

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
	<p>SEC. 2. DEFINITIONS.</p> <p><i>As used in this Act, the following definitions shall apply, except as the context otherwise requires or as otherwise specifically provided in this Act:</i></p>	
	<p><i>(1) AFFILIATE- The term `affiliate' means any company that controls, is controlled by, or is under common control with another company.</i></p>	
	<p><i>(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.</i></p>	
	<p><i>(3) BOARD OF GOVERNORS- The term `Board of Governors' means the Board of Governors of the Federal Reserve System.</i></p>	
	<p><i>(4) BUREAU- The term `Bureau' means the Bureau of Consumer Financial Protection established under title X.</i></p>	
	<p><i>(5) COMMISSION- The term `Commission' means the Securities and Exchange Commission, except in the context of the Commodity Futures Trading Commission.</i></p>	
	<p><i>(6) CORPORATION- The term `Corporation' means the Federal Deposit Insurance Corporation.</i></p>	
	<p><i>(7) COUNCIL- The term `Council' means the Financial Stability Oversight Council established under title I.</i></p>	
	<p><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).</i></p>	
	<p><i>(9) FEDERAL BANKING AGENCY- The term--</i> <i>(A) `Federal banking agency' means, individually, the Board of Governors, the Office of the Comptroller of the Currency, and the Corporation; and</i> <i>(B) `Federal banking agencies' means all of the agencies referred to in subparagraph (A), collectively.</i></p>	
	<p><i>(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)).</i></p>	

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	<p><i>(11) PRIMARY FINANCIAL REGULATORY AGENCY- The term `primary financial regulatory agency' means--</i></p> <p><i>(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);</i></p> <p><i>(B) the Securities and Exchange Commission, with respect to--</i></p> <p><i>(i) any broker or dealer that is registered with the Commission under the Securities Exchange Act of 1934;</i></p> <p><i>(ii) any investment company that is registered with the Commission under the Investment Company Act of 1940;</i></p> <p><i>(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</i></p> <p><i>(iv) any clearing agency registered with the Commission under the Securities Exchange Act of 1934;</i></p> <p><i>(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;</i></p> <p><i>(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</i></p> <p><i>(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.</i></p>	
	<p><i>(12) PRUDENTIAL STANDARDS- The term `prudential standards' means enhanced supervision and regulatory standards developed by the Board of Governors under section 115 or 165.</i></p> <p><i>(13) SECRETARY- The term `Secretary' means the Secretary of the Treasury.</i></p>	
	<p><i>(14) SECURITIES TERMS- The--</i></p>	

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	<p>(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);</p> <p>(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</p> <p>(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).</p>	
	<p>(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.</p>	
	<p>(16) TRANSFER DATE- The term `transfer date' means the date established under section 311.</p>	
	<p>(17) OTHER INCORPORATED DEFINITIONS-</p> <p>(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).</p> <p>(B) HOLDING COMPANIES- The term--</p> <p>(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);</p> <p>(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</p> <p>(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)).</p>	
	<p>SEC. 3. SEVERABILITY.</p> <p><i>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</i></p>	

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	<p><i>of such to any person or circumstance shall not be affected thereby.</i></p> <p>SEC. 4. EFFECTIVE DATE.</p> <p><i>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.</i></p>	
	<p>TITLE VIII--PAYMENT, CLEARING, AND SETTLEMENT SUPERVISION</p> <p>SEC. 801. SHORT TITLE.</p> <p><i>This title may be cited as the `Payment, Clearing, and Settlement Supervision Act of 2010'.</i></p> <p>SEC. 802. FINDINGS AND PURPOSES.</p> <p><i>(a) Findings- Congress finds the following:</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.</i></p> <p><i>(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--</i></p> <p><i>(A) to provide consistency;</i></p> <p><i>(B) to promote robust risk management and safety and soundness;</i></p> <p><i>(C) to reduce systemic risks; and</i></p> <p><i>(D) to support the stability of the broader financial system.</i></p> <p><i>(b) Purpose- The purpose of this title is to mitigate systemic risk in the financial system and promote financial stability by--</i></p> <p><i>(1) authorizing the Board of Governors to prescribe uniform standards for the--</i></p> <p><i>(A) management of risks by systemically important financial market utilities;</i></p> <p><i>and</i></p>	

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	<p>(B) conduct of systemically important payment, clearing, and settlement activities by financial institutions;</p> <p>(2) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important financial market utilities;</p> <p>(3) strengthening the liquidity of systemically important financial market utilities; and</p> <p>(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.</p> <p>SEC. 803. DEFINITIONS.</p> <p><i>In this title, the following definitions shall apply:</i></p> <p>(1) APPROPRIATE FINANCIAL REGULATOR- The term `appropriate financial regulator' means--</p> <p>(A) the primary financial regulatory agency, as defined in section 2 of this Act;</p> <p>(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</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(4) FINANCIAL INSTITUTION- The term `financial institution' means--</p> <p>(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);</p> <p>(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);</p> <p>(C) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a and 611 through 631);</p> <p>(D) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);</p> <p>(E) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);</p> <p>(F) an investment company, as defined in section 3 of the Investment</p>	

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	<p><i>Company Act of 1940 (15 U.S.C. 80a-3);</i> <i>(G) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a-2);</i> <i>(H) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2);</i> <i>(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</i> <i>(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)).</i></p> <p><i>(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.</i></p> <p><i>(6) PAYMENT, CLEARING, OR SETTLEMENT ACTIVITY-</i></p> <p><i>(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.</i></p> <p><i>(B) FINANCIAL TRANSACTION- For the purposes of subparagraph (A), the term 'financial transaction' includes--</i></p> <ul style="list-style-type: none"> <i>(i) funds transfers;</i> <i>(ii) securities contracts;</i> <i>(iii) contracts of sale of a commodity for future delivery;</i> <i>(iv) forward contracts;</i> <i>(v) repurchase agreements;</i> <i>(vi) swaps;</i> <i>(vii) security-based swaps;</i> <i>(viii) swap agreements;</i> <i>(ix) security-based swap agreements;</i> <i>(x) foreign exchange contracts;</i> <i>(xi) financial derivatives contracts; and</i> <i>(xii) any similar transaction that the Council determines to be a financial transaction for purposes of this title.</i> <p><i>(C) INCLUDED ACTIVITIES- When conducted with respect to a financial transaction, payment, clearing, and settlement activities may include--</i></p> <ul style="list-style-type: none"> <i>(i) the calculation and communication of unsettled financial transactions between counterparties;</i> <i>(ii) the netting of transactions;</i> <i>(iii) provision and maintenance of trade, contract, or instrument information;</i> <i>(iv) the management of risks and activities associated with</i> 	

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	<p><i>continuing financial transactions;</i> <i>(v) transmittal and storage of payment instructions;</i> <i>(vi) the movement of funds;</i> <i>(vii) the final settlement of financial transactions; and</i> <i>(viii) other similar functions that the Council may determine.</i></p> <p>(7) SUPERVISORY AGENCY- (A) IN GENERAL- <i>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></p> <p><i>(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.</i> <i>(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.</i> <i>(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.</i> <i>(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).</i></p> <p>(B) MULTIPLE AGENCY JURISDICTION- <i>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.</i></p> <p>(8) SYSTEMICALLY IMPORTANT AND SYSTEMIC IMPORTANCE- <i>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.</i></p> <p>SEC. 804. DESIGNATION OF SYSTEMIC IMPORTANCE.</p> <p>(a) Designation- (1) FINANCIAL STABILITY OVERSIGHT COUNCIL- <i>The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of members then serving,</i></p>	

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	<p><i>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.</i></p> <p><i>(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:</i></p> <p><i>(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.</i></p> <p><i>(B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(E) Any other factors that the Council deems appropriate.</i></p> <p><i>(b) Rescission of Designation-</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(c) Consultation and Notice and Opportunity for Hearing-</i></p> <p><i>(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.</i></p> <p><i>(2) ADVANCE NOTICE AND OPPORTUNITY FOR HEARING-</i></p> <p><i>(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.</i></p> <p><i>(B) NOTICE IN FEDERAL REGISTER- The Council shall provide such advance notice to financial institutions by publishing a notice in the Federal Register.</i></p> <p><i>(C) REQUESTS FOR HEARING- Within 30 days from the date of any notice</i></p>	

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	<p><i>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.</i></p> <p><i>(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.</i></p> <p>(3) EMERGENCY EXCEPTION-</p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>(d) Notification of Final Determination-</p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>(e) Extension of Time Periods- <i>The Council may extend the time periods established in subsections (c) and (d) as the Council determines to be necessary or appropriate.</i></p>	

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	<p>SEC. 805. STANDARDS FOR SYSTEMICALLY IMPORTANT FINANCIAL MARKET UTILITIES AND PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.</p> <p><i>(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--</i></p> <p style="padding-left: 40px;"><i>(1) the operations related to the payment, clearing, and settlement activities of designated financial market utilities; and</i></p> <p style="padding-left: 40px;"><i>(2) the conduct of designated activities by financial institutions.</i></p> <p><i>(b) Objectives and Principles- The objectives and principles for the risk management standards prescribed under subsection (a) shall be to--</i></p> <p style="padding-left: 40px;"><i>(1) promote robust risk management;</i></p> <p style="padding-left: 40px;"><i>(2) promote safety and soundness;</i></p> <p style="padding-left: 40px;"><i>(3) reduce systemic risks; and</i></p> <p style="padding-left: 40px;"><i>(4) support the stability of the broader financial system.</i></p> <p><i>(c) Scope- The standards prescribed under subsection (a) may address areas such as--</i></p> <p style="padding-left: 40px;"><i>(1) risk management policies and procedures;</i></p> <p style="padding-left: 40px;"><i>(2) margin and collateral requirements;</i></p> <p style="padding-left: 40px;"><i>(3) participant or counterparty default policies and procedures;</i></p> <p style="padding-left: 40px;"><i>(4) the ability to complete timely clearing and settlement of financial transactions;</i></p> <p style="padding-left: 40px;"><i>(5) capital and financial resource requirements for designated financial market utilities; and</i></p> <p style="padding-left: 40px;"><i>(6) other areas that the Board determines are necessary to achieve the objectives and principles in subsection (b).</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 806. OPERATIONS OF DESIGNATED FINANCIAL MARKET UTILITIES.</p> <p><i>(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</i></p>	

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	<p><i>any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(e) Changes to Rules, Procedures, or Operations-</i></p> <p style="padding-left: 40px;"><i>(1) ADVANCE NOTICE-</i></p> <p style="padding-left: 80px;"><i>(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.</i></p> <p style="padding-left: 80px;"><i>(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).</i></p> <p style="padding-left: 80px;"><i>(C) CONTENTS OF NOTICE- The notice of a proposed change shall describe--</i></p> <p style="padding-left: 120px;"><i>(i) the nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market;</i></p> <p style="padding-left: 120px;"><i>and</i></p> <p style="padding-left: 120px;"><i>(ii) how the designated financial market utility plans to manage any identified risks.</i></p> <p style="padding-left: 80px;"><i>(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.</i></p> <p style="padding-left: 80px;"><i>(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-</i></p>	

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	<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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).</p> <p>(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.</p> <p>(2) EMERGENCY CHANGES-</p> <p>(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.</p> <p>(B) NOTICE REQUIRED WITHIN 24 HOURS- The designated financial market utility shall provide notice of any such emergency change to its</p>	

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	<p><i>Supervisory Agency and the Board of Governors, as soon as practicable, which shall be no later than 24 hours after implementation of the change.</i></p> <p><i>(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></p> <p style="padding-left: 40px;"><i>(i) the nature of the emergency; and</i></p> <p style="padding-left: 40px;"><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 807. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST DESIGNATED FINANCIAL MARKET UTILITIES.</p> <p><i>(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:</i></p> <p style="padding-left: 40px;"><i>(1) The nature of the operations of, and the risks borne by, the designated financial market utility.</i></p> <p style="padding-left: 40px;"><i>(2) The financial and operational risks presented by the designated financial market utility to financial institutions, critical markets, or the broader financial system.</i></p> <p style="padding-left: 40px;"><i>(3) The resources and capabilities of the designated financial market utility to monitor and control such risks.</i></p> <p style="padding-left: 40px;"><i>(4) The safety and soundness of the designated financial market utility.</i></p> <p style="padding-left: 40px;"><i>(5) The designated financial market utility's compliance with--</i></p> <p style="padding-left: 80px;"><i>(A) this title; and</i></p> <p style="padding-left: 80px;"><i>(B) the rules and orders prescribed by the Board of Governors under this title.</i></p> <p><i>(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</i></p>	

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	<p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(d) Board of Governors Involvement in Examinations-</i></p> <p><i>(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).</i></p> <p><i>(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).</i></p> <p><i>(e) Board of Governors Enforcement Recommendations-</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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--</i></p> <p><i>(A) exercise the enforcement authority referenced in subsection (c) as if it were the Supervisory Agency; and</i></p> <p><i>(B) take enforcement action against the designated financial market utility.</i></p> <p><i>(f) Emergency Enforcement Actions by the Board of Governors-</i></p> <p><i>(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--</i></p> <p><i>(A) either--</i></p> <p><i>(i) an action engaged in, or contemplated by, a designated</i></p>	

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	<p><i>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</i></p> <p><i>(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</i></p> <p><i>(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 808. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.</p> <p><i>(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:</i></p> <p><i>(1) The nature and scope of the designated activities engaged in by the financial institution.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).</i></p> <p><i>(5) The financial institution's compliance with this title and the rules and orders prescribed by the Board of Governors under this title.</i></p> <p><i>(b) Enforcement- For purposes of enforcing the provisions of this section, and the rules and</i></p>	

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	<p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(d) Delegation-</i></p> <p><i>(1) EXAMINATION-</i></p> <p><i>(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></p> <p><i>(i) this title; or</i></p> <p><i>(ii) the rules or orders prescribed by the Board of Governors under this title.</i></p> <p><i>(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.</i></p> <p><i>(2) ENFORCEMENT-</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p>	

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	<p><i>(e) Back-up Authority of the Board of Governors-</i></p> <p><i>(1) EXAMINATION AND ENFORCEMENT- Notwithstanding any other provision of law, the Board of Governors may--</i></p> <p><i>(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</i></p> <p><i>(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.</i></p> <p><i>(2) LIMITATIONS-</i></p> <p><i>(A) EXAMINATION- The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has--</i></p> <p><i>(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;</i></p> <p><i>(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included;</i></p> <p><i>(iii) requested the appropriate financial regulator to conduct a prompt examination of the financial institution; and</i></p> <p><i>(iv) either--</i></p> <p><i>(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</i></p> <p><i>(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.</i></p> <p><i>(B) ENFORCEMENT- The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has--</i></p> <p><i>(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;</i></p> <p><i>(ii) notified, in writing, the appropriate financial regulator and the</i></p>	

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	<p><i>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></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 809. REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.</p> <p><i>(a) Information To Assess Systemic Importance-</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(b) Reporting After Designation-</i></p>	

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	<p><i>(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.</i></p> <p><i>(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--</i></p> <p style="padding-left: 40px;"><i>(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</i></p> <p style="padding-left: 40px;"><i>(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.</i></p> <p><i>(c) Coordination With Appropriate Federal Supervisory Agency-</i></p> <p style="padding-left: 20px;"><i>(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.</i></p> <p style="padding-left: 20px;"><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(e) Sharing of Information-</i></p> <p style="padding-left: 20px;"><i>(1) MATERIAL CONCERNS- Notwithstanding any other provision of law, the Board</i></p>	

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	<p><i>of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency are authorized to--</i></p> <p><i>(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and</i></p> <p><i>(B) share appropriate reports, information, or data relating to such concerns.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 810. RULEMAKING.</p> <p><i>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.</i></p> <p>SEC. 811. OTHER AUTHORITY.</p> <p><i>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.</i></p>	

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	<p>SEC. 812. EFFECTIVE DATE.</p> <p><i>This title is effective as of the date of enactment of this Act.</i></p>	
	<p>SEC. 987. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE DEPOSIT INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS.</p> <p><i>(a) In General- Section 38(k) of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended--</i></p> <p><i>(1) in paragraph (2), by striking subparagraph (B) and inserting the following:</i></p> <p><i>“(B) MATERIAL LOSS DEFINED- The term ‘material loss’ means any estimated loss in excess of--</i></p> <p><i>“(i) \$100,000,000, if the loss occurs during the period beginning on September 30, 2009, and ending on December 31, 2010;</i></p> <p><i>“(ii) \$75,000,000, if the loss occurs during the period beginning on January 1, 2011, and ending on December 31, 2011; and</i></p> <p><i>“(iii) \$50,000,000, if the loss occurs on or after January 1, 2012.’;</i></p> <p><i>(2) in paragraph (4)(A) by striking ‘the report’ and inserting ‘any report on losses required under this subsection,’;</i></p> <p><i>(3) by striking paragraph (6);</i></p> <p><i>(4) by redesignating paragraph (5) as paragraph (6); and</i></p> <p><i>(5) by inserting after paragraph (4) the following:</i></p> <p><i>“(5) LOSSES THAT ARE NOT MATERIAL-</i></p> <p><i>“(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></p> <p><i>“(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;</i></p> <p><i>“(ii) for each loss incurred by the Deposit Insurance Fund that is not a material loss, determine--</i></p> <p><i>“(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</i></p> <p><i>“(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and</i></p>	

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	<p>(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--</p> <p>(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</p> <p>(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.</p> <p>(B) DEADLINE FOR SEMIANNUAL REPORT- The Inspector General of each Federal banking agency shall--</p> <p>(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</p> <p>(ii) provide a copy of the report required under paragraph (A) to any Member of Congress, upon request.'</p> <p>(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:</p> <p>(k) Reviews Required When Deposit Insurance Fund Incurs Losses- '.</p>	
	<p>SEC. 989C. STRENGTHENING INSPECTOR GENERAL ACCOUNTABILITY.</p> <p>Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--</p> <p>(1) in paragraph (12), by striking 'and' after the semicolon;</p> <p>(2) in paragraph (13), by striking the period and inserting a semicolon; and</p> <p>(3) by adding at the end the following:</p> <p>(14)(A) an appendix containing the results of any peer review conducted by another Office of Inspector General during the reporting period; or</p> <p>(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;</p> <p>(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</p>	

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	<p><i>“(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.”.</i></p>	
	<p>SEC. 989D. REMOVAL OF INSPECTORS GENERAL OF DESIGNATED FEDERAL ENTITIES.</p> <p><i>Section 8G(e) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended--</i></p> <p><i>(1) by redesignating the sentences following “(e)” as paragraph (2); and</i></p> <p><i>(2) by striking “(e)” and inserting the following:</i></p> <p><i>“(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.”.</i></p>	
	<p>TITLE XII--IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS</p> <p>SEC. 1201. SHORT TITLE.</p> <p><i>This title may be cited as the “Improving Access to Mainstream Financial Institutions Act of 2010”.</i></p> <p>SEC. 1202. PURPOSE.</p> <p><i>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.</i></p> <p>SEC. 1203. DEFINITIONS.</p> <p><i>In this title, the following definitions shall apply:</i></p> <p><i>(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.</i></p> <p><i>(2) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION- The term “community development financial institution” has the same meaning as in section</i></p>	

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	<p>103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).</p> <p>(3) ELIGIBLE ENTITY- The term `eligible entity' means--</p> <p>(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;</p> <p>(B) a federally insured depository institution;</p> <p>(C) a community development financial institution;</p> <p>(D) a State, local, or tribal government entity; or</p> <p>(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.</p> <p>(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)).</p> <p>(5) PAYDAY LOAN- The term `payday loan' means any transaction in which a small cash advance is made to a consumer in exchange for--</p> <p>(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;</p> <p>or</p> <p>(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.</p> <p>SEC. 1204. EXPANDED ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS.</p> <p>(a) <i>In General</i>- 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--</p> <p>(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</p> <p>(2) to improve access to the provision of accounts, on reasonable terms, for low- and moderate-income individuals.</p> <p>(b) <i>Program Eligibility and Activities</i>-</p> <p>(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).</p>	

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	<p>(2) <i>ACCOUNT ACTIVITIES</i>- 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--</p> <p>(A) small-dollar value loans; and</p> <p>(B) financial education and counseling relating to conducting transactions in and managing accounts.</p> <p>SEC. 1205. LOW-COST ALTERNATIVES TO PAYDAY LOANS.</p> <p>(a) <i>Grants Authorized</i>- 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.</p> <p>(b) <i>Terms and Conditions</i>-</p> <p>(1) <i>IN GENERAL</i>- Loans under this section shall be made on terms and conditions, and pursuant to lending practices, that are reasonable for consumers.</p> <p>(2) <i>FINANCIAL LITERACY AND EDUCATION OPPORTUNITIES</i>-</p> <p>(A) <i>IN GENERAL</i>- 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.</p> <p>(B) <i>AUTHORITY TO EXPAND ACCESS</i>- 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.</p> <p>SEC. 1206. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.</p> <p>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:</p> <p>SEC. 122. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.</p> <p>(a) <i>Purposes</i>- The purposes of this section are--</p> <p>(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</p>	

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	<p><i>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</i></p> <p><i>ˆ(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.</i></p> <p><i>ˆ(b) Grants-</i></p> <p><i>ˆ(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.</i></p> <p><i>ˆ(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.</i></p> <p><i>ˆ(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)--</i></p> <p><i>ˆ(A) may not be used by such institution to provide direct loans to consumers;</i></p> <p><i>ˆ(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</i></p> <p><i>ˆ(C) may be used to designate and utilize a fiscal agent for services normally provided by such an agent.</i></p> <p><i>ˆ(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.</i></p> <p><i>ˆ(c) Definitions- For purposes of this section--</i></p> <p><i>ˆ(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</i></p> <p><i>ˆ(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--</i></p> <p><i>ˆ(A) are made in amounts not exceeding \$2,500;</i></p>	

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	<p>(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.'</p> <p>SEC. 1207. PROCEDURAL PROVISIONS.</p> <p><i>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.</i></p> <p>SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.</p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p>SEC. 1209. REGULATIONS.</p> <p><i>(a) In General- The Secretary is authorized to promulgate regulations to implement and administer the grant programs and undertakings authorized by this title.</i></p> <p><i>(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.</i></p> <p>SEC. 1210. EVALUATION AND REPORTS TO CONGRESS.</p> <p><i>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.</i></p>	

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	<p style="text-align: center;">TITLE XIV--MISCELLANEOUS</p> <p>SEC. 1401. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.</p> <p><i>The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:</i></p> <p>SEC. 68. RESTRICTIONS ON USE OF FEDERAL FUNDS TO FINANCE BAILOUTS OF FOREIGN GOVERNMENTS.</p> <p><i>(a) In General- The President shall direct the United States Executive Director of the International Monetary Fund--</i></p> <p style="padding-left: 40px;"><i>(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;</i></p> <p style="padding-left: 40px;"><i>(2) to determine whether or not the loan will be repaid and certify that determination to Congress.</i></p> <p><i>(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.'</i></p>	
	<p style="text-align: center;">TITLE XV--CONGO CONFLICT MINERALS</p> <p>SEC. 1501. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.</p> <p><i>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.</i></p> <p>SEC. 1502. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN</p>	

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	<p><i>DEMOCRATIC REPUBLIC OF CONGO.</i></p> <p><i>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:</i></p> <p><i>“(o) Disclosures to Commission Relating to Columbite-tantalite, Cassiterite, Gold, and Wolframite Originating in Democratic Republic of Congo-</i></p> <p><i>“(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)--</i></p> <p><i>“(A) to disclose annually to the Commission in a report--</i></p> <p><i>“(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</i></p> <p><i>“(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</i></p> <p><i>“(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.</i></p> <p><i>“(2) PERSON DESCRIBED-</i></p> <p><i>“(A) IN GENERAL- A person is described in this paragraph if--</i></p> <p><i>“(i) the person is required to file reports to the Commission under subsection (a)(2); and</i></p> <p><i>“(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.</i></p> <p><i>“(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.</i></p> <p><i>“(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.</i></p> <p><i>“(4) TERMINATION OF DISCLOSURE REQUIREMENTS-</i></p> <p><i>“(A) IN GENERAL- Except as provided in subparagraph (B), the</i></p>	

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	<p><i>requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.</i></p> <p><i>“(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.</i></p> <p><i>“(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.’.</i></p> <p>SEC. 1503. REPORT.</p> <p><i>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:</i></p> <p><i>(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.</i></p> <p><i>(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).</i></p> <p><i>(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.</i></p> <p><i>(4) Recommendations for legislative or regulatory actions that can be taken--</i></p> <p><i>(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;</i></p> <p><i>(B) to resolve the problems described pursuant to paragraph (2), if any; and</i></p> <p><i>(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.</i></p>	