advisor for or in connection with municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or of an investment adviser to provide investment advisory services to or on behalf of a municipal entity; and *`(11) the term `obligated person' means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person, committed by contract or other arrangement to support the payment of all or part of the obligations on the municipal securities to be sold in an offering of municipal securities.'.* *(f) Registered Securities Association- Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following:* *`(15) The rules of the association provide that the association shall--* *`(A) request guidance from the Municipal Securities Rulemaking Board in interpretation of the rules of the Municipal Securities Rulemaking Board; and* *`(B) provide information to the Municipal Securities Rulemaking Board about the enforcement actions and examinations of the association under section 15B(b)(2)(E), so that the Municipal Securities Rulemaking Board may--* *`(i) assist in such enforcement actions and examinations; and* *`(ii) evaluate the ongoing effectiveness of the rules of the Board.'.* *(g) Registration and Regulation of Brokers and Dealers- Section 15 of the Securities Exchange Act of 1934 is amended--* *(1) in subsection (b)(4), by inserting `municipal advisor,' after `municipal securities dealer' each place that term appears; and* *(2) in subsection (c), by inserting `broker, dealer, or' before `municipal securities dealer' each place that term appears.* *(h) Accounts and Records, Reports, Examinations of Exchanges, Members, and Others- Section 17(a)(1) of the Securities Exchange Act of 1934 is amended by inserting `municipal advisor,' after `municipal securities dealer'.*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(i) Savings Clause- Notwithstanding any provision of the Over-the-Counter Derivatives Markets Act of 2010, or any amendment made pursuant to such Act, the provisions of this section, and the amendments made pursuant to this section, shall apply to any municipal derivative. *(j) Effective Date- This section, and the amendments made by this section, shall take effect on October 1, 2010.*	
	SEC. 976. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF INCREASED DISCLOSURE TO INVESTORS. *(a) Study- The Comptroller General of the United States shall conduct a study and review of the disclosure required to be made by issuers of municipal securities.* *(b) Subjects for Evaluation- In conducting the study under subsection (a), the Comptroller General of the United States shall--* *(1) broadly describe--* *(A) the size of the municipal securities markets and the issuers and investors; and* *(B) the disclosures provided by issuers to investors;* *(2) compare the amount, frequency, and quality of disclosures that issuers of municipal securities are required by law to provide for the benefit of municipal securities holders, including the amount of and frequency of disclosures actually provided by issuers of municipal securities, with the amount of and frequency of disclosures that issuers of corporate securities provide for the benefit of corporate securities holders, taking into account the differences between issuers of municipal securities and issuers of corporate securities;* *(3) evaluate the costs and benefits to various types of issuers of municipal securities of requiring issuers of municipal bonds to provide additional financial disclosures for the benefit of investors;* *(4) evaluate the potential benefit to investors from additional financial disclosures by issuers of municipal bonds; and* *(5) make recommendations relating to disclosure requirements for municipal issuers, including the advisability of the repeal or retention of section 15B(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(d)) (commonly known as the `Tower Amendment').* *(c) Report- Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study conducted under subsection (a), including recommendations for how to improve disclosure by issuers of*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	municipal securities. ***SEC. 977. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE MUNICIPAL SECURITIES MARKETS.*** *(a) Study- The Comptroller General of the United States shall conduct a study of the municipal securities markets.* *(b) Report- Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with copies to the Special Committee on Aging of the Senate and the Commission, on the results of the study conducted under subsection (a), including--* *(1) an analysis of the mechanisms for trading, quality of trade executions, market transparency, trade reporting, price discovery, settlement clearing, and credit enhancements;* *(2) the needs of the markets and investors and the impact of recent innovations;* *(3) recommendations for how to improve the transparency, efficiency, fairness, and liquidity of trading in the municipal securities markets, including with reference to items listed in paragraph (1); and* *(4) potential uses of derivatives in the municipal securities markets.* *(c) Responses- Not later than 180 days after receipt of the report required under subsection (b), the Commission shall submit a response to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with a copy to the Special Committee on Aging of the Senate, stating the actions the Commission has taken in response to the recommendations contained in such report.* ***SEC. 978. STUDY OF FUNDING FOR GOVERNMENT ACCOUNTING STANDARDS BOARD.*** *(a) Study- The Commission shall conduct a study that evaluates--* *(1) the role and importance of the Government Accounting Standards Board in the municipal securities markets;* *(2) the manner in which the Government Accounting Standards Board is funded, and how such manner of funding affects the financial information available to securities investors;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(3) the advisability of changes to the manner in which the Government Accounting Standards Board is funded; and *(4) whether legislative changes to the manner in which the Government Accounting Standards Board is funded are necessary for the benefit of investors and in the public interest.* *(b) Consultation- In conducting the study required under subsection (a), the Commission shall consult with State and local government financial officers.* *(c) Report- Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under subsection (a).* ***SEC. 979. COMMISSION OFFICE OF MUNICIPAL SECURITIES.*** *(a) In General- There shall be in the Commission an Office of Municipal Securities, which shall--* *(1) administer the rules of the Commission with respect to the practices of municipal securities brokers and dealers, municipal securities advisors, municipal securities investors, and municipal securities issuers; and* *(2) coordinate with the Municipal Securities Rulemaking Board for rulemaking and enforcement actions as required by law.* *(b) Director of the Office- The head of the Office of Municipal Securities shall be the Director, who shall report to the Chairman.* *(c) Staffing-* *(1) IN GENERAL- The Office of Municipal Securities shall be staffed sufficiently to carry out the requirements of this section.* *(2) REQUIREMENT- The staff of the Office of Municipal Securities shall include individuals with knowledge of and expertise in municipal finance.*	
SEC. 7412. INTERESTED PERSON DEFINITION. Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)) is amended-- (1) by striking clauses (v) and (vi); (2) by inserting after clause (iv) the following new clause: `(v) any natural person who is a member of a class of persons who the Commission, by rule or regulation, determines are unlikely to		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
exercise an appropriate degree of independence as a result of-- `(I) a material business or professional relationship with such company or any affiliated person of such company; or `(II) a close familial relationship with any natural person who is an affiliated person of such company;'; (3) by redesignating clause (vii) as clause (vi); and (4) in clause (vi), as redesignated, by striking `two completed fiscal years' and inserting `five completed fiscal years'.		
SEC. 7413. RULEMAKING AUTHORITY TO PROTECT REDEEMING INVESTORS. Section 22(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-22(e)) is amended by adding at the end the following: `The Commission may, by rules and regulations, limit the extent to which a registered open-end investment company may own, hold, or invest in illiquid securities or other illiquid property.'.		
SEC. 7414. STUDY ON SEC REVOLVING DOOR. (a) Government Accountability Office Study- The Comptroller General of the United States shall conduct a study that will-- (1) review the number of employees who leave the Securities and Exchange Commission to work for financial institutions regulated by such Commission; (2) determine how many employees who leave the Securities and Exchange Commission worked on cases that involved financial institutions regulated by such Commission; (3) review the length of time employees work for the Securities and Exchange Commission before leaving to be employed by financial institutions regulated by such Commission; (4) review existing internal controls and make recommendations on strengthening such controls to ensure that employees of the Securities and Exchange Commission who are later employed by financial institutions did not assist such institutions in violating any rules or regulations of the Commission during the course of their employment with such Commission; (5) determine if greater post-employment restrictions are necessary to prevent employees of the Securities and Exchange Commission from being employed by financial institutions after		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
employment with such Commission; (6) determine if the volume of employees of the Securities and Exchange Commission who are later employed by financial institutions has led to inefficiencies in enforcement; (7) determine if employees of the Securities and Exchange Commission who are later employed by financial institutions assisted such institutions in circumventing Federal rules and regulations while employed by such Commission; (8) review any information that may address the volume of employees of the Securities and Exchange Commission who are later employed by financial institutions, and make recommendations to Congress; and (9) review other additional issues as may be raised during the course of the study conducted under this subsection. (b) Report- Not later than 1 year after the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study required by subsection (a).		
SEC. 7415. STUDY ON INTERNAL CONTROL EVALUATION AND REPORTING COST BURDENS ON SMALLER ISSUERS. (a) Study Required- The Government Accountability Office shall conduct a study evaluating the costs and benefits of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)) on issuers who are not accelerated or large accelerated filers as defined by Commission Rule 12b-2. The study shall-- (1) include recommendations, administrative reforms, and legislative proposals on implementation steps that could be taken to reduce compliance burdens on these issuers; (2) determine the efficacy of the Securities and Exchange Commission's measures to limit the cost of compliance on smaller issuers; (3) determine how to reduce the burden of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 for companies whose market capitalization is less than $250,000,000 for the relevant reporting period while maintaining investor protections for such companies; and (4) determine whether various methods of reducing the compliance burden or a complete exemption for such companies (whose market capitalization is less than $250,000,000 for the relevant reporting period) from such compliance would encourage companies to list on exchanges in the United States		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
in their initial public offerings. (b) Reports Required- Not later than 9 months after the date of the enactment of this subtitle, the Government Accountability Office shall submit a report to Congress containing the findings and conclusions of the studies required under subsection (a), together with such recommendations for regulatory, legislative, or administrative action as may be appropriate. (c) Effective Date Contingent on Reports- Requirements under section 404(b) of the Sarbanes-Oxley Act of 2002 on issuers described under subsection (a) shall not become effective until the results of the report are delivered, but in no case before June 1, 2011.		
SEC. 7416. ANALYSIS OF RULE REGARDING SMALLER REPORTING COMPANIES. (a) Findings- Congress finds the following: (1) Many small businesses in cutting-edge technology sectors require significant capital investment to develop new technologies related to clean energy, drug treatments for terminal diseases and food production in hunger-stricken areas of the World. (2) Many technology companies conducting research do not meet the definition of `smaller reporting company' under the Securities and Exchange Commission's Rule 12b-2 due to unusually high public floats despite low or zero revenue. (3) The Final Report of the Advisory Committee on Smaller Public Companies to the Securities and Exchange Commission recommended that a company with a market capitalization of less than about $787,000,000 be considered a smallcap company and that the Commission provide exemptions from section 404(b) of the Sarbanes-Oxley Act to companies with less than $250,000,000 in annual revenues. (b) Study of Using Revenue as Criteria to Define Smaller Reporting Company- The Securities and Exchange Commission shall conduct a study of the inclusion of revenue as a criteria used in defining smaller reporting company as defined under the Commission's Rule 12b-2 to account for smaller public companies with public floats less than $700,000,000 and revenues less than $250,000,000. Not later than 180 days after the date of enactment of this subtitle, the Commission shall provide the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report of the findings of the study.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
SEC. 7417. FINANCIAL REPORTING FORUM. (a) Establishment- There is hereby established a Financial Reporting Forum (hereinafter referred to as the `Forum'), which shall consist of-- (1) the Chairman of the Securities Exchange Commission (hereinafter referred to as the `SEC'); (2) the head of the Financial Accounting Standards Board; (3) the Chairman of the Public Company Accounting Oversight Board; (4) the head of each appropriate Federal banking agency, as such term is defined under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); (5) the Administrator of the National Credit Union Administration; (6) the Secretary of the Treasury; (7) a representative of a non-financial institution, appointed by the SEC; (8) a representative of a financial institution, appointed by the SEC; (9) a representative of auditors, appointed by the SEC; and (10) a representative of investors, appointed by the SEC. (b) Meetings- The Forum shall meet no less often than quarterly. (c) Duties- The Forum shall meet to discuss immediate and long-term issues critical to financial reporting. (d) Reporting- The Forum shall issue an annual report to the Congress detailing any determinations or findings made by the Forum during the previous year, including any legislative recommendations the Forum may have related to financial reporting matters.		
SEC. 7418. INVESTMENT ADVISERS SUBJECT TO STATE AUTHORITIES. Section 203A(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)) is amended-- (1) by redesignating paragraph (2) as paragraph (3); and (2) by inserting after paragraph (1) the following new paragraph: `(2) TREATMENT OF CERTAIN MID-SIZED INVESTMENT ADVISERS- Notwithstanding paragraph (1), an investment adviser that is not exempt from registration under section 203 and-- `(A) is regulated and examined, or required to be regulated and examined, in the State where it maintains		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
its principal office and place of business; and `(B) has assets under management between-- `(i) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and `(ii) $100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title, shall register with, and be subject to examination by, such State. The Commission shall publish a list of the States that regulate and examine, or require regulation and examination of, investment advisers to which the requirements of this paragraph apply. If no State in which an investment adviser described in subparagraph (B) is registered conducts such an examination, the investment adviser must register with the Commission. If, pursuant to this paragraph, an investment adviser would be required to register with 5 or more States, then the adviser may maintain its registration with the Commission.'.		
SEC. 7419. CUSTODIAL REQUIREMENTS. (a) In General- Not later than 180 days after the date of the enactment of this title, the Securities and Exchange Commission shall adopt a rule pursuant to its authority under section 211(a) of the Investment Advisers Act of 1940 making it unlawful under section 206(4) of that Act for an investment adviser registered under such Act to have custody of funds or securities of a client the value of which exceeds $10,000,000, unless-- (1) the funds and securities are maintained with a qualified custodian either in a separate account for each client under the client's name, or in accounts that contain only client funds and securities under the name of the investment adviser as agent or trustee for the client; and (2) the qualified custodian does not directly or indirectly provide investment advice with respect to such funds or securities. (b) Exceptions- The rule adopted under subsection (a) shall include such exceptions as the Commission determines in the public interest and consistent with the protection of investors. Any exemption granted under this subsection shall ensure that at least once per year, a client described in subsection (a) shall receive a report from an independent entity with a fiduciary responsibility to the client to verify that the assets in the client's		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
account are in accord with those stated on the client's account statement. (c) No Limits on Other Actions- Nothing in this section shall be construed to limit other actions the Securities and Exchange Commission may take under this Act to require the protection of client assets.		
SEC. 7420. OMBUDSMAN. (a) Appointment- Not later than 180 days after the date of the enactment of this subtitle, the Chairman of the Securities and Exchange Commission shall appoint an Ombudsman who shall report directly to the Chairman. (b) Duties- The Ombudsman appointed under subsection (a) shall-- (1) act as a liaison between the Commission and any affected person with respect to any problem such person may have in dealing with the Commission resulting from the regulatory activities of the Commission; (2) review and make recommendations regarding Commission policies and procedures to encourage persons to present questions to the Commission regarding compliance with Federal securities laws; and (3) assure that safeguards exist to maintain confidentiality of communications between such persons and the Ombudsman. (c) Limitation- In carrying out the duties under subsection (b), the Ombudsman shall utilize personnel of the Commission to the extent practicable. Nothing in this section shall be construed as replacing, altering, or diminishing the activities of any ombudsman or similar office in any other agency. (d) Report- Each year, the Ombudsman shall submit a report to the Commission for inclusion in the annual report that describes the activities and evaluates the effectiveness of the Ombudsman during the preceding year. In that report, the Ombudsman shall include solicited comments and evaluations from registrants in regard to the effectiveness of the Ombudsman.		
SEC. 7421. NOTICE TO MISSING SECURITY HOLDERS. Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following new subsection: `(g) Due Diligence for the Delivery of Dividends, Interest, and Other Valuable Property Rights- `(1) REVISION OF RULES REQUIRED- The Commission shall revise its regulations in section 240.17Ad-17 of title 17, Code of Federal Regulations, as in effect on December 8, 1997, to extend the application of such section to brokers and dealers		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
and to provide for the following: `(A) A requirement that the paying agent provide a single written notification to each missing security holder that the missing security holder has been sent a check that has not yet been negotiated. The written notification may be sent along with a check or other mailing subsequently sent to the missing security holder but must be provided no later than 7 months after the sending of the not yet negotiated check. `(B) An exclusion for paying agents from the notification requirements when the value of the not yet negotiated check is less than $25. `(C) A provision clarifying that the requirements described in subparagraph (A) shall have no effect on State escheatment laws. `(D) For purposes of such revised regulations-- `(i) a security holder shall be considered a `missing security holder' if a check is sent to the security holder and the check is not negotiated before the earlier of the paying agent sending the next regularly scheduled check or the elapsing of 6 months after the sending of the not yet negotiated check; and `(ii) the term `paying agent' includes any issuer, transfer agent, broker, dealer, investment adviser, indenture trustee, custodian, or any other person that accepts payments from the issuer of a security and distributes the payments to the holders of the security.		
`(2) RULEMAKING- The Commission shall adopt such rules, regulations, and orders necessary to implement this subsection no later than 1 year after the date of enactment of this subsection. In proposing such rules, the Commission shall seek to minimize disruptions to current systems used by or on behalf of paying agents to process payment to account holders and avoid requiring multiple paying agents to send written notification to a missing security holder regarding the same not yet negotiated check.'.		
SEC. 7422. SHORT SALE REFORMS. (a) Short Sale Disclosure- Section 13(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)) is amended by redesignating paragraphs (2),		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following: `(2)(A) Every institutional investment manager that effects a short sale of an equity security shall also file a report on a daily basis with the Commission in such form as the Commission, by rule, may prescribe. Such report shall include, as applicable, the name of the institution, the name of the institutional investment manager and the title, class, CUSIP number, number of shares or principal amount, aggregate fair market value of each security, and any additional information requested by the Commission. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section. The information contained in reports of an institutional investment manager filed with the Commission pursuant to this section, shall be subject to the same non-disclosure and confidentiality protection provided under section 204(b)(8) of the Investment Advisers Act of 1940. `(B) The Commission shall prescribe rules providing for the public disclosure of the name of the issuer and the title, class, CUSIP number, aggregate amount of the number of short sales of each security, and any additional information determined by the Commission following the end of the reporting period. At a minimum, such public disclosure shall occur every month.'.		
(b) Short Selling Enforcement- Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended-- (1) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i), and (j), respectively; and (2) inserting after subsection (c), the following new subsection: `(d) Transactions Relating to Short Sales of Securities- It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange to effect, alone or with one or more other persons, a manipulative short sale of any security. The Commission shall issue such other rules as are necessary or appropriate to ensure that the appropriate enforcement options and remedies are available for violations of this subsection in the public interest or for the protection of investors.'. (c) Investor Notification- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended-- (1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and (2) inserting after subsection (d) the following new subsection:		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(e) Notices to Customers Regarding Securities Lending- Every registered broker or dealer shall provide notice to its customers that they may elect not to allow their fully paid securities to be used in connection with short sales. If a broker or dealer uses a customer's securities in connection with short sales, the broker or dealer shall provide notice to its customer that the broker or dealer may receive compensation in connection with lending the customer's securities. The Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, may prescribe the form, content, time, and manner of delivery of any notice required under this paragraph.'.		
SEC. 7423. STREAMLINING OF SEC FILING PROCEDURES. (a) Approval Process- Section 19(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(2)) is amended to read as follows: `(2) FILING PROCEDURES- `(A) IN GENERAL- Within thirty-five days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall-- `(i) by order approve such proposed rule change; or `(ii) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved. `(B) PROCEEDINGS- Proceedings to determine whether the proposed rule change should be disapproved shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 200 days from the date of receipt of a proper filing. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the self-regulatory organization consents. The Commission shall approve a proposed rule change of a self-		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a self-regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.'. (b) Rules- Not later than 12 months after the date of enactment of this Act, the Commission shall issue rules implementing a disapproval process for filings submitted on or after the effective date of such rules.		
PART 5--SECURITIES INVESTOR PROTECTION ACT AMENDMENTS **SEC. 7501. INCREASING THE MINIMUM ASSESSMENT PAID BY SIPC MEMBERS.** Section 4(d)(1)(C) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(d)(1)(C)) is amended by striking `$150 per annum' and inserting the following: `0.02 percent of the gross revenues from the securities business of such member of SIPC'.		
SEC. 7502. INCREASING THE BORROWING LIMIT ON TREASURY LOANS. Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended by striking `of not to exceed $1,000,000,000' and inserting `the lesser of $2,500,000,000 or the target amount of the SIPC Fund specified in the bylaws of SIPC'.	***SEC. 929C. INCREASING THE BORROWING LIMIT ON TREASURY LOANS.*** *Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended in the first sentence, by striking `$1,000,000,000' and inserting `$2,500,000,000'.*	
SEC. 7503. INCREASING THE CASH LIMIT OF PROTECTION. Section 9 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3) is amended-- (1) in subsection (a)(1), by striking `$100,000 for each such customer' and inserting `the standard maximum cash advance amount for each such customer, as determined in accordance with subsection (d)'; and (2) by adding the following new subsections: `(d) Standard Maximum Cash Advance Amount Defined- For purposes of this section, the term `standard maximum cash advance amount' means		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
$250,000, as such amount may be adjusted after March 31, 2010, as provided under subsection (e). `(e) Inflation Adjustment- `(1) IN GENERAL- No later than April 1, 2010, and every 5 years thereafter, and subject to the approval of the Commission as provided under section 3(e)(2), the Board of Directors of SIPC shall determine whether an inflation adjustment to the standard maximum cash advance amount is appropriate. If the Board of Directors of SIPC determines such an adjustment is appropriate, then the standard maximum cash advance amount shall be an amount equal to-- `(A) $250,000 multiplied by `(B) the ratio of the annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which such determination is made, to the published annual value of such index for the calendar year preceding the year in which this subsection was enacted. The index values used in calculations under this paragraph shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.		
`(2) ROUNDING- If the standard maximum cash advance amount determined under paragraph (1) for any period is not a multiple of $10,000, the amount so determined shall be rounded down to the nearest $10,000. `(3) PUBLICATION AND REPORT TO THE CONGRESS- Not later than April 5 of any calendar year in which a determination is required to be made under paragraph (1)-- `(A) the Commission shall publish in the Federal Register the standard maximum cash advance amount; and `(B) the Board of Directors of SIPC shall submit a report to the Congress stating the standard maximum cash advance amount. `(4) IMPLEMENTATION PERIOD- Any adjustment to the standard maximum cash advance amount shall take effect on January 1 of the year immediately succeeding the calendar year in which such adjustment is made. `(5) INFLATION ADJUSTMENT CONSIDERATIONS- In making any determination under paragraph (1) to increase the standard maximum cash advance amount, the Board of		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Directors of SIPC shall consider-- `(A) the overall state of the fund and the economic conditions affecting members of SIPC; `(B) the potential problems affecting members of SIPC; and `(C) such other factors as the Board of Directors of SIPC may determine appropriate.'.		
SEC. 7504. SIPC AS TRUSTEE IN SIPA LIQUIDATION PROCEEDINGS. Section 5(b)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(3)) is amended-- (1) by striking `SIPC has determined that the liabilities of the debtor to unsecured general creditors and to subordinated lenders appear to aggregate less than $750,000 and that'; and (2) by striking `five hundred' and inserting `five thousand'.		
SEC. 7505. INSIDERS INELIGIBLE FOR SIPC ADVANCES. Section 9(a)(4) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(4)) is amended by inserting `an insider,' after `or net profits of the debtor,'.		
SEC. 7506. ELIGIBILITY FOR DIRECT PAYMENT PROCEDURE. Section 10(a)(4) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-4(a)(4)) is amended by striking `$250,000' and inserting `$850,000'.		
SEC. 7507. INCREASING THE FINE FOR PROHIBITED ACTS UNDER SIPA. Section 14(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78jjj(c)) is amended-- (1) in paragraph (1), by striking `$50,000' and inserting `$250,000'; and (2) in paragraph (2), by striking `$50,000' and inserting `$250,000'.		
SEC. 7508. PENALTY FOR MISREPRESENTATION OF SIPC MEMBERSHIP OR PROTECTION. Section 14 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78jjj) is amended by adding at the end the following new subsection: `(d) Misrepresentation of SIPC Membership or Protection- `(1) IN GENERAL- Any person who falsely represents by any means (including, without limitation, through the Internet or any		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
other medium of mass communication), with actual knowledge of the falsity of the representation and with an intent to deceive or cause injury to another, that such person, or another person, is a member of SIPC or that any person or account is protected or is eligible for protection under this Act or by SIPC, shall be liable for any damages caused thereby and shall be fined not more than $250,000 or imprisoned for not more than 5 years. `(2) INJUNCTIONS- Any court having jurisdiction of a civil action arising under this Act may grant temporary injunctions and final injunctions on such terms as the court deems reasonable to prevent or restrain any violation of paragraph (1). Any such injunction may be served anywhere in the United States on the person enjoined, shall be operative throughout the United States, and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction over that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all papers in the case on file in such clerk's office.'.		
SEC. 7509. FUTURES HELD IN A PORTFOLIO MARGIN SECURITIES ACCOUNT PROTECTION. (a) SIPC Advances- Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(1)) is amended by inserting `or options on futures contracts' after `claim for securities'. (b) Definitions- Section 16 of such Act (15 U.S.C. 78lll) is amended-- (1) by amending paragraph (2) to read as follows: `(2) CUSTOMER- `(A) IN GENERAL- The term `customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer. The term `customer' includes any person who has a claim against the debtor arising out of sales or conversions of such securities. `(B) INCLUDED PERSONS- The term `customer' includes--	***SEC. 983. PORTFOLIO MARGINING.*** *(a) Advances- Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(1)) is amended by inserting `or options on commodity futures contracts' after `claim for securities'.* *(b) Definitions- Section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll) is amended--* *(1) by striking paragraph (2) and inserting the following:* *`(2) CUSTOMER-* *`(A) IN GENERAL- The term `customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer.* *`(B) INCLUDED PERSONS- The term `customer' includes--* *`(i) any person who has deposited cash with the debtor for the purpose of purchasing*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(i) any person who has deposited cash with the debtor for the purpose of purchasing securities; and `(ii) any person who has a claim against the debtor for, or a claim against the debtor arising out of sales or conversions of, cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission.	*securities;* *`(ii) any person who has a claim against the debtor for cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; and* *`(iii) any person who has a claim against the debtor arising out of sales or conversions of such securities.*	
`(C) EXCLUDED PERSONS- The term `customer' does not include-- `(i) any person to the extent that the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; `(ii) any person to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor; or `(iii) any person to the extent such person has a claim relating to any open repurchase or open reverse repurchase agreement. For purposes of this paragraph, the term `repurchase agreement' means the sale of a security at a specified price with a simultaneous agreement or obligation to repurchase the security at a specified price on a specified future date.';	*`(C) EXCLUDED PERSONS- The term `customer' does not include any person, to the extent that--* *`(i) the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or* *`(ii) such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.';*	
(2) in paragraph (4), by inserting after the first sentence the following new sentence: `In the case of portfolio margining accounts of customers that are carried as securities accounts pursuant to a portfolio margining program approved by the Commission, such term shall also include futures contracts and options on futures contracts received, acquired, or held by or for the account of a debtor from or for such accounts, and the	*(2) in paragraph (4)--* *(A) in subparagraph (C), by striking `and' at the end;* *(B) by redesignating subparagraph (D) as subparagraph (E); and* *(C) by inserting after subparagraph (C) the following:* *`(D) in the case of a portfolio margining account of a customer that is carried as a securities account*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
proceeds thereof.'; (3) in paragraph (9), by inserting before `Such term' in the matter following subparagraph (L) the following: `The term includes revenues earned by a broker or dealer in connection with transactions in customers' portfolio margining accounts carried as securities accounts pursuant to a portfolio margining program approved by the Commission.'; and	*pursuant to a portfolio margining program approved by the Commission, a futures contract or an option on a futures contract received, acquired, or held by or for the account of a debtor from or for such portfolio margining account, and the proceeds thereof; and';* *(3) in paragraph (9), in the matter following subparagraph (L), by inserting after `Such term' the following: `includes revenues earned by a broker or dealer in connection with a transaction in the portfolio margining account of a customer carried as securities accounts pursuant to a portfolio margining program approved by the Commission. Such term'; and*	
(4) in paragraph (11)-- (A) by amending subparagraph (A) to read as follows: `(A) calculating the sum which would have been owed by the debtor to such customer if the debtor had liquidated, by sale or purchase on the filing date-- `(i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and `(ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; minus'; and (B) by inserting before `In determining' in the matter following subparagraph (C) the following: `A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission, or a claim for a security futures contract, shall be deemed to be a claim for the mark-to-market (variation) payments due with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash.'.	*(4) in paragraph (11)--* *(A) in subparagraph (A)--* *(i) by striking `filing date, all' and all that follows through the end of the subparagraph and inserting the following: `filing date--* *`(i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and* *`(ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission, including all property collateralizing such positions, to the extent that such property is not otherwise included herein; minus'; and* *(B) in the matter following subparagraph (C), by striking `In determining' and inserting the following: `A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission or a claim for a security futures contract, shall be deemed to be a claim with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash. In determining'.*	
SEC. 7510. STUDY AND REPORT ON THE FEASIBILITY OF RISK-BASED ASSESSMENTS FOR SIPC MEMBERS. (a) Study Required- The Comptroller General of the United States shall conduct a study on whether the Securities Investor Protection		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
Corporation (hereafter in this section referred to as `SIPC') should be required to impose assessments, on its member brokers and dealers, based on risk for the purpose of adequately maintaining the SIPC Fund and to provide additional levels of coverage on an optional basis.		
(b) Content- The Comptroller General in conducting this study shall-- (1) identify and examine available approaches, including modeling, to measure broker and dealer operational risk; (2) analyze whether the available approaches to measure broker and dealer operational risk can be used in managing the aggregate risk to the SIPC Fund; (3) explore whether objective measures like the volume of assets of the SIPC member, previous enforcement and compliance actions taken by regulatory bodies against the SIPC member, or the number of years the SIPC member has been in operation, among other factors, can be used to assess the probability the fund will incur a loss with respect to the SIPC member; (4) examine the impact that risk-based assessments could have on large and small brokers and dealers; (5) examine the impact that risk-based assessments could have on institutional and retail brokers and dealers; and (6) examine the feasibility of SIPC providing additional levels of coverage on an optional basis, what those additional levels of coverage should be, and the appropriate risked-based premium for providing additional coverage. (c) Consultation- The Comptroller General in planning and conducting this study shall consult with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, SIPC, the Financial Industry Regulatory Authority, and any other public or private sector organization that the Comptroller General considers appropriate. (d) Report Required- Not later than 1 year after the date of enactment of this subtitle, the Comptroller general shall submit a report of the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
PART 6--SARBANES-OXLEY ACT AMENDMENTS **SEC. 7601. PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OVERSIGHT OF AUDITORS OF BROKERS AND DEALERS.** (a) Definitions- (1) Title I of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following new section: **`SEC. 110. DEFINITIONS.**  `For the purposes of this title, and notwithstanding section 2: `(1) AUDIT- The term `audit' means an examination of the financial statements, reports, documents, procedures or controls, or notices, of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related standards for such purposes), for the purpose of expressing an opinion on such financial statements, reports, documents, procedures or controls, or notices. `(2) AUDIT REPORT- The term `audit report' means a document, report, notice, or other record-- `(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and `(B) in which a public accounting firm either-- `(i) sets forth the opinion of that firm regarding a financial statement, report, notice, other document, procedures, or controls; or `(ii) asserts that no such opinion can be expressed.	***SEC. 982. OVERSIGHT OF BROKERS AND DEALERS.*** *(a) Definitions-* *(1) DEFINITIONS AMENDED- Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) is amended by adding at the end the following new section:* ***`SEC. 110. DEFINITIONS.***  *`For the purposes of this title, the following definitions shall apply:* *`(1) AUDIT- The term `audit' means an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.* *`(2) AUDIT REPORT- The term `audit report' means a document, report, notice, or other record--* *`(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and* *`(B) in which a public accounting firm either--* *`(i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or* *`(ii) asserts that no such opinion can be expressed.*	
`(3) PROFESSIONAL STANDARDS- The term `professional standards' means-- `(A) accounting principles that are-- `(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934	*`(3) BROKER- The term `broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.* *`(4) DEALER- The term `dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(15 U.S.C. 78a(m)); and `(ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and `(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines-- `(i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and `(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission. `(4) BROKER- The term `broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm. `(5) DEALER- The term `dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm. `(6) SELF-REGULATORY ORGANIZATION- The term `self-regulatory organization' has the same meaning as in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)).'. (2) The table of sections in section 1(b) of such Act is amended, by inserting after the item relating to section 109 the following new item: `Sec. 110. Definitions.'.	*(15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.* *`(5) PROFESSIONAL STANDARDS- The term `professional standards' means--* *`(A) accounting principles that are--* *`(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and* *`(ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and* *`(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines--* *`(i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and* *`(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.* *`(6) SELF-REGULATORY ORGANIZATION- The term `self-regulatory organization' has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).'.* *(2) CONFORMING AMENDMENT- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended in the matter preceding paragraph (1), by striking `In this' and inserting `Except as otherwise specifically provided in this Act, in this'.*	
(b) Establishment and Administration of the Public Company Accounting Oversight Board- Section 101 of such Act is amended-- (1) by striking `issuers' each place it appears and inserting `issuers, brokers, and dealers';	*(b) Establishment and Administration of the Public Company Accounting Oversight Board- Section 101 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211) is amended--* *(1) by striking `issuers' each place that term appears and*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(2) in subsection (a), by striking `public companies' and inserting `companies'; and (3) in subsection (a), by striking `for companies the securities of which are sold to, and held by and for, public investors'. (c) Registration With the Board- Section 102 of such Act is amended-- (1) in subsection (a), by striking `Beginning 180 days after the date of the determination of the Commission under section 101(d), it' and inserting `It'; (2) in subsections (a) and (b)(2)(G), by striking `issuer' each place it appears and inserting `issuer, broker, or dealer'; and (3) in subsection (b)(2)(A), by striking `issuers' and inserting `issuers, brokers, and dealers'. (d) Auditing and Independence- Section 103(a) of such Act is amended-- (1) in paragraph (1), by striking `and such ethics standards' and inserting `such ethics standards, and such independence standards'; (2) in paragraph (2)(A)(iii), by striking `describe in each audit report' and inserting `in each audit report for an issuer, describe'; and (3) in paragraph (2)(B)(i), by striking `issuers' and inserting `issuers, brokers, and dealers'. (e) Inspections by Registered Accounting Firms- Subsection (a) of Section 104 of such Act is amended-- (1) by striking `(a) In General- The Board shall' and inserting the following: `(a) In General- `(1) The Board shall'; and (2) by adding at the end of such subsection the following: `(2) INSPECTIONS OF AUDIT REPORT FOR BROKERS AND DEALERS- `(A) The Board may, by rule, conduct and require a program of inspection in accordance with paragraph (a)(1), on a basis to be determined by the Board, of registered public accounting firms that provide one or more audit reports for a broker or dealer. The Board, in establishing such a program, may allow for differentiation among classes of brokers and dealers, as appropriate. `(B) If the Board determines to establish a program of inspection pursuant to subparagraph (A), the Board shall consider in establishing any inspection schedules whether differing schedules would be appropriate with respect to registered public accounting firms that issue	*inserting `issuers, brokers, and dealers'; and* *(2) in subsection (a)--* *(A) by striking `public companies' and inserting `companies'; and* *(B) by striking `for companies the securities of which are sold to, and held by and for, public investors'.* *(c) Registration With the Board- Section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212) is amended--* *(1) in subsection (a)--* *(A) by striking `Beginning 180' and all that follows through `101(d), it' and inserting `It'; and* *(B) by striking `issuer' and inserting `issuer, broker, or dealer';* *(2) in subsection (b)--* *(A) in paragraph (2)(A), by striking `issuers' and inserting `issuers, brokers, and dealers'; and* *(B) by striking `issuer' each place that term appears and inserting `issuer, broker, or dealer'.* *(d) Auditing and Independence- Section 103(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213(a)) is amended--* *(1) in paragraph (1), by striking `and such ethics standards' and inserting `such ethics standards, and such independence standards';* *(2) in paragraph (2)(A)(iii), by striking `describe in each audit report' and inserting `in each audit report for an issuer, describe'; and* *(3) in paragraph (2)(B)(i), by striking `issuers' and inserting `issuers, brokers, and dealers'.* *(e) Inspections of Registered Public Accounting Firms- Section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214) is amended--* *(1) in subsection (a), by striking `issuers' and inserting `issuers, brokers, and dealers'; and* *(2) in subsection (b)(1)--* *(A) by striking `audit reports for' each place that term appears and inserting `audit reports on annual financial statements for';* *(B) in subparagraph (A), by striking `and' at the end;* *(C) in subparagraph (B), by striking the period at the end and inserting `; and'; and* *(D) by adding at the end the following:* *`(C) with respect to each registered public accounting firm that regularly provides audit reports and that is not described in subparagraph (A) or (B), on a basis*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
audit reports only for one or more brokers or dealers that do not receive, handle, or hold customer securities or cash or are not a member of the Securities Investor Protection Corporation. `(C) Any rules of the Board pursuant to this paragraph shall be subject to prior approval by the Commission pursuant to section 107(b) before the rules become effective, including an opportunity for public notice and comment. `(D) Notwithstanding anything to the contrary in section 102 of this Act, a public accounting firm shall not be required to register with the Board if the public accounting firm is exempt from the inspection program which may be established by the Board under subparagraph (a)(2)(A) of this section. `(3) CONFORMING AMENDMENT- Section 17 (e)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(e)(1)(A)) is amended by striking `registered public accounting firm' and inserting `independent public accounting firm or by a registered public accounting firm if registration is required under the Sarbanes-Oxley Act of 2002 as amended.'.'	*determined by the Board, by rule, that is consistent with the public interest and protection of investors.'.*	
(f) Investigations and Disciplinary Proceedings- Section 105(c)(7)(B) of such Act is amended-- (1) in the subparagraph heading, by inserting `, BROKER, OR DEALER' after `ISSUER'; (2) by striking `any issuer' each place it appears and inserting `any issuer, broker, or dealer'; and (3) by striking `an issuer under this subsection' and inserting `a registered public accounting firm under this subsection'. (g) Foreign Public Accounting Firms- Section 106 of such Act is amended-- (1) in subsection (a)(1), by striking `issuer' and inserting `issuer, broker, or dealer'; and (2) in subsection (a)(2), by striking `issuers' and inserting `issuers, brokers, or dealers'.	*(f) Investigations and Disciplinary Proceedings- Section 105(c)(7)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(7)(B)) is amended--* *(1) in the subparagraph heading, by inserting `, BROKER, OR DEALER' after `ISSUER';* *(2) by striking `any issuer' each place that term appears and inserting `any issuer, broker, or dealer'; and* *(3) by striking `an issuer under this subsection' and inserting `a registered public accounting firm under this subsection'.* *(g) Foreign Public Accounting Firms- Section 106(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216(a)) is amended--* *(1) in paragraph (1), by striking `issuer' and inserting `issuer, broker, or dealer'; and* *(2) in paragraph (2), by striking `issuers' and inserting `issuers, brokers, or dealers'.*	
(h) Funding- Section 109 of such Act is amended-- (1) in subsection (c)(2), by striking `subsection (i)' and inserting `subsection (j)'; (2) in subsection (d)(2), by striking `allowing for differentiation among classes of issuers, as appropriate' and inserting `and among brokers and dealers in accordance with subsection (h),	*(h) Funding- Section 109 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7219) is amended--* *(1) in subsection (c)(2), by striking `subsection (i)' and inserting `subsection (j)';* *(2) in subsection (d)--* *(A) in paragraph (2), by striking `allowing for*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
and allowing for differentiation among classes of issuers and brokers and dealers, as appropriate'; (3) in subsection (d), by inserting at the end the following new paragraph: `(3) BROKERS AND DEALERS- The rules of the Board under paragraph (1) shall provide that the allocation, assessment, and collection by the Board (or an agent appointed by the Board) of the fee established under paragraph (1) with respect to brokers and dealers shall not begin until the first day of the first full fiscal year beginning after the date of the enactment of this paragraph.'; (4) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and (5) by inserting after subsection (g) the following new subsection: `(h) Allocation of Accounting Support Fees Among Brokers and Dealers- `(1) IN GENERAL- Any amount due from brokers and dealers (or a particular class of such brokers and dealers) under this section to fund the budget of the Board shall be allocated among and payable by such brokers and dealers (or such brokers and dealers in a particular class, as applicable). A broker or dealer's allocation shall be in proportion to the broker or dealer's net capital compared to the total net capital of all brokers and dealers, in accordance with the rules of the Board. `(2) OBLIGATION TO PAY- Every broker or dealer shall pay the share of a reasonable annual accounting support fee or fees allocated to such broker or dealer under this section.'.	*differentiation among classes of issuers, as appropriate' and inserting `and among brokers and dealers, in accordance with subsection (h), and allowing for differentiation among classes of issuers, brokers and dealers, as appropriate'; and* *(B) by adding at the end the following:* *`(3) BROKERS AND DEALERS- The Board shall begin the allocation, assessment, and collection of fees under paragraph (2) with respect to brokers and dealers with the payment of support fees to fund the first full fiscal year beginning after the effective date of this paragraph.';* *(3) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and* *(4) by inserting after subsection (g) the following:* *`(h) Allocation of Accounting Support Fees Among Brokers and Dealers-* *`(1) OBLIGATION TO PAY- Each broker or dealer shall pay to the Board the annual accounting support fee allocated to such broker or dealer under this section.* *`(2) ALLOCATION- Any amount due from a broker or dealer (or from a particular class of brokers and dealers) under this section shall be allocated among brokers and dealers and payable by the broker or dealer (or the brokers and dealers in the particular class, as applicable).* *`(3) PROPORTIONALITY- The amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer, compared to the total net capital of all brokers and dealers, in accordance with rules issued by the Board.'.*	
(i) Referral of Investigations to a Self-regulatory Organization- Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 is amended-- (1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and (2) by inserting after clause (i) the following new clause: `(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is subject to the jurisdiction of such self-regulatory organization;'. (j) Use of Documents Related to an Inspection or Investigation- Section 105(b)(5)(B)(ii) of such Act is amended-- (1) in subclause (III), by striking `and'; (2) in subclause (IV), by striking the comma and inserting `; and'; and	*(i) Referral of Investigations to a Self-regulatory Organization- Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(4)(B)) is amended--* *(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and* *(2) by inserting after clause (i) the following:* *`(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization;'.* *(j) Use of Documents Related to an Inspection or Investigation- Section 105(b)(5)(B)(ii) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)) is amended--* *(1) in subclause (III), by striking `and' at the end;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(3) by inserting after subclause (IV) the following new subclause: `(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is subject to the jurisdiction of such self-regulatory organization,'.	*(2) in subclause (IV), by striking the comma and inserting `; and'; and* *(3) by inserting after subclause (IV) the following:* *`(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization,'.* *(k) Effective Date- The amendments made by this section shall take effect 180 days after the date of enactment of this Act.*	
SEC. 7602. FOREIGN REGULATORY INFORMATION SHARING. (a) Definition- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by inserting after paragraph (16) the following: `(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY- The term `foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.'. (b) Availability To Share Information- Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following: `(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES- When in the Board's discretion it is necessary to accomplish the purposes of this Act or to protect investors, and without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm within the inspection authority, or other regulatory or law enforcement jurisdiction, of a foreign auditor oversight authority may be made available to the foreign auditor oversight authority if the foreign auditor oversight authority provides such assurances of confidentiality as the Board determines appropriate.'. (c) Conforming Amendment- Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking `subparagraph (B)' and inserting `subparagraphs (B) and (C)'.	***SEC. 981. AUTHORITY TO SHARE CERTAIN INFORMATION WITH FOREIGN AUTHORITIES.*** *(a) Definition- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by adding at the end the following:* *`(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY- The term `foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.'.* *(b) Availability To Share Information- Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following:* *`(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES- Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm that a foreign government has empowered a foreign auditor oversight authority to inspect or otherwise enforce laws with respect to, may, at the discretion of the Board, be made available to the foreign auditor oversight authority, if--* *`(i) the Board finds that it is necessary to accomplish the purposes of this Act or to protect investors;* *`(ii) the foreign auditor oversight authority provides--* *`(I) such assurances of confidentiality as the Board may request;* *`(II) a description of the applicable*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	information systems and controls of the foreign auditor oversight authority; and *`(III) a description of the laws and regulations of the foreign government of the foreign auditor oversight authority that are relevant to information access; and* *`(iii) the Board determines that it is appropriate to share such information.'.* *(c) Conforming Amendment- Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking `subparagraph (B)' and inserting `subparagraphs (B) and (C)'.*	
SEC. 7603. EXPANSION OF AUDIT INFORMATION TO BE PRODUCED AND EXCHANGED WITH FOREIGN COUNTERPARTS. Section 106 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216) is amended-- (1) by amending subsection (b) to read as follows: `(b) Production of Documents- `(1) PRODUCTION BY FOREIGN FIRMS- If a foreign public accounting firm issues an audit report, performs audit work, conducts interim reviews, or performs material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, the foreign public accounting firm shall produce its audit work papers and all other documents related to any such audit work or interim review to the Commission or the Board when requested by the Commission or the Board and the foreign public accounting firm shall be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request of such documents. `(2) OTHER PRODUCTION- Any registered public accounting firm that relies, in whole or in part, on the work of a foreign public accounting firm in issuing an audit report, performing audit work, or conducting an interim review, shall-- `(A) produce the foreign public accounting firm's audit work papers and all other documents related to any such work in response to a request for production by the Commission or the Board; and `(B) secure the agreement of any foreign public accounting firm to such production, as a condition of its reliance on the work of that foreign public		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
accounting firm.'; (2) by redesignating subsection (d) as subsection (g); and (3) by inserting after subsection (c) the following new subsections: `(d) Service of Requests or Process- Any foreign public accounting firm that performs work for a domestically registered public accounting firm shall furnish to the domestically firm a written irrevocable consent and power of attorney that designates the domestic firm as an agent upon whom may be served any process, pleadings, or other papers in any action brought to enforce this section. Any foreign public accounting firm that issues an audit report, performs audit work, performs interim reviews, or performs other material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, shall designate to the Commission or the Board an agent in the United States upon whom may be served any process, pleading, or other papers in any action brought to enforce this section or any request by the Commission or the Board under this section. `(e) Sanctions- A willful refusal to comply, in whole in or in part, with any request by the Commission or the Board under this section, shall be a violation of this Act. `(f) Other Means of Satisfying Production Obligations- Notwithstanding any other provision of this section, the staff of the Commission or Board may allow foreign public accounting firms subject to this section to meet production obligations under this section though alternate means, such as through foreign counterparts of the Commission or Board.'.		
SEC. 7604. CONFORMING AMENDMENT RELATED TO REGISTRATION. Section 102(b)(3)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212(b)(3)(A)) is amended by striking `by the Board' and inserting `by the Commission or the Board'.		
SEC. 7605. FAIR FUND AMENDMENTS. Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended-- (1) by amending subsection (a) to read as follows: `(a) Civil Penalties to Be Used for the Relief of Victims- If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the Commission obtains a civil penalty against any person for a violation of such laws or the rules and regulations thereunder, or such person agrees	***SEC. 929B. FAIR FUND AMENDMENTS.*** *Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended--* *(1) by striking subsection (a) and inserting the following:* *`(a) Civil Penalties To Be Used for the Relief of Victims- If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
in settlement of any such action to such civil penalty, the amount of such civil penalty or settlement shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.'; (2) in subsection (b), by-- (A) striking `for a disgorgement fund described in subsection (a)' and inserting `for a disgorgement fund or other fund described in subsection (a)'; and (B) striking `in the disgorgement fund' and inserting `in such fund'; and (3) by striking subsection (e).	*and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.';* *(2) in subsection (b)--* *(A) by striking `for a disgorgement fund described in subsection (a)' and inserting `for a disgorgement fund or other fund described in subsection (a)'; and* *(B) by striking `in the disgorgement fund' and inserting `in such fund'; and* *(3) by striking subsection (e).*	
SEC. 7606. EXEMPTION FOR NONACCELERATED FILERS. (a) Exemption- Section 404 of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following: `(c) Exemption for Smaller Issuers- Subsection (b) shall not apply with respect to any audit report prepared for an issuer that is not an accelerated filer within the meaning Rule 12b-2 of the Commission (17 CFR 240.12b-2).'. (b) Study- The Securities and Exchange Commission shall conduct a study to determine how the Commission could reduce the burden of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 for companies whose market capitalization is between $75,000,000 and $250,000,000 for the relevant reporting period while maintaining investor protections for such companies. The study shall also consider whether any such methods of reducing the compliance burden or a complete exemption for such companies from compliance with such section would encourage companies to list on exchanges in the United States in their initial public offerings. Not later than 9 months after the date of the enactment of this subtitle, the Commission shall transmit a report of such study to Congress.		
SEC. 7607. WHISTLEBLOWER PROTECTION AGAINST RETALIATION BY A SUBSIDIARY OF AN ISSUER. Section 1514A(a) of title 18, United States Code, is amended by inserting `including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company,' after `(15 U.S.C. 78o(d)),'.		
SEC. 7608. CONGRESSIONAL ACCESS TO INFORMATION. Section 101 of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following:		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
`(i) Congressional Access to Information- Nothing in this section shall prevent the Board from responding to requests for reports from the Committee's specified under subsection (h) about the activities or programs of the Board, provided that any confidential information contained therein shall be subject to the provisions of section 105(b)(5).'.		
SEC. 7609. CREATION OF OMBUDSMAN FOR THE PCAOB. (a) Ombudsman- Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211 et seq.), as amended by section 7601(a)(1), is further amended by adding at the end the following new section:		
**`SEC. 111. OMBUDSMAN.**  `(a) Establishment Required- Not later than 180 days after the date of enactment of the Investor Protection Act, the Board shall appoint an ombudsman for the Board. The Ombudsman shall report directly to the Chairman. `(b) Duties of Ombudsman- The ombudsman appointed in accordance with subsection (a) for the Board shall-- `(1) act as a liaison between the Board and-- `(A) any registered public accounting firm or issuer with respect to issues or disputes concerning the preparation or issuance of any audit report with respect to that issuer; and `(B) any affected registered public accounting firm or issuer with respect to-- `(i) any problem such firm or issuer may have in dealing with the Board resulting from the regulatory activities of the Board, particularly with regard to the implementation of section 404; and `(ii) issues caused by the relationships of registered public accounting firms and issuers generally; `(2) assure that safeguards exist to encourage complainants to come forward and to preserve confidentiality; and `(3) carry out such activities, and any other activities assigned by the Board, in accordance with guidelines prescribed by the Board.'. (b) Conforming Amendment- The table of sections in section 1(b) of such Act is amended, by inserting after the item relating to section 110 (as added by section 601(a)(2)) the following new item: `Sec. 111. Ombudsman.'.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
SEC. 7610. AUDITING OVERSIGHT BOARD. The Sarbanes-Oxley Act of 2002 is amended-- (1) in section 2(a)(5), by striking `Public Company Accounting Oversight Board' and inserting `Auditing Oversight Board'; (2) in section 101(a), by striking `Public Company Accounting Oversight Board' and inserting `Auditing Oversight Board'; and (3) in the heading of title I, by striking `**PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD**' and inserting `**AUDITING OVERSIGHT BOARD**'.		
PART 7--SENIOR INVESTMENT PROTECTION **SEC. 7701. FINDINGS.** Congress finds that-- (1) many seniors are targeted by salespersons and advisers using misleading certifications and professional designations; (2) many certifications and professional designations used by salespersons and advisers represent limited training or expertise, and may in fact be of no value with respect to advising seniors on financial and estate planning matters, and far too often, such designations are obtained simply by attending a weekend seminar and passing an open book, multiple choice test; (3) many seniors have lost their life savings because salespersons and advisers holding a misleading designation have steered them toward products that were unsuitable for them, given their retirement needs and life expectancies; (4) seniors have a right to clearly know whether they are working with a qualified adviser who understands the products and is working in their best interest or a self-interested salesperson or adviser advocating particular products; and (5) many existing State laws and enforcement measures addressing the use of certifications, professional designations, and suitability standards in selling financial products to seniors are inadequate to protect senior investors from salespersons and advisers using such designations.		
SEC. 7702. DEFINITIONS. For purposes of this part: (1) MISLEADING DESIGNATION- The term `misleading designation'--	***SEC. 989A. SENIOR INVESTOR PROTECTIONS.*** *(a) Definitions- As used in this section--* *(1) the term `eligible entity' means--* *(A) a securities commission (or any agency or office*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(A) means the use of a purported certification, professional designation, or other credential, that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and (B) does not include any legitimate certification, professional designation, license, or other credential, if-- (i) it has been offered by an academic institution having regional accreditation; or (ii) it meets the standards for certifications, licenses, and professional designations outlined by the North American Securities Administrators Association (in this part referred to as the `NASAA') Model Rule on the Use of Senior-Specific Certifications and Professional Designations, as in effect on the date of the enactment of this subtitle, or any successor thereto, or it was issued by or obtained from any State. (2) FINANCIAL PRODUCT- The term `financial product' means securities, insurance products (including insurance products which pay a return, whether fixed or variable), and bank and loan products. (3) MISLEADING OR FRAUDULENT MARKETING- The term `misleading or fraudulent marketing' means the use of a misleading designation when selling to or advising a senior about the sale of a financial product. (4) SENIOR- The term `senior' means any individual who has attained the age of 62 years or more. (5) STATE- The term `State' means each of the 50 States, the District of Columbia, and the unincorporated territories of Puerto Rico and the U.S. Virgin Islands.	*performing like functions) of a State that the Office determines has adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);* *(B) the insurance commission (or any agency or office performing like functions) of any State that the Office determines has--* *(i) adopted rules on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and* *(ii) adopted rules with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); or* *(C) a consumer protection agency of any State, if--* *(i) the securities commission (or any agency or office performing like functions) of the State is eligible under subparagraph (A); or* *(ii) the insurance commission (or any agency or office performing like functions) of the State is eligible under subparagraph (B);* *(2) the term `financial product' means a security, an insurance product (including an insurance product that pays a return, whether fixed or variable), a bank product, and a loan product;* *(3) the term `misleading designation'--* *(A) means a certification, professional designation, or other purported credential that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and* *(B) does not include a certification, professional designation, license, or other credential that--*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	(i) was issued by or obtained from an academic institution having regional accreditation; *(ii) meets the standards for certifications, licenses, and professional designations outlined by the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, adopted by the National Association of Insurance Commissioners (or any successor thereto); or* *(iii) was issued by or obtained from a State;* *(4) the term `misleading or fraudulent marketing' means the use of a misleading designation by a person that sells to or advises a senior in connection with the sale of a financial product;* *(5) the term `NASAA' means the North American Securities Administrators Association;* *(6) the term `Office' means the Office of Financial Literacy of the Bureau; and* *(7) the term `senior' means any individual who has attained the age of 62 years or older.*	
SEC. 7703. GRANTS TO STATES FOR ENHANCED PROTECTION OF SENIORS FROM BEING MISLED BY FALSE DESIGNATIONS. (a) Grant Program- The Securities and Exchange Commission (in this part referred to as the `Commission')-- (1) shall establish a program in accordance with this part to provide grants to States-- (A) to investigate and prosecute misleading and fraudulent marketing practices; or (B) to develop educational materials and training aimed at reducing misleading and fraudulent marketing of financial products toward seniors; and (2) may establish such performance objectives, reporting requirements, and application procedures for States and State agencies receiving grants under this part as the Commission determines are necessary to carry out and assess the effectiveness of the program under this part. (b) Use of Grant Amounts- A grant under this part may be used (including through subgrants) by the State or the appropriate State agency designated by the State-- (1) to fund additional staff to identify, investigate, and prosecute	*(b) Grants to States for Enhanced Protection of Seniors From Being Misled by False Designations- The Office shall establish a program under which the Office may make grants to States or eligible entities--* *(1) to hire staff to identify, investigate, and prosecute (through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing;* *(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement officers, in order to identify salespersons and advisers who target seniors through the use of misleading designations;* *(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of salespersons and advisers who target seniors with the use of misleading designations;* *(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers in connection with the sale and marketing of financial products;* *(5) to provide educational materials and training to seniors to increase awareness and understanding of misleading or fraudulent marketing;*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
(through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing of financial products to seniors; (2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement in order to identify salespersons and advisers who target seniors through the use of misleading designations; (3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of those targeting seniors with the use of misleading designations; (4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers of financial products; (5) to provide educational materials and training to seniors to increase their awareness and understanding of designations; and (6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors. (c) Grant Requirements- (1) MAXIMUM- The amount of a grant under this part may not exceed $1,000,000 per fiscal year per State, if all requirements of paragraphs (2), (3), (4), and (5) are met. Such amount shall be limited to $250,000 per fiscal year per State in any case in which the State meets the requirements of-- (A) paragraphs (2) and (3), but not each of paragraphs (4) and (5); or (B) paragraphs (4) and (5), but not each of paragraphs (2) and (3). (2) STANDARD DESIGNATION RULES FOR SECURITIES- A State shall have adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice, which shall meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations, as in effect on the date of the enactment of this subtitle, or any successor thereto. (3) SUITABILITY RULES FOR SECURITIES- A State shall have adopted standard rules on the suitability requirements in the sale of securities, which shall, to the extent practicable, conform to the minimum requirements on suitability imposed by self-regulatory organization rules under the securities laws (as defined in section 3 of the Securities Exchange Act of 1934). (4) APPLICATION OF FIDUCIARY DUTY FOR PERSONALIZED INVESTMENT ADVICE ABOUT SECURITIES- Nothing in this section shall diminish in any	*(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and* *(7) to enhance provisions of State law to provide protection for seniors against misleading or fraudulent marketing.* *(c) Applications- A State or eligible entity desiring a grant under this section shall submit an application to the Office, in such form and in such a manner as the Office may determine, that includes--* *(1) a proposal for activities to protect seniors from misleading or fraudulent marketing that are proposed to be funded using a grant under this section, including--* *(A) an identification of the scope of the problem of misleading or fraudulent marketing in the State;* *(B) a description of how the proposed activities would--* *(i) protect seniors from misleading or fraudulent marketing in the sale of financial products, including by proactively identifying victims of misleading and fraudulent marketing who are seniors;* *(ii) assist in the investigation and prosecution of those using misleading or fraudulent marketing; and* *(iii) discourage and reduce cases of misleading or fraudulent marketing; and* *(C) a description of how the proposed activities would be coordinated with other State efforts; and* *(2) any other information, as the Office determines is appropriate.* *(d) Performance Objectives and Reporting Requirements- The Office may establish such performance objectives and reporting requirements for States and eligible entities receiving a grant under this section as the Office determines are necessary to carry out and assess the effectiveness of the program under this section.* *(e) Maximum Amount- The amount of a grant under this section may not exceed--* *(1) $500,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted rules--* *(A) on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
manner nor supersede the standard of conduct applicable to all brokers, dealers and investment advisers providing personalized investment advice about securities as set forth in section 7103 of this Act. (5) STANDARD DESIGNATION RULES FOR INSURANCE PRODUCTS- A State shall have adopted standard rules on the appropriate use of designations in the sale of insurance products, which shall meet or exceed minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, as in effect on the date of the enactment of this subtitle, or any successor thereto. (6) SUITABILITY AND SUPERVISION RULES FOR ANNUITY PRODUCTS- A State shall have adopted rules that govern suitability requirements in the sale of annuities which shall meet or exceed the minimum requirements established by the National Association of Insurance Commissioners Suitability in Annuity Transactions Model Regulation in effect on the date of the enactment of this Act, or any successor thereto. **SEC. 7704. APPLICATIONS.** To be eligible for a grant under this part, the State or appropriate State agency shall submit to the Commission a proposal to use the grant money to protect seniors from misleading or fraudulent marketing techniques in the offer and sale of financial products, which application shall-- (1) identify the scope of the problem; (2) describe how the proposed program will help to protect seniors from misleading or fraudulent marketing in the sale of financial products, including, at a minimum-- (A) by proactively identifying seniors who are victims of misleading and fraudulent marketing in the offer and sale of financial products; (B) how the proposed program can assist in the investigation and prosecution of those using misleading or fraudulent marketing in the offer and sale of financial products to seniors; and (C) how the proposed program can help discourage and reduce future cases of misleading or fraudulent marketing in the offer and sale of financial products to	*(B) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and* *(C) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); and* *(2) $100,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted--* *(A) rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto); or* *(B) rules--* *(i) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and* *(ii) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto).* *(f) Subgrants- A State or eligible entity that receives a grant under this section may make a subgrant, as the State or eligible entity determines is necessary to carry out the activities funded using a grant under this*	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
seniors; and (3) describe how the proposed program is to be integrated with other existing State efforts. **SEC. 7705. LENGTH OF PARTICIPATION.** A State receiving a grant under this part shall be provided assistance funds for a period of 3 years, after which the State may reapply for additional funding.	*section.* *(g) Reapplication- A State or eligible entity that receives a grant under this section may reapply for a grant under this section, notwithstanding the limitations on grant amounts under subsection (e).*	
SEC. 7706. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this part, $16,000,000 for each of the fiscal years 2011 through 2015.	*(h) Authorization of Appropriations- There are authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2011 through 2015.*	
PART 8--REGISTRATION OF MUNICIPAL FINANCIAL ADVISORS **SEC. 7801. MUNICIPAL FINANCIAL ADVISER REGISTRATION REQUIREMENT.** (a) In General- The Securities Exchange Act of 1934 (as amended by section 3204) is amended by inserting after section 15F (15 U.S.C. 78o-7) the following new section:		
**`SEC. 15G. MUNICIPAL FINANCIAL ADVISER REGISTRATION REQUIREMENT.**  `(a)(1)(A) It shall be unlawful for any person to make use of the mails or any means or instrumentality of interstate commerce to act as a municipal financial adviser unless such person is registered as a municipal financial adviser in accordance with subsection (b). `(B) Subparagraph (A) shall not apply to a natural person associated with a municipal financial adviser, as long as such adviser is registered in accordance with subsection (b) and is not a natural person. `(2) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this section any municipal financial adviser or class of municipal financial advisers specified in such rule or order. `(b)(1) A municipal financial adviser may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such municipal financial		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
adviser and any persons associated with such municipal financial adviser as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of the filing of such application (or within such longer period as to which the applicant consents), the Commission shall-- `(A) by order grant registration; or `(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents. The Commission shall grant such registration if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under paragraph (4).		
`(2) An application for registration of a municipal financial adviser to be formed or organized may be made by a municipal financial adviser to which the municipal financial adviser to be formed or organized is to be the successor. Such application, in such form as the Commission, by rule, may prescribe, shall contain such information and documents concerning the applicant, the successor, and any persons associated with the applicant or the successor, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. The grant or denial of registration to such an applicant shall be in accordance with the procedures set forth in paragraph (1) of this subsection. If the Commission grants such registration, the registration shall terminate on the 45th day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules and regulations as the Commission may prescribe, adopt the application for registration as its own. `(3) Any provision of this title (other than section 5 and subsection (a) of this section) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any registered municipal financial adviser or any person acting on behalf of such a municipal financial adviser, irrespective of any		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
use of the mails or any means or instrumentality of interstate commerce in connection therewith. `(4) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any municipal financial adviser if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such municipal financial adviser, whether prior or subsequent to becoming such, or any person associated with such municipal financial adviser, whether prior or subsequent to becoming so associated--		
`(A) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; `(B) has been convicted within 10 years preceding the filing of any application for registration or at any time thereafter of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the Commission finds-- `(i) involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense; `(ii) arises out of the conduct of the business of a municipal financial adviser, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank, insurance company, fiduciary, transfer agent, nationally recognized statistical rating organization, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.) or any substantially equivalent foreign statute or regulation; `(iii) involves the larceny, theft, robbery, extortion,		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or `(iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute;		
`(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a municipal financial adviser, investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, nationally recognized statistical rating organization, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security; `(D) has willfully violated any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or is unable to comply with any such provision; `(E) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this subparagraph, no person		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
shall be deemed to have failed reasonably to supervise any other person, if-- `(i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person; and `(ii) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with;		
`(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a municipal financial adviser; `(G) has been found by a foreign financial regulatory authority to have-- `(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein; `(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade; or `(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
person who commits such a violation, if such other person is subject to his supervision; or `(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that-- `(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or `(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.		
`(5) Pending final determination whether any registration under this subsection shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered municipal financial adviser may, upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered municipal financial adviser is no longer in existence or has ceased to do business as a municipal financial adviser, the Commission, by order, shall cancel the registration of such municipal financial adviser. `(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a municipal financial adviser, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, nationally recognized statistical rating organization, or municipal financial adviser, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person-- `(i) has committed or omitted any act, or is subject to an order or		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
finding, enumerated in subparagraph (A), (D), (E), (G), or (H) of paragraph (4) of this subsection; `(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or `(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). `(B) It shall be unlawful-- `(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a municipal financial adviser in contravention of such order; or `(ii) for any municipal financial adviser to permit such a person, without the consent of the Commission, to become or remain, a person associated with the municipal financial adviser in contravention of such order, if such municipal financial adviser knew, or in the exercise of reasonable care should have known, of such order.		
`(7) No registered municipal financial adviser shall act as such unless it meets such standards of operational capability and such municipal financial adviser and all natural persons associated with such municipal financial adviser meet such standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission shall establish such standards by rules and regulations, which may-- `(A) specify that all or any portion of such standards shall be applicable to any class of municipal financial advisers and persons associated with municipal financial advisers; `(B) require persons in any such class to pass tests prescribed in accordance with such rules and regulations, which tests shall, with respect to any class of partners, officers, or supervisory employees (which latter term may be defined by the Commission's rules and regulations) engaged in the management of the municipal financial adviser, include questions relating to bookkeeping, accounting, supervision of employees, maintenance of records, and other appropriate matters; and `(C) provide that persons in any such class other than municipal financial advisers and partners, officers, and supervisory employees of municipal financial advisers, may be qualified solely on the basis of compliance with such standards of training and such other qualifications as the Commission finds		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
appropriate. The Commission, by rule, may prescribe reasonable fees and charges to defray its costs in carrying out this paragraph, including, but not limited to, fees for any test administered by it or under its direction.		
`(c)(1)(A) No municipal financial adviser shall make use of the mails or any means or instrumentality of interstate commerce in connection with which such municipal financial adviser engages in any fraudulent, deceptive, or manipulative act or practice or violates such rules and regulations regarding conflicts of interest or fair practices, including but not limited to rules and regulations related to political contributions, as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets. `(B) The Commission shall, for the purposes of this paragraph as the Commission finds necessary or appropriate in the public interest or for the protection of investors, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative. `(2) If the Commission finds, after notice and opportunity for a hearing, that any person subject to the provisions of this section or any rule or regulation thereunder has failed to comply with any such provision, rule, or regulation in any material respect, the Commission may publish its findings and issue an order requiring such person, and any person who was a cause of the failure to comply due to an act or omission the person knew or should have known would contribute to the failure to comply, to comply, or to take steps to effect compliance, with such provision or such rule or regulation thereunder upon such terms and conditions and within such time as the Commission may specify in such order. `(d) Every registered municipal financial adviser shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such municipal financial adviser's business, to prevent the misuse in violation of this title, or the rules or regulations thereunder, of material, nonpublic information by such municipal financial adviser or any person associated with such municipal financial adviser. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this title (or the rules or regulations thereunder) of material, nonpublic information. `(e) A municipal financial adviser and any person associated with such municipal financial adviser shall be deemed to have a fiduciary duty to any municipal securities issuer for whom such municipal financial adviser acts as a municipal financial adviser. A municipal financial adviser may not engage in any act, practice, or course of business which		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
is not consistent with a municipal financial adviser's fiduciary duty. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts, practices, and courses of business as are not consistent with a municipal financial adviser's fiduciary duty to its clients.'. (b) Definition- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) (as amended by section 3201(6)) is amended by adding at the end the following new paragraphs:		
`(78) MUNICIPAL FINANCIAL ADVISER- `(A) The term `municipal financial adviser' means a person who, for compensation, engages in the business of-- `(i) providing advice to a municipal securities issuer with respect to-- `(I) the issuance or proposed issuance of securities, including any remarketing of municipal securities directly or indirectly by or on behalf of a municipal securities issuer; `(II) the investment of proceeds from securities issued by such municipal securities issuer; `(III) the hedging of any risks associated with subclause (I) or (II), including advice as to swap agreements (as defined in section 206A of the Gramm-Leach-Bliley Act regardless of whether the counterparties constitute eligible contract participants); or `(IV) preparation of disclosure documents in connection with the issuance, proposed issuance, or previous issuance of securities issued by a municipal securities issuer, including, without limitation, official statements and documents prepared in connection with a written agreement or contract for the benefit of holders of such securities described in section 240.15c2-12 of title 17, Code of Federal Regulations; `(ii) assisting a municipal securities issuer in		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
selecting or negotiating guaranteed investment contracts or other investment products; or `(iii) assisting any municipal securities issuer in the primary offering of securities not involving a public offering. `(B) Such term does not include-- `(i) an attorney, if the attorney is offering advice or providing services that are of a traditional legal nature; `(ii) a nationally recognized statistical rating organization to the extent it is involved in the process of developing credit ratings; `(iii) a registered broker-dealer when acting as an underwriter, as such term is defined in section 2(a)(11) of the Securities Act of 1933 (15 U.S.C. 77b(a)(11)); `(iv) a State or any political subdivision thereof; or `(v) the independent accountant that audits the financial statements of the municipal securities issuer.		
`(79) MUNICIPAL SECURITIES ISSUER- The term `municipal securities issuer' means-- `(A) any entity that has the ability to issue a security the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1986 and the regulations thereunder; or `(B) any person who receives the proceeds generated from the issuance of municipal securities. `(80) PERSON ASSOCIATED WITH A MUNICIPAL FINANCIAL ADVISER; ASSOCIATED PERSON OF A MUNICIPAL FINANCIAL ADVISER- The term `person associated with a municipal financial adviser' or `associated person of a municipal financial adviser' means any partner, officer, director, or branch manager of such municipal financial adviser (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such municipal financial adviser, or any employee of such municipal financial adviser, except that any person associated with a municipal financial adviser whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of section 15G(b) (other than paragraph (6) thereof).'.		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
SEC. 7802. CONFORMING AMENDMENTS. (a) Securities Exchange Act of 1934 - The Securities Exchange Act of 1934 is amended-- (1) in section 15(b)(4)(B)(ii) (15 U.S.C. 78o(b)(4)(B)(ii)), by inserting `municipal finance adviser,' after `nationally recognized statistical rating organization,'; (2) in section 15(b)(4)(C) (15 U.S.C. 78o(b)(4)(C)), by inserting `municipal finance adviser,' after `nationally recognized statistical rating organization,'; and (3) in section 17(a)(1) (15 U.S.C. 78q(a)(1)), by inserting `registered municipal financial adviser,' after `nationally recognized statistical rating organization,'. (b) Investment Company Act of 1940- The Investment Company Act of 1940 is amended-- (1) in section 2(a) (15 U.S.C. 80a-2(a)), by inserting at the end the following new paragraph: `(54) The term `municipal finance adviser' has the same meaning as in section 3 of the Securities Exchange Act of 1934.'; (2) in section 9(a)(1) (15 U.S.C. 80a-9(a)(1)), by inserting `municipal finance adviser,' after `credit rating agency,'; and (3) in section 9(a)(2) (15 U.S.C. 80a-9(a)(2)), by inserting `municipal finance adviser,' after `credit rating agency,'. (c) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 is amended-- (1) in section 202(a) (15 U.S.C. 80b-2(a)), by inserting at the end the following new paragraph: `(31) The term `municipal finance adviser' has the same meaning as in section 3 of the Securities Exchange Act of 1934.'; (2) in section 203(e)(2)(B) (15 U.S.C. 80b-3(e)(2)(B)), by inserting `municipal finance adviser,' after `credit rating agency,'; and (3) in section 203(e)(4) (15 U.S.C. 80b-3(e)(4)) is amended by inserting `municipal finance adviser,' after `credit rating agency,'.		
SEC. 7803. EFFECTIVE DATES. (a) In General- The amendments made by this part shall take effect 30 days after the date of the enactment of this subtitle. (b) Effective Date and Requirements for Regulations- Notwithstanding		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
subsection (a), the Securities and Exchange Commission shall, within 120 days after the date of the enactment of this subtitle, publish for notice and public comment such regulations as are initially required to implement this part, and shall take final action with respect to such regulations not later than 270 days after the date of enactment of this subtitle. (c) Registration Date- No person may continue to act as a municipal financial adviser, as such term is defined in section 3(a)(65) of the Securities Exchange Act of 1934 (as added by this part), after 30 days after the date the regulations described in subsection (b) become effective unless such person has been registered as required by the amendment made by section 7701 of this part.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE VI--FEDERAL INSURANCE OFFICE	***TITLE V—INSURANCE*** ***Subtitle A--Office of National Insurance***	
SEC. 8001. SHORT TITLE. This title may be cited as the `Federal Insurance Office Act of 2009'.	***SEC. 501. SHORT TITLE.*** *This subtitle may be cited as the `Office of National Insurance Act of 2010'.*	
SEC. 8002. FEDERAL INSURANCE OFFICE ESTABLISHED. (a) Establishment of Office- Subchapter I of chapter 3 of title 31, United States Code, is amended-- (1) by transferring and inserting section 312 after section 313; (2) by redesignating sections 313 and 312 (as so transferred) as sections 312 and 315, respectively; and (3) by inserting after section 312 (as so redesignated) the following new sections:	***SEC. 502. ESTABLISHMENT OF OFFICE OF NATIONAL INSURANCE.*** *(a) Establishment of Office- Subchapter I of chapter 3 of subtitle I of title 31, United States Code, is amended--* *(1) by redesignating section 312 as section 315;* *(2) by redesignating section 313 as section 312; and* *(3) by inserting after section 312 (as so redesignated) the following new sections:*	
**`SEC. 313. FEDERAL INSURANCE OFFICE.**  `(a) Establishment of Office- There is established the Federal Insurance Office as an office in the Department of the Treasury.	***`SEC. 313. OFFICE OF NATIONAL INSURANCE.***  *`(a) Establishment- There is established within the Department of the Treasury the Office of National Insurance.*	
`(b) Leadership- The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of such Director shall be a career reserved position in the Senior Executive Service.	*`(b) Leadership- The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined under section 3132 of title 5, United States Code.*	
`(c) Functions- `(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY- The Office shall have the authority, pursuant to the direction of the Secretary, as follows: `(A) To monitor the insurance industry to gain expertise. `(B) To identify issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system. `(C) To monitor the extent to which traditionally	*`(c) Functions-* *`(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY- The Office, pursuant to the direction of the Secretary, shall have the authority--* *`(A) to monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;* *`(B) to recommend to the Financial Stability Oversight Council that it designate an insurer,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
underserved communities and consumers, minorities (as such term is defined in 24 section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)), and low- and moderate-income persons have access to affordable insurance products regarding all lines of insurance, except health insurance. `(D) To recommend to the Financial Services Oversight Council that it designate an insurer, including its affiliates, as an entity subject to stricter standards. `(E) To assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note). `(F) To coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States as appropriate in the International Association of Insurance Supervisors or any successor organization and assisting the Secretary in negotiating covered agreements. `(G) To determine, in accordance with subsection (f), whether State insurance measures are preempted by covered agreements. `(H) To consult with the States regarding insurance matters of national importance and prudential insurance matters of international importance. `(I) To perform such other related duties and authorities as may be assigned to it by the Secretary. `(2) ADVISORY FUNCTIONS- The Office shall advise the Secretary on major domestic and prudential international insurance policy issues. `(3) ADVISORY CAPACITY ON COUNCIL- The Director shall serve in an advisory capacity on the Financial Services Oversight Council established under the Financial Stability Improvement Act of 2009.	*including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors pursuant to title I of the Restoring American Financial Stability Act of 2010;* *`(C) to assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);* *`(D) to coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity) and assisting the Secretary in negotiating International Insurance Agreements on Prudential Measures;* *`(E) to determine, in accordance with subsection (f), whether State insurance measures are preempted by International Insurance Agreements on Prudential Measures;* *`(F) to consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance; and* *`(G) to perform such other related duties and authorities as may be assigned to the Office by the Secretary.* *`(2) ADVISORY FUNCTIONS- The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.*	
`(d) Scope- The authority of the Office shall extend to all lines of insurance except health insurance, as determined by the Secretary in coordination with the Secretary of the Department of Health and Human Services based on section 2791 of the Public Health Service	*`(d) Scope- The authority of the Office shall extend to all lines of insurance except health insurance, as such insurance is determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91), and crop insurance, as established by the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Act (42 U.S.C. 300gg-91).	*Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).*	
`(e) Gathering of Information- `(1) GENERAL- In carrying out its functions under subsection (c), the Office may request, receive, and collect data, including financial data, and information on and from the insurance industry and insurers, enter into information-sharing agreements, analyze and disseminate data and information, and issue reports regarding all lines of insurance except health insurance. `(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES- Except as provided in paragraph (3) and subject to paragraph (4), the Office may require an insurer, or affiliate of an insurer, to submit such data or information that the Office may reasonably require in carrying out its functions under subsection (c). Notwithstanding subsection (p) and for the purposes of this paragraph only, the term `insurer' means any entity that writes insurance or reinsures risks and issues contracts or policies in one or more States. `(3) EXCEPTION FOR SMALL INSURERS- Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that may be established by the Office by order or rule. Such threshold shall be appropriate to the particular request and need for the data or information. `(4) ADVANCE COORDINATION- Before collecting any data or information under paragraph (2) from an insurer, or affiliate of an insurer, the Office shall coordinate with each relevant Federal agency and State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) and any publicly available sources to determine if the information to be collected is available from, or may be obtained in a timely manner by, such Federal agency or State insurance regulator, individually or collectively, other regulatory agency, or publicly available sources. If the Director determines that such data or information is available, or may be obtained in a timely manner, from such an agency, regulator, regulatory agency, or source, the Director shall obtain the data or information from such agency, regulator, regulatory agency, or source. If the Director determines that such data or information is not so available, the Director may collect such data or information from an insurer (or affiliate) only if the Director complies with	*`(e) Gathering of Information-* *`(1) IN GENERAL- In carrying out the functions required under subsection (c), the Office may--* *`(A) receive and collect data and information on and from the insurance industry and insurers;* *`(B) enter into information-sharing agreements;* *`(C) analyze and disseminate data and information; and* *`(D) issue reports regarding all lines of insurance except health insurance.* *`(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES-* *`(A) IN GENERAL- Except as provided in paragraph (3), the Office may require an insurer, or any affiliate of an insurer, to submit such data or information as the Office may reasonably require in carrying out the functions described under subsection (c).* *`(B) RULE OF CONSTRUCTION- Notwithstanding any other provision of this section, for purposes of subparagraph (A), the term `insurer' means any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States.* *`(3) EXCEPTION FOR SMALL INSURERS- Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that the Office may establish, whether by order or rule.* *`(4) ADVANCE COORDINATION- Before collecting any data or information under paragraph (2) from an insurer, or any affiliate of an insurer, the Office shall coordinate with each relevant State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) to determine if the information to be collected is available from, or may be obtained in a timely manner by, such State insurance regulator, individually or collectively, another regulatory agency, or publicly available sources. Notwithstanding any other provision of law, each such relevant State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the requirements of subchapter I of chapter 35 of title 44, United States Code (relating to Federal information policy; commonly known as the Paperwork Reduction Act) in collecting such data or information. Notwithstanding any other provision of law, each such relevant Federal agency and State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information. `(5) CONFIDENTIALITY- `(A) The submission of any non-publicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject. `(B) Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any non-publicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office. `(C) Any data or information obtained by the Office may be made available to State insurance regulators individually or collectively through an information sharing agreement that shall comply with applicable Federal law and that shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject. `(D) Section 552 of title 5, United States Code, shall apply to any data or information submitted by an insurer or affiliate of an insurer.	*`(5) CONFIDENTIALITY-* *`(A) RETENTION OF PRIVILEGE- The submission of any nonpublicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.* *`(B) CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS- Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any nonpublicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.* *`(C) INFORMATION SHARING AGREEMENT- Any data or information obtained by the Office may be made available to State insurance regulators, individually or collectively, through an information sharing agreement that--* *`(i) shall comply with applicable Federal law; and* *`(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.* *`(D) AGENCY DISCLOSURE REQUIREMENTS- Section 552 of title 5, United States Code, shall apply to any data or information submitted to the Office by an insurer or an affiliate of an insurer.* *`(6) SUBPOENAS AND ENFORCEMENT- The Director shall have the power to require by subpoena the production of the data or information requested under paragraph (2), but only upon a written finding by the Director that such data or information is required to carry out the functions described under subsection (c) and that the Office has coordinated with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	such regulator or agency as required under paragraph (4). Subpoenas shall bear the signature of the Director and shall be served by any person or class of persons designated by the Director for that purpose. In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.	
`(f) Preemption of State Insurance Measures- `(1) STANDARD- A State insurance measure shall be preempted pursuant to this section or section 314 if, and only to the extent that the Director determines, in accordance with this subsection, that the measure-- `(A) directly results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to a covered agreement than a United States insurer domiciled, licensed, admitted, or otherwise authorized in that State; and `(B) is inconsistent with a covered agreement that is entered into on a date after the date of the enactment of this Act. `(2) DETERMINATION- `(A) NOTICE OF POTENTIAL INCONSISTENCY- Before making any determination of inconsistency, the Director shall-- `(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption; `(ii) notify and consult with the United States Trade Representative regarding any potential inconsistency or preemption; `(iii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable covered agreement; `(iv) provide interested parties a reasonable opportunity to submit written comments to the Office; `(v) consider the effect of preemption on-- `(I) the protection of policyholders	*`(f) Preemption of State Insurance Measures-* *`(1) STANDARD- A State insurance measure shall be preempted if, and only to the extent that the Director determines, in accordance with this subsection, that the measure--* *`(A) results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to an international insurance agreement on prudential measures than a United States insurer domiciled, licensed, or otherwise admitted in that State; and* *`(B) is inconsistent with an International Insurance Agreement on Prudential Measures.* *`(2) DETERMINATION-* *`(A) NOTICE OF POTENTIAL INCONSISTENCY- Before making any determination under paragraph (1), the Director shall--* *`(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;* *`(ii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable International Insurance Agreement on Prudential Measures;* *`(iii) provide interested parties a reasonable opportunity to submit written comments to the Office; and* *`(iv) consider any comments received.* *`(B) SCOPE OF REVIEW- For purposes of this subsection, the determination of the Director regarding State insurance measures shall be limited*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and policy claimants; `(II) the maintenance of the safety, soundness, integrity, and financial responsibility of any entity involved in the business of insurance or insurance operations; `(III) ensuring the integrity and stability of the United States financial system; and `(IV) the creation of a gap or void in financial or market conduct regulation of any entity involved in the business of insurance or insurance operations in the United States; and `(vi) consider any comments received. The Director shall provide the notifications required under clauses (i), (ii), and (iii) contemporaneously. `(B) SCOPE OF REVIEW- For purposes of this section, the Director's determination of State insurance measures shall be limited to the subject matter of the prudential measures applicable to the business of insurance contained within the covered agreement involved. `(C) NOTICE OF DETERMINATION OF INCONSISTENCY- Upon making any determination of inconsistency, the Director shall-- `(i) notify the appropriate State of the determination and the extent of the inconsistency; `(ii) establish a reasonable period of time, which shall not be shorter than 90 days, before the determination shall become effective; and `(iii) notify the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the inconsistency. `(3) NOTICE OF EFFECTIVENESS- Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for the determination of inconsistency still exists, the determination shall become effective and the Director shall--	*to the subject matter contained within the international insurance agreement on prudential measure involved.* *`(C) NOTICE OF DETERMINATION OF INCONSISTENCY- Upon making any determination under paragraph (1), the Director shall--* *`(i) notify the appropriate State of the determination and the extent of the inconsistency;* *`(ii) establish a reasonable period of time, which shall not be less than 30 days, before the determination shall become effective; and* *`(iii) notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the inconsistency.* *`(3) NOTICE OF EFFECTIVENESS- Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for such determination still exists, the determination shall become effective and the Director shall--* *`(A) cause to be published a notice in the Federal Register that the preemption has become effective, as well as the effective date; and* *`(B) notify the appropriate State.* *`(4) LIMITATION- No State may enforce a State insurance measure to the extent that such measure has been preempted under this subsection.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(A) cause to be published notice in the Federal Register that the preemption has become effective, as well as the effective date; and `(B) notify the appropriate State. `(4) LIMITATION- No State may enforce a State insurance measure to the extent that it has been preempted under this subsection.		
`(g) Applicability of Administrative Procedure Act- Determinations of inconsistency pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review), except that in any action for judicial review of a determination of inconsistency, the court shall determine the matter de novo.	*`(g) Applicability of Administrative Procedures Act- Determinations of inconsistency made pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review).*	
`(h) Regulations, Policies, and Procedures- The Secretary may issue orders, regulations, policies and procedures to implement this section.	*`(h) Regulations, Policies, and Procedures- The Secretary may issue orders, regulations, policies, and procedures to implement this section.*	
`(i) Consultation- The Director shall consult with State insurance regulators, individually and collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.	*`(i) Consultation- The Director shall consult with State insurance regulators, individually or collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.*	
`(j) Savings Provisions- Nothing in this section shall-- `(1) preempt any State insurance measure that governs any insurer's rates, premiums, underwriting or sales practices, or State coverage requirements for insurance, or to the application of the antitrust laws of any State to the business of insurance; `(2) preempt any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure directly results in less favorable treatment of a non-United States insurer than a United States insurer; `(3) be construed to alter, amend, or limit the responsibility of the Consumer Financial Protection Agency; `(4) preempt any State insurance measure because of inconsistency with any agreement that is not a covered agreement (as such term in defined in subsection (p)); or `(5) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.	*`(j) Savings Provisions- Nothing in this section shall--* *`(1) preempt--* *`(A) any State insurance measure that governs any insurer's rates, premiums, underwriting, or sales practices;* *`(B) any State coverage requirements for insurance;* *`(C) the application of the antitrust laws of any State to the business of insurance; or* *`(D) any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure results in less favorable treatment of a non-United State insurer than a United States insurer;* *`(2) be construed to alter, amend, or limit any provision of the Consumer Financial Protection Agency Act of 2010; or* *`(3) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.*	
`(k) Retention of Existing State Regulatory Authority- Nothing in this	*`(k) Retention of Existing State Regulatory Authority- Nothing in this*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
section or section 314 shall be construed to establish a general supervisory or regulatory authority of the Office or the Department of the Treasury over the business of insurance.	*section or section 314 shall be construed to establish or provide the Office or the Department of the Treasury with general supervisory or regulatory authority over the business of insurance.*	
`(l) Retention of Authority of Federal Financial Regulatory Agencies- Nothing in this section or section 314 shall be construed to limit the authority of any Federal financial regulatory agency, including the authority to develop and coordinate policy, negotiate, and enter into agreements with foreign governments, authorities, regulators, and multi-national regulatory committees and to preempt State measures to affect uniformity with international regulatory agreements.		
`(m) Retention of Authority of United States Trade Representative- Nothing in this section or section 314 shall be construed to affect the authority of the Office of the United States Trade Representative pursuant to section 141 of the Trade Act of 1974 (19 U.S.C. 2171) or any other provision of law, including authority over the development and coordination of United States international trade policy and the administration of the United States trade agreements program.		
`(n) Reports to Congress- `(1) ANNUAL REPORT- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate on the insurance industry, any actions taken by the office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures). `(2) OTHER REPORTS- The Director shall submit to the President and the Committees referred to in paragraph (1) any other information or reports as deemed relevant by the Director or as requested by the Chairman or Ranking Member of any of such Committees.	*`(l) Annual Report to Congress- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the insurance industry, any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures), and any other information as deemed relevant by the Director or as requested by such Committees.*	
`(o) Use of Existing Resources- To carry out this section, the Office may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary and the Secretary shall dedicate specific personnel to the Office.	*`(n) Use of Existing Resources- To carry out this section, the Office may employ personnel, facilities, and any other resource of the Department of the Treasury available to the Secretary.*	
`(p) Definitions- For purposes of this section and section 314, the following definitions shall apply:	*`(o) Definitions- In this section and section 314, the following definitions shall apply:*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) AFFILIATE- The term `affiliate' means, with respect to an insurer, any person that controls, is controlled by, or is under common control with the insurer. `(2) COVERED AGREEMENT- The term `covered agreement' means a written bilateral or multilateral recognition agreement that-- `(A) is entered into between the United States and one or more foreign governments, authorities, or regulatory entities; and `(B) provides for recognition of prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for insurance or reinsurance consumers that is substantially equivalent to the level of protection achieved under State insurance or reinsurance regulation. `(3) DETERMINATION OF INCONSISTENCY- The term `determination of inconsistency' means a determination that a State insurance measure is preempted under subsection (f). `(4) FEDERAL FINANCIAL REGULATORY AGENCY- The term `Federal financial regulatory agency' means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, or the National Credit Union Administration. `(5) INSURER- The term `insurer' means any person engaged in the business of insurance, including reinsurance. `(6) NON-UNITED STATES INSURER- The term `non-United States insurer' means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer. `(7) OFFICE- The term `Office' means the Federal Insurance Office established by this section. `(8) SECRETARY- The term `Secretary' means the Secretary of the Treasury. `(9) STATE- The term `State' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.	*`(1) AFFILIATE- The term `affiliate' means, with respect to an insurer, any person who controls, is controlled by, or is under common control with the insurer.* *`(2) INSURER- The term `insurer' means any person engaged in the business of insurance, including reinsurance.* *`(3) INTERNATIONAL INSURANCE AGREEMENT ON PRUDENTIAL MEASURES- The term `International Insurance Agreement on Prudential Measures' means a written bilateral or multilateral agreement entered into between the United States and a foreign government, authority, or regulatory entity regarding prudential measures applicable to the business of insurance or reinsurance.* *`(4) NON-UNITED STATES INSURER- The term `non-United States insurer' means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.* *`(5) OFFICE- The term `Office' means the Office of National Insurance established by this section.* *`(6) STATE INSURANCE MEASURE- The term `State insurance measure' means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.* *`(7) STATE INSURANCE REGULATOR- The term `State insurance regulator' means any State regulatory authority responsible for the supervision of insurers.* *`(8) UNITED STATES INSURER- The term `United States insurer' means--* *`(A) an insurer that is organized under the laws of a State; or* *`(B) a United States branch of a non-United States insurer.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(10) STATE INSURANCE MEASURE- The term `State insurance measure' means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance. `(11) STATE INSURANCE REGULATOR- The term `State insurance regulator' means any State regulatory authority responsible for the supervision of insurers. `(12) UNITED STATES INSURER- The term `United States insurer' means-- `(A) an insurer that is organized under the laws of a State; or `(B) a United States branch of a non-United States insurer.		
`(q) Authorization of Appropriations- There are authorized to be appropriated for the Office such sums as may be necessary for each fiscal year.	*`(p) Authorization of Appropriations- There are authorized to be appropriated for the Office for each fiscal year such sums as may be necessary.*	
**`SEC. 314. COVERED AGREEMENTS.**  `(a) Authority- The Secretary and the United States Trade Representative are authorized, jointly, to negotiate and enter into covered agreements on behalf of the United States	***`SEC. 314. INTERNATIONAL INSURANCE AGREEMENTS ON PRUDENTIAL MEASURES.***  *`(a) In General- The Secretary of the Treasury is authorized to negotiate and enter into International Insurance Agreements on Prudential Measures on behalf of the United States.*	
`(b) Requirements for Consultation With Congress- `(1) IN GENERAL- Before initiating negotiations to enter into a covered agreement under subsection (a), during such negotiations, and before entering into any such agreement, the Secretary and the United States Trade Representative shall jointly consult with the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate. `(2) SCOPE- The consultation described in paragraph (1) shall include consultation with respect to-- `(A) the nature of the agreement; `(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of section 313 and this section; and `(C) the implementation of the agreement, including	*`(b) Savings Provision- Nothing in this section or section 313 shall be construed to affect the development and coordination of United States international trade policy or the administration of the United States trade agreements program. It is to be understood that the negotiation of International Insurance Agreements on Prudential Measures under such sections is consistent with the requirement of this subsection.* *`(c) Consultation- The Secretary shall consult with the United States Trade Representative on the negotiation of International Insurance Agreements on Prudential Measures, including prior to initiating and concluding any such agreements.'.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the general effect of the agreement on existing State laws. `(c) Submission and Layover Provisions- A covered agreement under subsection (a) may enter into force with respect to the United States only if-- `(1) the Secretary and the United States Trade Representative jointly submit to the congressional committees specified in subsection (b)(1), on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement; and `(2) a period of 90 calendar days beginning on the date on which the copy of the final legal text of the agreement is submitted to the congressional committees under paragraph (1) has expired.'.		
(b) Duties of Secretary- Section 321(a) of title 31, United States Code, is amended-- (1) in paragraph (7), by striking `and' at the end; (2) in paragraph (8)(C), by striking the period at the end and inserting `; and'; and (3) by adding at the end the following new paragraph: `(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.'.	*(b) Duties of Secretary- Section 321(a) of title 31, United States Code, is amended--* *(1) in paragraph (7), by striking `; and' and inserting a semicolon;* *(2) in paragraph (8)(C), by striking the period at the end and inserting `; and'; and* *(3) by adding at the end the following new paragraph:* *`(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.'.*	
(c) Clerical Amendment- The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items: `Sec. 312. Terrorism and Financial Intelligence. `Sec. 313. Federal Insurance Office. `Sec. 314. Covered agreements. `Sec. 315. Continuing in office.'.	*(c) Clerical Amendment- The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:* *`Sec. 312. Terrorism and financial intelligence.* *`Sec. 313. Office of National Insurance.* *`Sec. 314. International insurance agreements on prudential measures.* *`Sec. 315. Continuing in office.'.*	
SEC. 8003. REPORT ON GLOBAL REINSURANCE MARKET. Not later than September 30, 2011, the Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Affairs of the Senate a report describing the breadth and scope of the global reinsurance market and the critical role such market plays in supporting insurance in the United States.		
SEC. 8004. STUDY ON MODERNIZATION AND IMPROVEMENT OF INSURANCE REGULATION IN THE UNITED STATES. (a) Study- The Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall conduct a study on how to modernize and improve the system of insurance regulation in the United States. Such study shall include consideration of the following: (1) Effective systemic risk regulation with respect to insurance. (2) Strong capital standards and an appropriate match between capital allocation and liabilities for all risk. (3) Meaningful and consistent consumer protection for insurance products and practices. (4) Increased national uniformity through either a Federal charter or effective action by the States. (5) Improved regulation of insurance companies and affiliates on a consolidated basis, including affiliates outside of the traditional insurance business. (6) International coordination. (7) Geographic disparities in access to and cost of insurance products. (b) Report- Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing-- (1) the results of the study conducted under subsection (a); and (2) any Federal or State legislative, administrative, or regulatory recommendations that the Director considers appropriate with respect to such study to modernize and improve the system of insurance regulation in the United States. (c) Consultation- In carrying out subsections (a) and (b), the Director shall consult with State insurance commissioners, consumer organizations, representatives of the insurance industry, policyholders, and other persons, as the Director considers appropriate.	***SEC. 502*** *amending Subchapter I of chapter 3 of subtitle I of title 31, United States Code* ***`SEC. 313. OFFICE OF NATIONAL INSURANCE.***  *`(m) Study and Report on Regulation of Insurance-* *`(1) IN GENERAL- Not later than 18 months after the date of enactment of this section, the Director shall conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States.* *`(2) CONSIDERATIONS- The study and report required under paragraph (1) shall be based on and guided by the following considerations:* *`(A) Systemic risk regulation with respect to insurance.* *`(B) Capital standards and the relationship between capital allocation and liabilities, including standards relating to liquidity and duration risk.* *`(C) Consumer protection for insurance products and practices, including gaps in state regulation.* *`(D) The degree of national uniformity of state insurance regulation.* *`(E) The regulation of insurance companies and affiliates on a consolidated basis.* *`(F) International coordination of insurance regulation.* *`(3) ADDITIONAL FACTORS- The study and report required under paragraph (1) shall also examine the following factors:* *`(A) The costs and benefits of potential Federal regulation of insurance across various lines of insurance (except health insurance).* *`(B) The feasibility of regulating only certain lines of insurance at the Federal level, while leaving other lines of insurance to be regulated at the State level.* *`(C) The ability of any potential Federal regulation or Federal regulators to eliminate or minimize regulatory arbitrage.* *`(D) The impact that developments in the regulation of insurance in foreign jurisdictions might have on the potential Federal regulation of insurance.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(E) The ability of any potential Federal regulation or Federal regulator to provide robust consumer protection for policyholders.* *`(F) The potential consequences of subjecting insurance companies to a Federal resolution authority, including the effects of any Federal resolution authority-- *`(i) on the operation of State insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority;* *`(ii) on policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims;* *`(iii) in the case of life insurance companies, the loss of the special status of separate account assets and separate account liabilities; and* *`(iv) on the international competitiveness of insurance companies.* *`(G) Such other factors as the Director determines necessary or appropriate, consistent with the principles set forth in paragraph (2).* *`(4) REQUIRED RECOMMENDATIONS- The study and report required under paragraph (1) shall also contain any legislative, administrative, or regulatory recommendations, as the Director determines appropriate, to carry out or effectuate the findings set forth in such report.* *`(5) CONSULTATION- With respect to the study and report required under paragraph (1), the Director shall consult with the National Association of Insurance Commissioners, consumer organizations, representatives of the insurance industry and policyholders, and other organizations and experts, as appropriate.*	
SEC. 8005. SENSE OF CONGRESS REGARDING SIMPLIFIED MORTGAGE CONTRACT SUMMARIES. It is the sense of Congress that mortgage lenders should provide loan applicants with a simplified summary of their loan contracts, including an easy-to-read list of the basic loan terms, payment information, the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
existence of prepayment penalties or balloon payments, and escrow information.f		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE VII--MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT **SEC. 9000. SHORT TITLE; DESIGNATION AS ENUMERATED CONSUMER LAW.** (a) Short Title- This title may be cited as the `Mortgage Reform and Anti-Predatory Lending Act'. (b) Designation as Enumerated Consumer Law Under the Purview of the Consumer Financial Protection Agency- Subtitles A, B, C, and E and sections 9501, 9502, and 9506, and the amendments made by such subtitles and sections, shall be enumerated consumer laws, as defined in section 4002(16), and come under the purview of the Consumer Financial Protection Agency for purposes of title IV, including the transfer of functions and personnel under subtitle F of title IV and the savings provisions of such subtitle.		
Subtitle A--Residential Mortgage Loan Origination Standards **SEC. 9001. DEFINITIONS.** Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection: `(cc) Definitions Relating to Mortgage Origination and Residential Mortgage Loans- `(1) COMMISSION- Unless otherwise specified, the term `Commission' means the Federal Trade Commission. `(2) FEDERAL BANKING AGENCIES- The term `Federal banking agencies' means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board. All rule writing by the `Federal banking agencies' as designated by the Mortgage Reform and Anti-Predatory Lending Act will be coordinated through the Financial Institutions Examination Council in consultation with the Chairman of the State Liaison Committee.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(3) MORTGAGE ORIGINATOR- The term `mortgage originator'-- `(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain-- `(i) takes a residential mortgage loan application; `(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or `(iii) offers or negotiates terms of a residential mortgage loan; `(B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A); `(C) does not include any person who is (i) not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph, or (ii) an employee of a retailer of manufactured homes who is not described in clause (i) or (iii) of subparagraph (A) and who does not advise a consumer on loan terms (including rates, fees, and other costs); `(D) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated for performing such brokerage activities by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator; `(E) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 1 property in any 36-month period, provided that such loan-- `(i) is fully amortizing; `(ii) is with respect to a sale for which the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan; `(iii) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and `(iv) meets any other criteria the Federal banking agencies may prescribe; and `(F) does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a residential mortgage loan for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind. `(4) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY- The term `Nationwide Mortgage Licensing System and Registry' has the same meaning as in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. `(5) OTHER DEFINITIONS RELATING TO MORTGAGE ORIGINATOR- For purposes of this subsection, a person `assists a consumer in obtaining or applying to obtain a residential mortgage loan' by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan. `(6) RESIDENTIAL MORTGAGE LOAN- The term `residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or, for purposes of sections 129B and 129C and section 128(a) (16), (17), and (18), and 128(f) and any regulations promulgated thereunder, an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code. `(7) SECRETARY- The term `Secretary', when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Urban Development. `(8) SECURITIZATION VEHICLE- The term `securitization vehicle' means a trust, corporation, partnership, limited liability entity, special purpose entity, or other structure that-- `(A) is the issuer, or is created by the issuer, of mortgage pass-through certificates, participation certificates, mortgage-backed securities, or other similar securities backed by a pool of assets that includes residential mortgage loans; and `(B) holds such loans. `(9) SECURITIZER- The term `securitizer' means the person that transfers, conveys, or assigns, or causes the transfer, conveyance, or assignment of, residential mortgage loans, including through a special purpose vehicle, to any securitization vehicle, excluding any trustee that holds such loans solely for the benefit of the securitization vehicle. `(10) SERVICER- The term `servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974.'.		
SEC. 9002. RESIDENTIAL MORTGAGE LOAN ORIGINATION. (a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A the following new section:		
**`Sec. 129B. Residential mortgage loan origination** `(a) Finding and Purpose- `(1) FINDING- The Congress finds that economic stabilization would be enhanced by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit, while ensuring that responsible, affordable mortgage credit remains available to consumers. `(2) PURPOSE- It is the purpose of this section and section 129C to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive.		
`(b) Duty of Care-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) STANDARD- Subject to regulations prescribed under this subsection, each mortgage originator shall, in addition to the duties imposed by otherwise applicable provisions of State or Federal law-- `(A) be qualified and, when required, registered and licensed as a mortgage originator in accordance with applicable State or Federal law, including the Secure and Fair Enforcement for Mortgage Licensing Act of 2008; `(B) with respect to each consumer seeking or inquiring about a residential mortgage loan, diligently work to present the consumer with a range of residential mortgage loan products for which the consumer likely qualifies and which are appropriate to the consumer's existing circumstances, based on information known by, or obtained in good faith by, the originator; `(C) make full, complete, and timely disclosure to each such consumer in writing, the receipt and understanding of which shall be acknowledged by the signature of the mortgage originator and the consumer, of-- `(i) the comparative costs and benefits of each residential mortgage loan product offered, discussed, or referred to by the originator (and such comparative costs and benefits for each such product shall be presented side by side and the disclosures for each such product shall have equal prominence); `(ii) the nature of the originator's relationship to the consumer (including the cost of the services to be provided by the originator and a statement that the mortgage originator is or is not acting as an agent for the consumer, as the case may be); and `(iii) any relevant conflicts of interest between the originator and the consumer; `(D) certify to the creditor, with respect to any transaction involving a residential mortgage loan, that the mortgage originator has fulfilled all requirements applicable to the originator under this section with respect to the transaction; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(E) include on all loan documents any unique identifier of the mortgage originator provided by the Nationwide Mortgage Licensing System and Registry. `(2) CLARIFICATION OF EXTENT OF DUTY TO PRESENT RANGE OF PRODUCTS AND APPROPRIATE PRODUCTS- `(A) NO DUTY TO OFFER PRODUCTS FOR WHICH ORIGINATOR IS NOT AUTHORIZED TO TAKE AN APPLICATION- Paragraph (1)(B) shall not be construed as requiring-- `(i) a mortgage originator to present to any consumer any specific residential mortgage loan product that is offered by a creditor which does not accept consumer referrals from, or consumer applications submitted by or through, such originator; or `(ii) a creditor to offer products that the creditor does not offer to the general public. `(B) APPROPRIATE LOAN PRODUCT- For purposes of paragraph (1)(B), a residential mortgage loan shall be presumed to be appropriate for a consumer if-- `(i) the mortgage originator determines in good faith, based on then existing information and without undergoing a full underwriting process, that the consumer has a reasonable ability to repay and, in the case of a refinancing of an existing residential mortgage loan, receives a net tangible benefit, as determined in accordance with regulations prescribed under subsections (a) and (b) of section 129C; and `(ii) the loan does not have predatory characteristics or effects (such as equity stripping and excessive fees and abusive terms) as determined in accordance with regulations prescribed under paragraph (4). `(3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as-- `(A) creating an agency or fiduciary relationship between a mortgage originator and a consumer if the originator does not hold himself or herself out as such an agent or fiduciary; or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(B) restricting a mortgage originator from holding himself or herself out as an agent or fiduciary of a consumer subject to any additional duty, requirement, or limitation applicable to agents or fiduciaries under any Federal or State law. `(4) REGULATIONS- `(A) IN GENERAL- The Federal banking agencies, in consultation with the Secretary, and the Commission, shall jointly prescribe regulations to-- `(i) further define the duty established under paragraph (1); `(ii) implement the requirements of this subsection; `(iii) establish the time period within which any disclosure required under paragraph (1) shall be made to the consumer; and `(iv) establish such other requirements for any mortgage originator as such regulatory agencies may determine to be appropriate to meet the purposes of this subsection. `(B) COMPLEMENTARY AND NONDUPLICATIVE DISCLOSURES- The agencies referred to in subparagraph (A) shall endeavor to make the required disclosures to consumers under this subsection complementary and nonduplicative with other disclosures for mortgage consumers to the extent such efforts-- `(i) are practicable; and `(ii) do not reduce the value of any such disclosure to recipients of such disclosures. `(5) COMPLIANCE PROCEDURES REQUIRED- The Federal banking agencies shall prescribe regulations requiring depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions, the subsidiaries of such institutions, and the employees of such institutions or subsidiaries with the requirements of this section and the registration procedures established under section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.'.		
(b) Clerical Amendment- The table of sections for chapter 2 of the Truth		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
in Lending Act is amended by inserting after the item relating to section 129 the following new items: `129A. Fiduciary duty of servicers of pooled residential mortgages. `129B. Residential mortgage loan origination.'.		
SEC. 9003. PROHIBITION ON STEERING INCENTIVES. Section 129B of the Truth in Lending Act (as added by section 102(a)) is amended by inserting after subsection (b) the following new subsection:	***SEC. 1073. PROHIBITED PAYMENTS TO MORTGAGE ORIGINATORS.*** *Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (j) the following:*	
`(c) Prohibition on Steering Incentives- `(1) IN GENERAL- For any mortgage loan, the total amount of direct and indirect compensation from all sources permitted to a mortgage originator may not vary based on the terms of the loan (other than the amount of the principal).	*`(k) Prohibition on Steering Incentives-* *`(1) IN GENERAL- For any consumer credit transaction secured by real property or a dwelling, no loan originator shall receive from any person and no person shall pay to a loan originator, directly or indirectly, compensation that varies based on the terms of the loan (other than the amount of the principal).*	
`(2) RESTRUCTURING OF FINANCING ORIGINATION FEE- `(A) IN GENERAL- For any mortgage loan, a mortgage originator may not arrange for a consumer to finance through rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or mortgage originator. `(B) EXCEPTION- Notwithstanding paragraph subparagraph (A), a mortgage originator may arrange for a consumer to finance through rate an origination fee or cost if-- `(i) the mortgage originator does not receive any other compensation from the consumer except the compensation that is financed through rate; and `(ii) the mortgage is a qualified mortgage.	*`(2) RESTRUCTURING OF FINANCING ORIGINATION FEE-* *`(A) IN GENERAL- For any consumer credit transaction secured by real property or a dwelling, a loan originator may not arrange for a consumer to finance through the rate any origination fee or cost except bona fide third party settlement charges not retained by the creditor or loan originator.* *`(B) EXCEPTION- Notwithstanding subparagraph (A), a loan originator may arrange for a consumer to finance through the rate an origination fee or cost if--* *`(i) the loan originator does not receive any other compensation, directly or indirectly, from the consumer except the compensation that is financed through the rate;* *`(ii) no person who knows or has reason to know of the consumer-paid compensation to the loan originator, other than the consumer,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	pays any compensation to the loan originator, directly or indirectly, in connection with the transaction; and *`(iii) the consumer does not make an upfront payment of discount points, origination points, or fees, however denominated (other than bona fide third party settlement charges).*	
`(3) REGULATIONS- The Federal banking agencies, in consultation with the Secretary and the Commission, shall jointly prescribe regulations to prohibit-- `(A) mortgage originators from steering any consumer to a residential mortgage loan that-- `(i) the consumer lacks a reasonable ability to repay (in accordance with regulations prescribed under section 129C(a)); `(ii) in the case of a refinancing of a residential mortgage loan, does not provide the consumer with a net tangible benefit (in accordance with regulations prescribed under section 129C(b)); or `(iii) has predatory characteristics or effects (such as equity stripping, excessive fees, or abusive terms); `(B) mortgage originators from steering any consumer from a residential mortgage loan for which the consumer is qualified that is a qualified mortgage (as defined in section 129C(c)(3)) to a residential mortgage loan that is not a qualified mortgage; `(C) abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, gender, or age; `(D) mortgage originators from assessing excessive points and fees (as such term is described under section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4))) to a consumer for the origination of a residential mortgage loan based on such consumer's decision to finance all or part of the payment through the rate for such points and fees; and `(E) mortgage originators from--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(i) mischaracterizing the credit history of a consumer or the residential mortgage loans available to a consumer; `(ii) mischaracterizing or suborning the mischaracterization of the appraised value of the property securing the extension of credit; or `(iii) if unable to suggest, offer, or recommend to a consumer a loan that is not more expensive than a loan for which the consumer qualifies, discouraging a consumer from seeking a home mortgage loan secured by a consumer's principal dwelling from another mortgage originator.		
`(4) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as-- `(A) permitting any yield spread premium or other similar compensation that would, for any mortgage loan, permit the total amount of direct and indirect compensation from all sources permitted to a mortgage originator to vary based on the terms of the loan (other than the amount of the principal); `(B) affecting the mechanism for providing the total amount of direct and indirect compensation permitted to a mortgage originator; `(C) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser; `(D) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the mortgage originator's ability to receive such fees or costs (including compensation) from any person, so long as such fees or costs were limited by agreement with the consumer and were fully and clearly disclosed to the consumer earlier in the application process as required by 129B(b)(1)(C)(i) and do not vary based on the terms of the loan (other	*`(3) RULES OF CONSTRUCTION- No provision of this subsection shall be construed as--* *`(A) limiting or affecting the amount of compensation received by a creditor upon the sale of a consummated loan to a subsequent purchaser;* *`(B) restricting a consumer's ability to finance, at the option of the consumer, including through principal or rate, any origination fees or costs permitted under this subsection, or the loan originator's right to receive such fees or costs (including compensation) from any person, subject to paragraph (2)(B), so long as such fees or costs do not vary based on the terms of the loan (other than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
than the amount of the principal) or the consumer's decision about whether to finance such fees or costs; or `(E) prohibiting incentive payments to a mortgage originator based on the number of residential mortgage loans originated within a specified period of time.'.	*`(C) prohibiting incentive payments to a loan originator based on the number of loans originated within a specified period of time.*	
	`(4) LOAN ORIGINATOR- For the purposes of this section, the term `loan originator'-- *`(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain, with respect to credit to be secured by real property or a dwelling--* *`(i) arranges for an extension, renewal, or continuation of such credit;* *`(ii) takes an application for credit or assists a consumer in applying for such credit; or* *`(iii) offers or negotiates terms of such credit;* *`(B) does not include any person who is not otherwise described in subparagraph (A) and who performs purely administrative or clerical tasks on behalf of a person who is described in subparagraph (A); and* *`(C) does not include a person that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person is compensated by a lender or other loan originator or by any agent of such lender or other loan originator.'.*	H.R. 4173 defines “mortgage originator” in Sec. 9001.
SEC. 9004. LIABILITY. Section 129B of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 103) the following new subsection: `(d) Liability for Violations- `(1) IN GENERAL- For purposes of providing a cause of action for any failure by a mortgage originator to comply with any requirement imposed under this section and any regulation prescribed under this section, subsections (a) and (b) of section 130 shall be applied with respect to any such failure by substituting `mortgage originator' for `creditor' each place such term appears in each such subsection.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) MAXIMUM- The maximum amount of any liability of a mortgage originator under paragraph (1) to a consumer for any violation of this section shall not exceed the greater of actual damages or an amount equal to 3 times the total amount of direct and indirect compensation or gain accruing to the mortgage originator in connection with the residential mortgage loan involved in the violation, plus the costs to the consumer of the action, including a reasonable attorney's fee.'.		
SEC. 9005. REGULATIONS. (a) Discretionary Regulatory Authority- Section 129B of the Truth in Lending Act is amended by inserting after subsection (d) (as added by section 104) the following new subsection: `(e) Discretionary Regulatory Authority- `(1) IN GENERAL- The Federal banking agencies shall, by regulations issued jointly, prohibit or condition terms, acts or practices relating to residential mortgage loans that the agencies find to be abusive, unfair, deceptive, predatory, inconsistent with reasonable underwriting standards, necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section and section 129B, necessary or proper to effectuate the purposes of this section and section 129C, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections, or are not in the interest of the borrower. `(2) APPLICATION- The regulations prescribed under paragraph (1) shall be applicable to all residential mortgage loans and shall be applied in the same manner as regulations prescribed under section 105. `(f) Section 129B and any regulations promulgated thereunder do not apply to an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.'. (b) Effective Date- The regulations required or authorized to be prescribed under this subtitle or the amendments made by this subtitle-- (1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and (2) shall take effect not later than 18 months after the date of the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
enactment of this Act. (c) Technical and Conforming Amendments- Section 129(l)(2) of the Truth in Lending Act (15 U.S.C. 1639(l)(2)) is amended by inserting `referred to in section 103(aa)' after `loans' each place such term appears.		
SEC. 9006. STUDY OF SHARED APPRECIATION MORTGAGES. (a) Study- The Secretary of Housing and Urban Development, in consultation with the Secretary of the Treasury and other relevant agencies, shall conduct a comprehensive study to determine prudent statutory and regulatory requirements sufficient to provide for the widespread use of shared appreciation mortgages to strengthen local housing markets, provide new opportunities for affordable homeownership, and enable homeowners at risk of foreclosure to refinance or modify their mortgages. (b) Report- Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress on the results of the study, which shall include recommendations for the regulatory and legislative requirements referred to in subsection (a).		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle B--Minimum Standards For Mortgages **SEC. 9101. ABILITY TO REPAY.** (a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129B (as added by section 102(a)) the following new section:	***SEC. 1074. MINIMUM STANDARDS FOR RESIDENTIAL MORTGAGE LOANS.*** *(a) In General- No rule, order, or guidance issued by the Bureau under this title shall be construed as requiring a depository institution to apply mortgage underwriting standards that do not meet the minimum underwriting standards required by the appropriate prudential regulator of the depository institution.* *(b) Ability To Repay-* *(1) TILA AMENDMENT- Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by section 1074 of this Act, is further amended by inserting after subsection (k) the following:*	
**`Sec. 129C. Minimum standards for residential mortgage loans** `(a) Ability To Repay- `(1) IN GENERAL- In accordance with regulations prescribed jointly by the Federal banking agencies, in consultation with the Commission, no creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments. `(2) MULTIPLE LOANS- If the creditor knows, or has reason to know, that 1 or more residential mortgage loans secured by the same dwelling will be made to the same consumer, the creditor shall make a reasonable and good faith determination, based on verified and documented information, that the consumer has a reasonable ability to repay the combined payments of all loans on the same dwelling according to the terms of those loans and all applicable taxes, insurance, and	*`(l) Ability To Repay-* *`(1) IN GENERAL- No creditor may make a loan secured by real property or a dwelling unless the creditor, based on verified and documented information, determines that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments.* *`(2) MULTIPLE LOANS- If the creditor knows, or has reason to know, that 1 or more loans secured by the same real property or dwelling will be made to the same consumer, the creditor shall, based on verified and documented information, determine that the consumer has a reasonable ability to repay the combined payments of all loans on the same real property or dwelling according to the terms of those loans and all applicable taxes, insurance, and assessments.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
assessments.		
`(3) BASIS FOR DETERMINATION- A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.	*`(3) BASIS FOR DETERMINATION- A determination under this subsection of a consumer's ability to repay a loan described in paragraph (1) shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.*	
`(4) INCOME VERIFICATION- In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of--	*`(4) INCOME VERIFICATION- A creditor shall verify amounts of income or assets that such creditor relies on to determine repayment ability, including expected income or assets, by reviewing the consumer's Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records, or other third-party documents that provide reasonably reliable evidence of the consumer's income or assets. In order to safeguard against fraudulent reporting, any consideration of a consumer's income history in making a determination under this subsection shall include the verification of such income by the use of--*	
`(A) Internal Revenue Service transcripts of tax returns provided by a third party; or	*`(A) Internal Revenue Service transcripts of tax returns; or*	
`(B) such other similar method that quickly and effectively verifies income documentation by a third party as the Federal banking agencies may jointly prescribe.	*`(B) a method that quickly and effectively verifies income documentation by a third party subject to rules prescribed by the Board.*	
`(5) NONSTANDARD LOANS- `(A) VARIABLE RATE LOANS THAT DEFER REPAYMENT OF ANY PRINCIPAL OR	*`(5) PRESUMPTION OF ABILITY TO REPAY- Any creditor with respect to any consumer loan secured by real property or a dwelling is presumed to have complied with this subsection with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
INTEREST- For purposes of determining, under this subsection, a consumer's ability to repay a variable rate residential mortgage loan that allows or requires the consumer to defer the repayment of any principal or interest, the creditor shall use a fully amortizing repayment schedule. `(B) INTEREST-ONLY LOANS- For purposes of determining, under this subsection, a consumer's ability to repay a residential mortgage loan that permits or requires the payment of interest only, the creditor shall use the payment amount required to amortize the loan by its final maturity. `(C) CALCULATION FOR NEGATIVE AMORTIZATION- In making any determination under this subsection, a creditor shall also take into consideration any balance increase that may accrue from any negative amortization provision. `(D) CALCULATION PROCESS- For purposes of making any determination under this subsection, a creditor shall calculate the monthly payment amount for principal and interest on any residential mortgage loan by assuming-- `(i) the loan proceeds are fully disbursed on the date of the consummation of the loan; `(ii) the loan is to be repaid in substantially equal monthly amortizing payments for principal and interest over the entire term of the loan with no balloon payment, unless the loan contract requires more rapid repayment (including balloon payment), in which case the calculation shall be made (I) in accordance with regulations prescribed by the Federal banking agencies, with respect to any loan which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date the interest rate is set, by 1.5 or more percentage points for a first lien residential mortgage loan; and by 3.5 or more percentage points for a subordinate lien residential mortgage loan; or (II) using the contract's repayment schedule, with respect to a loan which has an	*respect to such loan if the creditor--* *`(A) verifies the consumer's ability to repay as provided in paragraphs (1), (2), (3), and (4); and* *`(B) determines the consumer's ability to repay using the maximum rate permitted under the loan during the first 5 years following consummation and a payment schedule that fully amortizes the loan and taking into account current obligations and all applicable taxes, insurance, and assessments.* *`(6) EXCEPTIONS TO PRESUMPTION- Notwithstanding paragraph (5), no presumption of compliance shall be applied to a loan--* *`(A) for which the regular periodic payments for the loan may--* *`(i) result in an increase of the principal balance; or* *`(ii) allow the consumer to defer repayment of principal.* *`(B) the terms of which result in a balloon payment, where a `balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments; or* *`(C) for which the total points and fees payable in connection with the loan exceed 3 percent of the total loan amount, where `points and fees' means points and fees as defined by section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)), except that, for the purposes of computing the total points and fees under this subparagraph, the total points and fees attributable to any premium for mortgage guarantee insurance provided by an agency of the Federal Government or an agency of a State shall exclude any amount of the points and fees for such insurance greater than 1 percent of the total loan amount.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
annual percentage rate, as of the date the interest rate is set, that is at least 1.5 percentage points above the average prime offer rate for a first lien residential mortgage loan; and 3.5 percentage points above the average prime offer rate for a subordinate lien residential mortgage loan; and `(iii) the interest rate over the entire term of the loan is a fixed rate equal to the fully indexed rate at the time of the loan closing, without considering the introductory rate.  `(E) REFINANCE OF HYBRID LOANS WITH CURRENT LENDER- In considering any application for refinancing an existing hybrid loan by the creditor into a standard loan to be made by the same creditor in any case in which the sole net-tangible benefit to the mortgagor would be a reduction in monthly payment and the mortgagor has not been delinquent on any payment on the existing hybrid loan, the creditor may-- `(i) consider the mortgagor's good standing on the existing mortgage; `(ii) consider if the extension of new credit would prevent a likely default should the original mortgage reset and give such concerns a higher priority as an acceptable underwriting practice; and `(iii) offer rate discounts and other favorable terms to such mortgagor that would be available to new customers with high credit ratings based on such underwriting practice.		
`(6) FULLY-INDEXED RATE DEFINED- For purposes of this subsection, the term `fully indexed rate' means the index rate prevailing on a residential mortgage loan at the time the loan is made plus the margin that will apply after the expiration of any introductory interest rates.		
	`(7) EXEMPTION-* *`(A) The Board may revise, add to, or subtract from the criteria under paragraphs (5) and (6) and	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(7) REVERSE MORTGAGES- This subsection shall not apply with respect to any reverse mortgage'.	*subparagraphs (B) and (C) of this paragraph upon a finding that such regulations are necessary or appropriate to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance with this subsection.* *`(B) BRIDGE LOANS- This subsection does not apply to a temporary or `bridge' loan with a term of 12 months or less, including to any loan to purchase a new dwelling where the consumer plans to sell a current dwelling within 12 months.* *`(C) REVERSE MORTGAGES- This subsection does not apply with respect to any reverse mortgage.*	
	`(8) SEASONAL INCOME- If documented income, including income from a small business, is a repayment source for an extension of credit secured by residential real estate or a dwelling, a creditor may consider the seasonality and irregularity of such income in the underwriting of and scheduling of payments for such credit.'.	
(b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129B (as added by section 102(b)) the following new item: `129C. Minimum standards for residential mortgage loans.'.	*(2) CONFORMING AMENDMENT- Section 129 of the Truth in Lending Act (15 U.S.C. 1639), as amended by this Act, is amended--* *(A) by redesignating subsections (k), (l), and (m) as subsections (m), (n), and (o), respectively; and* *(B) in subsection (o), as so redesignated, by striking `(l)(2)' and inserting `(n)(2)'.*	
SEC. 9102. NET TANGIBLE BENEFIT FOR REFINANCING OF RESIDENTIAL MORTGAGE LOANS. Section 129C of the Truth in Lending Act (as added by section 9101(a)) is amended by inserting after subsection (a) the following new subsection: `(b) Net Tangible Benefit for Refinancing of Residential Mortgage Loans- `(1) IN GENERAL- In accordance with regulations prescribed under paragraph (3), no creditor may extend credit in connection with any residential mortgage loan that involves a refinancing of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
a prior existing residential mortgage loan unless the creditor reasonably and in good faith determines, at the time the loan is consummated and on the basis of information known by or obtained in good faith by the creditor, that the refinanced loan will provide a net tangible benefit to the consumer. `(2) CERTAIN LOANS PROVIDING NO NET TANGIBLE BENEFIT- A residential mortgage loan that involves a refinancing of a prior existing residential mortgage loan shall not be considered to provide a net tangible benefit to the consumer if the costs of the refinanced loan, including points, fees and other charges, exceed the amount of any newly advanced principal without any corresponding changes in the terms of the refinanced loan that are advantageous to the consumer. `(3) NET TANGIBLE BENEFIT- The Federal banking agencies shall jointly prescribe regulations defining the term `net tangible benefit' for purposes of this subsection.'.		
SEC. 9103. SAFE HARBOR AND REBUTTABLE PRESUMPTION. Section 129C of the Truth in Lending Act is amended by inserting after subsection (b) (as added by section 9102) the following new subsection: `(c) Presumption of Ability To Repay and Net Tangible Benefit- `(1) IN GENERAL- Any creditor with respect to any residential mortgage loan, and any assignee or securitizer of such loan, may presume that the loan has met the requirements of subsections (a) and (b), if the loan is a qualified mortgage.		
`(2) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:  `(A) QUALIFIED MORTGAGE- The term `qualified mortgage' means any residential mortgage loan--  `(i) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a `non-traditional mortgage' under guidance, advisories, or regulations prescribed by the Federal Banking Agencies;	*`(g) Definitions- For purposes of this section, the following definitions shall apply:*  *`(3) QUALIFIED MORTGAGE- The term `qualified mortgage' means--* *`(A) any residential mortgage loan--* *`(ii) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a `non-traditional mortgage' under guidance, advisories, or regulations prescribed by the Bureau;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(ii) that does not provide for a repayment schedule that results in negative amortization at any time;  `(iii) for which the terms are fully amortizing and which does not result in a balloon payment, where a `balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;  `(iv) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date the interest rate is set-- `(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having a original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); `(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having a original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the	*`(iii) that does not provide for a repayment schedule that results in negative amortization at any time;*  *`(iv) for which the terms are fully amortizing and which does not result in a balloon payment, where a `balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;*  *`(v) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date on which the interest rate is set--* *`(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));* *`(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and	*applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); or*	
`(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;	*`(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;*	
`(v) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;	*`(vi) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;*	
`(vi) in the case of a fixed rate loan, for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;	*`(vii) for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;*	
`(vii) in the case of an adjustable rate loan, for which the underwriting is based on the maximum rate permitted under the loan during the first seven years, and a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;	*`(i) that does not have an adjustable rate;*	
`(viii) that does not cause the consumer's total monthly debts, including amounts under the loan, to exceed a percentage established by regulation of the consumer's monthly gross income or such other maximum percentage of such income as may be prescribed by regulation under paragraph (4), and such rules shall also take into consideration the consumer's income available to pay regular expenses after payment of all installment and revolving debt;	*`(viii) that does not cause the total monthly debts of the consumer, including amounts under the loan, to exceed a percentage established by regulation of the monthly gross income of the consumer, or such other maximum percentage of such income, as may be prescribed by regulation under subsection (g), which rules shall take into consideration the income of the consumer available to pay regular expenses after payment of all installment and revolving debt;*	
`(ix) for which the total points and fees	*`(ix) for which the total points and fees*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
payable in connection with the loan do not exceed 2 percent of the total loan amount, where `points and fees' means points and fees as defined by Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and  `(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under paragraph (4).	*payable in connection with the loan do not exceed 2 percent of the total loan amount, where the term `points and fees' means points and fees as defined by Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and*  *`(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under subsection (g); and* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).	S. 3217 completes the definition of qualified mortgage in 3(B) below.
`(B) AVERAGE PRIME OFFER RATE- The term `average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low risk pricing characteristics.	*`(1) AVERAGE PRIME OFFER RATE- The term `average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).	
`(C) REVERSE MORTGAGES- For purposes of this subsection, the term `qualified mortgage' includes any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(iv).	*`(B) any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(v).* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).	S. 3217 addresses reverse mortgages under the definition of a qualified mortgage in 3(B) above.
	`(2) PREPAYMENT PENALTY- The term `prepayment penalty' means any penalty for paying all or part of the principal on an extension of credit before the date on which the principal is due, including a computation of a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992 (15 U.S.C. 1615(d)). (Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).	
	`(4) RESIDENTIAL MORTGAGE LOAN- The term `residential	H.R. 4173 defines “residential mortgage loan” in

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.'. (Sec. 1075, amending Chapter 2 of the Truth in Lending Act by inserting a new section 129B(g)).	Sec. 9001.
`(3) PUBLICATION OF AVERAGE PRIME OFFER RATE AND APR THRESHOLDS- The Board-- `(A) shall publish, and update at least weekly, average prime offer rates; `(B) may publish multiple rates based on varying types of mortgage transactions; and  `(C) shall adjust the thresholds of 1.50 percentage points in paragraph (2)(A)(iv)(I), 2.50 percentage points in paragraph (2)(A)(iv)(II), and 3.50 percentage points in paragraph (2)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of the Mortgage Reform and Anti-Predatory Lending Act.	*`(e) Publication of Average Prime Offer Rate and APR Thresholds- The Board--* *`(1) shall publish, and update at least weekly, average prime offer rates;* *`(2) may publish multiple rates based on varying types of mortgage transactions; and*  *`(3) shall adjust the thresholds of 1.50 percentage points in subsection (g)(3)(A)(v)(I), 2.50 percentage points in subsection (g)(3)(A)(v)(II), and 3.50 percentage points in subsection (g)(3)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of this section.* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by adding a new section 129B(e)).	
`(4) REGULATIONS- `(A) IN GENERAL- The Federal banking agencies shall jointly prescribe regulations to carry out the purposes of this subsection.	*`(f) Regulations-* *`(1) IN GENERAL- The Bureau shall prescribe regulations to carry out this section.* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by creating a new section 129B(f). This subsection applies to all of the new section 129B created by Sec. 1075.)	
`(B) REVISION OF SAFE HARBOR CRITERIA- `(i) IN GENERAL- The Federal banking agencies may jointly prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage upon a finding that such regulations are necessary or proper	*`(2) REVISION OF SAFE HARBOR CRITERIA- The Bureau may prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage, upon a finding that such regulations are necessary or appropriate--* *`(A) to ensure that responsible, affordable mortgage credit remains available to consumers in a manner*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section, necessary and appropriate to effectuate the purposes of this section and section 129B, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections.	*consistent with the purposes of this section;* *`(B) to effectuate the purposes of this section;* *`(C) to prevent circumvention or evasion thereof; or* *`(D) to facilitate compliance with this section.*	
`(ii) LOAN DEFINITION- The following agencies shall, in consultation with the Federal banking agencies, prescribe rules defining the types of loans they insure, guarantee or administer, as the case may be, that are Qualified Mortgages for purposes of subsection (c)(1)(A) upon a finding that such rules are consistent with the purposes of this section and section 129B, to prevent circumvention or evasion thereof, or to facilitate compliance with such sections-- `(I) The Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);  `(II) The Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs; `(III) The Secretary of Agriculture, with regard loans guaranteed by the Secretary of Agriculture pursuant to 42 U.S.C. 1472(h);  `(IV) The Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the	*`(3) INTERAGENCY HARMONIZATION-* *`(A) DETERMINATION OF QUALIFYING MORTGAGE TREATMENT- The agencies and officials described in subparagraph (B) shall, in consultation with the Bureau, prescribe rules defining the types of loans they insure, guarantee, or administer, as the case may be, that are qualified mortgages for purposes of this section, upon a finding that such rules are consistent with the purposes of this section or are appropriate to prevent circumvention or evasion thereof or to facilitate compliance with this section.* *`(B) AGENCIES AND OFFICIALS- The agencies and officials described in this subparagraph are--* *`(i) the Secretary of the Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);* *`(ii) the Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs;*  *`(iii) the Secretary of Agriculture, with regard to loans guaranteed by the Secretary of Agriculture pursuant to section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h));* *`(iv) the Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the Federal National*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation; and `(V) The Rural Housing Service, with regard to loans insured by the Rural Housing Service.'.	*Mortgage Association or the Federal Home Loan Mortgage Corporation; and* *`(v) the Rural Housing Service, with regard to loans insured by the Rural Housing Service.*	
	`(4) IMPLEMENTATION- Regulations required or authorized to be prescribed under this subsection--* *`(A) shall be prescribed in final form before the end of the 12-month period beginning on the date of enactment of this section; and *`(B) shall take effect not later than 18 months after the date of enactment of this section.*	
SEC. 9104. LIABILITY. Section 129C of the Truth in Lending Act is amended by inserting after subsection (c) (as added by section 9103) the following new subsection: `(d) Liability for Violations- `(1) IN GENERAL- `(A) RESCISSION- In addition to any other liability under this title for a violation by a creditor of subsection (a) or (b) (for example under section 130) and subject to the statute of limitations in paragraph (9), a civil action may be maintained against a creditor for a violation of subsection (a) or (b) with respect to a residential mortgage loan for the rescission of the loan, and such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee. `(B) CURE- A creditor shall not be liable for rescission under subparagraph (A) with respect to a residential mortgage loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the creditor, acting in good faith, a cure. `(2) LIMITED ASSIGNEE AND SECURITIZER LIABILITY- Notwithstanding sections 125(e) and 131 and except as provided		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
in paragraph (3), a civil action which may be maintained against a creditor with respect to a residential mortgage loan for a violation of subsection (a) or (b) may be maintained against any assignee or securitizer of such residential mortgage loan, who has acted in good faith, for the following liabilities only: `(A) Rescission of the loan. `(B) Such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee. `(3) ASSIGNEE AND SECURITIZER EXEMPTION- No assignee or securitizer of a residential mortgage loan that has exercised reasonable due diligence in complying with the requirements of subsections (a) and (b), consistent with reasonable due diligence practices prescribed by the Federal banking agencies, shall be liable under paragraph (2) with respect to such loan if, no later than 90 days after the receipt of notification from the consumer that the loan violates subsection (a) or (b), the assignee or securitizer provides a cure so that the loan satisfies the requirements of subsections (a) and (b). `(4) ABSENT PARTIES- `(A) ABSENT CREDITOR- Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) has ceased to exist as a matter of law or has filed for bankruptcy protection under title 11, United States Code, or has had a receiver, conservator, or liquidating agent appointed, a consumer may maintain a civil action against an assignee to cure the residential mortgage loan, plus the costs and reasonable attorney's fees incurred in obtaining such remedy. `(B) ABSENT CREDITOR AND ASSIGNEE- Notwithstanding the exemption provided in paragraph (3), if the creditor with respect to a residential mortgage loan made in violation of subsection (a) or (b) and each assignee of such loan have ceased to exist as a matter of law or have filed for bankruptcy protection under title 11, United States Code, or have had receivers, conservators, or liquidating agents appointed, the consumer may maintain the civil action referred to in subparagraph (A) against the securitizer.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(5) CURE DEFINED- For purposes of this subsection, the term `cure' means, with respect to a residential mortgage loan that violates subsection (a) or (b), the modification or refinancing, at no cost to the consumer, of the loan to provide terms that satisfy the requirements of subsections (a) and (b) and the payment of such additional costs as the obligor may have incurred in connection with obtaining a cure of the loan, including a reasonable attorney's fee. `(6) DISAGREEMENT OVER CURE- If any creditor, assignee, or securitizer and a consumer fail to reach agreement on a cure with respect to a residential mortgage loan that violates subsection (a) or (b), or the consumer fails to accept a cure proffered by a creditor, assignee, or securitizer-- `(A) the creditor, assignee, or securitizer may provide the cure; and `(B) the consumer may challenge the adequacy of the cure during the 6-month period beginning when the cure is provided. If the consumer's challenge, under this paragraph, of a cure is successful, the creditor, assignee, or securitizer shall be liable to the consumer for rescission of the loan and such additional costs under paragraph (2). `(7) INABILITY TO PROVIDE OR OBTAIN RESCISSION- If a creditor, assignee, or securitizer cannot provide, or a consumer cannot obtain, rescission under paragraph (1) or (2), the liability of such creditor, assignee, or securitizer shall be met by providing the financial equivalent of a rescission, together with such additional costs as the obligor may have incurred as a result of the violation and in connection with obtaining a rescission of the loan, including a reasonable attorney's fee. `(8) NO CLASS ACTIONS AGAINST ASSIGNEE OR SECURITIZER UNDER PARAGRAPH (2)- Only individual actions may be brought against an assignee or securitizer of a residential mortgage loan for a violation of subsection (a) or (b). `(9) STATUTE OF LIMITATIONS- The liability of a creditor, assignee, or securitizer under this subsection shall apply in any original action against a creditor under paragraph (1) or an assignee or securitizer under paragraph (2) which is brought before-- `(A) in the case of any residential mortgage loan other than a loan to which subparagraph (B) applies, the end of the 3-year period beginning on the date the loan is		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
consummated; or `(B) in the case of a residential mortgage loan that provides for a fixed interest rate for an introductory period and then resets or adjusts to a variable rate or that provides for a nonamortizing payment schedule and then converts to an amortizing payment schedule, the earlier of-- `(i) the end of the 1-year period beginning on the date of such reset, adjustment, or conversion; or `(ii) the end of the 6-year period beginning on the date the loan is consummated. `(10) TRUSTEES, POOLS, AND INVESTORS IN POOLS EXCLUDED- In the case of residential mortgage loans acquired or aggregated for the purpose of including such loans in a pool of assets held for the purpose of issuing or selling instruments representing interests in such pools including through a securitization vehicle, the terms `assignee' and `securitizer', as used in this section, do not include the securitization vehicle, any trustee that holds such loans solely for the benefit of the securitization vehicle, the pools of such loans or any original or subsequent purchaser of any interest in the securitization vehicle or any instrument representing a direct or indirect interest in such pool. `(e) Obligation of Securitizers, and Preservation of Borrower Remedies- `(1) OBLIGATION TO RETAIN ACCESS- Any securitizer of a residential mortgage loan sold or to be sold as part of a securitization vehicle shall, in any document or contract providing for the transfer, conveyance, or the establishment of such securitization vehicle, reserve the right and preserve the ability-- `(A) to identify and obtain access to any such loan; `(B) to acquire any such loan in the event of a violation of subsection (a) or (b) of this section; and `(C) to provide to the consumer any and all remedies provided for under this title for any violation of this title. `(2) ADDITIONAL DAMAGES- Any creditor, assignee, or securitizer of a residential mortgage loan that is subject to a remedy under subsection (d) and has failed to comply with paragraph (1) shall be subject to additional exemplary or punitive damages not to exceed the original principal balance of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
such loan. `(3) CONTACT INFORMATION NOTICE- The servicer with respect to a residential mortgage loan shall provide a written notice to a consumer identifying the name and contact information of the creditor or any assignee or securitizer who should be contacted by the consumer for any reason concerning the consumer's rights with respect to the loan. Such notice shall be provided-- `(A) upon request of the consumer; `(B) whenever there is a change in ownership of a residential mortgage loan; or `(C) on a regular basis, not less than annually. `(f) Rules To Establish Process- The Board shall promulgate rules to govern the rescission process established for violations of subsections (a) and (b) of this section. Such rules shall provide that notice given to a servicer or holder is sufficient notice regardless of the identity of the party or the parties liable under this title.'.		
SEC. 9105. DEFENSE TO FORECLOSURE. Section 129C of the Truth in Lending Act is amended by inserting after subsection (f) (as added by section 9104) the following new subsections: `(g) Defense to Foreclosure- Notwithstanding any other provision of law-- `(1) when the holder of a residential mortgage loan or anyone acting for such holder initiates a judicial or nonjudicial foreclosure-- `(A) a consumer who has the right to rescind under this section with respect to such loan against the creditor or any assignee or securitizer may assert such right as a defense to foreclosure or counterclaim to such foreclosure against the holder, or `(B) if the foreclosure proceeding begins after the end of the period during which a consumer may bring an action for rescission under subsection (d) and the consumer would have had a valid basis for such an action if it had been brought before the end of such period, the consumer may seek actual damages incurred by reason of the violation which gave rise to the right of rescission, together with costs of the action, including a reasonable attorney's fee against the creditor or any assignee or securitizer; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) such holder or anyone acting for such holder or any other applicable third party may sell, transfer, convey, or assign a residential mortgage loan to a creditor, any assignee, or any securitizer, or their designees, subject to the rights of the consumer described in this subsection, to effect a rescission or cure.'.		
SEC. 9106. ADDITIONAL STANDARDS AND REQUIREMENTS. (a) In General- Section 129C of the Truth in Lending Act is amended by inserting after subsection (g) (as added by section 9105) the following new subsections:	***SEC. 1075. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.*** *(a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (15 U.S.C. 1639a) the following new section:*	
`(h) Prohibition on Certain Prepayment Penalties- `(1) PROHIBITED ON CERTAIN LOANS- A residential mortgage loan that is not a `qualified mortgage' may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated. For purposes of this subsection, a `qualified mortgage' may not include a residential mortgage loan that has an adjustable rate.	***`SEC. 129B. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.***  *`(a) Prohibited on Certain Loans- A residential mortgage loan that is not a qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated.*	S. 3217 defines terms used in this section in the amended Truth in Lending Act, Sec. 129B(g), which can be found above next to H.R. 4173 Sec. 9103.
`(2) PHASED-OUT PENALTIES ON QUALIFIED MORTGAGES- A qualified mortgage (as defined in subsection (c)) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of the following limitations:  `(A) During the 1-year period beginning on the date the loan is consummated, the prepayment penalty shall not exceed an amount equal to 3 percent of the outstanding balance on the loan. `(B) During the 1-year period beginning after the period described in subparagraph (A), the prepayment penalty shall not exceed an amount equal to 2 percent of the outstanding balance on the loan.  `(C) During the 1-year period beginning after the 1-year period described in subparagraph (B), the	*`(b) Phased-out Penalties on Qualified Mortgages-* *`(1) IN GENERAL- A qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of--* *`(A) during the 1-year period beginning on the date on which the loan is consummated, an amount equal to 3 percent of the outstanding balance on the loan;*  *`(B) during the 1-year period beginning immediately after the end of the period described in subparagraph (A), an amount equal to 2 percent of the outstanding balance on the loan; and* *`(C) during the 1-year period beginning immediately after the end of the 1-year period described in*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
prepayment penalty shall not exceed an amount equal to 1 percent of the outstanding balance on the loan. `(D) After the end of the 3-year period beginning on the date the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.	*subparagraph (B), an amount equal to 1 percent of the outstanding balance on the loan.* *`(2) PROHIBITION- After the end of the 3-year period beginning on the date on which the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.*	
`(3) OPTION FOR NO PREPAYMENT PENALTY REQUIRED- A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan without offering the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.	*`(c) Option for No Prepayment Penalty Required- A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan, without offering to the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.*	
`(i) Single Premium Credit Insurance Prohibited- No creditor may finance, directly or indirectly, in connection with any residential mortgage loan or with any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), any credit life, credit disability, credit unemployment or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that-- `(1) insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor; and `(2) this subsection shall not apply to credit unemployment insurance for which the unemployment insurance premiums are reasonable, the creditor receives no direct or indirect compensation in connection with the unemployment insurance premiums, and the unemployment insurance premiums are paid pursuant to another insurance contract and not paid to an affiliate of the creditor. `(j) Arbitration- `(1) IN GENERAL- No residential mortgage loan and no extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer, other than a reverse mortgage, may include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
transaction. `(2) POST-CONTROVERSY AGREEMENTS- Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor, any assignee, or any securitizer to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises. `(3) NO WAIVER OF STATUTORY CAUSE OF ACTION- No provision of any residential mortgage loan or of any extension of credit under an open end consumer credit plan secured by the principal dwelling of the consumer (other than a reverse mortgage), and no other agreement between the consumer and the creditor relating to the residential mortgage loan or extension of credit referred to in paragraph (1), shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law. `(k) Mortgages With Negative Amortization- No creditor may extend credit to a borrower in connection with a consumer credit transaction under an open or closed end consumer credit plan secured by a dwelling or residential real property that includes a dwelling, other than a reverse mortgage, that provides or permits a payment plan that may, at any time over the term of the extension of credit, result in negative amortization unless, before such transaction is consummated-- `(1) the creditor provides the consumer with a statement that-- `(A) the pending transaction will or may, as the case may be, result in negative amortization; `(B) describes negative amortization in such manner as the Federal banking agencies shall prescribe; `(C) negative amortization increases the outstanding principal balance of the account; and `(D) negative amortization reduces the consumer's equity in the dwelling or real property; and `(2) in the case of a first-time borrower with respect to a residential mortgage loan that is not a qualified mortgage, the first-time borrower provides the creditor with sufficient documentation to demonstrate that the consumer received homeownership counseling from organizations or counselors certified by the Secretary of Housing and Urban Development		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
as competent to provide such counseling.'. (b) Conforming Amendment Relating to Enforcement- Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by inserting after paragraph (6) the following new paragraph: `(7) sections 21B and 21C of the Securities Exchange Act of 1934, in the case of a broker or dealer, other than a depository institution, by the Securities and Exchange Commission.'. (c) Protection Against Loss of Anti-deficiency Protection- Section 129C of the Truth in Lending Act is amended by inserting after subsection (k) (as added by subsection (a) of this section) the following new subsection (and designated succeeding subsections accordingly): `(l) Protection Against Loss of Anti-deficiency Protection- `(1) DEFINITION- For purposes of this subsection, the term `anti-deficiency law' means the law of any State which provides that, in the event of foreclosure on the residential property of a consumer securing a mortgage, the consumer is not liable, in accordance with the terms and limitations of such State law, for any deficiency between the sale price obtained on such property through foreclosure and the outstanding balance of the mortgage. `(2) NOTICE AT TIME OF CONSUMMATION- In the case of any residential mortgage loan that is, or upon consummation will be, subject to protection under an anti-deficiency law, the creditor or mortgage originator shall provide a written notice to the consumer describing the protection provided by the anti-deficiency law and the significance for the consumer of the loss of such protection before such loan is consummated. `(3) NOTICE BEFORE REFINANCING THAT WOULD CAUSE LOSS OF PROTECTION- In the case of any residential mortgage loan that is subject to protection under an anti-deficiency law, if a creditor or mortgage originator provides an application to a consumer, or receives an application from a consumer, for any type of refinancing for such loan that would cause the loan to lose the protection of such anti-deficiency law, the creditor or mortgage originator shall provide a written notice to the consumer describing the protection provided by the anti-deficiency law and the significance for the consumer of the loss of such protection before any agreement for any such refinancing is consummated.'. (d) Policy Regarding Acceptance of Partial Payment- Section 129C of the Truth in Lending Act is amended by inserting after subsection (l) (as added by subsection (c)) the following new subsection:		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(m) Policy Regarding Acceptance of Partial Payment- In the case of any residential mortgage loan, a creditor shall disclose prior to settlement or, in the case of a person becoming a creditor with respect to an existing residential mortgage loan, at the time such person becomes a creditor-- `(1) the creditor's policy regarding the acceptance of partial payments; and `(2) if partial payments are accepted, how such payments will be applied to such mortgage and if such payments will be placed in escrow.'.		
SEC. 9107. RULE OF CONSTRUCTION. Except as otherwise expressly provided in section 129B or 129C of the Truth in Lending Act (as added by this subtitle), no provision of such section 129B or 129C shall be construed as superseding, repealing, or affecting any duty, right, obligation, privilege, or remedy of any person under any other provision of the Truth in Lending Act or any other provision of Federal or State law.		
SEC. 9108. EFFECT ON STATE LAWS. (a) In General- Except as provided in subsection (b), section 129C(d) of the Truth in Lending Act (as added by section 9104) shall supersede any State law to the extent that it provides additional remedies against any assignee, securitizer, or securitization vehicle for a violation of subsection (a) or (b) of section 129C of such Act or any other State law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of section 129C of such Act, and the remedies described in section 129C(d) shall constitute the sole remedies against any assignee, securitizer, or securitization vehicle for such violations. (b) Rules of Construction- No provision of this section shall be construed as limiting-- (1) the application of any State law, or the availability of remedies under such law, against a creditor for a particular residential mortgage loan regardless of whether such creditor also acts as an assignee, securitizer, or securitization vehicle for such loan; (2) the application of any State law, or the availability of remedies under such law, against an assignee, securitizer, or securitization vehicle under State law, other than a provision of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
such law the terms of which address the specific subject matter of subsection (a) (determination of ability to repay) or (b) (requirement of a net tangible benefit) of section 129C of such Act; (3)(A) the application of any State law, or the availability of remedies under such law, against an assignee, securitizer or securitization vehicle for its participation in or direction of the credit or underwriting decisions of a creditor relating to the making of a residential mortgage loan; or (B) the ability of a consumer to assert any rights against or obtain any remedies from an assignee, securitizer or securitization vehicle with respect to a residential mortgage loan as a defense to foreclosure under section 129C(g); (4) the availability of any equitable remedies, including injunctive relief, under State law; or (5) notwithstanding paragraph (2), the availability of any remedies under State law against any assignee, securitizer or securitization vehicle that-- (A) are in addition to those remedies provided for in section 129C; and (B) were in effect on the date of enactment of this Act.		
SEC. 9109. REGULATIONS. Regulations required or authorized to be prescribed under this subtitle or the amendments made by this subtitle-- (1) shall be prescribed in final form before the end of the 12-month period beginning on the date of the enactment of this Act; and (2) shall take effect not later than 18 months after the date of the enactment of this Act.		
SEC. 9110. AMENDMENTS TO CIVIL LIABILITY PROVISIONS. (a) Increase in Amount of Civil Money Penalties for Certain Violations- Section 130(a)(2) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)) is amended-- (1) by striking `$100' and inserting `$200'; (2) by striking `$1,000' and inserting `$2,000'; and (3) by striking `$500,000' and inserting `$1,000,000'. (b) Statute of Limitations Extended for Section 129 Violations- Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) in the first sentence, by striking `Any action' and inserting `Except as provided in the subsequent sentence, any action'; and (2) by inserting after the first sentence the following new sentence: `Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.'.		
SEC. 9111. LENDER RIGHTS IN THE CONTEXT OF BORROWER DECEPTION. Section 130 of the Truth in Lending Act is amended by adding at the end the following new subsection: `(k) Exemption From Liability and Rescission in Case of Borrower Fraud or Deception- In addition to any other remedy available by law or contract, no creditor, assignee, or securitizer shall be liable to an obligor under this section, nor shall it be subject to the right of rescission of any obligor under 129B, if such obligor, or co-obligor, knowingly, or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining such residential mortgage loan.'.		
SEC. 9112. SIX-MONTH NOTICE REQUIRED BEFORE RESET OF HYBRID ADJUSTABLE RATE MORTGAGES. (a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 128 the following new section: **`Sec. 128A. Reset of hybrid adjustable rate mortgages** `(a) Hybrid Adjustable Rate Mortgages Defined- For purposes of this section, the term `hybrid adjustable rate mortgage' means a consumer credit transaction secured by the consumer's principal residence with a fixed interest rate for an introductory period that adjusts or resets to a variable interest rate after such period. `(b) Notice of Reset and Alternatives- During the 1-month period that ends 6 months before the date on which the interest rate in effect during the introductory period of a hybrid adjustable rate mortgage adjusts or resets to a variable interest rate or, in the case of such an adjustment or resetting that occurs within the first 6 months after consummation of such loan, at consummation, the creditor or servicer of such loan shall provide a written notice, separate and distinct from all other correspondence to the consumer, that includes the following:		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) Any index or formula used in making adjustments to or resetting the interest rate and a source of information about the index or formula. `(2) An explanation of how the new interest rate and payment would be determined, including an explanation of how the index was adjusted, such as by the addition of a margin. `(3) A good faith estimate, based on accepted industry standards, of the creditor or servicer of the amount of the monthly payment that will apply after the date of the adjustment or reset, and the assumptions on which this estimate is based. `(4) A list of alternatives consumers may pursue before the date of adjustment or reset, and descriptions of the actions consumers must take to pursue these alternatives, including-- `(A) refinancing; `(B) renegotiation of loan terms; `(C) payment forbearances; and `(D) pre-foreclosure sales. `(5) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989). `(6) The address, telephone number, and Internet address for the State housing finance authority (as so defined) for the State in which the consumer resides.'. (b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 128 the following new item: `128A. Reset of hybrid adjustable rate mortgages.'.		
SEC. 9113. REQUIRED DISCLOSURES. Section 128(a) of Truth in Lending Act (15 U.S.C. 1638(a)) is amended by adding at the end the following new paragraphs: `(16) In the case of a variable rate residential mortgage loan for which an escrow or impound account will be established for the payment of all applicable taxes, insurance, and assessments-- `(A) the amount of initial monthly payment due under the loan for the payment of principal and interest, and the amount of such initial monthly payment including		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments; and `(B) the amount of the fully indexed monthly payment due under the loan for the payment of principal and interest, and the amount of such fully indexed monthly payment including the monthly payment deposited in the account for the payment of all applicable taxes, insurance, and assessments. `(17) In the case of a residential mortgage loan, the aggregate amount of settlement charges for all settlement services provided in connection with the loan, the amount of charges that are included in the loan and the amount of such charges the borrower must pay at closing, the approximate amount of the wholesale rate of funds in connection with the loan, and the aggregate amount of other fees or required payments in connection with the loan. `(18) In the case of a residential mortgage loan, the aggregate amount of fees paid to the mortgage originator in connection with the loan, the amount of such fees paid directly by the consumer, and any additional amount received by the originator from the creditor. `(19) In the case of a residential mortgage loan, the total amount of interest that the consumer will pay over the life of the loan as a percentage of the principal of the loan. Such amount shall be computed assuming the consumer makes each monthly payment in full and on-time, and does not make any over-payments.'.		
SEC. 9114. DISCLOSURES REQUIRED IN MONTHLY STATEMENTS FOR RESIDENTIAL MORTGAGE LOANS. Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following new subsection: `(f) Periodic Statements for Residential Mortgage Loans- `(1) IN GENERAL- The creditor, assignee, or servicer with respect to any residential mortgage loan shall transmit to the obligor, for each billing cycle, a statement setting forth each of the following items, to the extent applicable, in a conspicuous and prominent manner: `(A) The amount of the principal obligation under the mortgage. `(B) The current interest rate in effect for the loan.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(C) The date on which the interest rate may next reset or adjust. `(D) The amount of any prepayment fee to be charged, if any. `(E) A description of any late payment fees. `(F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage. `(G) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989). `(H) Such other information as the Board may prescribe in regulations. `(2) DEVELOPMENT AND USE OF STANDARD FORM- The Federal banking agencies shall jointly develop and prescribe a standard form for the disclosure required under this subsection, taking into account that the statements required may be transmitted in writing or electronically.'.		
SEC. 9115. LEGAL ASSISTANCE FOR FORECLOSURE-RELATED ISSUES. (a) Establishment- The Secretary of Housing and Urban Development (hereafter in this section referred to as the `Secretary' shall establish a program for making grants for providing a full range of foreclosure legal assistance to low- and moderate-income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure. (b) Competitive Allocation- The Secretary shall allocate amounts made available for grants under this section to State and local legal organizations on the basis of a competitive process. For purposes of this subsection `State and local legal organizations' are those State and local organizations whose primary business or mission is to provide legal assistance. (c) Priority to Certain Areas- In allocating amounts in accordance with subsection (b), the Secretary shall give priority consideration to State and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
local legal organizations that are operating in the 100 metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates. (d) Legal Assistance- (1) IN GENERAL- Any State or local legal organization that receives financial assistance pursuant to this section may use such amounts only to assist-- (A) homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure; and (B) tenants at risk of or subject to eviction as a result of foreclosure of the property in which such tenant resides. (2) COMMENCE USE WITHIN 90 DAYS- Any State or local legal organization that receives financial assistance pursuant to this section shall begin using any financial assistance received under this section within 90 days after receipt of the assistance. (3) PROHIBITION ON CLASS ACTIONS- No funds provided to a State or local legal organization under this section may be used to support any class action litigation. (4) LIMITATION ON LEGAL ASSISTANCE- Legal assistance funded with amounts provided under this section shall be limited to mortgage-related default, eviction, or foreclosure proceedings, without regard to whether such foreclosure is judicial or nonjudicial. (5) EFFECTIVE DATE- Notwithstanding section 9116, this subsection shall take effect on the date of the enactment of this Act. (e) Limitation on Distribution of Assistance- (1) IN GENERAL- None of the amounts made available under this section shall be distributed to-- (A) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or (B) any organization which employs applicable individuals. (2) DEFINITION OF APPLICABLE INDIVIDUALS- In this subsection, the term `applicable individual' means an individual who-- (A) is-- (i) employed by the organization in a permanent or temporary capacity;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(ii) contracted or retained by the organization; or (iii) acting on behalf of, or with the express or apparent authority of, the organization; and (B) has been convicted for a violation under Federal law relating to an election for Federal office. (f) Authorization of Appropriations- There are authorized to be appropriated to the Secretary $35,000,000 for each of fiscal years 2009 through 2012 for grants under this section.		
SEC. 9116. EFFECTIVE DATE. The amendments made by this subtitle shall apply to transactions consummated on or after the effective date of the regulations specified in section 9109.		
SEC. 9117. REPORT BY THE GAO. (a) Report Required- The Comptroller General shall conduct a study to determine the effects the enactment of this Act will have on the availability and affordability of credit for consumers, small businesses, homebuyers, and mortgage lending, including the effect-- (1) on the mortgage market for mortgages that are not within the safe harbor provided in the amendments made by this subtitle; (2) on the ability of prospective homebuyers to obtain financing; (3) on the ability of homeowners facing resets or adjustments to refinance--for example, do they have fewer refinancing options due to the unavailability of certain loan products that were available before the enactment of this Act; (4) on minorities' ability to access affordable credit compared with other prospective borrowers; (5) on home sales and construction; (6) of extending the rescission right, if any, on adjustable rate loans and its impact on litigation; (7) of State foreclosure laws and, if any, an investor's ability to transfer a property after foreclosure; (8) of expanding the existing provisions of the Home Ownership and Equity Protection Act of 1994; (9) of prohibiting prepayment penalties on high-cost mortgages; and (10) of establishing counseling services under the Department of Housing and Urban Development and offered through the Office of Housing Counseling.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Report- Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (a). (c) Examination Related to Certain Credit Risk Retention Provisions- The report required by subsection (b) shall also include an analysis by the Comptroller General of the effect on the capital reserves and funding of lenders of credit risk retention provisions for non-qualified mortgages, including an analysis of the exceptions and adjustments authorized in section 129C(l)(3)(A) of the Truth in Lending Act and a recommendation on whether a uniform standard is needed. (d) Analysis of Credit Risk Retention Provisions- The report required by subsection (b) shall also include-- (1) an analysis by the Comptroller General of whether the credit risk retention provisions have significantly reduced risks to the larger credit market of the repackaging and selling of securitized loans on a secondary market; and (2) recommendations to the Congress on adjustments that should be made, or additional measures that should be undertaken.		
SEC. 9118. STATE ATTORNEY GENERAL ENFORCEMENT AUTHORITY. Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by striking `section 129 may also' and inserting `section 129, 129B, or 129C of this Act may also'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle C--High-Cost Mortgages **SEC. 9201. DEFINITIONS RELATING TO HIGH-COST MORTGAGES.** (a) High-cost Mortgage Defined- Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended by striking all that precedes paragraph (2) and inserting the following: `(aa) High-cost Mortgage- `(1) DEFINITION- `(A) IN GENERAL- The term `high-cost mortgage', and a mortgage referred to in this subsection, means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a reverse mortgage transaction, if-- `(i) in the case of a credit transaction secured-- `(I) by a first mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 6.5 percentage points (8.5 percentage points, if the dwelling is personal property and the transaction is for less than $50,000) the average prime offer rate, as defined in section 129C(c)(2)(B), for a comparable transaction; or `(II) by a subordinate or junior mortgage on the consumer's principal dwelling, the annual percentage rate at consummation of the transaction will exceed by more than 8.5 percentage points the average prime offer rate, as defined in section 129C(c)(2)(B), for a comparable transaction; `(ii) the total points and fees payable in connection with the transaction exceed-- `(I) in the case of a transaction for $20,000 or more, 5 percent of the total transaction amount; or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(II) in the case of a transaction for less than $20,000, the lesser of 8 percent of the total transaction amount or $1,000 (or such other dollar amount as the Board shall prescribe by regulation); or `(iii) the credit transaction documents permit the creditor to charge or collect prepayment fees or penalties more than 36 months after the transaction closing or such fees or penalties exceed, in the aggregate, more than 2 percent of the amount prepaid. `(B) INTRODUCTORY RATES TAKEN INTO ACCOUNT- For purposes of subparagraph (A)(i), the annual percentage rate of interest shall be determined based on the following interest rate: `(i) In the case of a fixed-rate transaction in which the annual percentage rate will not vary during the term of the loan, the interest rate in effect on the date of consummation of the transaction. `(ii) In the case of a transaction in which the rate of interest varies solely in accordance with an index, the interest rate determined by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the transaction agreement. `(iii) In the case of any other transaction in which the rate may vary at any time during the term of the loan for any reason, the interest charged on the transaction at the maximum rate that may be charged during the term of the transaction.'. (b) Adjustment of Percentage Points- Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended by striking subparagraph (B) and inserting the following new subparagraph: `(B) An increase or decrease under subparagraph (A)-- `(i) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(I) being less than 6 percentage points or greater than 10 percentage points; and		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(ii) may not result in the number of percentage points referred to in paragraph (1)(A)(i)(II) being less than 8 percentage points or greater than 12 percentage points.'. (c) Points and Fees Defined- (1) IN GENERAL- Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended-- (A) by striking subparagraph (B) and inserting the following: `(B) all compensation paid directly or indirectly by a consumer or creditor to a mortgage originator from any source, including a mortgage originator that originates a loan in the name of the creditor in a table-funded transaction;'; (B) in subparagraph (C)(ii), by inserting `except where applied to the charges set forth in section 106(e)(1) where a creditor may receive indirect compensation solely as a result of obtaining distributions of profits from an affiliated entity based on its ownership interest in compliance with section 8(c)(4) of the Real Estate Settlement Procedures Act of 1974' before the semicolon at the end; (C) in subparagraph (C)(iii), by striking `; and' and inserting `, except as provided for in clause (ii);'; (D) by redesignating subparagraph (D) as subparagraph (G); and (E) by inserting after subparagraph (C) the following new subparagraphs: `(D) premiums or other charges payable at or before closing for any credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of-income, life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid in full on a monthly basis shall not be considered financed by the creditor; `(E) except as provided in subsection (cc), the maximum prepayment fees and penalties which may be charged or collected under the terms of the credit transaction;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(F) all prepayment fees or penalties that are incurred by the consumer if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and'. (2) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS- Section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) is amended-- (A) by redesignating paragraph (5) as paragraph (6); and (B) by inserting after paragraph (4) the following new paragraph: `(5) CALCULATION OF POINTS AND FEES FOR OPEN-END CONSUMER CREDIT PLANS- In the case of open-end consumer credit plans, points and fees shall be calculated, for purposes of this section and section 129, by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the credit transaction, plus the minimum additional fees the consumer would be required to pay to draw down an amount equal to the total credit line.'. (d) Bona Fide Discount Loan Discount Points- Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (cc) (as added by section 101) the following new subsection: `(dd) Bona Fide Discount Points and Prepayment Penalties- For the purposes of determining the amount of points and fees for purposes of subsection (aa), either the amounts described in paragraph (1) or (2) of the following paragraphs, but not both, shall be excluded: `(1) Up to and including 2 bona fide discount points payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 1 percentage point-- `(A) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater; or `(B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.). `(2) Unless 2 bona fide discount points have been excluded under paragraph (1), up to and including 1 bona fide discount		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
point payable by the consumer in connection with the mortgage, but only if the interest rate from which the mortgage's interest rate will be discounted does not exceed by more than 2 percentage points-- `(A) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greater; or `(B) if secured by a personal property loan, the average rate on a loan in connection with which insurance is provided under title I of the National Housing Act (12 U.S.C. 1702 et seq.). `(3) For purposes of paragraph (1), the term `bona fide discount points' means loan discount points which are knowingly paid by the consumer for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the mortgage. `(4) Paragraphs (1) and (2) shall not apply to discount points used to purchase an interest rate reduction unless the amount of the interest rate reduction purchased is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.'.		
SEC. 9202. AMENDMENTS TO EXISTING REQUIREMENTS FOR CERTAIN MORTGAGES. (a) Prepayment Penalty Provisions- Section 129(c)(2) of the Truth in Lending Act (15 U.S.C. 1639(c)(2)) is hereby repealed.	*(b) Conforming Amendments- Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended--* *(1) by striking paragraph (2);* *(2) by striking `(1) IN GENERAL- '; and* *(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.* (Sec. 1075)	
(b) No Balloon Payments- Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended to read as follows: `(e) No Balloon Payments- No high-cost mortgage may contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection shall not apply when the payment schedule is adjusted to the seasonal or irregular income of the consumer or in the case of a balance due under the customary terms of a reverse mortgage.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 9203. ADDITIONAL REQUIREMENTS FOR CERTAIN MORTGAGES. (a) Additional Requirements for Certain Mortgages- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended-- (1) by redesignating subsections (j), (k) and (l) as subsections (n), (o) and (p) respectively; and (2) by inserting after subsection (i) the following new subsections: `(j) Recommended Default- No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a high-cost mortgage that refinances all or any portion of such existing loan or debt. `(k) Late Fees- `(1) IN GENERAL- No creditor may impose a late payment charge or fee in connection with a high-cost mortgage-- `(A) in an amount in excess of 4 percent of the amount of the payment past due; `(B) unless the loan documents specifically authorize the charge or fee; `(C) before the end of the 15-day period beginning on the date the payment is due, or in the case of a loan on which interest on each installment is paid in advance, before the end of the 30-day period beginning on the date the payment is due; or `(D) more than once with respect to a single late payment. `(2) COORDINATION WITH SUBSEQUENT LATE FEES- If a payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, and the only delinquency or insufficiency of payment is attributable to any late fee or delinquency charge assessed on any earlier payment, no late fee or delinquency charge may be imposed on such payment. `(3) FAILURE TO MAKE INSTALLMENT PAYMENT- If, in the case of a loan agreement the terms of which provide that any payment shall first be applied to any past due principal balance, the consumer fails to make an installment payment and the consumer subsequently resumes making installment payments but has not paid all past due installments, the creditor may impose a separate late payment charge or fee for any principal		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
due (without deduction due to late fees or related fees) until the default is cured. `(l) Acceleration of Debt- No high-cost mortgage may contain a provision which permits the creditor to accelerate the indebtedness, except when repayment of the loan has been accelerated by default in payment, or pursuant to a due-on-sale provision, or pursuant to a material violation of some other provision of the loan document unrelated to payment schedule. `(m) Restriction on Financing Points and Fees- No creditor may directly or indirectly finance, in connection with any high-cost mortgage, any of the following: `(1) Any prepayment fee or penalty payable by the consumer in a refinancing transaction if the creditor or an affiliate of the creditor is the noteholder of the note being refinanced. `(2) Any points or fees.'.		
(b) Prohibitions on Evasions- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as so redesignated by subsection (a)(1)) the following new subsection: `(q) Prohibitions on Evasions, Structuring of Transactions, and Reciprocal Arrangements- A creditor may not take any action in connection with a high-cost mortgage--  `(1) to structure a loan transaction as an open-end credit plan or another form of loan for the purpose and with the intent of evading the provisions of this title; or `(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this title.'.	*`(d) Prohibitions on Evasions, Structuring of Transactions, and Reciprocal Arrangements- A creditor may not take any action in connection with a residential mortgage loan--*  *`(1) to structure a loan transaction as an open end consumer credit plan or another form of loan for the purpose and with the intent of evading the provisions of this section; or* *`(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this section.* (Sec. 1075, amending Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) by adding a new section 129B(d)).	.
(c) Modification or Deferral Fees- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (b) of this section) the following new subsection: `(r) Modification and Deferral Fees Prohibited- `(1) CREDITORS- A creditor may not charge a consumer any fee to modify, renew, extend, or amend a high-cost mortgage, or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to defer any payment due under the terms of such mortgage, unless the modification, renewal, extension or amendment results in a lower annual percentage rate on the mortgage for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages. `(2) THIRD PARTIES- A third-party may not charge a consumer any fee to-- `(A) modify, renew, extend, or amend a high-cost mortgage, or defer any payment due under the terms of such mortgage; `(B) negotiate with a creditor on behalf of a consumer, the modification, renewal, extension, or amendment of a high-cost mortgage; or `(C) negotiate with a creditor on behalf of a consumer, the deferral of any payment due under the terms of such mortgage, unless the modification renewal, extension or amendment results in a significantly lower annual percentage rate on the mortgage, or a significant reduction in the amount of the outstanding principal on the mortgage, for the consumer and then only if the amount of the fee is comparable to fees imposed for similar transactions in connection with consumer credit transactions that are secured by a consumer's principal dwelling and are not high-cost mortgages. `(3) ENFORCEMENT- Section 130 shall be applied for purposes of paragraph (2) by-- `(A) substituting `third party' for `creditor'each place such term appears; and `(B) substituting `any fee charged by a third party' for `finance charge' each place such term appears.'. (d) Payoff Statement- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (r) (as added by subsection (c) of this section) the following new subsection: `(s) Payoff Statement- `(1) FEES- `(A) IN GENERAL- Except as provided in subparagraph (B), no creditor or servicer may charge a fee for informing or transmitting to any person the balance due to pay off the outstanding balance on a high-cost mortgage.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(B) TRANSACTION FEE- When payoff information referred to in subparagraph (A) is provided by facsimile transmission or by a courier service, a creditor or servicer may charge a processing fee to cover the cost of such transmission or service in an amount not to exceed an amount that is comparable to fees imposed for similar services provided in connection with consumer credit transactions that are secured by the consumer's principal dwelling and are not high-cost mortgages. `(C) FEE DISCLOSURE- Prior to charging a transaction fee as provided in subparagraph (B), a creditor or servicer shall disclose that payoff balances are available for free pursuant to subparagraph (A). `(D) MULTIPLE REQUESTS- If a creditor or servicer has provided payoff information referred to in subparagraph (A) without charge, other than the transaction fee allowed by subparagraph (B), on 4 occasions during a calendar year, the creditor or servicer may thereafter charge a reasonable fee for providing such information during the remainder of the calendar year. `(2) PROMPT DELIVERY- Payoff balances shall be provided within 5 business days after receiving a request by a consumer or a person authorized by the consumer to obtain such information. `(3) SERVICES CONSIDERED ASSIGNEE- For the purposes of this subsection, a servicer shall be considered an assignee under the Truth in Lending Act.'. (e) Pre-Loan Counseling Required- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (s) (as added by subsection (d) of this section) the following new subsection: `(t) Pre-Loan Counseling- `(1) IN GENERAL- A creditor may not extend credit to a consumer under a high-cost mortgage without first receiving certification from a counselor that is approved by the Secretary of Housing and Urban Development, or at the discretion of the Secretary, a State housing finance authority, that the consumer has received counseling on the advisability of the mortgage. Such counselor shall not be employed by the creditor or an affiliate of the creditor or be affiliated with the creditor. `(2) DISCLOSURES REQUIRED PRIOR TO COUNSELING-		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
No counselor may certify that a consumer has received counseling on the advisability of the high-cost mortgage unless the counselor can verify that the consumer has received each statement required (in connection with such loan) by this section or the Real Estate Settlement Procedures Act of 1974 with respect to the transaction. `(3) REGULATIONS- The Board may prescribe such regulations as the Board determines to be appropriate to carry out the requirements of paragraph (1).'. (f) Flipping Prohibited- Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (t) (as added by subsection (e)) the following new subsection: `(u) Flipping- `(1) IN GENERAL- No creditor may knowingly or intentionally engage in the unfair act or practice of flipping in connection with a high-cost mortgage. `(2) FLIPPING DEFINED- For purposes of this subsection, the term `flipping' means the making of a loan or extension of credit in the form a high-cost mortgage to a consumer which refinances an existing mortgage when the new loan or extension of credit does not have reasonable, net tangible benefit (as determined in accordance with regulations prescribed under section 129C(b)) to the consumer considering all of the circumstances, including the terms of both the new and the refinanced loans or credit, the cost of the new loan or credit, and the consumer's circumstances. `(v) Corrections and Unintentional Violations- A creditor or assignee in a high cost loan who, when acting in good faith, fails to comply with any requirement under this section will not be deemed to have violated such requirement if the creditor or assignee establishes that either-- `(1) within 30 days of the loan closing and prior to the institution of any action, the consumer is notified of or discovers the violation, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer-- `(A) make the loan satisfy the requirements of this chapter; or `(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial to the consumer so that the loan will no longer be a high-cost mortgage; or `(2) within 60 days of the creditor's discovery or receipt of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
notification of an unintentional violation or bona fide error as described in subsection (c) and prior to the institution of any action, the consumer is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the consumer-- `(A) make the loan satisfy the requirements of this chapter; or `(B) in the case of a high-cost mortgage, change the terms of the loan in a manner beneficial so that the loan will no longer be a high-cost mortgage.'.		
SEC. 9204. REGULATIONS. (a) In General- The Board of Governors of the Federal Reserve System shall publish regulations implementing this subtitle and the amendments made by this subtitle in final form before the end of the 6-month period beginning on the date of the enactment of this Act. (b) Consumer Mortgage Education- (1) REGULATIONS- The Board of Governors of the Federal Reserve System may prescribe regulations requiring or encouraging creditors to provide consumer mortgage education to prospective customers or direct such customers to qualified consumer mortgage education or counseling programs in the vicinity of the residence of the consumer. (2) COORDINATION WITH STATE LAW- No requirement established by the Board of Governors of the Federal Reserve System pursuant to paragraph (1) shall be construed as affecting or superseding any requirement under the law of any State with respect to consumer mortgage counseling or education.		
SEC. 9205. EFFECTIVE DATE. The amendments made by this subtitle shall take effect at the end of the 6-month period beginning on the date of the enactment of this Act and shall apply to mortgages referred to in section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) for which an application is received by the creditor after the end of such period.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle D--Office of Housing Counseling **SEC. 9301. SHORT TITLE.** This subtitle may be cited as the `Expand and Preserve Home Ownership Through Counseling Act'.		
SEC. 9302. ESTABLISHMENT OF OFFICE OF HOUSING COUNSELING. Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection: `(g) Office of Housing Counseling- `(1) ESTABLISHMENT- There is established, in the Department, the Office of Housing Counseling. `(2) DIRECTOR- There is established the position of Director of Housing Counseling. The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service. `(3) FUNCTIONS- `(A) IN GENERAL- The Director shall have primary responsibility within the Department for all activities and matters relating to homeownership counseling and rental housing counseling, including-- `(i) research, grant administration, public outreach, and policy development relating to such counseling; and `(ii) establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by the Department that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
measures relating to housing counseling. `(B) SPECIFIC FUNCTIONS- The Director shall carry out the functions assigned to the Director and the Office under this section and any other provisions of law. Such functions shall include establishing rules necessary for-- `(i) the counseling procedures under section 106(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(h)(1)); `(ii) carrying out all other functions of the Secretary under section 106(g) of the Housing and Urban Development Act of 1968, including the establishment, operation, and publication of the availability of the toll-free telephone number under paragraph (2) of such section; `(iii) contributing to the preparation and distribution of home buying information booklets pursuant to section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604); `(iv) carrying out the certification program under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)); `(v) carrying out the assistance program under section 106(a)(4) of the Housing and Urban Development Act of 1968, including criteria for selection of applications to receive assistance; `(vi) carrying out any functions regarding abusive, deceptive, or unscrupulous lending practices relating to residential mortgage loans that the Secretary considers appropriate, which shall include conducting the study under section 6 of the Expand and Preserve Home Ownership Through Counseling Act; `(vii) providing for operation of the advisory committee established under paragraph (4) of this subsection; `(viii) collaborating with community-based		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
organizations with expertise in the field of housing counseling; and `(ix) providing for the building of capacity to provide housing counseling services in areas that lack sufficient services, including underdeveloped areas that lack basic water and sewer systems, electricity services, and safe, sanitary housing. `(4) ADVISORY COMMITTEE- `(A) IN GENERAL- The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director. `(B) MEMBERS- Such advisory committee shall consist of not more than 12 individuals, and the membership of the committee shall equally represent the mortgage and real estate industry, including consumers and housing counseling agencies certified by the Secretary. `(C) TERMS- Except as provided in subparagraph (D), each member of the advisory committee shall be appointed for a term of 3 years. Members may be reappointed at the discretion of the Secretary. `(D) TERMS OF INITIAL APPOINTEES- As designated by the Secretary at the time of appointment, of the members first appointed to the advisory committee, 4 shall be appointed for a term of 1 year and 4 shall be appointed for a term of 2 years. `(E) PROHIBITION OF PAY; TRAVEL EXPENSES- Members of the advisory committee shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code. `(F) ADVISORY ROLE ONLY- The advisory committee shall have no role in reviewing or awarding housing counseling grants. `(5) SCOPE OF HOMEOWNERSHIP COUNSELING- In carrying out the responsibilities of the Director, the Director shall ensure that homeownership counseling provided by, in connection with, or pursuant to any function, activity, or program of the Department addresses the entire process of homeownership, including the decision to purchase a home, the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home.'.		
SEC. 9303. COUNSELING PROCEDURES. (a) In General- Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection: `(g) Procedures and Activities- `(1) COUNSELING PROCEDURES- `(A) IN GENERAL- The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling. `(B) HOMEOWNERSHIP COUNSELING- For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term `homeownership counseling' means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to-- `(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20)); `(ii) in the United States Housing Act of 1937-- `(I) section 9(e) (42 U.S.C. 1437g(e)); `(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D)); `(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D)); `(IV) section 23(c)(4) (42 U.S.C. 1437u(c)(4));		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(V) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4)); `(VI) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B)); `(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6), 1437aaa-2(b)(7)); and `(VIII) section 304(c)(4) (42 U.S.C. 1437aaa-3(c)(4)); `(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note); `(iv) sections 233(b)(2) and 258(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2), 12808(b)); `(v) this section and section 101(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x, 1701w(e)); `(vi) section 220(d)(2)(G) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(G)); `(vii) sections 422(b)(6), 423(b)(7), 424(c)(4), 442(b)(6), and 443(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6)); `(viii) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii)); `(ix) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); `(x) in the National Housing Act-- `(I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4); `(II) subsections (a) and (c)(3) of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
section 237 (12 U.S.C. 1715z-2); and `(III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z-20); `(xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B)); `(xii) section 508 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-7); and `(xiii) section 106 of the Energy Policy Act of 1992 (42 U.S.C. 12712 note). `(C) RENTAL HOUSING COUNSELING- For purposes of this subsection, the term `rental housing counseling' means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to-- `(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20)); `(ii) in the United States Housing Act of 1937-- `(I) section 9(e) (42 U.S.C. 1437g(e)); `(II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D)); `(III) section 23(c)(4) (42 U.S.C. 1437u(c)(4)); `(IV) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4)); `(V) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B)); and `(VI) section 302(b)(6) (42 U.S.C. 1437aaa-1(b)(6)); `(iii) section 233(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773(b)(2)); `(iv) section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x);		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(v) section 422(b)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12872(b)(6)); `(vi) section 491(b)(1)(F)(iii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408(b)(1)(F)(iii)); `(vii) sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and `(viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). `(2) STANDARDS FOR MATERIALS- The Secretary, in consultation with the advisory committee established under subsection (g)(4) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4). `(3) MORTGAGE SOFTWARE SYSTEMS- `(A) CERTIFICATION- The Secretary shall provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account-- `(i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities; `(ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan; and `(iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process. If the Secretary determines that available existing		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications. `(B) USE AND INITIAL AVAILABILITY- Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e). `(C) AVAILABILITY- After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers. `(D) BUDGET COMPLIANCE- This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts. `(4) NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGNS TO PROMOTE HOUSING COUNSELING- `(A) IN GENERAL- The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development. `(B) CONTACT INFORMATION- Each segment of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages. `(C) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph. `(D) FORECLOSURE RESCUE EDUCATION PROGRAMS- `(i) IN GENERAL- Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing-- `(I) tips on avoiding foreclosure rescue scams; `(II) tips on avoiding predatory lending mortgage agreements; `(III) tips on avoiding for-profit foreclosure counseling services; and `(IV) local counseling resources that are approved by the Department of Housing and Urban Development. `(ii) PROGRAM EMPHASIS- In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a high percentage of retirement communities or a high percentage of low-income minority communities. `(iii) TERMS DEFINED- For purposes of this		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
subparagraph: `(I) HIGH DENSITY OF FORECLOSURES- An area has a `high density of foreclosures' if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates. `(II) HIGH PERCENTAGE OF RETIREMENT COMMUNITIES- An area has a `high percentage of retirement communities' if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older. `(III) HIGH PERCENTAGE OF LOW-INCOME MINORITY COMMUNITIES- An area has a `high percentage of low-income minority communities' if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling. `(5) EDUCATION PROGRAMS- The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Conforming Amendments to Grant Program for Homeownership Counseling Organizations- Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended-- (1) in subclause (III), by striking `and' at the end; (2) in subclause (IV) by striking the period at the end and inserting `; and'; and (3) by inserting after subclause (IV) the following new subclause: `(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).'.		
SEC. 9304. GRANTS FOR HOUSING COUNSELING ASSISTANCE. Section 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding at the end the following new paragraph: `(4) Homeownership and Rental Counseling Assistance- `(A) IN GENERAL- The Secretary shall make financial assistance available under this paragraph to HUD-approved housing counseling agencies and State housing finance agencies. `(B) QUALIFIED ENTITIES- The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph, in accordance with subparagraph (D). `(C) DISTRIBUTION- Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs and that ensures adequate distribution of amounts for rural areas having traditionally low levels of access to such counseling services, including areas with insufficient access to the Internet. In distributing such assistance, the Secretary may give priority consideration to entities serving areas with the highest home foreclosure rates. `(D) LIMITATION ON DISTRIBUTION OF ASSISTANCE- `(i) IN GENERAL- None of the amounts made available under this paragraph shall be distributed to--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(I) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or `(II) any organization which employs applicable individuals. `(ii) DEFINITION OF APPLICABLE INDIVIDUALS- In this subparagraph, the term `applicable individual' means an individual who-- `(I) is-- `(aa) employed by the organization in a permanent or temporary capacity; `(bb) contracted or retained by the organization; or `(cc) acting on behalf of, or with the express or apparent authority of, the organization; and `(II) has been convicted for a violation under Federal law relating to an election for Federal office. `(E) GRANTMAKING PROCESS- In making assistance available under this paragraph, the Secretary shall consider appropriate ways of streamlining and improving the processes for grant application, review, approval, and award. `(F) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated $45,000,000 for each of fiscal years 2009 through 2012 for-- `(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development; `(ii) the responsibilities of the Director of Housing Counseling under paragraphs (2) through (5) of subsection (g); and `(iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.'.		
SEC. 9305. REQUIREMENTS TO USE HUD-CERTIFIED COUNSELORS UNDER HUD PROGRAMS. Section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) is amended-- (1) by striking paragraph (1) and inserting the following new		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
paragraph: `(1) REQUIREMENT FOR ASSISTANCE- An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 101(e), unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.'; (2) in paragraph (2)-- (A) by inserting `and for certifying organizations' before the period at the end of the first sentence; and (B) in the second sentence by striking `for certification' and inserting `, for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual,'; (3) in paragraph (3), by inserting `organizations and' before `individuals'; (4) by redesignating paragraph (3) as paragraph (5); and (5) by inserting after paragraph (2) the following new paragraphs: `(3) REQUIREMENT UNDER HUD PROGRAMS- Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling. `(4) OUTREACH- The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).'.		
SEC. 9306. STUDY OF DEFAULTS AND FORECLOSURES. The Secretary of Housing and Urban Development shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as are available. The study shall also		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
examine the role of escrow accounts in helping prime and nonprime borrowers to avoid defaults and foreclosures, and the role of computer registries of mortgages, including those used for trading mortgage loans. Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a preliminary report regarding the study. Not later than 24 months after such date of enactment, the Secretary shall submit a final report regarding the results of the study, which shall include any recommended legislation relating to the study, and recommendations for best practices and for a process to identify populations that need counseling the most.		
SEC. 9307. DEFAULT AND FORECLOSURE DATABASE. (a) Establishment- The Secretary of Housing and Urban Development, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available. (b) Census Tract Data- Information in the database shall be collected, aggregated, and made available on a census tract basis. (c) Requirements- Information collected and made available through the database shall include-- (1) the number and percentage of such mortgage loans that are delinquent by more than 30 days; (2) the number and percentage of such mortgage loans that are delinquent by more than 90 days; (3) the number and percentage of such properties that are real estate-owned; (4) number and percentage of such mortgage loans that are in the foreclosure process; (5) the number and percentage of such mortgage loans that have an outstanding principal obligation amount that is greater than the value of the property for which the loan was made; and (6) such other information as the Secretary considers appropriate.		
SEC. 9308. DEFINITIONS FOR COUNSELING-RELATED PROGRAMS. Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following new subsection: `(h) Definitions- For purposes of this section:		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(1) NONPROFIT ORGANIZATION- The term `nonprofit organization' has the meaning given such term in section 104(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(5)), except that subparagraph (D) of such section shall not apply for purposes of this section. `(2) STATE- The term `State' means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States. `(3) UNIT OF GENERAL LOCAL GOVERNMENT- The term `unit of general local government' means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State. `(4) HUD-APPROVED COUNSELING AGENCY- The term `HUD-approved counseling agency' means a private or public nonprofit organization that is-- `(A) exempt from taxation under section 501(c) of the Internal Revenue Code of 1986; and `(B) certified by the Secretary to provide housing counseling services. `(5) STATE HOUSING FINANCE AGENCY- The term `State housing finance agency' means any public body, agency, or instrumentality specifically created under State statute that is authorised to finance activities designed to provide housing and related facilities throughout an entire State through land acquisition, construction, or rehabilitation.'.		
SEC. 9309. ACCOUNTABILITY AND TRANSPARENCY FOR GRANT RECIPIENTS. Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as amended by the preceding provisions of this subtitle, is further amended by adding at the end the following: `(i) Accountability for Recipients of Covered Assistance- `(1) TRACKING OF FUNDS- The Secretary shall-- `(A) develop and maintain a system to ensure that any organization or entity that receives any covered assistance uses all amounts of covered assistance in accordance with this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
applicable, the regulations issued under this section or such section 9115, as applicable, and any requirements or conditions under which such amounts were provided; and `(B) require any organization or entity, as a condition of receipt of any covered assistance, to agree to comply with such requirements regarding covered assistance as the Secretary shall establish, which shall include-- `(i) appropriate periodic financial and grant activity reporting, record retention, and audit requirements for the duration of the covered assistance to the organization or entity to ensure compliance with the limitations and requirements of this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as applicable, the regulations under this section or such section 9115, as applicable, and any requirements or conditions under which such amounts were provided; and `(ii) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance. `(2) MISUSE OF FUNDS- If any organization or entity that receives any covered assistance is determined by the Secretary to have used any covered assistance in a manner that is materially in violation of this section or section 9115 of the Mortgage Reform and Anti-Predatory Lending Act, as applicable, the regulations issued under this section or such section 9115, as applicable, or any requirements or conditions under which such assistance was provided-- `(A) the Secretary shall require that, within 12 months after the determination of such misuse, the organization or entity shall reimburse the Secretary for such misused amounts and return to the Secretary any such amounts that remain unused or uncommitted for use; and `(B) such organization or entity shall be ineligible, at any time after such determination, to apply for or receive any further covered assistance. The remedies under this paragraph are in addition to any other remedies that may be available under law. `(3) COVERED ASSISTANCE- For purposes of this subsection, the term `covered assistance' means any grant or		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
other financial assistance provided under-- `(A) this section; or `(B) section 9115 of the Mortgage Reform and Anti-Predatory Lending Act.'.		
SEC. 9310. UPDATING AND SIMPLIFICATION OF MORTGAGE INFORMATION BOOKLET. Section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) is amended-- (1) in the section heading, by striking `SPECIAL' and inserting `HOME BUYING'; (2) by striking subsections (a) and (b) and inserting the following new subsections: `(a) Preparation and Distribution- The Director of the Consumer Financial Protection Agency (hereafter in this section referred to as the `Director') shall prepare, at least once every 5 years, a booklet to help consumers applying for federally related mortgage loans to understand the nature and costs of real estate settlement services. The Director shall prepare the booklet in various languages and cultural styles, as the Director determines to be appropriate, so that the booklet is understandable and accessible to homebuyers of different ethnic and cultural backgrounds. The Director shall distribute such booklets to all lenders that make federally related mortgage loans. The Director shall also distribute to such lenders lists, organized by location, of homeownership counselors certified under section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) for use in complying with the requirement under subsection (c) of this section. `(b) Contents- Each booklet shall be in such form and detail as the Director shall prescribe and, in addition to such other information as the Director may provide, shall include in plain and understandable language the following information: `(1) A description and explanation of the nature and purpose of the costs incident to a real estate settlement or a federally related mortgage loan. The description and explanation shall provide general information about the mortgage process as well as specific information concerning, at a minimum-- `(A) balloon payments; `(B) prepayment penalties; `(C) the advantages of prepayment; and `(D) the trade-off between closing costs and the interest rate over the life of the loan.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(2) An explanation and sample of the uniform settlement statement required by section 4. `(3) A list and explanation of lending practices, including those prohibited by the Truth in Lending Act or other applicable Federal law, and of other unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement. `(4) A list and explanation of questions a consumer obtaining a federally related mortgage loan should ask regarding the loan, including whether the consumer will have the ability to repay the loan, whether the consumer sufficiently shopped for the loan, whether the loan terms include prepayment penalties or balloon payments, and whether the loan will benefit the borrower. `(5) An explanation of the right of rescission as to certain transactions provided by sections 125 and 129 of the Truth in Lending Act. `(6) A brief explanation of the nature of a variable rate mortgage and a reference to the booklet entitled `Consumer Handbook on Adjustable Rate Mortgages', published by the Director, or to any suitable substitute of such booklet that the Director may subsequently adopt pursuant to such section. `(7) A brief explanation of the nature of a home equity line of credit and a reference to the pamphlet required to be provided under section 127A of the Truth in Lending Act. `(8) Information about homeownership counseling services made available pursuant to section 106(a)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation that the consumer use such services, and notification that a list of certified providers of homeownership counseling in the area, and their contact information, is available. `(9) An explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate and the requirements under section 10 of this Act regarding such accounts. `(10) An explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incidental to a real estate settlement. `(11) An explanation of a consumer's responsibilities, liabilities, and obligations in a mortgage transaction. `(12) An explanation of the nature and purpose of real estate		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appraisals, including the difference between an appraisal and a home inspection. `(13) Notice that the Office of Housing of the Department of Housing and Urban Development has made publicly available a brochure regarding loan fraud and a World Wide Web address and toll-free telephone number for obtaining the brochure. The booklet prepared pursuant to this section shall take into consideration differences in real estate settlement procedures that may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.'; (3) in subsection (c), by inserting at the end the following new sentence: `Each lender shall also include with the booklet a reasonably complete or updated list of homeownership counselors who are certified pursuant to section 106(e) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) and located in the area of the lender.'; and (4) in subsection (d), by inserting after the period at the end of the first sentence the following: `The lender shall provide the HUD-issued booklet in the version that is most appropriate for the person receiving it.'.		
SEC. 9311. HOME INSPECTION COUNSELING. (a) Public Outreach- (1) IN GENERAL- The Secretary of Housing and Urban Development (in this section referred to as the `Secretary') shall take such actions as may be necessary to inform potential homebuyers of the availability and importance of obtaining an independent home inspection. Such actions shall include-- (A) publication of the HUD/FHA form HUD 92564-CN entitled `For Your Protection: Get a Home Inspection', in both English and Spanish languages; (B) publication of the HUD/FHA booklet entitled `For Your Protection: Get a Home Inspection', in both English and Spanish languages; (C) development and publication of a HUD booklet entitled `For Your Protection--Get a Home Inspection' that does not reference FHA-insured homes, in both English and Spanish languages; and (D) publication of the HUD document entitled `Ten Important Questions To Ask Your Home Inspector', in		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
both English and Spanish languages. (2) AVAILABILITY- The Secretary shall make the materials specified in paragraph (1) available for electronic access and, where appropriate, inform potential homebuyers of such availability through home purchase counseling public service announcements and toll-free telephone hotlines of the Department of Housing and Urban Development. The Secretary shall give special emphasis to reaching first-time and low-income homebuyers with these materials and efforts. (3) UPDATING- The Secretary may periodically update and revise such materials, as the Secretary determines to be appropriate. (b) Requirement for FHA-approved Lenders- Each mortgagee approved for participation in the mortgage insurance programs under title II of the National Housing Act shall provide prospective homebuyers, at first contact, whether upon pre-qualification, pre-approval, or initial application, the materials specified in subparagraphs (A), (B), and (D) of subsection (a)(1). (c) Requirements for HUD-approved Counseling Agencies- Each counseling agency certified pursuant by the Secretary to provide housing counseling services shall provide each of their clients, as part of the home purchase counseling process, the materials specified in subparagraphs (C) and (D) of subsection (a)(1). (d) Training- Training provided the Department of Housing and Urban Development for housing counseling agencies, whether such training is provided directly by the Department or otherwise, shall include-- (1) providing information on counseling potential homebuyers of the availability and importance of getting an independent home inspection; (2) providing information about the home inspection process, including the reasons for specific inspections such as radon and lead-based paint testing; (3) providing information about advising potential homebuyers on how to locate and select a qualified home inspector; and (4) review of home inspection public outreach materials of the Department.		
SEC. 9312. WARNINGS TO HOMEOWNERS OF FORECLOSURE RESCUE SCAMS. (a) Assistance to NRC- Notwithstanding any other provision of law, of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
any amounts made available for any fiscal year pursuant to section 106(a)(4)(F) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(4)(F)) (as added by section 9304 of this title), 10 percent shall be used only for assistance to the Neighborhood Reinvestment Corporation for activities, in consultation with servicers of residential mortgage loans, to provide notice to borrowers under such loans who are delinquent with respect to payments due under such loans that makes such borrowers aware of the dangers of fraudulent activities associated with foreclosure. (b) Notice- The Neighborhood Reinvestment Corporation, in consultation with servicers of residential mortgage loans, shall use the amounts provided pursuant to subsection (a) to carry out activities to inform borrowers under residential mortgage loans-- (1) that the foreclosure process is complex and can be confusing; (2) that the borrower may be approached during the foreclosure process by persons regarding saving their home and they should use caution in any such dealings; (3) that there are Federal Government and nonprofit agencies that may provide information about the foreclosure process, including the Department of Housing and Urban Development; (4) that they should contact their lender immediately, contact the Department of Housing and Urban Development to find a housing counseling agency certified by the Department to assist in avoiding foreclosure, or visit the Department's website regarding tips for avoiding foreclosure; and (5) of the telephone number of the loan servicer or successor, the telephone number of the Department of Housing and Urban Development housing counseling line, and the Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Web sites for housing counseling and for tips for avoiding foreclosure.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle E--Mortgage Servicing **SEC. 9401. ESCROW AND IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.** (a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129C (as added by section 9101) the following new section:		
**`SEC. 129D. ESCROW OR IMPOUND ACCOUNTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.**  `(a) In General- Except as provided in subsection (b), (c), or (d) , a creditor, in connection with the formation or consummation of a consumer credit transaction secured by a first lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, shall establish, before the consummation of such transaction, an escrow or impound account for the payment of taxes and hazard insurance, and, if applicable, flood insurance, mortgage insurance, ground rents, and any other required periodic payments or premiums with respect to the property or the loan terms, as provided in, and in accordance with, this section. `(b) When Required- No impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property may be required as a condition of a real property sale contract or a loan secured by a first deed of trust or mortgage on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, except when-- `(1) any such impound, trust, or other type of escrow or impound account for such purposes is required by Federal or State law; `(2) a loan is made, guaranteed, or insured by a State or Federal governmental lending or insuring agency; `(3) the transaction is secured by a first mortgage or lien on the consumer's principal dwelling having an original principal obligation amount that-- `(A) does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
size, as of the date such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), and the annual percentage rate will exceed the average prime offer rate for a comparable transaction by 1.5 or more percentage points; or `(B) exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), and the annual percentage rate will exceed the average prime offer rate for a comparable transaction by 2.5 or more percentage points; or `(4) so required pursuant to regulation. `(c) Duration of Mandatory Escrow or Impound Account- An escrow or impound account established pursuant to subsection (b), shall remain in existence for a minimum period of 5 years, beginning with the date of the consummation of the loan, and until such borrower has sufficient equity in the dwelling securing the consumer credit transaction so as to no longer be required to maintain private mortgage insurance, or such other period as may be provided in regulations to address situations such as borrower delinquency, unless the underlying mortgage establishing the account is terminated. `(d) Limited Exemptions for Loans Secured by Shares in a Cooperative and for Certain Condominium Units- Escrow accounts need not be established for loans secured by shares in a cooperative. Insurance premiums need not be included in escrow accounts for loans secured by condominium units, where the condominium association has an obligation to the condominium unit owners to maintain a master policy insuring condominium units. `(e) Clarification on Escrow Accounts for Loans Not Meeting Statutory Test- For mortgages not covered by the requirements of subsection (b), no provision of this section shall be construed as precluding the establishment of an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to the property-- `(1) on terms mutually agreeable to the parties to the loan; `(2) at the discretion of the lender or servicer, as provided by the contract between the lender or servicer and the borrower; or `(3) pursuant to the requirements for the escrowing of flood		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
insurance payments for regulated lending institutions in section 102(d) of the Flood Disaster Protection Act of 1973. `(f) Administration of Mandatory Escrow or Impound Accounts- `(1) IN GENERAL- Except as may otherwise be provided for in this title or in regulations prescribed by the Board, escrow or impound accounts established pursuant to subsection (b) shall be established in a federally insured depository institution. `(2) ADMINISTRATION- Except as provided in this section or regulations prescribed under this section, an escrow or impound account subject to this section shall be administered in accordance with-- `(A) the Real Estate Settlement Procedures Act of 1974 and regulations prescribed under such Act; `(B) the Flood Disaster Protection Act of 1973 and regulations prescribed under such Act; and `(C) the law of the State, if applicable, where the real property securing the consumer credit transaction is located. `(3) APPLICABILITY OF PAYMENT OF INTEREST- If prescribed by applicable State or Federal law, each creditor shall pay interest to the consumer on the amount held in any impound, trust, or escrow account that is subject to this section in the manner as prescribed by that applicable State or Federal law. `(4) PENALTY COORDINATION WITH RESPA- Any action or omission on the part of any person which constitutes a violation of the Real Estate Settlement Procedures Act of 1974 or any regulation prescribed under such Act for which the person has paid any fine, civil money penalty, or other damages shall not give rise to any additional fine, civil money penalty, or other damages under this section, unless the action or omission also constitutes a direct violation of this section. `(g) Disclosures Relating to Mandatory Escrow or Impound Account- In the case of any impound, trust, or escrow account that is subject to this section, the creditor shall disclose by written notice to the consumer at least 3 business days before the consummation of the consumer credit transaction giving rise to such account or in accordance with timeframes established in prescribed regulations the following information: `(1) The fact that an escrow or impound account will be established at consummation of the transaction. `(2) The amount required at closing to initially fund the escrow or impound account.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(3) The amount, in the initial year after the consummation of the transaction, of the estimated taxes and hazard insurance, including flood insurance, if applicable, and any other required periodic payments or premiums that reflects, as appropriate, either the taxable assessed value of the real property securing the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction) or the replacement costs of the property. `(4) The estimated monthly amount payable to be escrowed for taxes, hazard insurance (including flood insurance, if applicable) and any other required periodic payments or premiums. `(5) The fact that, if the consumer chooses to terminate the account at the appropriate time in the future, the consumer will become responsible for the payment of all taxes, hazard insurance, and flood insurance, if applicable, as well as any other required periodic payments or premiums on the property unless a new escrow or impound account is established. `(6) Such other information as the Federal banking agencies jointly determine necessary for the protection of the consumer. `(h) Definitions- For purposes of this section, the following definitions shall apply: `(1) FLOOD INSURANCE- The term `flood insurance' means flood insurance coverage provided under the national flood insurance program pursuant to the National Flood Insurance Act of 1968. `(2) HAZARD INSURANCE- The term `hazard insurance' shall have the same meaning as provided for `hazard insurance', `casualty insurance', `homeowner's insurance', or other similar term under the law of the State where the real property securing the consumer credit transaction is located.'. (b) Implementation- (1) REGULATIONS- The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, (hereafter in this title referred to as the `Federal banking agencies') and the Federal Trade Commission shall prescribe, in final form, such regulations as determined to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(2) EFFECTIVE DATE- The amendments made by subsection (a) shall only apply to covered mortgage loans consummated after the end of the 1-year period beginning on the date of the publication of final regulations in the Federal Register. (c) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129C (as added by section 9101) the following new item: `129D. Escrow or impound accounts relating to certain consumer credit transactions.'.		
SEC. 9402. DISCLOSURE NOTICE REQUIRED FOR CONSUMERS WHO WAIVE ESCROW SERVICES. (a) In General- Section 129D of the Truth in Lending Act (as added by section 9401) is amended by adding at the end the following new subsection: `(i) Disclosure Notice Required for Consumers Who Waive Escrow Services- `(1) IN GENERAL- If-- `(A) an impound, trust, or other type of account for the payment of property taxes, insurance premiums, or other purposes relating to real property securing a consumer credit transaction is not established in connection with the transaction; or `(B) a consumer chooses, and provides written notice to the creditor or servicer of such choice, at any time after such an account is established in connection with any such transaction and in accordance with any statute, regulation, or contractual agreement, to close such account, the creditor or servicer shall provide a timely and clearly written disclosure to the consumer that advises the consumer of the responsibilities of the consumer and implications for the consumer in the absence of any such account. `(2) DISCLOSURE REQUIREMENTS- Any disclosure provided to a consumer under paragraph (1) shall include the following: `(A) Information concerning any applicable fees or costs associated with either the non-establishment of any such account at the time of the transaction, or any subsequent closure of any such account.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(B) A clear and prominent notice that the consumer is responsible for personally and directly paying the non-escrowed items, in addition to paying the mortgage loan payment, in the absence of any such account, and the fact that the costs for taxes, insurance, and related fees can be substantial. `(C) A clear explanation of the consequences of any failure to pay non-escrowed items, including the possible requirement for the forced placement of insurance by the creditor or servicer and the potentially higher cost (including any potential commission payments to the servicer) or reduced coverage for the consumer in the event of any such creditor-placed insurance. `(D) Such other information as the Federal banking agencies jointly determine necessary for the protection of the consumer.'. (b) Implementation- (1) REGULATIONS- The Federal banking agencies and the Federal Trade Commission shall prescribe, in final form, such regulations as such agencies determine to be necessary to implement the amendments made by subsection (a) before the end of the 180-day period beginning on the date of the enactment of this Act. (2) EFFECTIVE DATE- The amendments made by subsection (a) shall only apply in accordance with the regulations established in paragraph (1) and beginning on the date occurring 180-days after the date of the publication of final regulations in the Federal Register.		
SEC. 9403. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENTS. (a) Servicer Prohibitions- Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsections: `(k) Servicer Prohibitions- `(1) IN GENERAL- A servicer of a federally related mortgage shall not-- `(A) obtain force-placed hazard insurance unless there is a reasonable basis to believe the borrower has failed		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to comply with the loan contract's requirements to maintain property insurance; `(B) charge fees for responding to valid qualified written requests (as defined in regulations which the Secretary shall prescribe) under this section; `(C) fail to take timely action to respond to a borrower's requests to correct errors relating to allocation of payments, final balances for purposes of paying off the loan, or avoiding foreclosure, or other standard servicer's duties; `(D) fail to respond within 10 business days to a request from a borrower to provide the identity, address, and other relevant contact information about the owner assignee of the loan; or `(E) fail to comply with any other obligation found by the Secretary, by regulation, to be appropriate to carry out the consumer protection purposes of this Act. `(2) FORCE-PLACED INSURANCE DEFINED- For purposes of this subsection and subsections (l) and (m), the term `force-placed insurance' means hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage. `(l) Requirements for Force-placed Insurance- A servicer of a federally related mortgage shall not be construed as having a reasonable basis for obtaining force-placed insurance unless the requirements of this subsection have been met. `(1) WRITTEN NOTICES TO BORROWER- A servicer may not impose any charge on any borrower for force-placed insurance with respect to any property securing a federally related mortgage unless-- `(A) the servicer has sent, by first-class mail, a written notice to the borrower containing-- `(i) a reminder of the borrower's obligation to maintain hazard insurance on the property securing the federally related mortgage; `(ii) a statement that the servicer does not have evidence of insurance coverage of such property; `(iii) a clear and conspicuous statement of the procedures by which the borrower may demonstrate that the borrower already has		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
insurance coverage; and `(iv) a statement that the servicer may obtain such coverage at the borrower's expense if the borrower does not provide such demonstration of the borrower's existing coverage in a timely manner; `(B) the servicer has sent, by first-class mail, a second written notice, at least 30 days after the mailing of the notice under subparagraph (A) that contains all the information described in each clause of such subparagraph; and `(C) the servicer has not received from the borrower any demonstration of hazard insurance coverage for the property securing the mortgage by the end of the 15-day period beginning on the date the notice under subparagraph (B) was sent by the servicer. `(2) SUFFICIENCY OF DEMONSTRATION- A servicer of a federally related mortgage shall accept any reasonable form of written confirmation from a borrower of existing insurance coverage, which shall include the existing insurance policy number along with the identity of, and contact information for, the insurance company or agent. `(3) TERMINATION OF FORCE-PLACED INSURANCE- Within 15 days of the receipt by a servicer of confirmation of a borrower's existing insurance coverage, the servicer shall-- `(A) terminate the force-placed insurance; and `(B) refund to the consumer all force-placed insurance premiums paid by the borrower during any period during which the borrower's insurance coverage and the force-placed insurance coverage were each in effect, and any related fees charged to the consumer's account with respect to the force-placed insurance during such period. `(4) CLARIFICATION WITH RESPECT TO FLOOD DISASTER PROTECTION ACT- No provision of this section shall be construed as prohibiting a servicer from providing simultaneous or concurrent notice of a lack of flood insurance pursuant to section 102(e) of the Flood Disaster Protection Act of 1973. `(m) Limitations on Force-placed Insurance Charges- All charges for force-placed insurance premiums shall be bona fide and reasonable in amount.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(b) Increase in Penalty Amounts- Section 6(f) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(f)) is amended-- (1) in paragraphs (1)(B) and (2)(B), by striking `$1,000' each place such term appears and inserting `$2,000'; and (2) in paragraph (2)(B)(i), by striking `$500,000' and inserting `$1,000,000'. (c) Decrease in Response Times- Section 6(e) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(e)) is amended-- (1) in paragraph (1)(A), by striking `20 days' and inserting `5 days'; (2) in paragraph (2), by striking `60 days' and inserting `30 days'; and (3) by adding at the end the following new paragraph: `(4) LIMITED EXTENSION OF RESPONSE TIME- The 30-day period described in paragraph (2) may be extended for not more than 15 days if, before the end of such 30-day period, the servicer notifies the borrower of the extension and the reasons for the delay in responding.'. (d) Prompt Refund of Escrow Accounts Upon Payoff- Section 6(g) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(g)) is amended by adding at the end the following new sentence: `Any balance in any such account that is within the servicer's control at the time the loan is paid off shall be promptly returned to the borrower within 20 business days or credited to a similar account for a new mortgage loan to the borrower with the same lender.'.		
SEC. 9404. TRUTH IN LENDING ACT AMENDMENTS. (a) Requirements for Prompt Crediting of Home Loan Payments- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129E (as added by section 9502) the following new section (and by amending the table of contents accordingly):		
**`SEC. 129F. REQUIREMENTS FOR PROMPT CREDITING OF HOME LOAN PAYMENTS.**  `(a) In General- In connection with a consumer credit transaction secured by a consumer's principal dwelling, no servicer shall fail to credit a payment to the consumer's loan account as of the date of receipt, except when a delay in crediting does not result in any charge to the consumer		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or in the reporting of negative information to a consumer reporting agency, except as required in subsection (b). `(b) Exception- If a servicer specifies in writing requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the servicer shall credit the payment as of 5 days after receipt.'. (b) Requests for Payoff Amounts- Chapter 2 of such Act is further amended by inserting after section 129F (as added by subsection (a)) the following new section (and by amending the table of contents accordingly):		
**`SEC. 129G. REQUESTS FOR PAYOFF AMOUNTS OF HOME LOAN.**  `A creditor or servicer of a home loan shall send an accurate payoff balance within a reasonable time, but in no case more than 7 business days, after the receipt of a written request for such balance from or on behalf of the borrower.'.		
SEC. 9405. ESCROWS INCLUDED IN REPAYMENT ANALYSIS. Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended by adding at the end the following new paragraph: `(4) REPAYMENT ANALYSIS REQUIRED TO INCLUDE ESCROW PAYMENTS- `(A) IN GENERAL- In the case of any consumer credit transaction secured by a first mortgage or lien on the principal dwelling of the consumer, other than a consumer credit transaction under an open end credit plan or a reverse mortgage, for which an impound, trust, or other type of account has been or will be established in connection with the transaction for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property, the information required to be provided under subsection (a) with respect to the number, amount, and due dates or period of payments scheduled to repay the total of payments shall take into account the amount of any monthly payment to such account for each such repayment in accordance with section 10(a)(2) of the Real Estate Settlement Procedures Act of 1974. `(B) ASSESSMENT VALUE- The amount taken into		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
account under subparagraph (A) for the payment of property taxes, hazard and flood (if any) insurance premiums, or other periodic payments or premiums with respect to the property shall reflect the taxable assessed value of the real property securing the transaction after the consummation of the transaction, including the value of any improvements on the property or to be constructed on the property (whether or not such construction will be financed from the proceeds of the transaction), if known, and the replacement costs of the property for hazard insurance, in the initial year after the transaction.'.		
Subtitle F--Appraisal Activities **SEC. 9501. PROPERTY APPRAISAL REQUIREMENTS.** Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after 129G (as added by section 9404(b)) the following new section:		
**`SEC. 129H PROPERTY APPRAISAL REQUIREMENTS.**  `(a) In General- A creditor may not extend credit in the form of a subprime mortgage to any consumer without first obtaining a written appraisal of the property to be mortgaged prepared in accordance with the requirements of this section. `(b) Appraisal Requirements- `(1) PHYSICAL PROPERTY VISIT- An appraisal of property to be secured by a subprime mortgage does not meet the requirement of this section unless it is performed by a qualified appraiser who conducts a physical property visit of the interior of the mortgaged property. `(2) SECOND APPRAISAL UNDER CERTAIN CIRCUMSTANCES- `(A) IN GENERAL- If the purpose of a subprime mortgage is to finance the purchase or acquisition of the mortgaged property from a person within 180 days of the purchase or acquisition of such property by that person at a price that was lower than the current sale		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
price of the property, the creditor shall obtain a second appraisal from a different qualified appraiser. The second appraisal shall include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale. `(B) NO COST TO APPLICANT- The cost of any second appraisal required under subparagraph (A) may not be charged to the applicant. `(3) QUALIFIED APPRAISER DEFINED- For purposes of this section, the term `qualified appraiser' means a person who-- `(A) is, at a minimum, certified or licensed by the State in which the property to be appraised is located; and `(B) performs each appraisal in conformity with the Uniform Standards of Professional Appraisal Practice and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the regulations prescribed under such title, as in effect on the date of the appraisal. `(c) Free Copy of Appraisal- A creditor shall provide 1 copy of each appraisal conducted in accordance with this section in connection with a subprime mortgage to the applicant without charge, and at least 3 days prior to the transaction closing date. `(d) Consumer Notification- At the time of the initial mortgage application, the applicant shall be provided with a statement by the creditor that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the applicant may choose to have a separate appraisal conducted at their own expense. `(e) Violations- In addition to any other liability to any person under this title, a creditor found to have willfully failed to obtain an appraisal as required in this section shall be liable to the applicant or borrower for the sum of $2,000. `(f) Subprime Mortgage Defined- For purposes of this section, the term `subprime mortgage' means a residential mortgage loan, other than a reverse mortgage loan insured by the Federal Housing Administration, secured by a principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction, as of the date the interest rate is set-- `(1) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that does not exceed the amount of the maximum limitation on the original principal obligation of mortgage in		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); `(2) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that exceeds the amount of the maximum limitation on the original principal obligation of mortgage in effect for a residence of the applicable size, as of the date of such interest rate set, pursuant to the sixth sentence of section 305(a)(2) the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); and `(3) by 3.5 or more percentage points for a subordinate lien residential mortgage loan.'.		
SEC. 9502. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS. (a) In General- Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129D (as added by section 9401(a)) the following new section:		
**`SEC. 129E. UNFAIR AND DECEPTIVE PRACTICES AND ACTS RELATING TO CERTAIN CONSUMER CREDIT TRANSACTIONS.**  `(a) In General- It shall be unlawful, in extending credit or in providing any services for a consumer credit transaction secured by the principal dwelling of the consumer, to engage in any unfair or deceptive act or practice as described in or pursuant to regulations prescribed under this section. `(b) Appraisal Independence- For purposes of subsection (a), unfair and deceptive practices shall include-- `(1) any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser; `(2) mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit; `(3) seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and `(4) withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered. `(c) Exceptions- The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to provide 1 or more of the following services: `(1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal. `(2) Provide further detail, substantiation, or explanation for the appraiser's value conclusion. `(3) Correct errors in the appraisal report. `(d) Prohibitions on Conflicts of Interest- No certified or licensed appraiser conducting, and no appraisal management company procuring or facilitating, an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer may have a direct or indirect interest, financial or otherwise, in the property or transaction involving the appraisal. `(e) Mandatory Reporting- Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency. `(f) No Extension of Credit- In connection with a consumer credit transaction secured by a consumer's principal dwelling, a creditor who knows, at or before loan consummation, of a violation of the appraisal		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
independence standards established in subsections (b) or (d) shall not extend credit based on such appraisal unless the creditor documents that the creditor has acted with reasonable diligence to determine that the appraisal does not materially misstate or misrepresent the value of such dwelling. `(g) Rulemaking Proceedings- The Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission-- `(1) shall, for purposes of this section, jointly prescribe regulations no later than 180 days after the date of the enactment of this section, and where such regulations have an effective date of no later than 1 year after the date of the enactment of this section, defining with specificity acts or practices which are unfair or deceptive in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer or mortgage brokerage services for such a transaction and defining any terms in this section or such regulations; and `(2) may jointly issue interpretive guidelines and general statements of policy with respect to unfair or deceptive acts or practices in the provision of mortgage lending services for a consumer credit transaction secured by the principal dwelling of the consumer and mortgage brokerage services for such a transaction, within the meaning of subsections (a), (b), (c), (d), (e), and (f). `(h) Penalties- `(1) FIRST VIOLATION- In addition to the enforcement provisions referred to in section 130, each person who violates this section shall forfeit and pay a civil penalty of not more than $10,000 for each day any such violation continues. `(2) SUBSEQUENT VIOLATIONS- In the case of any person on whom a civil penalty has been imposed under paragraph (1), paragraph (1) shall be applied by substituting `$20,000' for `$10,000' with respect to all subsequent violations. `(3) ASSESSMENT- The agency referred to in subsection (a) or (c) of section 108 with respect to any person described in paragraph (1) shall assess any penalty under this subsection to which such person is subject.'. (b) Clerical Amendment- The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 129D (as added by section 9401(c)) the following new item:		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`129E. Unfair and deceptive practices and acts relating to certain consumer credit transactions.'.		
SEC. 9503. AMENDMENTS RELATING TO APPRAISAL SUBCOMMITTEE OF FIEC, APPRAISER INDEPENDENCE MONITORING, APPROVED APPRAISER EDUCATION, APPRAISAL MANAGEMENT COMPANIES, APPRAISER COMPLAINT HOTLINE, AUTOMATED VALUATION MODELS, AND BROKER PRICE OPINIONS. (a) Consumer Protection Mission- (1) PURPOSES- Section 1101 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331) is amended by inserting `and to provide the Appraisal Subcommittee with a consumer protection mandate' before the period at the end. (2) FUNCTIONS OF APPRAISAL SUBCOMMITTEE- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended-- (A) by striking `and' at the end of paragraph (3); and (B) by amending paragraph (4) to read as follows: `(4) monitor the efforts of, and requirements established by, States and the Federal financial institutions regulatory agencies to protect consumers from improper appraisal practices and the predations of unlicensed appraisers in consumer credit transactions that are secured by a consumer's principal dwelling; and'. (3) THRESHOLD LEVELS- Section 1112(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341(b)) is amended by inserting before the period the following: `, and that such threshold level provides reasonable protection for consumers who purchase 1-4 unit single-family residences. In determining whether a threshold level provides reasonable protection for consumers, each Federal financial institutions regulatory agency shall consult with consumer groups and convene a public hearing'. (b) Annual Report of Appraisal Subcommittee- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) is amended at the end by inserting the following new paragraph: `(5) transmit an annual report to the Congress not later than January 31 of each year that describes the manner in which each		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
function assigned to the Appraisal Subcommittee has been carried out during the preceding year. The report shall also detail the activities of the Appraisal Subcommittee, including the results of all audits of State appraiser regulatory agencies, and provide an accounting of disapproved actions and warnings taken in the previous year, including a description of the conditions causing the disapproval and actions taken to achieve compliance.'. (c) Open Meetings- Section 1104(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3333(b)) is amended by inserting `in public session after notice in the Federal Register' after `shall meet'. (d) Regulations- Section 1106 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3335) is amended-- (1) by inserting `prescribe regulations after notice and opportunity for comment,' after `hold hearings'; and (2) at the end by inserting `Any regulations prescribed by the Appraisal Subcommittee shall (unless otherwise provided in this title) be limited to the following functions: temporary practice, national registry, information sharing, and enforcement. For purposes of prescribing regulations, the Appraisal Subcommittee shall establish an advisory committee of industry participants, including appraisers, lenders, consumer advocates, and government agencies, and hold meetings as necessary to support the development of regulations.'. (e) Appraisals and Appraisal Reviews- Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended-- (1) by striking `In determining' and inserting `(a) IN GENERAL- In determining'; (2) in subsection (a) (as designated by paragraph (1)), by inserting before the period the following: `, where a complex 1-to-4 unit single family residential appraisal means an appraisal for which the property to be appraised, the form of ownership, the property characteristics, or the market conditions are atypical'; and (3) by adding at the end the following new subsection: `(b) Appraisals and Appraisal Reviews- All appraisals performed at a property within a State shall be prepared by appraisers licensed or certified in the State where the property is located. All appraisal reviews, including appraisal reviews by a lender, appraisal management company, or other third party organization, shall be performed by an appraiser who		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
is duly licensed or certified by a State appraisal board.'. (f) Appraisal Management Services- (1) SUPERVISION OF THIRD PARTY PROVIDERS OF APPRAISAL MANAGEMENT SERVICES- Section 1103(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332(a)) (as previously amended by this section) is further amended-- (A) by amending paragraph (1) to read as follows: `(1) monitor the requirements established by States-- `(A) for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility; and `(B) for the registration and supervision of the operations and activities of an appraisal management company;'; and (B) by adding at the end the following new paragraph: `(7) maintain a national registry of appraisal management companies that either are registered with and subject to supervision of a State appraiser certifying and licensing agency or are operating subsidiaries of a Federally regulated financial institution.'. (2) APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section (and amending the table of contents accordingly):		
**`SEC. 1124. APPRAISAL MANAGEMENT COMPANY MINIMUM QUALIFICATIONS.**  `(a) In General- The Appraiser Qualifications Board of the Appraisal Foundation shall establish minimum qualifications to be applied by a State in the registration of appraisal management companies. Such qualifications shall include a requirement that such companies-- `(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which such company operates; `(2) verify that only licensed or certified appraisers are used for federally related transactions;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
`(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and `(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act. `(b) Exception for Federally Regulated Financial Institutions- The requirements of subsection (a) shall not apply to an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency. In such case, the appropriate federal financial institutions regulatory agency shall, at a minimum, develop regulations affecting the operations of the appraisal management company to-- `(1) verify that only licensed or certified appraisers are used for federally related transactions; `(2) require that appraisals coordinated by an institution or subsidiary providing appraisal management services comply with the Uniform Standards of Professional Appraisal Practice; and `(3) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act. `(c) Registration Limitations- An appraisal management company shall not be registered by a State if such company, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Additionally, each person that owns more than 10 percent of an appraisal management company shall be of good moral character, as determined by the State appraiser certifying and licensing agency, and shall submit to a background investigation carried out by the State appraiser certifying and licensing agency. `(d) Regulations- The Appraisal Subcommittee shall promulgate regulations to implement the minimum qualifications developed by the Appraiser Qualifications Board under this section, as such qualifications relate to the State appraiser certifying and licensing agencies. The Appraisal Subcommittee shall also promulgate regulations for the reporting of the activities of appraisal management companies in determining the payment of the annual registry fee. `(e) Effective Date- `(1) IN GENERAL- No appraisal management company may		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
perform services related to a federally related transaction in a State after the date that is 36 months after the date of the enactment of this section unless such company is registered with such State or subject to oversight by a federal financial institutions regulatory agency. `(2) EXTENSION OF EFFECTIVE DATE- Subject to the approval of the Council, the Appraisal Subcommittee may extend by an additional 12 months the requirements for the registration and supervision of appraisal management companies if it makes a written finding that a State has made substantial progress in establishing a State appraisal management company registration and supervision system that appears to conform with the provisions of this title.'. (3) STATE APPRAISER CERTIFYING AND LICENSING AGENCY AUTHORITY- Section 1117 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3346) is amended by adding at the end the following: `The duties of such agency may additionally include the registration and supervision of appraisal management companies.'. (4) APPRAISAL MANAGEMENT COMPANY DEFINITION- Section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended by adding at the end the following: `(11) APPRAISAL MANAGEMENT COMPANY- The term `appraisal management company' means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year-- `(A) to recruit, select, and retain appraisers; `(B) to contract with licensed and certified appraisers to perform appraisal assignments; `(C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
creditors and underwriters for services provided, and reimbursing appraisers for services performed; or `(D) to review and verify the work of appraisers.'. (g) State Agency Reporting Requirement- Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended-- (1) by striking `and' after the semicolon in paragraph (1); (2) by redesignating paragraph (2) as paragraph (4); and (3) by inserting after paragraph (1) the following new paragraphs: `(2) transmit reports on sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the Appraisal Subcommittee; `(3) transmit reports on a timely basis of supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including investigations initiated and disciplinary actions taken; and'. (h) Registry Fees Modified- (1) IN GENERAL- Section 1109(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338(a)) is amended-- (A) by amending paragraph (4) (as modified by section 9503(g)) to read as follows: `(4) collect-- `(A) from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $40, such fees to be transmitted by the State agencies to the Council on an annual basis; and `(B) from an appraisal management company that either has registered with a State appraiser certifying and licensing agency in accordance with this title or operates as a subsidiary of a federally regulated financial institution, an annual registry fee of-- `(i) in the case of such a company that has been in existence for more than a year, $25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such $25 amount may be adjusted, up		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to a maximum of $50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title; and `(ii) in the case of such a company that has not been in existence for more than a year, $25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee, and where such number will be used for determining the fee of all such companies that were not in existence for more than a year, but where such $25 amount may be adjusted, up to a maximum of $50, at the discretion of the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title.'; and (B) by amending the matter following paragraph (4), as redesignated, to read as follows: `Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees under paragraph (4)(A), up to a maximum of $80 per annum, as necessary to carry out its functions under this title. The Appraisal Subcommittee shall consider at least once every 5 years whether to adjust the dollar amount of the registry fees to account for inflation. In implementing any change in registry fees, the Appraisal Subcommittee shall provide flexibility to the States for multi-year certifications and licenses already in place, as well as a transition period to implement the changes in registry fees. In establishing the amount of the annual registry fee for an appraisal management company, the Appraisal Subcommittee shall have the discretion to impose a minimum annual registry fee for an appraisal management company to protect against the under reporting of the number of appraisers working for or contracted by the appraisal management company.'. (2) INCREMENTAL REVENUES- Incremental revenues collected pursuant to the increases required by this subsection shall be placed in a separate account at the United States Treasury, entitled the `Appraisal Subcommittee Account'. (i) Grants and Reports- Section 1109(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended-- (1) by striking `and' after the semicolon in paragraph (3); (2) by striking the period at the end of paragraph (4) and inserting a semicolon;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(3) by adding at the end the following new paragraphs: `(5) to make grants to State appraiser certifying and licensing agencies to support the efforts of such agencies to comply with this title, including-- `(A) the complaint process, complaint investigations, and appraiser enforcement activities of such agencies; and `(B) the submission of data on State licensed and certified appraisers and appraisal management companies to the National appraisal registry, including information affirming that the appraiser or appraisal management company meets the required qualification criteria and formal and informal disciplinary actions; and `(6) to report to all State appraiser certifying and licensing agencies when a license or certification is surrendered, revoked, or suspended.'. Obligations authorized under this subsection may not exceed 75 percent of the fiscal year total of incremental increase in fees collected and deposited in the `Appraisal Subcommittee Account' pursuant to subsection (h). (j) Criteria- Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended-- (1) in subsection (c), by inserting `whose criteria for the licensing of a real estate appraiser currently meet or exceed the minimum criteria issued by the Appraisal Qualifications Board of The Appraisal Foundation for the licensing of real estate appraisers' before the period at the end; and (2) by striking subsection (e) and inserting the following new subsection: `(e) Minimum Qualification Requirements- Any requirements established for individuals in the position of `Trainee Appraiser' and `Supervisory Appraiser' shall meet or exceed the minimum qualification requirements of the Appraiser Qualifications Board of The Appraisal Foundation. The Appraisal Subcommittee shall have the authority to enforce these requirements.'. (k) Monitoring of State Appraiser Certifying and Licensing Agencies- Section 1118 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347) is amended-- (1) by amending subsection (a) to read as follows: `(a) In General- The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purposes of determining		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
whether such agency-- `(1) has policies, practices, funding, staffing, and procedures that are consistent with this title; `(2) processes complaints and completes investigations in a reasonable time period; `(3) appropriately disciplines sanctioned appraisers and appraisal management companies; `(4) maintains an effective regulatory program; and `(5) reports complaints and disciplinary actions on a timely basis to the national registries on appraisers and appraisal management companies maintained by the Appraisal Subcommittee. The Appraisal Subcommittee shall have the authority to remove a State licensed or certified appraiser or a registered appraisal management company from a national registry on an interim basis pending State agency action on licensing, certification, registration, and disciplinary proceedings. The Appraisal Subcommittee and all agencies, instrumentalities, and Federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, funding, staffing, or procedures are found to be inconsistent with this title. The Appraisal Subcommittee shall have the authority to impose sanctions, as described in this section, against a State agency that fails to have an effective appraiser regulatory program. In determining whether such a program is effective, the Appraisal Subcommittee shall include an analyses of the licensing and certification of appraisers, the registration of appraisal management companies, the issuance of temporary licenses and certifications for appraisers, the receiving and tracking of submitted complaints against appraisers and appraisal management companies, the investigation of complaints, and enforcement actions against appraisers and appraisal management companies. The Appraisal Subcommittee shall have the authority to impose interim actions and suspensions against a State agency as an alternative to, or in advance of, the derecognition of a State agency.'. (2) in subsection (b)(2), by inserting after `authority' the following: `or sufficient funding'. (l) Reciprocity- Subsection (b) of section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(b)) is amended to read as follows: `(b) Reciprocity- A State appraiser certifying or licensing agency shall issue a reciprocal certification or license for an individual from another State when-- `(1) the appraiser licensing and certification program of such		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
other State is in compliance with the provisions of this title; and `(2) the appraiser holds a valid certification from a State whose requirements for certification or licensing meet or exceed the licensure standards established by the State where an individual seeks appraisal licensure.'. (m) Consideration of Professional Appraisal Designations- Section 1122(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351(d)) is amended by striking `shall not exclude' and all that follows through the end of the subsection and inserting the following: `may include education achieved, experience, sample appraisals, and references from prior clients. Membership in a nationally recognized professional appraisal organization may be a criteria considered, though lack of membership therein shall not be the sole bar against consideration for an assignment under these criteria.'. (n) Appraiser Independence- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by adding at the end the following new subsection: `(g) Appraiser Independence Monitoring- The Appraisal Subcommittee shall monitor each State appraiser certifying and licensing agency for the purpose of determining whether such agency's policies, practices, and procedures are consistent with the purposes of maintaining appraiser independence and whether such State has adopted and maintains effective laws, regulations, and policies aimed at maintaining appraiser independence.'. (o) Appraiser Education- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended by inserting after subsection (g) (as added by subsection (l) of this section) the following new subsection: `(h) Approved Education- The Appraisal Subcommittee shall encourage the States to accept courses approved by the Appraiser Qualification Board's Course Approval Program.'. (p) Appraisal Complaint Hotline- Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351), as amended by this section, is further amended by adding at the end the following new subsection: `(i) Appraisal Complaint National Hotline- If, 1 year after the date of the enactment of this subsection, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint.'. (q) Automated Valuation Models- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):		
**`SEC. 1125. AUTOMATED VALUATION MODELS USED TO VALUE CERTAIN MORTGAGES.**  `(a) In General- Automated valuation models shall adhere to quality control standards designed to-- `(1) ensure a high level of confidence in the estimates produced by automated valuation models; `(2) protect against the manipulation of data; `(3) seek to avoid conflicts of interest; and `(4) require random sample testing and reviews, where such testing and reviews are performed by an appraiser who is licensed or certified in the State where the testing and reviews take place. `(b) Adoption of Regulations- The Appraisal Subcommittee and its member agencies, in consultation with the Appraisal Standards Board of the Appraisal Foundation and other interested parties, shall promulgate regulations to implement the quality control standards required under this section. `(c) Enforcement- Compliance with regulations issued under this subsection shall be enforced by-- `(1) with respect to a financial institution, or subsidiary owned and controlled by a financial institution and regulated by a Federal financial institution regulatory agency, the Federal financial institution regulatory agency that acts as the primary Federal supervisor of such financial institution or subsidiary;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
and `(2) with respect to other persons, the Appraisal Subcommittee. `(d) Automated Valuation Model Defined- For purposes of this section, the term `automated valuation model' means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.'. (r) Broker Price Opinions- Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.), as amended by this section, is further amended by adding at the end the following new section (and amending the table of contents accordingly):		
**`SEC. 1126. BROKER PRICE OPINIONS.**  `(a) General Prohibition- In conjunction with the purchase of a consumer's principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property. `(b) Broker Price Opinion Defined- For purposes of this section, the term `broker price opinion' means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c).'. (s) Amendments to Appraisal Subcommittee- Section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is amended-- (1) in the first sentence, by adding before the period the following: `and the Federal Housing Finance Agency'; and (2) by inserting at the end the following: `At all times at least one member of the Appraisal Subcommittee shall have demonstrated knowledge and competence through licensure, certification, or professional designation within the appraisal profession.'. (t) Technical Corrections- (1) Section 1119(a)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(2)) is amended by striking `council,' and inserting `Council,'. (2) Section 1121(6) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(6)) is		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
amended by striking `Corporations,' and inserting `Corporation,'. (3) Section 1121(8) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(8)) is amended by striking `council' and inserting `Council'. (4) Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended-- (A) in subsection (a)(1) by moving the left margin of subparagraphs (A), (B), and (C) 2 ems to the right; and (B) in subsection (c)-- (i) by striking `Federal Financial Institutions Examination Council' and inserting `Financial Institutions Examination Council'; and (ii) by striking `the council's functions' and inserting `the Council's functions'.		
SEC. 9504. STUDY REQUIRED ON IMPROVEMENTS IN APPRAISAL PROCESS AND COMPLIANCE PROGRAMS. (a) Study- The Comptroller General shall conduct a comprehensive study on possible improvements in the appraisal process generally, and specifically on the consistency in and the effectiveness of, and possible improvements in, State compliance efforts and programs in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. In addition, this study shall examine the existing exemptions to the use of certified appraisers issued by Federal financial institutions regulatory agencies. The study shall also review the threshold level established by Federal regulators for compliance under title XI and whether there is a need to revise them to reflect the addition of consumer protection to the purposes and functions of the Appraisal Subcommittee. The study shall additionally examine the quality of different types of mortgage collateral valuations produced by broker price opinions, automated valuation models, licensed appraisals, and certified appraisals, among others, and the quality of appraisals provided through different distribution channels, including appraisal management companies, independent appraisal operations within a mortgage originator, and fee-for-service appraisals. The study shall also include an analysis and statistical breakdown of enforcement actions taken during the last 10 years against different types of appraisers, including certified, licensed, supervisory, and trainee appraisers. Furthermore, the study shall examine the benefits and costs, as well as the advantages and disadvantages, of establishing a national repository to collect data related	***SEC. 1072. GAO STUDY ON THE EFFECTIVENESS AND IMPACT OF VARIOUS APPRAISAL METHODS.*** *(a) In General- The Government Accountability Office shall conduct a study on the effectiveness and impact of various appraisal methods, including the cost approach, the comparative sales approach, the income approach, and others that may be available.* *(b) Study- Not later than--* *(1) 1 year after the date of enactment of this Act, the Government Accountability Office shall submit a study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives;* *(2) 90 days after the date of enactment of this Act, the Government Accountability Office shall provide a report on the status of the study and any preliminary findings to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.* *(c) Content of Study- The study required by this section shall include an examination of--* *(1) the prevalence, alone or in combination, of these approaches in purchase-money and refinance mortgage transactions;* *(2) the accuracy of the various approaches in assessing the property as collateral;* *(3) whether and how the approaches contributed to price*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
to real estate property collateral valuations performed in the United States. (b) Report- Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for administrative or legislative action, at the Federal or State level, as the Comptroller General may determine to be appropriate.	*speculation in the previous cycle;* *(4) the costs to consumers of these approaches;* *(5) the disclosure of fees to consumers in the appraisal process;* *(6) to what extent such approaches may be influenced by a conflict of interest between the mortgage lender and the appraiser and the mechanism by which the lender selects and compensates the appraiser; and* *(7) the suitability of appraisal approaches in rural versus urban areas.*	
(c) Additional Study Required- The Comptroller General shall conduct an additional study to determine the effects that the changes to the seller-guide appraisal requirements of Fannie Mae and Freddie Mac contained in the Home Valuation Code of Conduct have on small business, like mortgage brokers and independent appraisers, and consumers, including the effect on the-- (1) quality and costs of appraisals; (2) length of time for obtaining appraisals; (3) impact on consumer protection, especially regarding maintaining appraisal independence, abating appraisal inflation, and mitigating acts of appraisal fraud; (4) structure of the appraisal industry, especially regarding appraisal management companies, fee-for-service appraisers, and the regulation of appraisal management companies by the states; and (5) impact on mortgage brokers and other small business professionals in the financial services industry. (d) Additional Report- Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit an additional report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the findings and conclusions of the Comptroller General with respect to the study conducted pursuant to subsection (c). Such additional report shall take into consideration the Small Business Administration's views on how small businesses are affected by the Home Valuation Code of Conduct.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
SEC. 9505. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT. Subsection (e) of section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended to read as follows: `(e) Copies Furnished to Applicants- `(1) IN GENERAL- Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant's application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant's request for credit or the application is incomplete or withdrawn. `(2) WAIVER- The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law. `(3) REIMBURSEMENT- The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law. `(4) FREE COPY- Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant. `(5) NOTIFICATION TO APPLICANTS- At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection. `(6) REGULATIONS- The Board shall prescribe regulations to implement this subsection within 1 year of the date of the enactment of this subsection. `(7) VALUATION DEFINED- For purposes of this subsection, the term `valuation' shall include any estimate of the value of a dwelling developed in connection with a creditor's decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.'.		
SEC. 9506. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 AMENDMENT RELATING TO CERTAIN APPRAISAL FEES.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Section 4 of the Real Estate Settlement Procedures Act of 1974 is amended by adding at the end the following new subsection: `(c) The standard form described in subsection (a) shall include, in the case of an appraisal coordinated by an appraisal management company (as such term is defined in section 1121(11) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(11))), a clear disclosure of-- `(1) the fee paid directly to the appraiser by such company; and `(2) the administration fee charged by such company.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle G--Sense of Congress Regarding the Importance of Government Sponsored Enterprises Reform **SEC. 9601. SENSE OF CONGRESS REGARDING THE IMPORTANCE OF GOVERNMENT-SPONSORED ENTERPRISES REFORM TO ENHANCE THE PROTECTION, LIMITATION, AND REGULATION OF THE TERMS OF RESIDENTIAL MORTGAGE CREDIT.** (a) Findings- The Congress finds as follows: (1) The Government-sponsored enterprises, Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), were chartered by Congress to ensure a reliable and affordable supply of mortgage funding, but enjoy a dual legal status as privately owned corporations with Government mandated affordable housing goals. (2) In 1996, the Department of Housing and Urban Development required that 42 percent of Fannie Mae's and Freddie Mac's mortgage financing should go to borrowers with income levels below the median for a given area. (3) In 2004, the Department of Housing and Urban Development revised those goals, increasing them to 56 percent of their overall mortgage purchases by 2008, and additionally mandated that 12 percent of all mortgage purchases by Fannie Mae and Freddie Mac be `special affordable' loans made to borrowers with incomes less than 60 percent of an area's median income, a target that ultimately increased to 28 percent for 2008. (4) To help fulfill those mandated affordable housing goals, in 1995 the Department of Housing and Urban Development authorized Fannie Mae and Freddie Mac to purchase subprime securities that included loans made to low-income borrowers. (5) After this authorization to purchase subprime securities, subprime and near-prime loans increased from 9 percent of securitized mortgages in 2001 to 40 percent in 2006, while the market share of conventional mortgages dropped from 78.8 percent in 2003 to 50.1 percent by 2007 with a corresponding increase in subprime and Alt-A loans from 10.1 percent to 32.7 percent over the same period. (6) In 2004 alone, Fannie Mae and Freddie Mac purchased $175,000,000,000 in subprime mortgage securities, which	***SEC. 1078. DEPARTMENT OF THE TREASURY STUDY ON ENDING THE CONSERVATORSHIP OF FANNIE MAE, FREDDIE MAC, AND REFORMING THE HOUSING FINANCE SYSTEM.*** *(a) Study Required-* *(1) IN GENERAL- The Secretary of the Treasury shall conduct a study of and develop recommendations regarding the options for ending the conservatorship of the Federal National Mortgage Association (in this section referred to as `Fannie Mae') and the Federal Home Loan Mortgage Corporation (in this section referred to as `Freddie Mac'), while minimizing the cost to taxpayers, including such options as--* *(A) the gradual wind-down and liquidation of such entities;* *(B) the privatization of such entities;* *(C) the incorporation of the functions of such entities into a Federal agency;* *(D) the dissolution of Fannie Mae and Freddie Mac into smaller companies; or* *(E) any other measures the Secretary determines appropriate.* *(2) ANALYSES- The study required under paragraph (1) shall include an analysis of--* *(A) the role of the Federal Government in supporting a stable, well-functioning housing finance system, and whether and to what extent the Federal Government should bear risks in meeting Federal housing finance objectives;* *(B) how the current structure of the housing finance system can be improved;* *(C) how the housing finance system should support the continued availability of mortgage credit to all segments of the market;* *(D) how the housing finance system should be structured to ensure that consumers continue to have access to 30-year, fixed rate, pre-payable mortgages and other mortgage products that have simple terms that can be easily understood;* *(E) the role of the Federal Housing Administration and the Department of Veterans Affairs in a future housing system;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
accounted for 44 percent of the market that year, and from 2005 through 2007, Fannie Mae and Freddie Mac purchased approximately $1,000,000,000,000 in subprime and Alt-A loans, while Fannie Mae's acquisitions of mortgages with less than 10 percent down payments almost tripled. (7) According to data from the Federal Housing Finance Agency (FHFA) for the fourth quarter of 2008, Fannie Mae and Freddie Mac own or guarantee 75 percent of all newly originated mortgages, and Fannie Mae and Freddie Mac currently own 13.3 percent of outstanding mortgage debt in the United States and have issued mortgage-backed securities for 31.0 percent of the residential debt market, a combined total of 44.3 percent of outstanding mortgage debt in the United States. (8) On September 7, 2008, the FHFA placed Fannie Mae and Freddie Mac into conservatorship, with the Treasury Department subsequently agreeing to purchase at least $200,000,000,000 of preferred stock from each enterprise in exchange for warrants for the purchase of 79.9 percent of each enterprise's common stock. (9) The conservatorship for Fannie Mae and Freddie Mac has potentially exposed taxpayers to upwards of $5,300,000,000,000 worth of risk. (10) The hybrid public-private status of Fannie Mae and Freddie Mac is untenable and must be resolved to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive, or abusive. (b) Sense of the Congress- It is the sense of the Congress that efforts to enhance by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit would be incomplete without enactment of meaningful structural reforms of Fannie Mae and Freddie Mac.	*(F) the impact of reforms of the housing finance system on the financing of rental housing;* *(G) the impact of reforms of the housing finance system on secondary market liquidity;* *(H) the role of standardization in the housing finance system;* *(I) how housing finance systems in other countries offer insights that can help inform options for reform in the United States; and* *(J) the options for transition to a reformed housing finance system.* *(b) Report and Recommendations- Not later than January 31, 2011, the Secretary of the Treasury shall submit the report and recommendations required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle H--Reports and Data Collection **SEC. 9701. GAO STUDY REPORT ON GOVERNMENT EFFORTS TO COMBAT MORTGAGE FORECLOSURE RESCUE SCAMS AND LOAN MODIFICATION FRAUD.** (a) Study- The Comptroller General of the United States shall conduct a study of the current inter-agency efforts of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Attorney General, and the Federal Trade Commission to crackdown on mortgage foreclosure rescue scams and loan modification fraud in order to advise the Congress to the risks and vulnerabilities of emerging schemes in the loan modification arena. (b) Report- (1) IN GENERAL- The Comptroller General shall submit a report to the Congress on the study conducted under subsection (a) containing such recommendations for legislative and administrative actions as the Comptroller General may determine to be appropriate in addition to the recommendations required under paragraph (2). (2) SPECIFIC TOPICS- The report made under paragraph (1) shall include-- (A) an evaluation of the effectiveness of the inter-agency task force current efforts to combat mortgage foreclosure rescue scams and loan modification fraud scams; (B) specific recommendations on agency or legislative action that are essential to properly protect homeowners from mortgage foreclosure rescue scams and loan modification fraud scams; and (C) the adequacy of financial resources that the Federal Government is allocating to-- (i) crackdown on loan modification and foreclosure rescue scams; and (ii) the education of homeowners about fraudulent scams relating to loan modification and foreclosure rescues.		
SEC. 9702. REPORTING OF MORTGAGE DATA BY STATE. (a) In General- Section 104(a) of the Helping Families Save Their Homes		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Act of 2009 (division A of Public Law 111-22) is amended-- (1) in paragraph (2), by striking `resulting' and inserting `in each State that result'; (2) in paragraph (3), by inserting `each State for' after `modifications in'; and (3) in paragraph (4), by inserting `in each State' after `total number of loans'. (b) Conforming Amendment- Section 104(b)(1)(A) of such Act is amended by adding at the end the following sentence: `Not later than 60 days after the date of the enactment of the Wall Street Reform and Consumer Protection Act of 2009, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.'.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle I--Multifamily Mortgage Resolution **SEC. 9801. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.** (a) Establishment- The Secretary of Housing and Urban Development shall develop a program under this subsection to ensure the protection of current and future tenants and at-risk multifamily properties, where feasible, based on criteria that may include-- (1) creating sustainable financing of such properties, that may take into consideration such factors as-- (A) the rental income generated by such properties; and (B) the preservation of adequate operating reserves; (2) maintaining the level of Federal, State, and city subsidies in effect as of the date of the enactment of this Act; (3) providing funds for rehabilitation; and (4) facilitating the transfer of such properties, when appropriate and with the agreement of owners, to responsible new owners and ensuring affordability of such properties. (b) Coordination- The Secretary of Housing and Urban Development may, in carrying out the program developed under this section, coordinate with the Secretary of the Treasury, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate. (c) Definition- For purposes of this section, the term `multifamily properties' means a residential structure that consists of 5 or more dwelling units.		
Subtitle J--Study of Effect of Drywall Presence on Foreclosures **SEC. 9901. STUDY OF EFFECT OF DRYWALL PRESENCE ON FORECLOSURES.** (a) Study- The Secretary of Housing and Urban Development, in consultation with the Secretary of the Treasury, shall conduct a study of the effect on residential mortgage loan foreclosures of-- (1) the presence in residential structures subject to such		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
mortgage loans of drywall that was imported from China during the period beginning with 2004 and ending at the end of 2007; and (2) the availability of property insurance for residential structures in which such drywall is present. (b) Report- Not later than the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report on the study conducted under subsection (a) containing its findings, conclusions, and recommendations.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle K--Home Affordable Modification Program **SEC. 9911. HOME AFFORDABLE MODIFICATION PROGRAM GUIDELINES.** (a) Net Present Value Input Data- The Secretary of the Treasury (in this section referred to as the `Secretary') shall revise the supplemental directives and other guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), to require each mortgage servicer participating in such program to provide each borrower under a mortgage whose request for a mortgage modification under the Program is denied with all borrower-related and mortgage-related input data used in any net present value (NPV) analyses performed in connection with the subject mortgage. Such input data shall be provided to the borrower at the time of such denial. (b) Web-based Site for NPV Calculator and Application- (1) NPV CALCULATOR- In carrying out the Home Affordable Modification Program, the Secretary shall establish and maintain a site on the World Wide Web that provides a calculator for net present value analyses of a mortgage, based on the Secretary's methodology for calculating such value, that mortgagors can use to enter information regarding their own mortgages and that provides a determination after entering such information regarding a mortgage of whether such mortgage would be accepted or rejected for modification under the Program, using such methodology. (2) DISCLOSURE- Such Web site shall also prominently disclose that each mortgage servicer participating in such Program may use a method for calculating net present value of a mortgage that is different than the method used by such calculator. (3) APPLICATION- The Secretary shall make a reasonable effort to include on such World Wide Web site a method for homeowners to apply for a mortgage modification under the Home Affordable Modification Program. (c) Public Availability of NPV Methodology, Computer Model, and Variables- The Secretary shall make publicly available, including by posting on a World Wide Web site of the Secretary--		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
(1) the Secretary's methodology and computer model, including all formulae used in such computer model, used for calculating net present value of a mortgage that is used by the calculator established pursuant to subsection (b); and (2) all variables used in such net present value analysis.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Subtitle L--Making Home Affordable Program **SEC. 9921. PUBLIC AVAILABILITY OF INFORMATION.** (a) Revisions to Program Guidelines- The Secretary of the Treasury (in this section referred to as the `Secretary') shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), to provide that the data being collected by the Secretary from each mortgage servicer and lender participating in the Program is made public in accordance with subsection (b). (b) Public Availability- Data shall be made available according to the following guidelines: (1) Not more than 14 days after each monthly deadline for submission of data by mortgage servicers and lenders participating in the Program, reports shall be made publicly available by means of a World Wide Web site of the Secretary, and by submitting a report to the Congress, that shall includes the following information: (A) The number of requests for mortgage modifications under the Program that the servicer or lender has received. (B) The number of requests for mortgage modifications under the Program that the servicer or lender has processed. (C) The number of requests for mortgage modifications under the Program that the servicer or lender has approved. (D) The number of requests for mortgage modifications under the Program that the servicer or lender has denied. (2) Not more than 60 days after each monthly deadline for submission of data by mortgage servicers and lenders participating in the Program, the Secretary shall make data tables available to the public at the individual record level. The Secretary shall issue regulations prescribing-- (A) the procedures for disclosing such data to the public; and (B) such deletions as the Secretary may determine to be		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
appropriate to protect any privacy interest of any mortgage modification applicant, including the deletion or alteration of the applicant's name and identification number.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 1079. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS. *The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended--* *(1) by redesignating sections 920 and 921 as sections 921 and 922, respectively; and* *(2) by inserting after section 919 the following:* ***`SEC. 920. REASONABLE FEES AND RULES FOR PAYMENT CARD TRANSACTIONS.***  *`(a) Reasonable Interchange Transaction Fees for Electronic Debit Transactions-* *`(1) REGULATORY AUTHORITY- The Board shall have authority to establish rules, pursuant to section 553 of title 5, United States Code, regarding any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction.* *`(2) REASONABLE FEES- The amount of any interchange transaction fee that an issuer or payment card network may charge with respect to an electronic debit transaction shall be reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.* *`(3) RULEMAKING REQUIRED- The Board shall issue final rules, not later than 9 months after the date of enactment of the Consumer Financial Protection Act of 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the actual cost incurred by the issuer or payment card network with respect to the transaction.* *`(4) CONSIDERATIONS- In issuing rules required by this section, the Board shall--* *`(A) consider the functional similarity between--* *`(i) electronic debit transactions; and* *`(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;* *`(B) distinguish between--* *`(i) the actual incremental cost incurred by an issuer or payment card network for the role of the issuer or the payment card network in the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and *`(ii) other costs incurred by an issuer or payment card network which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and* *`(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.* *`(5) EXEMPTION FOR SMALL ISSUERS- This subsection shall not apply to issuers that, together with affiliates, have assets of less than $10,000,000,000, and the Board shall exempt such issuers from rules issued under paragraph (3).* *`(6) EFFECTIVE DATE- Paragraph (2) shall become effective 12 months after the date of enactment of the Consumer Financial Protection Act of 2010.* *`(b) Limitation on Anti-competitive Payment Card Network Restrictions-* *`(1) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A COMPETING PAYMENT CARD NETWORK- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment through the use of a card or device of another payment card network, provided that the discount or in-kind incentive only differentiates between payment card networks and not between other issuers.* *`(2) NO RESTRICTIONS ON OFFERING DISCOUNTS FOR USE OF A FORM OF PAYMENT- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, check, debit card, or credit card.* *`(3) NO RESTRICTIONS ON SETTING TRANSACTION*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	MINIMUMS OR MAXIMUMS- A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to set a minimum or maximum dollar value for the acceptance by that person of credit cards, provided that such minimum or maximum dollar value does not differentiate between issuers or between payment card networks. *`(c) Definitions- For purposes of this section, the following definitions shall apply:* *`(1) DEBIT CARD- The term `debit card'--* *`(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account for the purpose of transferring money between accounts or obtaining goods or services, whether authorization is based on signature, PIN, or other means;* *`(B) includes general use prepaid cards, as that term is defined in section 915(a)(2)(A) (15 U.S.C. 1693l-1(a)(2)(A)); and* *`(C) does not include paper checks.* *`(2) CREDIT CARD- The term `credit card' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).* *`(3) DISCOUNT- The term `discount'--* *`(A) means a reduction made from the price that customers are informed is the regular price; and* *`(B) does not include any means of increasing the price that customers are informed is the regular price.* *`(4) ELECTRONIC DEBIT TRANSACTION- The term `electronic debit transaction' means a transaction in which a person uses a debit card to debit an asset account.* *`(5) INTERCHANGE TRANSACTION FEE- The term `interchange transaction fee' means any fee established by a payment card network that has been established for the purpose of compensating an issuer or payment card network for its involvement in an electronic debit transaction.* *`(6) ISSUER- The term `issuer' means any person who issues a debit card, or credit card, or the agent of such person with respect to such card.* *`(7) PAYMENT CARD NETWORK- The term `payment card network' means an entity that directly, or through licensed*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.'.	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 1079A. USE OF CONSUMER REPORTS. *Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended--* *(1) in subsection (a)--* *(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;* *(B) by inserting after paragraph (1) the following:* *`(2) provide to the consumer written or electronic disclosure--* *`(A) of a numerical credit score as defined in section 609(f)(2)(A) used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and* *`(B) of the information set forth in subparagraphs (B) through (E) of section 609(f)(1);'; and* *(C) in paragraph (4) (as so redesignated), by striking `paragraph (2)' and inserting `paragraph (3)'; and* *(2) in subsection (h)(5)--* *(A) in subparagraph (C), by striking `; and' and inserting a semicolon;* *(B) in subparagraph (D), by striking the period and inserting `; and'; and* *(C) by inserting at the end the following:* *`(E) include a statement informing the consumer of--* *`(i) a numerical credit score as defined in section 609(f)(2)(A), used by such person in connection with the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and* *`(ii) the information set forth in subparagraphs (B) through (E) of section 609(f)(1).'.*	
TITLE VIII--FORECLOSURE AVOIDANCE AND AFFORDABLE HOUSING **SEC. 10001. EMERGENCY MORTGAGE RELIEF.** (a) Use of TARP Funds- Using the authority available under sections		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $3,000,000,000, and the Secretary of Housing and Urban Development shall credit such amount to the Emergency Homeowners' Relief Fund, which such Secretary shall establish pursuant to section 107 of the Emergency Housing Act of 1975 (12 U.S.C. 2706), as such Act is amended by this section, for use for emergency mortgage assistance in accordance with title I of such Act. (b) Reauthorization of Emergency Mortgage Relief Program- Title I of the Emergency Housing Act of 1975 is amended-- (1) in section 103 (12 U.S.C. 2702)-- (A) in paragraph (2)-- (i) by striking `have indicated' and all that follows through `regulation of the holder' and insert `have certified'; (ii) by striking `(such as the volume of delinquent loans in its portfolio)'; and (iii) by striking `, except that such statement' and all that follows through `purposes of this title'; and (B) in paragraph (4), by inserting `or medical conditions' after `adverse economic conditions'; (2) in section 104 (12 U.S.C. 2703)-- (A) in subsection (b), by striking `, but such assistance' and all that follows through the period at the end and inserting the following: `. The amount of assistance provided to a homeowner under this title shall be an amount that the Secretary determines is reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment, except that the aggregate amount of such assistance provided for any homeowner shall not exceed $50,000.'; (B) in subsection (d), by striking `interest on a loan or advance'and all that follows through the end of the subsection and inserting the following: `(1) the rate of interest on any loan or advance of credit insured under this title shall be fixed for the life of the loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Secretary of		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
Housing and Urban Development under title II of the National Housing Act at the time such loan or advance of credit is made, and (2) no interest shall be charged on interest which is deferred on a loan or advance of credit made under this title. In establishing rates, terms and conditions for loans or advances of credit made under this title, the Secretary shall take into account a homeowner's ability to repay such loan or advance of credit.'; and (C) in subsection (e), by inserting after the period at the end of the first sentence the following: `Any eligible homeowner who receives a grant or an advance of credit under this title may repay the loan in full, without penalty, by lump sum or by installment payments at any time before the loan becomes due and payable.'; (3) in section 105 (12 U.S.C. 2704)-- (A) by striking subsection (b); (B) in subsection (e)-- (i) by inserting `and emergency mortgage relief payments made under section 106' after `insured under this section'; and (ii) by striking `$1,500,000,000 at any one time' and inserting `$3,000,000,000'; (C) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and (D) by adding at the end the following new subsection: `(e) The Secretary shall establish underwriting guidelines or procedures to allocate amounts made available for loans and advances insured under this section and for emergency relief payments made under section 106 based on the likelihood that a mortgagor will be able to resume mortgage payments, pursuant to the requirement under section 103(5).'; (4) in section 107-- (A) by striking `(a)'; and (B) by striking subsection (b); (5) in section 108 (12 U.S.C. 2707), by adding at the end the following new subsection: `(d) Coverage of Existing Programs- The Secretary shall allow funds to be administered by a State that has an existing program that is determined by the Secretary to provide substantially similar assistance to homeowners. After such determination is made such State shall not be required to modify such program to comply with the provisions of this		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
title.'; (6) in section 109 (12 U.S.C. 2708)-- (A) in the section heading, by striking `AUTHORIZATION AND'; (B) by striking subsection (a); (C) by striking `(b)'; and (D) by striking `1977' and inserting `2011'; (7) by striking sections 110, 111, and 113 (12 U.S.C. 2709, 2710, 2712); and (8) by redesignating section 112 (12 U.S.C. 2711) as section 110.		
SEC. 10002. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD STABILIZATION PROGRAM. Using the authority made available under sections 101(a) and 115(a) of division A of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury shall transfer to the Secretary of Housing and Urban Development $1,000,000,000, and the Secretary of Housing and Urban Development shall use such amounts for assistance to States and units of general local government for the redevelopment of abandoned and foreclosed homes, in accordance with the same provisions applicable under the second undesignated paragraph under the heading `Community Planning and Development--Community Development Fund' in title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217) to amounts made available under such second undesignated paragraph, except as follows: (1) Notwithstanding the matter of such second undesignated paragraph that precedes the first proviso, amounts made available by this section shall remain available until expended. (2) The 3rd, 4th, 5th, 6th, 7th, and 15th provisos of such second undesignated paragraph shall not apply to amounts made available by this section. (3) Amounts made available by this section shall be allocated based on a funding formula for such amounts established by the Secretary in accordance with section 2301(b) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note), except that-- (A) notwithstanding paragraph (2) of such section		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
2301(b), the formula shall be established not later than 30 days after the date of the enactment of this Act; (B) the Secretary may not establish any minimum grant amount or size for grants to States; (C) the Secretary may establish a minimum grant amount for direct allocations to units of general local government located within a State, which shall not exceed $1,000,000; and (D) each State and local government receiving grant amounts shall establish procedures to create preferences for the development of affordable rental housing for properties assisted with amounts made available by this section. (4) Paragraph (1) of section 2301(c) of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section. (5) Section 2302 of the Housing and Economic Recovery Act of 2008 shall not apply to amounts made available by this section. (6) The fourth proviso from the end of such second undesignated paragraph shall be applied to amounts made available by this section by substituting `2013' for `2012'. (7) Notwithstanding section 2301(a) of the Housing and Economic Recovery Act of 2008, the term `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and other territory or possession of the United States for purposes of this section and title III of division B of such Act, as applied to amounts made available by this section. (8)(A) None of the amounts made available by this section shall be distributed to-- (i) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or (ii) any organization which employs applicable individuals. (B) In this paragraph, the term `applicable individual' means an individual who-- (i) is-- (I) employed by the organization in a permanent or temporary capacity; (II) contracted or retained by the organization;		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
or (III) acting on behalf of, or with the express or apparent authority of, the organization; and (ii) has been convicted for a violation under Federal law relating to an election for Federal office.		

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
TITLE IX--NONADMITTED AND REINSURANCE REFORM ACT	***TITLE V—INSURANCE*** ***Subtitle B--State-based Insurance Reform***	
SEC. 10051. SHORT TITLE. This title may be cited as the `Nonadmitted and Reinsurance Reform Act of 2009'.	***SEC. 511. SHORT TITLE.*** *This subtitle may be cited as the `Nonadmitted and Reinsurance Reform Act of 2010'.*	
SEC. 10052. EFFECTIVE DATE. Except as otherwise specifically provided in this title, this title shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this Act.	***SEC. 512. EFFECTIVE DATE.*** *Except as otherwise specifically provided in this subtitle, this subtitle shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this subtitle.*	
Subtitle A--Nonadmitted Insurance **SEC. 10101. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.** (a) Home State's Exclusive Authority- No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.	**PART I--NONADMITTED INSURANCE** ***SEC. 521. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.*** *(a) Home State's Exclusive Authority- No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.*	
(b) Allocation of Nonadmitted Premium Taxes- (1) IN GENERAL- The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a). (2) EFFECTIVE DATE- Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures-- (A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this Act, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and	*(b) Allocation of Nonadmitted Premium Taxes-* *(1) IN GENERAL- The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a).* *(2) EFFECTIVE DATE- Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures--* *(A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this subtitle, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures. (3) REPORT- Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States. (4) NATIONWIDE SYSTEM- The Congress intends that each State adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section. (c) Allocation Based on Tax Allocation Report- To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.	*(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.* *(3) REPORT- Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.* *(4) NATIONWIDE SYSTEM- The Congress intends that each State adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.* *(c) Allocation Based on Tax Allocation Report- To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks, or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.*	
SEC. 10102. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE. (a) Home State Authority- Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State. (b) Broker Licensing- No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured. (c) Enforcement Provision- With respect to section 10101 and subsections (a) and (b) of this section, any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted	***SEC. 522. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE.*** *(a) Home State Authority- Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State.* *(b) Broker Licensing- No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.* *(c) Enforcement Provision- With respect to section 521 and subsections (a) and (b) of this section, any law, regulation, provision, or action of*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application. (d) Workers' Compensation Exception- This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.	*any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.* *(d) Workers' Compensation Exception- This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.*	
SEC. 10103. PARTICIPATION IN NATIONAL PRODUCER DATABASE. After the expiration of the 2-year period beginning on the date of the enactment of this Act, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.	***SEC. 523. PARTICIPATION IN NATIONAL PRODUCER DATABASE.*** *After the expiration of the 2-year period beginning on the date of the enactment of this subtitle, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.*	
SEC. 10104. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY. A State may not-- (1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act, unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 10101(b) of this title that include alternative nationwide uniform eligibility requirements; and (2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.	***SEC. 524. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.*** *A State may not--* *(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act, unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 521(b) of this subtitle that include alternative nationwide uniform eligibility requirements; or* *(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.*	
SEC. 10105. STREAMLINED APPLICATION FOR COMMERCIAL	***SEC. 525. STREAMLINED APPLICATION FOR COMMERCIAL***	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
PURCHASERS. A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if-- (1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and (2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.	***PURCHASERS.*** *A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if--* *(1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and* *(2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.*	
SEC. 10106. GAO STUDY OF NONADMITTED INSURANCE MARKET. (a) In General- The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this subtitle on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market. (b) Contents- The study shall determine and analyze-- (1) the change in the size and market share of the nonadmitted insurance market and in the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this Act; (2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market; (3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets; (4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and (5) the extent to which there has been a change in the number	***SEC. 526. GAO STUDY OF NONADMITTED INSURANCE MARKET.*** *(a) In General- The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this part on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market.* *(b) Contents- The study shall determine and analyze--* *(1) the change in the size and market share of the nonadmitted insurance market and in the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this subtitle;* *(2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market;* *(3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets;* *(4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and* *(5) the extent to which there has been a change in the number*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market. (c) Consultation With NAIC- In conducting the study under this section, the Comptroller General shall consult with the NAIC. (d) Report- The Comptroller General shall complete the study under this section and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the findings of the study not later than 30 months after the effective date of this Act.	*of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market.* *(c) Consultation With NAIC- In conducting the study under this section, the Comptroller General shall consult with the NAIC.* *(d) Report- The Comptroller General shall complete the study under this section and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the findings of the study not later than 30 months after the effective date of this subtitle.*	
SEC. 10107. DEFINITIONS. For purposes of this subtitle, the following definitions shall apply: (1) ADMITTED INSURER- The term `admitted insurer' means, with respect to a State, an insurer licensed to engage in the business of insurance in such State. (2) AFFILIATE- The term `affiliate' means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured. (3) AFFILIATED GROUP- The term `affiliated group' means any group of entities that are all affiliated. (4) CONTROL- An entity has `control' over another entity if-- (A) the entity directly or indirectly or acting through one or more other persons owns, controls or has the power to vote 25 percent or more of any class of voting securities of the other entity; or (B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity. (5) EXEMPT COMMERCIAL PURCHASER- The term `exempt commercial purchaser' means any person purchasing commercial insurance that, at the time of placement, meets the following requirements: (A) The person employs or retains a qualified risk manager to negotiate insurance coverage. (B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months. (C)(i) The person meets at least one of the following criteria: (I) The person possesses a net	***SEC. 527. DEFINITIONS.*** *For purposes of this part, the following definitions shall apply:* *(1) ADMITTED INSURER- The term `admitted insurer' means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.* *(2) AFFILIATE- The term `affiliate' means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.* *(3) AFFILIATED GROUP- The term `affiliated group' means any group of entities that are all affiliated.* *(4) CONTROL- An entity has `control' over another entity if--* *(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or* *(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.* *(5) EXEMPT COMMERCIAL PURCHASER- The term `exempt commercial purchaser' means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:* *(A) The person employs or retains a qualified risk manager to negotiate insurance coverage.* *(B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months.* *(C)(i) The person meets at least 1 of the following criteria:* *(I) The person possesses a net worth in*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
worth in excess of $20,000,000, as such amount is adjusted pursuant to clause (ii). (II) The person generates annual revenues in excess of $50,000,000, as such amount is adjusted pursuant to clause (ii). (III) The person employs more than 500 full time or full time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate. (IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000, as such amount is adjusted pursuant to clause (ii). (V) The person is a municipality with a population in excess of 50,000 persons. (ii) Effective on the fifth January 1 occurring after the date of the enactment of this Act and each fifth January 1 occurring thereafter, the amounts in subclauses (I), (II), and (IV) of clause (i) shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. (6) HOME STATE- (A) IN GENERAL- Except as provided in subparagraph (B), the term `home State' means, with respect to an insured-- (i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or (ii) if 100 percent of the insured risk is located out of the State referred to in subparagraph (A), the State to which the	*excess of $20,000,000, as such amount is adjusted pursuant to clause (ii).* *(II) The person generates annual revenues in excess of $50,000,000, as such amount is adjusted pursuant to clause (ii).* *(III) The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate.* *(IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000, as such amount is adjusted pursuant to clause (ii).* *(V) The person is a municipality with a population in excess of 50,000 persons.* *(ii) Effective on the fifth January 1 occurring after the date of the enactment of this subtitle and each fifth January 1 occurring thereafter, the amounts in subclauses (I), (II), and (IV) of clause (i) shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.* *(6) HOME STATE-* *(A) IN GENERAL- Except as provided in subparagraph (B), the term `home State' means, with respect to an insured--* *(i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or* *(ii) if 100 percent of the insured risk is located out of the State referred to in subparagraph (A), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.* *(B) AFFILIATED GROUPS- If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term `home State' means the home State, as determined*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
greatest percentage of the insured's taxable premium for that insurance contract is allocated. (B) AFFILIATED GROUPS- If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term `home State' means the home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract. (7) INDEPENDENTLY PROCURED INSURANCE- The term `independently procured insurance' means insurance procured directly by an insured from a nonadmitted insurer. (8) NAIC- The term `NAIC' means the National Association of Insurance Commissioners or any successor entity. (9) NONADMITTED INSURANCE- The term `nonadmitted insurance' means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance. (10) NON-ADMITTED INSURANCE MODEL ACT- The term `Non-Admitted Insurance Model Act' means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002. (11) NONADMITTED INSURER- The term `nonadmitted insurer' means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State. (12) QUALIFIED RISK MANAGER- The term `qualified risk manager' means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements: (A) The person is an employee of, or third party consultant retained by, the commercial policyholder. (B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance. (C) The person-- (i)(I) has a bachelor's degree or higher from an accredited college or university in risk management, business administration,	*pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.* *(7) INDEPENDENTLY PROCURED INSURANCE- The term `independently procured insurance' means insurance procured directly by an insured from a nonadmitted insurer.* *(8) NAIC- The term `NAIC' means the National Association of Insurance Commissioners or any successor entity.* *(9) NONADMITTED INSURANCE- The term `nonadmitted insurance' means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.* *(10) NON-ADMITTED INSURANCE MODEL ACT- The term `Non-Admitted Insurance Model Act' means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002.* *(11) NONADMITTED INSURER- The term `nonadmitted insurer'--* *(A) means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State; but* *(B) does not include a risk retention group, as that term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(a)(4)).* *(12) QUALIFIED RISK MANAGER- The term `qualified risk manager' means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:* *(A) The person is an employee of, or third party consultant retained by, the commercial policyholder.* *(B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.* *(C) The person--* *(i)(I) has a bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management; and (II)(aa) has three years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance; or (bb) has one of the following designations: (AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as `CPCU') issued by the American Institute for CPCU/Insurance Institute of America; (BB) a designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America; (CC) a designation as Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research; (DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or (EE) any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management; (ii)(I) has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and (II) has any one of the designations specified in subitems (AA) through (EE) of clause (i)(II)(bb); (iii) has at least 10 years of experience in risk financing, claims administration, loss	*official or entity to demonstrate minimum competence in risk management; and* *(II)(aa) has 3 years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance; or* *(bb) has 1 of the following designations:* *(AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as `CPCU') issued by the American Institute for CPCU/Insurance Institute of America;* *(BB) a designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;* *(CC) a designation as Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research;* *(DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or* *(EE) any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management;* *(ii)(I) has at least 7 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and* *(II) has any 1 of the designations specified in subitems (AA) through (EE) of clause (i)(II)(bb);* *(iii) has at least 10 years of experience in risk financing, claims administration, loss*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or (iv) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management. (13) PREMIUM TAX- The term `premium tax' means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance. (14) SURPLUS LINES BROKER- The term `surplus lines broker' means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers. (15) STATE- The term `State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.	*prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or* *(iv) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management.* *(13) PREMIUM TAX- The term `premium tax' means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.* *(14) SURPLUS LINES BROKER- The term `surplus lines broker' means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers.*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
Subtitle B--Reinsurance **SEC. 10201. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.** (a) Credit for Reinsurance- If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance. (b) Additional Preemption of Extraterritorial Application of State Law- In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they-- (1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code; (2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract; (3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this subtitle; or (4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.	**PART II--REINSURANCE** ***SEC. 531. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.*** *(a) Credit for Reinsurance- If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance.* *(b) Additional Preemption of Extraterritorial Application of State Law- In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they--* *(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code;* *(2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;* *(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this part; or* *(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.*	
SEC. 10202. REGULATION OF REINSURER SOLVENCY. (a) Domiciliary State Regulation- If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer. (b) Nondomiciliary States- (1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS- If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements	***SEC. 532. REGULATION OF REINSURER SOLVENCY.*** *(a) Domiciliary State Regulation- If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.* *(b) Nondomiciliary States-* *(1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS- If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State. (2) RECEIPT OF INFORMATION- No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.	*accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.* *(2) RECEIPT OF INFORMATION- No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.*	
SEC. 10203. DEFINITIONS. For purposes of this subtitle, the following definitions shall apply: (1) CEDING INSURER- The term `ceding insurer' means an insurer that purchases reinsurance. (2) DOMICILIARY STATE- The terms `State of domicile' and `domiciliary State' means, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed. (3) REINSURANCE- The term `reinsurance' means the assumption by an insurer of all or part of a risk undertaken originally by another insurer. (4) REINSURER- (A) IN GENERAL- The term `reinsurer' means an insurer to the extent that the insurer-- (i) is principally engaged in the business of reinsurance; (ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and (iii) is not engaged in an ongoing basis in the business of soliciting direct insurance. (B) DETERMINATION- A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph. (5) STATE- The term `State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.	***SEC. 533. DEFINITIONS.*** *For purposes of this part, the following definitions shall apply:* *(1) CEDING INSURER- The term `ceding insurer' means an insurer that purchases reinsurance.* *(2) DOMICILIARY STATE- The terms `State of domicile' and `domiciliary State' mean, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.* *(3) REINSURANCE- The term `reinsurance' means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.* *(4) REINSURER-* *(A) IN GENERAL- The term `reinsurer' means an insurer to the extent that the insurer--* *(i) is principally engaged in the business of reinsurance;* *(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and* *(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.* *(B) DETERMINATION- A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.*	

H.R. 4173 as passed by the House	H.R. 4173 as passed by Senate (S. 3217 as amended)	Notes
Subtitle C--Rule of Construction **SEC. 10301. RULE OF CONSTRUCTION.** Nothing in this title or amendments to this title shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this title and any amendments to this title and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.	**PART III--RULE OF CONSTRUCTION** ***SEC. 541. RULE OF CONSTRUCTION.*** *Nothing in this subtitle or the amendments made by this subtitle shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this subtitle and any amendments to this subtitle and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.*	
SEC. 10302. SEVERABILITY. If any section or subsection of this title, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title, and the application of the provision to any other person or circumstance, shall not be affected.	***SEC. 542. SEVERABILITY.*** *If any section or subsection of this subtitle, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this subtitle, and the application of the provision to any other person or circumstance, shall not be affected.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
TITLE X--INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED **SEC. 11001. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.** (a) Repeal of Prohibition on Payment of Interest on Demand Deposits- (1) FEDERAL RESERVE ACT- Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows: `(i) [Repealed]'. (2) HOME OWNERS' LOAN ACT- The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking `savings association may not--' and all that follows through `(ii) permit any' and inserting `savings association may not permit any'. (3) FEDERAL DEPOSIT INSURANCE ACT- Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows: `(g) [Repealed]'. (b) Effective Date- The amendments made by subsection (a) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.		

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 2. DEFINITIONS. *As used in this Act, the following definitions shall apply, except as the context otherwise requires or as otherwise specifically provided in this Act:*	
	(1) AFFILIATE- The term `affiliate' means any company that controls, is controlled by, or is under common control with another company.	
	(2) APPROPRIATE FEDERAL BANKING AGENCY- On and after the transfer date, the term `appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), as amended by title III.	
	(3) BOARD OF GOVERNORS- The term `Board of Governors' means the Board of Governors of the Federal Reserve System.	
	(4) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection established under title X.	
	(5) COMMISSION- The term `Commission' means the Securities and Exchange Commission, except in the context of the Commodity Futures Trading Commission.	
	(6) CORPORATION- The term `Corporation' means the Federal Deposit Insurance Corporation.	
	(7) COUNCIL- The term `Council' means the Financial Stability Oversight Council established under title I.	
	(8) CREDIT UNION- The term `credit union' means a Federal credit union, State credit union, or State-chartered credit union, as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).	
	(9) FEDERAL BANKING AGENCY- The term-- *(A) `Federal banking agency' means, individually, the Board of Governors, the Office of the Comptroller of the Currency, and the Corporation; and* *(B) `Federal banking agencies' means all of the agencies referred to in subparagraph (A), collectively.*	
	(10) FUNCTIONALLY REGULATED SUBSIDIARY- The term `functionally regulated subsidiary' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(11) PRIMARY FINANCIAL REGULATORY AGENCY- The term `primary financial regulatory agency' means-- *(A) the appropriate Federal banking agency, with respect to institutions described in section 3(q) of the Federal Deposit Insurance Act, except to the extent that an institution is or the activities of an institution are otherwise subject to the jurisdiction of an agency listed in subparagraph (B), (C), (D), or (E);* *(B) the Securities and Exchange Commission, with respect to--* *(i) any broker or dealer that is registered with the Commission under the Securities Exchange Act of 1934;* *(ii) any investment company that is registered with the Commission under the Investment Company Act of 1940;* *(iii) any investment adviser that is registered with the Commission under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such company and activities that are incidental to such advisory activities; and* *(iv) any clearing agency registered with the Commission under the Securities Exchange Act of 1934;* *(C) the Commodity Futures Trading Commission, with respect to any futures commission merchant, any commodity trading adviser, and any commodity pool operator registered with the Commodity Futures Trading Commission under the Commodity Exchange Act, with respect to the commodities activities of such entity and activities that are incidental to such commodities activities;* *(D) the State insurance authority of the State in which an insurance company is domiciled, with respect to the insurance activities and activities that are incidental to such insurance activities of an insurance company that is subject to supervision by the State insurance authority under State insurance law; and* *(E) the Federal Housing Finance Agency, with respect to Federal Home Loan Banks or the Federal Home Loan Bank System, and with respect to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.*	
	(12) PRUDENTIAL STANDARDS- The term `prudential standards' means enhanced supervision and regulatory standards developed by the Board of Governors under section 115 or 165.* *(13) SECRETARY- The term `Secretary' means the Secretary of the Treasury.	
	(14) SECURITIES TERMS- The--	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(A) terms `broker', `dealer', `issuer', `nationally recognized statistical ratings organization', `security', and `securities laws' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c); *(B) term `investment adviser' has the same meaning as in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2); and* *(C) term `investment company' has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3).*	
	(15) STATE- The term `State' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.	
	(16) TRANSFER DATE- The term `transfer date' means the date established under section 311.	
	(17) OTHER INCORPORATED DEFINITIONS- *(A) FEDERAL DEPOSIT INSURANCE ACT- The terms `affiliate', `bank', `bank holding company', `control' (when used with respect to a depository institution), `deposit', `depository institution', `Federal depository institution', `Federal savings association', `foreign bank', `including', `insured branch', `insured depository institution', `national member bank', `national nonmember bank', `savings association', `State bank', `State depository institution', `State member bank', `State nonmember bank', `State savings association', and `subsidiary' have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).* *(B) HOLDING COMPANIES- The term--* *(i) `bank holding company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841);* *(ii) `financial holding company' has the same meaning as in section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)); and* *(iii) `savings and loan holding company' has the same meaning as in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).*	
	SEC. 3. SEVERABILITY. *If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of such to any person or circumstance shall not be affected thereby. ***SEC. 4. EFFECTIVE DATE.*** *Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and such amendments shall take effect 1 day after the date of enactment of this Act.*	
	TITLE VIII--PAYMENT, CLEARING, AND SETTLEMENT SUPERVISION ***SEC. 801. SHORT TITLE.*** *This title may be cited as the `Payment, Clearing, and Settlement Supervision Act of 2010'.* ***SEC. 802. FINDINGS AND PURPOSES.*** *(a) Findings- Congress finds the following:* *(1) The proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payment, securities, and other financial transactions.* *(2) Financial market utilities that conduct or support multilateral payment, clearing, or settlement activities may reduce risks for their participants and the broader financial system, but such utilities may also concentrate and create new risks and thus must be well designed and operated in a safe and sound manner.* *(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.* *(4) Enhancements to the regulation and supervision of systemically important financial market utilities and the conduct of systemically important payment, clearing, and settlement activities by financial institutions are necessary--* *(A) to provide consistency;* *(B) to promote robust risk management and safety and soundness;* *(C) to reduce systemic risks; and* *(D) to support the stability of the broader financial system.* *(b) Purpose- The purpose of this title is to mitigate systemic risk in the financial system and promote financial stability by--* *(1) authorizing the Board of Governors to prescribe uniform standards for the--* *(A) management of risks by systemically important financial market utilities; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(B) conduct of systemically important payment, clearing, and settlement activities by financial institutions; *(2) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important financial market utilities;* *(3) strengthening the liquidity of systemically important financial market utilities; and* *(4) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important payment, clearing, and settlement activities by financial institutions.* ***SEC. 803. DEFINITIONS.*** *In this title, the following definitions shall apply:* *(1) APPROPRIATE FINANCIAL REGULATOR- The term `appropriate financial regulator' means--* *(A) the primary financial regulatory agency, as defined in section 2 of this Act;* *(B) the National Credit Union Administration, with respect to any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.); and* *(C) the Board of Governors, with respect to organizations operating under section 25A of the Federal Reserve Act (12 U.S.C. 611), and any other financial institution engaged in a designated activity.* *(2) DESIGNATED ACTIVITY- The term `designated activity' means a payment, clearing, or settlement activity that the Council has designated as systemically important under section 804.* *(3) DESIGNATED FINANCIAL MARKET UTILITY- The term `designated financial market utility' means a financial market utility that the Council has designated as systemically important under section 804.* *(4) FINANCIAL INSTITUTION- The term `financial institution' means--* *(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);* *(B) a branch or agency of a foreign bank, as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101);* *(C) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a and 611 through 631);* *(D) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);* *(E) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);* *(F) an investment company, as defined in section 3 of the Investment*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Company Act of 1940 (15 U.S.C. 80a-3); *(G) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2);* *(H) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2);* *(I) a futures commission merchant, commodity trading advisor, or commodity pool operator, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); and* *(J) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).* *(5) FINANCIAL MARKET UTILITY- The term `financial market utility' means any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.* *(6) PAYMENT, CLEARING, OR SETTLEMENT ACTIVITY-* *(A) IN GENERAL- The term `payment, clearing, or settlement activity' means an activity carried out by 1 or more financial institutions to facilitate the completion of financial transactions.* *(B) FINANCIAL TRANSACTION- For the purposes of subparagraph (A), the term `financial transaction' includes--* *(i) funds transfers;* *(ii) securities contracts;* *(iii) contracts of sale of a commodity for future delivery;* *(iv) forward contracts;* *(v) repurchase agreements;* *(vi) swaps;* *(vii) security-based swaps;* *(viii) swap agreements;* *(ix) security-based swap agreements;* *(x) foreign exchange contracts;* *(xi) financial derivatives contracts; and* *(xii) any similar transaction that the Council determines to be a financial transaction for purposes of this title.* *(C) INCLUDED ACTIVITIES- When conducted with respect to a financial transaction, payment, clearing, and settlement activities may include--* *(i) the calculation and communication of unsettled financial transactions between counterparties;* *(ii) the netting of transactions;* *(iii) provision and maintenance of trade, contract, or instrument information;* *(iv) the management of risks and activities associated with*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	continuing financial transactions; *(v) transmittal and storage of payment instructions;* *(vi) the movement of funds;* *(vii) the final settlement of financial transactions; and* *(viii) other similar functions that the Council may determine.* *(7) SUPERVISORY AGENCY-* *(A) IN GENERAL- The term `Supervisory Agency' means the Federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws, as follows:* *(i) The Securities and Exchange Commission, with respect to a designated financial market utility that is a clearing agency registered with the Securities and Exchange Commission.* *(ii) The Commodity Futures Trading Commission, with respect to a designated financial market utility that is a derivatives clearing organization registered with the Commodity Futures Trading Commission.* *(iii) The appropriate Federal banking agency, with respect to a designated financial market utility that is an institution described in section 3(q) of the Federal Deposit Insurance Act.* *(iv) The Board of Governors, with respect to a designated financial market utility that is otherwise not subject to the jurisdiction of any agency listed in clauses (i), (ii), and (iii).* *(B) MULTIPLE AGENCY JURISDICTION- If a designated financial market utility is subject to the jurisdictional supervision of more than 1 agency listed in subparagraph (A), then such agencies should agree on 1 agency to act as the Supervisory Agency, and if such agencies cannot agree on which agency has primary jurisdiction, the Council shall decide which agency is the Supervisory Agency for purposes of this title.* *(8) SYSTEMICALLY IMPORTANT AND SYSTEMIC IMPORTANCE- The terms `systemically important' and `systemic importance' mean a situation where the failure of or a disruption to the functioning of a financial market utility or the conduct of a payment, clearing, or settlement activity could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system.* ***SEC. 804. DESIGNATION OF SYSTEMIC IMPORTANCE.*** *(a) Designation-* *(1) FINANCIAL STABILITY OVERSIGHT COUNCIL- The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of members then serving,*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	including an affirmative vote by the Chairperson of the Council, shall designate those financial market utilities or payment, clearing, or settlement activities that the Council determines are, or are likely to become, systemically important. *(2) CONSIDERATIONS- In determining whether a financial market utility or payment, clearing, or settlement activity is, or is likely to become, systemically important, the Council shall take into consideration the following:* *(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.* *(B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.* *(C) The relationship, interdependencies, or other interactions of the financial market utility or payment, clearing, or settlement activity with other financial market utilities or payment, clearing, or settlement activities.* *(D) The effect that the failure of or a disruption to the financial market utility or payment, clearing, or settlement activity would have on critical markets, financial institutions, or the broader financial system.* *(E) Any other factors that the Council deems appropriate.* *(b) Rescission of Designation-* *(1) IN GENERAL- The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of members then serving, including an affirmative vote by the Chairperson of the Council, shall rescind a designation of systemic importance for a designated financial market utility or designated activity if the Council determines that the utility or activity no longer meets the standards for systemic importance.* *(2) EFFECT OF RESCISSION- Upon rescission, the financial market utility or financial institutions conducting the activity will no longer be subject to the provisions of this title or any rules or orders prescribed by the Council under this title.* *(c) Consultation and Notice and Opportunity for Hearing-* *(1) CONSULTATION- Before making any determination under subsection (a) or (b), the Council shall consult with the relevant Supervisory Agency and the Board of Governors.* *(2) ADVANCE NOTICE AND OPPORTUNITY FOR HEARING-* *(A) IN GENERAL- Before making any determination under subsection (a) or (b), the Council shall provide the financial market utility or, in the case of a payment, clearing, or settlement activity, financial institutions with advance notice of the proposed determination of the Council.* *(B) NOTICE IN FEDERAL REGISTER- The Council shall provide such advance notice to financial institutions by publishing a notice in the Federal Register.* *(C) REQUESTS FOR HEARING- Within 30 days from the date of any notice*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of the proposed determination of the Council, the financial market utility or, in the case of a payment, clearing, or settlement activity, a financial institution engaged in the designated activity may request, in writing, an opportunity for a written or oral hearing before the Council to demonstrate that the proposed designation or rescission of designation is not supported by substantial evidence. *(D) WRITTEN SUBMISSIONS- Upon receipt of a timely request, the Council shall fix a time, not more than 30 days after receipt of the request, unless extended at the request of the financial market utility or financial institution, and place at which the financial market utility or financial institution may appear, personally or through counsel, to submit written materials, or, at the sole discretion of the Council, oral testimony or oral argument.* *(3) EMERGENCY EXCEPTION-* *(A) WAIVER OR MODIFICATION BY VOTE OF THE COUNCIL- The Council may waive or modify the requirements of paragraph (2) if the Council determines, by an affirmative vote of not less than 2/3 of all members then serving, including an affirmative vote by the Chairperson of the Council, that the waiver or modification is necessary to prevent or mitigate an immediate threat to the financial system posed by the financial market utility or the payment, clearing, or settlement activity.* *(B) NOTICE OF WAIVER OR MODIFICATION- The Council shall provide notice of the waiver or modification to the financial market utility concerned or, in the case of a payment, clearing, or settlement activity, to financial institutions, as soon as practicable, which shall be no later than 24 hours after the waiver or modification in the case of a financial market utility and 3 business days in the case of financial institutions. The Council shall provide the notice to financial institutions by posting a notice on the website of the Council and by publishing a notice in the Federal Register.* *(d) Notification of Final Determination-* *(1) AFTER HEARING- Within 60 days of any hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing, which shall include findings of fact upon which the determination of the Council is based.* *(2) WHEN NO HEARING REQUESTED- If the Council does not receive a timely request for a hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing not later than 30 days after the expiration of the date by which a financial market utility or a financial institution could have requested a hearing. All notices to financial institutions under this subsection shall be published in the Federal Register.* *(e) Extension of Time Periods- The Council may extend the time periods established in subsections (c) and (d) as the Council determines to be necessary or appropriate.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 805. STANDARDS FOR SYSTEMICALLY IMPORTANT FINANCIAL MARKET UTILITIES AND PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES. *(a) Authority To Prescribe Standards- The Board, by rule or order, and in consultation with the Council and the Supervisory Agencies, shall prescribe risk management standards, taking into consideration relevant international standards and existing prudential requirements, governing--* *(1) the operations related to the payment, clearing, and settlement activities of designated financial market utilities; and* *(2) the conduct of designated activities by financial institutions.* *(b) Objectives and Principles- The objectives and principles for the risk management standards prescribed under subsection (a) shall be to--* *(1) promote robust risk management;* *(2) promote safety and soundness;* *(3) reduce systemic risks; and* *(4) support the stability of the broader financial system.* *(c) Scope- The standards prescribed under subsection (a) may address areas such as--* *(1) risk management policies and procedures;* *(2) margin and collateral requirements;* *(3) participant or counterparty default policies and procedures;* *(4) the ability to complete timely clearing and settlement of financial transactions;* *(5) capital and financial resource requirements for designated financial market utilities; and* *(6) other areas that the Board determines are necessary to achieve the objectives and principles in subsection (b).* *(d) Threshold Level- The standards prescribed under subsection (a) governing the conduct of designated activities by financial institutions shall, where appropriate, establish a threshold as to the level or significance of engagement in the activity at which a financial institution will become subject to the standards with respect to that activity.* *(e) Compliance Required- Designated financial market utilities and financial institutions subject to the standards prescribed by the Board of Governors for a designated activity shall conduct their operations in compliance with the applicable risk management standards prescribed by the Board of Governors.* ***SEC. 806. OPERATIONS OF DESIGNATED FINANCIAL MARKET UTILITIES.*** *(a) Federal Reserve Account and Services- The Board of Governors may authorize a Federal Reserve Bank to establish and maintain an account for a designated financial market utility and provide services to the designated financial market utility that the Federal Reserve Bank is authorized under the Federal Reserve Act to provide to a depository institution, subject to*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors. *(b) Advances- The Board of Governors may authorize a Federal Reserve Bank to provide to a designated financial market utility the same discount and borrowing privileges as the Federal Reserve Bank may provide to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.* *(c) Earnings on Federal Reserve Balances- A Federal Reserve Bank may pay earnings on balances maintained by or on behalf of a designated financial market utility in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.* *(d) Reserve Requirements- The Board of Governors may exempt a designated financial market utility from, or modify any, reserve requirements under section 19 of the Federal Reserve Act (12 U.S.C. 461) applicable to a designated financial market utility.* *(e) Changes to Rules, Procedures, or Operations-* *(1) ADVANCE NOTICE-* *(A) ADVANCE NOTICE OF PROPOSED CHANGES REQUIRED- A designated financial market utility shall provide notice 60 days in advance advance notice to its Supervisory Agency and the Board of Governors of any proposed change to its rules, procedures, or operations that could, as defined in rules of the Board of Governors, materially affect, the nature or level of risks presented by the designated financial market utility.* *(B) TERMS AND STANDARDS PRESCRIBED BY THE BOARD OF GOVERNORS- The Board of Governors shall prescribe regulations that define and describe the standards for determining when notice is required to be provided under subparagraph (A).* *(C) CONTENTS OF NOTICE- The notice of a proposed change shall describe--* *(i) the nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market; and* *(ii) how the designated financial market utility plans to manage any identified risks.* *(D) ADDITIONAL INFORMATION- The Supervisory Agency or the Board of Governors may require a designated financial market utility to provide any information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the designated financial market utility's payment, clearing, or settlement activities and the sufficiency of any proposed risk management techniques.* *(E) NOTICE OF OBJECTION- The Supervisory Agency or the Board of Governors shall notify the designated financial market utility of any objection regarding the proposed change within 60 days from the later of--*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(i) the date that the notice of the proposed change is received; or *(ii) the date any further information requested for consideration of the notice is received.* *(F) CHANGE NOT ALLOWED IF OBJECTION- A designated financial market utility shall not implement a change to which the Board of Governors or the Supervisory Agency has an objection.* *(G) CHANGE ALLOWED IF NO OBJECTION WITHIN 60 DAYS- A designated financial market utility may implement a change if it has not received an objection to the proposed change within 60 days of the later of--* *(i) the date that the Supervisory Agency or the Board of Governors receives the notice of proposed change; or* *(ii) the date the Supervisory Agency or the Board of Governors receives any further information it requests for consideration of the notice.* *(H) REVIEW EXTENSION FOR NOVEL OR COMPLEX ISSUES- The Supervisory Agency or the Board of Governors may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Supervisory Agency or the Board of Governors providing the designated financial market utility with prompt written notice of the extension. Any extension under this subparagraph will extend the time periods under subparagraphs (D) and (F).* *(I) CHANGE ALLOWED EARLIER IF NOTIFIED OF NO OBJECTION- A designated financial market utility may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Supervisory Agency or the Board of Governors, or the date the Supervisory Agency or the Board of Governors receives any further information it requested, if the Supervisory Agency or the Board of Governors notifies the designated financial market utility in writing that it does not object to the proposed change and authorizes the designated financial market utility to implement the change on an earlier date, subject to any conditions imposed by the Supervisory Agency or the Board of Governors.* *(2) EMERGENCY CHANGES-* *(A) IN GENERAL- A designated financial market utility may implement a change that would otherwise require advance notice under this subsection if it determines that--* *(i) an emergency exists; and* *(ii) immediate implementation of the change is necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.* *(B) NOTICE REQUIRED WITHIN 24 HOURS- The designated financial market utility shall provide notice of any such emergency change to its*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Supervisory Agency and the Board of Governors, as soon as practicable, which shall be no later than 24 hours after implementation of the change. *(C) CONTENTS OF EMERGENCY NOTICE- In addition to the information required for changes requiring advance notice, the notice of an emergency change shall describe--* *(i) the nature of the emergency; and* *(ii) the reason the change was necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.* *(D) MODIFICATION OR RESCISSION OF CHANGE MAY BE REQUIRED- The Supervisory Agency or the Board of Governors may require modification or rescission of the change if it finds that the change is not consistent with the purposes of this Act or any rules, orders, or standards prescribed by the Board of Governors hereunder.* *(3) COPYING THE BOARD OF GOVERNORS- The Supervisory Agency shall provide the Board of Governors concurrently with a complete copy of any notice, request, or other information it issues, submits, or receives under this subsection.* *(4) CONSULTATION WITH BOARD OF GOVERNORS- Before taking any action on, or completing its review of, a change proposed by a designated financial market utility, the Supervisory Agency shall consult with the Board of Governors.* ***SEC. 807. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST DESIGNATED FINANCIAL MARKET UTILITIES.*** *(a) Examination- Notwithstanding any other provision of law and subject to subsection (d), the Supervisory Agency shall conduct examinations of a designated financial market utility at least once annually in order to determine the following:* *(1) The nature of the operations of, and the risks borne by, the designated financial market utility.* *(2) The financial and operational risks presented by the designated financial market utility to financial institutions, critical markets, or the broader financial system.* *(3) The resources and capabilities of the designated financial market utility to monitor and control such risks.* *(4) The safety and soundness of the designated financial market utility.* *(5) The designated financial market utility's compliance with--* *(A) this title; and* *(B) the rules and orders prescribed by the Board of Governors under this title.* *(b) Service Providers- Whenever a service integral to the operation of a designated financial market utility is performed for the designated financial market utility by another entity, whether an affiliate or non-affiliate and whether on or off the premises of the designated*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	financial market utility, the Supervisory Agency may examine whether the provision of that service is in compliance with applicable law, rules, orders, and standards to the same extent as if the designated financial market utility were performing the service on its own premises. *(c) Enforcement- For purposes of enforcing the provisions of this section, a designated financial market utility shall be subject to, and the appropriate Supervisory Agency shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Supervisory Agency was the appropriate Federal banking agency for such insured depository institution.* *(d) Board of Governors Involvement in Examinations-* *(1) BOARD OF GOVERNORS CONSULTATION ON EXAMINATION PLANNING- The Supervisory Agency shall consult with the Board of Governors regarding the scope and methodology of any examination conducted under subsections (a) and (b).* *(2) BOARD OF GOVERNORS PARTICIPATION IN EXAMINATION- The Board of Governors may, in its discretion, participate in any examination led by a Supervisory Agency and conducted under subsections (a) and (b).* *(e) Board of Governors Enforcement Recommendations-* *(1) RECOMMENDATION- The Board of Governors may at any time recommend to the Supervisory Agency that such agency take enforcement action against a designated financial market utility. Any such recommendation for enforcement action shall provide a detailed analysis supporting the recommendation of the Board of Governors.* *(2) CONSIDERATION- The Supervisory Agency shall consider the recommendation of the Board of Governors and submit a response to the Board of Governors within 60 days.* *(3) MEDIATION- If the Supervisory Agency rejects, in whole or in part, the recommendation of the Board of Governors, the Board of Governors may dispute the matter by referring the recommendation to the Council, which shall attempt to resolve the dispute.* *(4) ENFORCEMENT ACTION- If the Council is unable to resolve the dispute under paragraph (3) within 30 days from the date of referral, the Board of Governors may, upon a vote of its members--* *(A) exercise the enforcement authority referenced in subsection (c) as if it were the Supervisory Agency; and* *(B) take enforcement action against the designated financial market utility.* *(f) Emergency Enforcement Actions by the Board of Governors-* *(1) IMMINENT RISK OF SUBSTANTIAL HARM- The Board of Governors may, after consulting with the Council and the Supervisory Agency, take enforcement action against a designated financial market utility if the Board of Governors has reasonable cause to believe that--* *(A) either--* *(i) an action engaged in, or contemplated by, a designated*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	financial market utility (including any change proposed by the designated financial market utility to its rules, procedures, or operations that would otherwise be subject to section 806(e)) poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; or *(ii) the condition of a designated financial market utility poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; and* *(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).* *(2) ENFORCEMENT AUTHORITY- For purposes of taking enforcement action under paragraph (1), a designated financial market utility shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.* *(3) PROMPT NOTICE TO SUPERVISORY AGENCY OF ENFORCEMENT ACTION- Within 24 hours of taking an enforcement action under this subsection, the Board of Governors shall provide written notice to the designated financial market utility's Supervisory Agency containing a detailed analysis of the action of the Board of Governors, with supporting documentation included.* ***SEC. 808. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.*** *(a) Examination- The appropriate financial regulator is authorized to examine a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to determine the following:* *(1) The nature and scope of the designated activities engaged in by the financial institution.* *(2) The financial and operational risks the designated activities engaged in by the financial institution may pose to the safety and soundness of the financial institution.* *(3) The financial and operational risks the designated activities engaged in by the financial institution may pose to other financial institutions, critical markets, or the broader financial system.* *(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).* *(5) The financial institution's compliance with this title and the rules and orders prescribed by the Board of Governors under this title.* *(b) Enforcement- For purposes of enforcing the provisions of this section, and the rules and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	orders prescribed by the Board of Governors under this section, a financial institution subject to the standards prescribed by the Board of Governors for a designated activity shall be subject to, and the appropriate financial regulator shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the appropriate financial regulator was the appropriate Federal banking agency for such insured depository institution. *(c) Technical Assistance- The Board of Governors shall consult with and provide such technical assistance as may be required by the appropriate financial regulators to ensure that the rules and orders prescribed by the Board of Governors under this title are interpreted and applied in as consistent and uniform a manner as practicable.* *(d) Delegation-* *(1) EXAMINATION-* *(A) REQUEST TO BOARD OF GOVERNORS- The appropriate financial regulator may request the Board of Governors to conduct or participate in an examination of a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to assess the compliance of such financial institution with--* *(i) this title; or* *(ii) the rules or orders prescribed by the Board of Governors under this title.* *(B) EXAMINATION BY BOARD OF GOVERNORS- Upon receipt of an appropriate written request, the Board of Governors will conduct the examination under such terms and conditions to which the Board of Governors and the appropriate financial regulator mutually agree.* *(2) ENFORCEMENT-* *(A) REQUEST TO BOARD OF GOVERNORS- The appropriate financial regulator may request the Board of Governors to enforce this title or the rules or orders prescribed by the Board of Governors under this title against a financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.* *(B) ENFORCEMENT BY BOARD OF GOVERNORS- Upon receipt of an appropriate written request, the Board of Governors shall determine whether an enforcement action is warranted, and, if so, it shall enforce compliance with this title or the rules or orders prescribed by the Board of Governors under this title and, if so, the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(e) Back-up Authority of the Board of Governors- *(1) EXAMINATION AND ENFORCEMENT- Notwithstanding any other provision of law, the Board of Governors may--* *(A) conduct an examination of the type described in subsection (a) of any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity; and* *(B) enforce the provisions of this title or any rules or orders prescribed by the Board of Governors under this title against any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.* *(2) LIMITATIONS-* *(A) EXAMINATION- The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has--* *(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;* *(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included;* *(iii) requested the appropriate financial regulator to conduct a prompt examination of the financial institution; and* *(iv) either--* *(I) not been afforded a reasonable opportunity to participate in an examination of the financial institution by the appropriate financial regulator within 30 days after the date of the Board's notification under clause (ii); or* *(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors affording the appropriate financial regulator a reasonable opportunity to participate in the examination.* *(B) ENFORCEMENT- The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has--* *(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;* *(ii) notified, in writing, the appropriate financial regulator and the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	Council of its belief under clause (i) with supporting documentation included and with a recommendation that the appropriate financial regulator take 1 or more specific enforcement actions against the financial institution; and *(iii) either--* *(I) not been notified, in writing, by the appropriate financial regulator of the commencement of an enforcement action recommended by the Board of Governors against the financial institution within 60 days from the date of the notification under clause (ii); or* *(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors notifying the appropriate financial regulator of the Board's enforcement action.* *(3) ENFORCEMENT PROVISIONS- For purposes of taking enforcement action under paragraph (1), the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.* ***SEC. 809. REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.*** *(a) Information To Assess Systemic Importance-* *(1) FINANCIAL MARKET UTILITIES- The Council is authorized to require any financial market utility to submit such information as the Council may require for the sole purpose of assessing whether that financial market utility is systemically important, but only if the Council has reasonable cause to believe that the financial market utility meets the standards for systemic importance set forth in section 804.* *(2) FINANCIAL INSTITUTIONS ENGAGED IN PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES- The Council is authorized to require any financial institution to submit such information as the Council may require for the sole purpose of assessing whether any payment, clearing, or settlement activity engaged in or supported by a financial institution is systemically important, but only if the Council has reasonable cause to believe that the activity meets the standards for systemic importance set forth in section 804.* *(b) Reporting After Designation-*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(1) DESIGNATED FINANCIAL MARKET UTILITIES- The Board of Governors and the Council may require a designated financial market utility to submit reports or data to the Board of Governors and the Council in such frequency and form as deemed necessary by the Board of Governors and the Council in order to assess the safety and soundness of the utility and the systemic risk that the utility's operations pose to the financial system. *(2) FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES- The Board of Governors and the Council may require 1 or more financial institutions subject to the standards prescribed by the Board of Governors for a designated activity to submit, in such frequency and form as deemed necessary by the Board of Governors and the Council, reports and data to the Board of Governors and the Council solely with respect to the conduct of the designated activity and solely to assess whether--* *(A) the rules, orders, or standards prescribed by the Board of Governors with respect to the designated activity appropriately address the risks to the financial system presented by such activity; and* *(B) the financial institutions are in compliance with this title and the rules and orders prescribed by the Board of Governors under this title with respect to the designated activity.* *(c) Coordination With Appropriate Federal Supervisory Agency-* *(1) ADVANCE COORDINATION- Before directly requesting any material information from, or imposing reporting or recordkeeping requirements on, any financial market utility or any financial institution engaged in a payment, clearing, or settlement activity, the Board of Governors and the Council shall coordinate with the Supervisory Agency for a financial market utility or the appropriate financial regulator for a financial institution to determine if the information is available from or may be obtained by the agency in the form, format, or detail required by the Board of Governors and the Council.* *(2) SUPERVISORY REPORTS- Notwithstanding any other provision of law, the Supervisory Agency, the appropriate financial regulator, and the Board of Governors are authorized to disclose to each other and the Council copies of its examination reports or similar reports regarding any financial market utility or any financial institution engaged in payment, clearing, or settlement activities.* *(d) Timing of Response From Appropriate Federal Supervisory Agency- If the information, report, records, or data requested by the Board of Governors or the Council under subsection (c)(1) are not provided in full by the Supervisory Agency or the appropriate financial regulator in less than 15 days after the date on which the material is requested, the Board of Governors or the Council may request the information or impose recordkeeping or reporting requirements directly on such persons as provided in subsections (a) and (b) with notice to the agency.* *(e) Sharing of Information-* *(1) MATERIAL CONCERNS- Notwithstanding any other provision of law, the Board*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency are authorized to-- *(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and* *(B) share appropriate reports, information, or data relating to such concerns.* *(2) OTHER INFORMATION- Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, or any Supervisory Agency may, under such terms and conditions as it deems appropriate, provide confidential supervisory information and other information obtained under this title to other persons it deems appropriate, including the Secretary, State financial institution supervisory agencies, foreign financial supervisors, foreign central banks, and foreign finance ministries, subject to reasonable assurances of confidentiality.* *(f) Privilege Maintained- The Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency providing reports or data under this section shall not be deemed to have waived any privilege applicable to those reports or data, or any portion thereof, by providing the reports or data to the other party or by permitting the reports or data, or any copies thereof, to be used by the other party.* *(g) Disclosure Exemption- Information obtained by the Board of Governors or the Council under this section and any materials prepared by the Board of Governors or the Council regarding its assessment of the systemic importance of financial market utilities or any payment, clearing, or settlement activities engaged in by financial institutions, and in connection with its supervision of designated financial market utilities and designated activities, shall be confidential supervisory information exempt from disclosure under section 552 of title 5, United States Code. For purposes of such section 552, this subsection shall be considered a statute described in subsection (b)(3) of such section 552.* ***SEC. 810. RULEMAKING.*** *The Board of Governors and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out the authorities and duties granted to the Board of Governors or the Council, respectively, and prevent evasions thereof.* ***SEC. 811. OTHER AUTHORITY.*** *Unless otherwise provided by its terms, this title does not divest any appropriate financial regulator, any Supervisory Agency, or any other Federal or State agency, of any authority derived from any other applicable law, except that any standards prescribed by the Board of Governors under section 805 shall supersede any less stringent requirements established under other authority to the extent of any conflict.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	SEC. 812. EFFECTIVE DATE. *This title is effective as of the date of enactment of this Act.*	
	SEC. 987. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE DEPOSIT INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS. *(a) In General- Section 38(k) of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended--* *(1) in paragraph (2), by striking subparagraph (B) and inserting the following:* *`(B) MATERIAL LOSS DEFINED- The term `material loss' means any estimated loss in excess of--* *`(i) $100,000,000, if the loss occurs during the period beginning on September 30, 2009, and ending on December 31, 2010;* *`(ii) $75,000,000, if the loss occurs during the period beginning on January 1, 2011, and ending on December 31, 2011; and* *`(iii) $50,000,000, if the loss occurs on or after January 1, 2012.';* *(2) in paragraph (4)(A) by striking `the report' and inserting `any report on losses required under this subsection,';* *(3) by striking paragraph (6);* *(4) by redesignating paragraph (5) as paragraph (6); and* *(5) by inserting after paragraph (4) the following:* *`(5) LOSSES THAT ARE NOT MATERIAL-* *`(A) SEMIANNUAL REPORT- For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of each Federal banking agency shall--* *`(i) identify losses that the Inspector General estimates have been incurred by the Deposit Insurance Fund during that 6-month period, with respect to the insured depository institutions supervised by the Federal banking agency;* *`(ii) for each loss incurred by the Deposit Insurance Fund that is not a material loss, determine--* *`(I) the grounds identified by the Federal banking agency or State bank supervisor for appointing the Corporation as receiver under section 11(c)(5); and* *`(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(iii) prepare and submit a written report to the appropriate Federal banking agency and to Congress on the results of any determination by the Inspector General, including--* *`(I) an identification of any loss that warrants an in-depth review, together with the reasons why such review is warranted, or, if the Inspector General determines that no review is warranted, an explanation of such determination; and *`(II) for each loss identified under subclause (I) that warrants an in-depth review, the date by which such review, and a report on such review prepared in a manner consistent with reports under paragraph (1)(A), will be completed and submitted to the Federal banking agency and Congress.* *`(B) DEADLINE FOR SEMIANNUAL REPORT- The Inspector General of each Federal banking agency shall--* *`(i) submit each report required under paragraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and* *`(ii) provide a copy of the report required under paragraph (A) to any Member of Congress, upon request.'.* *(b) Technical and Conforming Amendment- The heading for subsection (k) of section 38 of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended to read as follows:* *`(k) Reviews Required When Deposit Insurance Fund Incurs Losses- '.*	
	SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY. *Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--* *(1) in paragraph (12), by striking `and' after the semicolon;* *(2) in paragraph (13), by striking the period and inserting a semicolon; and* *(3) by adding at the end the following:* *`(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or* *`(B) if no peer review was conducted within that reporting period, a statement identifying the date of the last peer review conducted by another Office of Inspector General;* *`(15) a list of any outstanding recommendations from any peer review conducted by another Office of Inspector General that have not been fully implemented, including a statement describing the status of the implementation and why implementation is not complete; and*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(16) a list of any peer reviews conducted by the Inspector General of another Office of the Inspector General during the reporting period, including a list of any outstanding recommendations made from any previous peer review (including any peer review conducted before the reporting period) that remain outstanding or have not been fully implemented.'.	
	SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES. *Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--* *(1) by redesignating the sentences following `(e)' as paragraph (2); and* *(2) by striking `(e)' and inserting the following:* *`(e)(1) In the case of a designated Federal entity for which a board or commission is the head of the designated Federal entity, a removal under this subsection may only be made upon the written concurrence of a 2/3 majority of the board or commission.'.*	
	TITLE XII--IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS ***SEC. 1201. SHORT TITLE.*** *This title may be cited as the `Improving Access to Mainstream Financial Institutions Act of 2010'.* ***SEC. 1202. PURPOSE.*** *The purpose of this title is to encourage initiatives for financial products and services that are appropriate and accessible for millions of Americans who are not fully incorporated into the financial mainstream.* ***SEC. 1203. DEFINITIONS.*** *In this title, the following definitions shall apply:* *(1) ACCOUNT- The term `account' means an agreement between an individual and an eligible entity under which the individual obtains from or through the entity 1 or more banking products and services, and includes a deposit account, a savings account (including a money market savings account), an account for a closed-end loan, and other products or services, as the Secretary deems appropriate.* *(2) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION- The term `community development financial institution' has the same meaning as in section*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)). *(3) ELIGIBLE ENTITY- The term `eligible entity' means--* *(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code;* *(B) a federally insured depository institution;* *(C) a community development financial institution;* *(D) a State, local, or tribal government entity; or* *(E) a partnership or other joint venture comprised of 1 or more of the entities described in subparagraphs (A) through (D), in accordance with regulations prescribed by the Secretary under this title.* *(4) FEDERALLY INSURED DEPOSITORY INSTITUTION- The term `federally insured depository institution' means any insured depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).* *(5) PAYDAY LOAN- The term `payday loan' means any transaction in which a small cash advance is made to a consumer in exchange for--* *(A) the personal check or share draft of the consumer, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or* *(B) the authorization of the consumer to debit the transaction account or share draft account of the consumer, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.* ***SEC. 1204. EXPANDED ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS.*** *(a) In General- The Secretary is authorized to establish a multiyear program of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings to promote initiatives designed--* *(1) to enable low- and moderate-income individuals to establish one or more accounts in a federally insured depository institution that are appropriate to meet the financial needs of such individuals; and* *(2) to improve access to the provision of accounts, on reasonable terms, for low- and moderate-income individuals.* *(b) Program Eligibility and Activities-* *(1) IN GENERAL- The Secretary shall restrict participation in any program established under subsection (a) to an eligible entity. Subject to regulations prescribed by the Secretary under this title, 1 or more eligible entities may participate in 1 or several programs established under subsection (a).*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	(2) ACCOUNT ACTIVITIES- Subject to regulations prescribed by the Secretary, an eligible entity may, in participating in a program established under subsection (a), offer or provide to low- and moderate-income individuals products and services relating to accounts, including-- *(A) small-dollar value loans; and* *(B) financial education and counseling relating to conducting transactions in and managing accounts.* ***SEC. 1205. LOW-COST ALTERNATIVES TO PAYDAY LOANS.*** *(a) Grants Authorized- The Secretary is authorized to establish multiyear demonstration programs by means of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings, with eligible entities to provide low-cost, small loans to consumers that will provide alternatives to more costly payday loans.* *(b) Terms and Conditions-* *(1) IN GENERAL- Loans under this section shall be made on terms and conditions, and pursuant to lending practices, that are reasonable for consumers.* *(2) FINANCIAL LITERACY AND EDUCATION OPPORTUNITIES-* *(A) IN GENERAL- Each eligible entity awarded a grant under this section shall promote and take appropriate steps to ensure the provision of financial literacy and education opportunities, such as relevant counseling services, educational courses, or wealth building programs, to each consumer provided with a loan pursuant to this section.* *(B) AUTHORITY TO EXPAND ACCESS- As part of the grants, agreements, and undertakings established under this section, the Secretary may implement reasonable measures or programs designed to expand access to financial literacy and education opportunities, including relevant counseling services, educational courses, or wealth building programs to be provided to individuals who obtain loans from eligible entities under this section.* ***SEC. 1206. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.*** *The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:* ***`SEC. 122. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.***  *`(a) Purposes- The purposes of this section are--* *`(1) to make financial assistance available from the Fund in order to help community development financial institutions defray the costs of operating small dollar loan*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	programs, by providing the amounts necessary for such institutions to establish their own loan loss reserve funds to mitigate some of the losses on such small dollar loan programs; and *`(2) to encourage community development financial institutions to establish and maintain small dollar loan programs that would help give consumers access to mainstream financial institutions and combat payday lending.* *`(b) Grants-* *`(1) LOAN-LOSS RESERVE FUND GRANTS- The Fund shall make grants to community development financial institutions or to any partnership between such community development financial institutions and any other federally insured depository institution with a primary mission to serve targeted investment areas, as such areas are defined under section 103(16), to enable such institutions or any partnership of such institutions to establish a loan-loss reserve fund in order to defray the costs of a small dollar loan program established or maintained by such institution.* *`(2) MATCHING REQUIREMENT- A community development financial institution or any partnership of institutions established pursuant to paragraph (1) shall provide non-Federal matching funds in an amount equal to 50 percent of the amount of any grant received under this section.* *`(3) USE OF FUNDS- Any grant amounts received by a community development financial institution or any partnership between or among such institutions under paragraph (1)--* *`(A) may not be used by such institution to provide direct loans to consumers;* *`(B) may be used by such institution to help recapture a portion or all of a defaulted loan made under the small dollar loan program of such institution; and* *`(C) may be used to designate and utilize a fiscal agent for services normally provided by such an agent.* *`(4) TECHNICAL ASSISTANCE GRANTS- The Fund shall make technical assistance grants to community development financial institutions or any partnership between or among such institutions to support and maintain a small dollar loan program. Any grant amounts received under this paragraph may be used for technology, staff support, and other costs associated with establishing a small dollar loan program.* *`(c) Definitions- For purposes of this section--* *`(1) the term `consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' has the same meaning given such term in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and* *`(2) the term `small dollar loan program' means a loan program wherein a community development financial institution or any partnership between or among such institutions offers loans to consumers that--* *`(A) are made in amounts not exceeding $2,500;*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	`(B) must be repaid in installments;* *`(C) have no pre-payment penalty; *`(D) the institution has to report payments regarding the loan to at least 1 of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis; and* *`(E) meet any other affordability requirements as may be established by the Administrator.'.* ***SEC. 1207. PROCEDURAL PROVISIONS.*** *An eligible entity desiring to participate in a program or obtain a grant under this title shall submit an application to the Secretary, in such form and containing such information as the Secretary may require.* ***SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.*** *(a) Authorization to the Secretary- There are authorized to be appropriated to the Secretary, such sums as are necessary to both administer and fund the programs and projects authorized by this title, to remain available until expended.* *(b) Authorization to the Fund- There is authorized to be appropriated to the Fund for each fiscal year beginning in fiscal year 2010, an amount equal to the amount of the administrative costs of the Fund for the operation of the grant program established under this title.* ***SEC. 1209. REGULATIONS.*** *(a) In General- The Secretary is authorized to promulgate regulations to implement and administer the grant programs and undertakings authorized by this title.* *(b) Regulatory Authority- Regulations prescribed under this section may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of grant programs, undertakings, or eligible entities, as, in the judgment of the Secretary, are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion of this title, or to facilitate compliance with this title.* ***SEC. 1210. EVALUATION AND REPORTS TO CONGRESS.*** *For each fiscal year in which a program or project is carried out under this title, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	TITLE XIV--MISCELLANEOUS ***SEC. 1401. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.*** *The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:* ***`SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.***  *`(a) In General- The President shall direct the United States Executive Director of the International Monetary Fund--* *`(1) to evaluate any proposed loan to a country by the Fund if the amount of the public debt of the country exceeds the gross domestic product of the country;* *`(2) to determine whether or not the loan will be repaid and certify that determination to Congress.* *`(b) Opposition to Loans Unlikely To Be Repaid- If the Executive Director determines under subsection (a)(2) that a loan by the International Monetary Fund to a country will not be repaid, the President shall direct the Executive Director to use the voice and vote of the United States to vote in opposition to the proposed loan.'.*	
	TITLE XV--CONGO CONFLICT MINERALS ***SEC. 1501. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.*** *It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.* ***SEC. 1502. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN***	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	DEMOCRATIC REPUBLIC OF CONGO. *Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section 763 of this Act, is further amended by adding at the end the following new subsection:* *`(o) Disclosures to Commission Relating to Columbite-tantalite, Cassiterite, Gold, and Wolframite Originating in Democratic Republic of Congo-* *`(1) IN GENERAL- Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)--* *`(A) to disclose annually to the Commission in a report--* *`(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was necessary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and* *`(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and* *`(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.* *`(2) PERSON DESCRIBED-* *`(A) IN GENERAL- A person is described in this paragraph if--* *`(i) the person is required to file reports to the Commission under subsection (a)(2); and* *`(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.* *`(B) DERIVATIVES- For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.* *`(3) REVISIONS AND WAIVERS- The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.* *`(4) TERMINATION OF DISCLOSURE REQUIREMENTS-* *`(A) IN GENERAL- Except as provided in subparagraph (B), the*	

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection. *`(B) EXTENSION BY SECRETARY OF STATE- The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.* *`(5) ADJOINING COUNTRY DEFINED- In this subsection, the term `adjoining country', with respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.'.* ***SEC. 1503. REPORT.*** *Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:* *(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.* *(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).* *(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.* *(4) Recommendations for legislative or regulatory actions that can be taken--* *(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;* *(B) to resolve the problems described pursuant to paragraph (2), if any; and* *(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.*	