109TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 109–81

BUSINESS CHECKING FREEDOM ACT OF 2005

MAY 16, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 1224]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1224) to repeal the prohibition on the payment of interest on demand deposits, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Checking Freedom Act of 2005".

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) DAILY TRANSFERS ALLOWED INTO DEMAND DEPOSIT ACCOUNTS.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

"(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) NONQUALIFIED INDUSTRIAL LOAN COMPANIES.—

"(A) DEFINITION.—For purposes of this section, the term 'nonqualified industrial loan company' means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by an appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

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

"(C) GRANDFATHERED INSTITUTIONS.—The term 'nonqualified industrial loan company' does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

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

"(ii) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(j) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.".

(b) INTEREST ON BUSINESS NOW ACCOUNTS.—

(1) IN GENERAL.—Section 2(a) of Public Law 93–100 (12 U.S.C. 1832(a)) is amended—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) PAYMENT OF INTEREST ON CERTAIN NOW ACCOUNTS.—An industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 may not pay interest on any deposit or account of a corporation from which funds may be withdrawn by negotiable instrument for payment to third parties, unless the appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) of such company, bank, or institution determines that such company, bank, or institution is not a nonqualified industrial loan company."; and

(B) by adding at the end the following new paragraph:

"(4) RULE OF CONSTRUCTION RELATING TO DEMAND DEPOSITS.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 2(b) of Public Law 93–100 (12 U.S.C. 1832(b)) (as added by subsection (a)(2) of this section) is amended by striking "and is not a deposit or account described in subsection (a)(2)"

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. 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 2–year period beginning on the date of the enactment of this Act.

SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—

"(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

"(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

"(i) the payment of earnings in accordance with this paragraph;

"(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

"(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

"(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).".

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking "which is not a member bank".

(c) CONSUMER BANKING COSTS ASSESSMENT.—

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

"SEC. 30. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

"(1) Checking and other transaction accounts.

"(2) Negotiable order of withdrawal and savings accounts.

"(3) Automated teller machine transactions.

"(4) Other electronic transactions.

"(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

"(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

"(A) Monthly and annual fees and minimum balances to avoid such fees.

"(B) Minimum opening balances.

"(C) Check processing fees.

"(D) Check printing fees.

"(E) Balance inquiry fees.

"(F) Fees imposed for using a teller or other institution employee.
"(G) Stop payment order fees.
"(H) Nonsufficient fund fees.
"(I) Overdraft fees.
"(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.
"(K) Deposit items returned fees.
"(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:
"(A) Monthly and annual fees and minimum balances to avoid such fees.
"(B) Minimum opening balances.
"(C) Rate at which interest is paid to consumers.
"(D) Check processing fees for negotiable order of withdrawal accounts.
"(E) Fees imposed for using a teller or other institution employee.
"(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

"(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:
"(A) Monthly and annual fees.
"(B) Card fees.
"(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.
"(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.
"(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.
"(F) Point-of-sale transaction fees.

"(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:
"(A) Wire transfer fees.
"(B) Fees related to payments made over the Internet or through other electronic means.

"(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

"(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

"(c) ANNUAL REPORT TO CONGRESS REQUIRED.—
"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.
"(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.
"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2006, and not later than June 1 of each subsequent year.

"(d) DEFINITIONS.—For purposes of this section, the term 'insured depository institution' has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term 'insured credit union' has the meaning given such term in section 101 of the Federal Credit Union Act.".

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

"(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

"(A) the information required to be disclosed under section 127(c) of this chapter;

"(B) the average total amount of finance charges paid by consumers; and

"(C) the following credit card rates and fees:

"(i) Application fees.

"(ii) Annual percentage rates for cash advances and balance transfers.

"(iii) Maximum annual percentage rate that may be charged when an account is in default.

"(iv) Fees for the use of convenience checks.

"(v) Fees for balance transfers.

"(vi) Fees for foreign currency conversions.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2006.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking "subsection (b)(4)(C)" and inserting "subsection (b)".

SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking "the ratio of 3 per centum" and inserting "a ratio not greater than 3 percent (and which may be zero)"; and

(2) in clause (ii), by striking "and not less than 8 per centum," and inserting "(and which may be zero),".

SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

"(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

"(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2005 through 2009.

"(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

"(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

"(3) PAYMENT TO TREASURY.—During fiscal years 2005 through 2009, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

SEC. 7. RULES OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution in connection with a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, including any benefits which have been so determined by the appropriate Federal regulator,

shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions. No provision of this Act shall be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this Act shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

PURPOSE AND SUMMARY

H.R. 1224, the Business Checking Freedom Act of 2005, repeals the prohibition on the payment of interest on commercial demand deposits, increases the number of inter-account transfers which may be made from business accounts at depository institutions, and authorizes the Board of Governors of the Federal Reserve System to pay interest on reserves.

The legislation removes the prohibition on the payment of interest on commercial demand deposit accounts after a two year period, and authorizes the payment of interest on most negotiable order of withdrawal (NOW) accounts maintained by businesses, with the exception of business accounts maintained at industrial loan companies (ILCs) owned by corporate parents that derive more than 15 percent of their gross revenues from activities that are not financial in nature or incidental to such activities and whose applications for deposit insurance were approved after September 30, 2003. The bill also authorizes the Federal Reserve to pay interest on the reserves that depository institutions maintain at Federal Reserve Banks, and eliminates the minimum statutory ratios that currently apply to those reserves, thereby giving the Board of Governors of the Federal Reserve greater flexibility in setting reserve requirements. To offset the revenue loss associated with allowing interest payments on reserve balances, the legislation requires that the Federal Reserve remit from its surplus fund to the Treasury an amount equal to the estimated annual revenue loss during the first five years the legislation is in effect. The legislation increases the number of allowable transfers from interest bearing or dividend earning commercial deposits or accounts to 24 per month, from the current limit of six, enabling depository institutions to sweep funds between non-interest bearing commercial checking accounts and interest bearing accounts on a daily basis with the exception of the heretofore referenced ILCs. Finally, the legislation directs the Board of Governors of the Federal Reserve System to conduct an annual survey of retail bank fees and services.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, depository institutions may not pay interest on demand deposit accounts. Because of the widespread availability of NOW accounts for non-business account holders, business account holders are the only depositors effectively barred from earning interest on their checking accounts. This disparity creates an incentive for banks to circumvent this restriction by using methods to offer their business customers accounts that are roughly equivalent to interest-bearing checking accounts, but at significant cost to the customer. Because of the costs associated with these programs, small businesses are particularly disadvantaged in attempting to earn some return on the money they hold in checking accounts.

Additionally, under the Federal Reserve Act, banks, thrifts, and credit unions are required to hold funds against transaction accounts held by customers of those institutions. These funds must be held either in cash or on reserve at Federal Reserve Banks. Current law does not authorize Federal Reserve Banks to pay interest on reserve balances. Because of this limitation, these funds have come to be known as "sterile reserves" and financial institutions have sought ways to minimize their reserve requirements. Consequently, reserve balances at Federal Reserve Banks have declined dramatically in recent years, falling from approximately $28 billion in 1993 to approximately $10 to $12 billion today.

According to the Federal Reserve, the decline in reserves has potential consequences for its ability to conduct monetary policy. Reserve requirements play an important role in open market operations aimed at influencing general monetary and credit conditions by varying the cost and availability of reserves to the banking system. Declines in reserves could lead to increased volatility in the Federal funds rate, and, if it became a persistent feature of the money market, would affect other overnight interest rates, raising funding risks for large banks, securities dealers, and other market participants. Small banks and thrifts, as well as other sources of funds for overnight markets, would face increased uncertainty about their rates of return.

HEARINGS

In the 108th Congress, the Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 758, the Business Checking Freedom Act of 2003, and H.R. 859, the Business Checking Freedom Act of 2003, on March 5, 2003.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 27, 2005, and ordered H.R. 1224, the Business Checking Freedom Act of 2005, reported to the House, as amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A

motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The Committee considered the following amendments:

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

An amendment to the amendment in the nature of a substitute by Mr. Frank (on behalf of Ms. Hooley), No. 1a, requesting a fee survey, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Mrs. Maloney, No. 1b, adding a new section on adjustment of check hold periods required, was withdrawn.

COMMITTEE OVERSIGHT FINDINGS

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

PERFORMANCE GOALS AND OBJECTIVES

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

The Board of Governors of the Federal Reserve will use the authority granted by this legislation to ensure that funds held by the Federal Reserve, depository institutions, or in NOW accounts may earn interest in accordance with the provisions of this legislation.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c) (2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

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

CONGRESSIONAL BUDGET OFFICE ESTIMATE

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

MAY 10, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1224, the Business

Checking Freedom Act of 2005, as ordered reported by the House Committee on Financial Services on April 27, 2005.

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

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 1224—Business Checking Freedom Act of 2005

Summary: H.R. 1224, the Business Checking Freedom Act of 2005, would allow depository institutions to pay interest on business demand deposit accounts. H.R. 1224 also would allow the Federal Reserve System to pay interest on any reserve balances held on deposit at the Federal Reserve by insured depository institutions, except nonqualified industrial loan companies. The Board of Governors of the Federal Reserve Board (FRB) would have greater flexibility in setting reserve requirements and would be required to submit an annual report to the Congress summarizing many of the services provided and fees charged to consumers by depository institutions. The reduction in revenues as a result of the interest payments on reserves would be offset through 2009 by transfers from surplus funds of Federal Reserve Banks to the U.S. Treasury.

CBO estimates that the bill would have no net effect on annual revenues over the 2006–2009 period because the estimated loss in revenues would be offset by transfers from Federal Reserve surplus funds. Enacting H.R. 1224 would decrease revenues after 2009. CBO estimates that the loss in revenues would total approximately $1.8 billion over the 2010–2015 period.

CBO estimates that H.R. 1224 would have no significant effect on federal spending. It contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1224 is shown in the following table.

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN REVENUES											
Allowing Interest on Reserves	0	−181	−108	−135	−154	−174	−195	−204	−213	−224	−235
Transfers of Federal Reserve Bank Surpluses to the Treasury	0	181	108	135	154	−578	0	0	0	0	0
Net Budgetary Effect	0	0	0	0	0	−752	−195	−204	−213	−224	−235

The initial budgetary effect of H.R. 1224 would be a decrease in the payment of profits from the Federal Reserve System to the U.S. Treasury. The Federal Reserve remits its profits to the Treasury, and those payments are classified as governmental receipts, or revenues, in the federal budget. Any additional income or costs to the Federal Reserve, therefore, can affect the federal budget. The Federal Reserve's largest source of income is interest from its holdings of Treasury securities. In effect, the Federal Reserve invests in Treasury securities the reserve balances and issues of currency that constitute the bulk of its liabilities. Since the Federal Reserve pays no interest on reserves or currency, and the Treasury pays the Federal Reserve interest on its security holdings, the Federal Reserve earns profits.

By allowing the Federal Reserve to pay interest on reserves, the bill would decrease the Federal Reserve's profits and thereby reduce federal revenues by an estimated $578 million over the 2006–2009 period. This budgetary response has several significant components. First, the Federal Reserve's payment of interest on required reserve balances held at Federal Reserve banks would tend to reduce governmental receipts. CBO anticipates that some depository institutions and depositors would respond to the interest payments on reserves (and interest payments on business demand deposit accounts) by shifting funds out of consumer "retail" and business "wholesale" sweep accounts and into demand deposit accounts. This secondary response would increase required reserve balances, although the Federal Reserve would be expected to offset a portion of it by lowering reserve requirements. The net increase in reserves would partially offset the loss in federal revenues from the payment of interest on reserves. Finally, those net reductions in Federal Reserve receipts would act like reductions in indirect business taxes, generating increases in other incomes in the economy and subsequently higher income and payroll taxes. Those higher income and payroll taxes would offset the declines in Federal Reserve receipts by an estimated 25 percent, roughly the marginal tax rate on overall incomes in the economy. The legislation also stipulates that the overall revenue loss would be offset by a transfer from surplus funds of Federal Reserve banks to the U.S. Treasury for each fiscal year through 2009. Revenue losses would therefore commence in 2010.

Basis of Estimate: The estimates are based on the assumption that the provisions would become effective early in fiscal year 2006.

ALLOWING THE FEDERAL RESERVE TO PAY INTEREST ON RESERVE BALANCES

H.R. 1224 would permit the Federal Reserve to pay interest on balances held on deposit at the Federal Reserve. Depository institutions hold three types of balances at the Federal Reserve-required reserve balances, contractual clearing balances, and excess reserve balances. Required reserve balances are the balances that a depository institution must hold to meet reserve requirements. Depository institutions may also hold additional balances called required or contractual clearing balances, which can earn an implicit rate of interest in the form of an interest credit that is used to defray fees for Federal Reserve services. Contractual clearing balances have risen over the last decade from under $2 billion in 1990 to roughly

$9 billion today. Excess reserves are funds held at reserve banks in excess of a depository institution's required reserve and contractual clearing balances. Staff at the Federal Reserve has indicated that, given the authority, the Federal Reserve would pay interest on required reserve balances and give depository institutions the option of earning an explicit rate of interest on contractual clearing balances or continuing with the current system of earning an interest credit. (The payment of interest on required reserve balances and the payment of interest on contractual clearing balances are discussed separately in this estimate, since their effects on revenues are likely to be different.) We believe that the Federal Reserve would choose not to pay interest on excess reserve balances, unless required reserve balances fell to such a low level that interest on excess reserves was needed to build reserves. That is considered to be an unlikely scenario.

Interest on Required Reserve Balances. The budgetary effect of interest on required reserve balances is divided into three components. First, the bill would result in the Federal Reserve paying interest on the required reserve balances expected under current law, reducing its net income and, therefore, governmental receipts. Second, the payment of interest on reserves would cause demand deposit balances at depository institutions to increase. That increase would raise the level of reserve balances held at the Federal Reserve, although the increase would likely be diminished by Federal Reserve actions to reduce reserve requirements. The higher reserve balances at the Federal Reserve would increase its earnings because it would invest the balances at a higher rate than it would pay on them. This change in projected reserves would increase governmental receipts, but would only partially offset the loss caused by the payment of interest on reserves projected under current law. Third, the net reduction in Federal Reserve receipts from the first two effects would be partially offset by increased income and payroll tax receipts.

	Allowing interest on reserve balances (by fiscal year, in millions of dollars)										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN REVENUES											
Revenue from Federal Reserve:											
Interest on Required Reserves	0	−314	−232	−256	−268	−281	−294	−308	−322	−338	−355
Profits from Increased Reserves	0	73	88	76	63	50	34	36	37	39	41
Net Effect on Revenue from Federal Reserve	0	−242	−144	−180	−205	−232	−260	−272	−284	−299	−314
Income and Payroll Tax Offsets	0	60	36	45	51	58	65	68	71	75	78
Net Effect of Allowing Interest on Reserves	0	−181	−108	−135	−154	−174	−195	−204	−213	−224	−235

Note.—Totals may not sum due to rounding.

Interest Payments on Required Reserves Projected Under Current Law. Because depository institutions currently do not earn a return on required reserve balances, they have an incentive to minimize such balances. Required reserve balances measured almost $30 billion at the end of 1993, but generally have ranged between $12 billion and $14 billion in the past year and were about $5 billion in early 2000. The expansion of consumer and business sweep accounts has caused this general decline. In typical sweep accounts, banks shift their depositors' funds from demand deposits, against which reserves are required, into other depository accounts, against which reserves are not required. The banks shift the funds back to the demand deposit accounts the next business day, or when needed by the depositor. Sweep accounts for business demand deposits have existed in various forms since the early 1970s. Advances in computer technology in the 1990s made the shifting of funds feasible for many consumer accounts as well. Under current law, CBO expects the expansion of retail and business sweep accounts to continue, in part because of the effects of rising interest rates. CBO expects required reserve balances to decline to about $5 billion over the next two years and to rise gradually in subsequent years, with growth in the economy.

Under H.R. 1224, the Federal Reserve would be allowed to choose the interest rate it pays on reserve balances, although the rate chosen could not exceed the general level of short-term interest rates. Staff at the Federal Reserve has indicated that the Federal Reserve would choose an interest rate near the key short-term rate, the federal funds rate. The likely rate would be 10 to 15 basis points lower than the federal funds rate to account for the lack of risk. Accordingly, CBO assumes that the Federal Reserve would pay interest only on required reserves at a rate of 10 to 15 basis points below the federal funds rate.

CBO projects that the federal funds rate will average about 4 percent in 2006 and 4.9 percent over the 10-year period from 2006 through 2015. The payment of interest on reserves is assumed to start early in fiscal year 2006. CBO projects that H.R. 1224 would cause the Federal Reserve to pay interest to depository institutions of about $314 million in 2006 on $8 billion of required reserve balances expected under current law. For several years thereafter, the interest paid to depository institutions would be lower because required reserves under current law would decline as a result of higher interest rates. Over the 2006–2010 period, such interest payments would total about $1.4 billion. Those payments would reduce the profits of the Federal Reserve—and thus its payments to the Treasury—by the same amount.

Projected Impact of the Bill on the Volume of Reserves. If the Federal Reserve pays interest on required reserve balances, there would be a second budgetary effect on the Federal Reserve that would reduce, but not eliminate, the net revenue loss from the payment of interest. In particular, based on a survey by the FRB, we would expect reserve balances to increase because depository institutions would close a significant share of their retail and business sweep accounts and, as a result, maintain a higher level of required reserves. The payment of interest on business demand deposit accounts coupled with the payment of interest on reserves would give both businesses and depository institutions an incentive

to open business checking accounts and close wholesale sweep accounts. Under current law, depository institutions are already allowed to pay interest on consumer demand deposits. By closing a significant share of consumer and business sweep accounts, depository institutions could eliminate the costs of maintaining the sweep accounts and receive a return on their required reserves, although presumably at a lower rate than what they could receive if they invested the funds in other ways.

CBO assumes that depository institutions would eliminate approximately 30 percent of both retail and business sweep accounts currently in existence by 2008 and half of those that otherwise would be established. Although the payment of interest on business demand deposits by depository institutions would not be permitted until two years after enactment of H.R. 1224, the bill would allow businesses to establish interest-bearing transaction accounts. Businesses would be allowed up to 24 transfers per month (or more if the Federal Reserve permits) into a demand deposit account that would be subject to reserve requirements. Because reserve requirements would also apply to those accounts, they would be similar to interest-bearing demand deposits. As a result of the closings of retail and business sweep accounts, demand deposits for which reserves are required would increase at depository institutions.

The increase in reserves from the closing of many sweep accounts would likely provide the Federal Reserve with more reserves than needed for implementing monetary policy. H.R. 1224 would relax the current lower bound on reserve requirements, therefore providing the Federal Reserve with the option of lowering reserve requirements, perhaps substantially, in the face of increasing reserves. The Federal Reserve has indicated that it would study the possible strategies for setting reserve requirements in such an environment.

Under current law, the Federal Reserve can set reserve requirements as high as 14 percent and as low as 8 percent of transactions deposits (above a fixed threshold). The Federal Reserve has kept the requirement at 10 percent for most transactions deposits since 1992. H.R. 1224 would remove the lower limit of 8 percent.

CBO assumes the Federal Reserve would offset a part of the increase in reserve balances by lowering reserve requirements. The magnitude and timing of such changes is very uncertain, but CBO assumes that required reserves would be maintained at roughly $10 billion to $15 billion, which is consistent with the balances in recent years. Reductions in reserve requirements would begin in 2008.

As a result, CBO projects that required reserve balances would increase above the level expected under current law and generate additional net income to the Federal Reserve. Although the Federal Reserve would pay interest on the added reserves at approximately the federal funds rate, it would invest the reserves in Treasury securities, earning a rate of return approximately 0.6 of a percentage point in excess of that which it pays. As a result of that differential, the Federal Reserve would generate additional profits of about $73 million in 2006 and $349 million over the 2006–2010 period.

Projected Offsetting Impact on Tax Revenues. Allowing interest on required reserve balances held at the Federal Reserve would have a third budgetary effect that would also partially offset the

decline in revenue from the payment of interest on current balances. The current reserve requirement on depository institutions, without provision of interest, is like an indirect business tax. Allowing interest payments on reserves, therefore, would generate the same economic effects as does removing an excise tax. Assuming that GDP remains unchanged, reductions in excise tax receipts generate equal increases in other incomes in the economy. The higher incomes produce increases in income and payroll taxes that offset an estimated 25 percent of the reduction in excise tax receipts, roughly the marginal tax rate on overall incomes in the economy. In this case, a quarter of the loss in receipts from the Federal Reserve would be offset by an increase in income and payroll tax receipts. CBO estimates that the loss in Federal Reserve receipts would total $242 million in 2006, offset partially by an increase in income and payroll taxes of $60 million. Over the 2006–2010 period, the loss in Federal Reserve receipts would total about $1 billion and the increase in income and payroll taxes would total about $250 million.

The Allowance of Interest on Contractual Clearing Balances. Staff at the Federal Reserve have indicated that, given the authority, the Federal Reserve would give depository institutions the option of earning an explicit interest payment on contractual clearing balances or continuing with the current system of earning an implicit interest payment in the form of an interest credit, which can be used to offset fees for services provided by the Federal Reserve. CBO estimates that giving depository institutions the option of earning an explicit rate of interest on contractual clearing balances would have little or no budgetary effect.

For those depository institutions choosing an explicit interest payment on contractual balances, the explicit interest earnings, for the most part, would be substituted for what is now an implicit interest payment. Earning an explicit rate of interest on contractual balances may give some depository institutions an incentive to hold somewhat higher balances than currently because the interest credit earned under the present system can only be used to offset user fees for services provided by the Federal Reserve. A number of banks are already able to cover all of their service costs this way, so that an explicit interest payment is required to give them an incentive to hold more balances.

The Federal Reserve would pay an interest rate based on and lower than the short-term Treasury bill rate, which is consistent with the calculation currently used for the implicit interest on contractual balances, and invest the funds in Treasury securities. The difference between what the Federal Reserve pays in interest on these additional balances and what it earns by investing them in Treasury securities would result in an increase in Federal Reserve earnings. Depository institutions, however, may choose to increase their contractual clearing balances by reducing the excess reserve balances they hold at the Federal Reserve. The Federal Reserve currently pays zero interest on excess reserves and invests them in Treasury securities, remitting these earnings to the Treasury. The additional earnings on contractual clearing balances could be completely offset, or possibly more than offset, depending on the extent to which depository institutions choose to increase their clearing balances by reducing their excess reserve balances. For example, if

clearing balances increase by $2 billion and the rate differential between the interest rate applicable to clearing balances and Treasury securities is 1.0 percentage points, Federal Reserve earnings would increase by $20 million. If, however, $400 million of the increase in clearing balances was the result of a transfer from excess reserves by depository institutions, then, assuming a rate of return on Treasury securities of 5 percent, Federal Reserve earnings would not change because the $20 million increase in earnings would be offset by a decline of $20 million from the investment of excess reserves. CBO, therefore, estimates that making explicit interest payments on contractual clearing balances is likely to have little or no significant effect on earnings.

TRANSFER FROM SURPLUS FUNDS OF THE FEDERAL RESERVE

During the first four years that H.R. 1224 would be effective (fiscal years 2006 through 2009), the legislation provides that the revenue loss associated with allowing interest payments on reserve balances would be offset by requiring the Federal Reserve to remit from its surplus fund to the Treasury an amount equal to an estimate of the annual net revenue loss. In addition, during this same period, the bill would make the Federal Reserve payment of net earnings to the Treasury mandatory and the Federal Reserve would not be allowed to replenish its surplus fund. Those provisions would have the effect of reducing the cost of the legislation to zero through 2009 and postpone the accumulated net revenue loss to the federal government until 2010.

Out of its annual earnings, the Federal Reserve covers its operating costs, pays a small dividend to its member banks, retains monies for its surplus fund, and voluntarily remits the remaining profits to the U.S. Treasury. The Federal Reserve's surplus fund is a stock of retained earnings accumulated over time and is set by the Federal Reserve each year at a level equal to the paid-in capital of its member banks. The fund can be used as collateral for issuance of Federal Reserve notes and may be viewed as a fiscal cushion. The surplus funds are invested in Treasury securities and the interest generated is remitted to the Treasury along with other profits of the Federal Reserve.

During the period through 2009, H.R. 1224 would direct the Federal Reserve to remit to the Treasury all of its earnings above its member bank dividend payments, additions to its surplus account, and operating costs, which would now include interest paid on reserves. In addition, it would be required to remit from its surplus fund an amount equal to the estimated cost of paying interest on reserves. The Federal Reserve would be prevented from replenishing its surplus fund by the amount of these transfers through 2009 and its payment of net earnings to the Treasury would be mandatory. In fiscal year 2010, however, the Federal Reserve would be expected to replenish its surplus fund by the entire amount that was transferred from the fund to the Treasury during the 2006–2009 period, an estimated $578 million. This response is anticipated because the Federal Reserve has replenished its surplus account at its first available opportunity when transfers from the surplus fund have been mandated in the past. The legislated surplus fund transfer under H.R. 1224, therefore, would postpone until 2010 the accumulated net revenue loss to the Treasury during

the period from 2006 to 2009. CBO estimates that the revenue loss in fiscal year 2010 would be about $752 million. The Federal Reserve would be expected to retain $578 million out of its earnings to replenish its surplus fund instead of remitting these profits to the Treasury. The remaining $174 million is the estimated net revenue loss from making interest payments on reserve balances for that year. CBO estimates that the resulting revenue loss for the 2010–2015 period would be about $1.8 billion.

The transfer of the surplus funds would not reduce the budgetary effect of the bill to the federal government over the long term; it would just postpone it. It also is important to note that the transfer of surplus funds from the Federal Reserve to the Treasury has no import for the fiscal status of the federal government. If the surplus funds are held at the Federal Reserve, they are invested in government securities and the interest generated is remitted to the Treasury. If the surplus funds are transferred to the Treasury instead, they reduce the public debt and in turn the interest payments owed by the Treasury. Since the interest payments would be identical in either case, where the funds reside has no economic significance. Hence, any transfer of the Federal Reserve surplus fund to the Treasury would have no effect on national savings, economic growth, or income.

ALLOWING DEPOSITORY INSTITUTIONS TO PAY INTEREST ON BUSINESS DEMAND DEPOSIT ACCOUNTS

Allowing depository institutions to pay interest on business demand deposit accounts would, in itself, have the effect of increasing demand deposit accounts at depository institutions, although CBO estimates that this effect would not be significant without the additional provision of allowing interest on required reserves. Depository institutions that do not currently offer commercial sweep accounts would offer interest-bearing business demand deposit accounts, and businesses that currently have sweep accounts would have an incentive to hold higher levels of demand deposits with the allowance of interest on business demand deposits. This authorization would not apply to non-qualified industrial loan companies, which are financial institutions controlled by commercial firms. Commercial firms are defined as firms that have at least 15 percent of annual gross revenues derived from activities that are not financial in nature in at least 3 of the previous 4 calendar quarters. Required reserves held at the Federal Reserve would increase with the rise in the level of demand deposits, increasing the earnings of the Federal Reserve and the amount that is remitted to the Treasury as governmental receipts. CBO, however, estimates that the revenue effect of that increase in required reserves would be negligible and that it is the combined effect of the payment of interest on reserves and the allowance of interest on business demand deposit accounts that would result in the revenue loss described above.

PROVISIONS IN THE BILL ESTIMATED TO HAVE AN INSIGNIFICANT BUDGETARY EFFECT

The bill would require the Federal Reserve to conduct a survey of insured depository institutions and credit unions and submit an annual report to the Congress on the availability and cost of bank-

ing services. Based on information provided by staff at the Federal Reserve, CBO estimates that the additional costs to the Federal Reserve would be insignificant. In addition, based on information from the Federal Deposit Insurance Corporation, CBO estimates that the bill would have no significant impact on the total balance of insured deposits or the likelihood that some institutions would fail and, therefore, would have no significant impact on federal spending.

Estimated impact on revenues and direct spending: CBO's estimate of the net effect of H.R. 1224 on revenues and direct spending over the 2005–2015 period is shown in the table below.

	By fiscal year, in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Changes in receipts	0	0	0	0	0	−752	−195	−204	−213	−224	−235
Changes in outlays	0	0	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: H.R. 1224 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: The bill would authorize the FRB to prescribe regulations concerning the responsibilities of correspondent banks that maintain balances at the Federal Reserve on behalf of other institutions. Such private institutions as commercial banks, Federal Home Loan Banks, and corporate credit unions serve as correspondent banks for many depository institutions that are not members of the Federal Reserve. Based on information provided by the FRB, CBO anticipates that the Board of Governors would not use its authority to issue regulations unless problems arose in the crediting and distribution of interest earnings. Thus, CBO expects that this bill would not impose a mandate on the private sector. If after a period of time the FRB determined a rule was necessary, the FRB indicates the rule could require correspondent banks to pass the interest earnings back to the institutions for which they maintain required reserves at the Federal Reserve. The cost to the correspondent banks of complying with such a rule would be negligible.

Estimate prepared by: Federal Revenues: Barbara Edwards. Federal Spending: Kathy Gramp. Impact on State, Local and Tribal Governments: Sarah Puro. Impact on the Private Sector: Page Piper/Bach.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis; Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

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

ADVISORY COMMITTEE STATEMENT

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article I, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

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

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the "Business Checking Freedom Act of 2005."

Section 2. Interest-bearing transaction accounts authorized for all businesses

This section authorizes depository institutions to offer customers the ability to make 24 transfers per month from an interest bearing or dividend earning deposit or account into any other account maintained by that customer at that institution. This authority would not extend, however, to any industrial loan company (ILC) owned by a corporate parent that derives more than 15 percent of its gross revenue from activities that are not financial in nature or incidental to such activities and whose application for deposit insurance was approved after September 30, 2003. The Board of Governors of the Federal Reserve Board is given the authority to permit more than 24 transfers per month, and to determine that the interest-bearing accounts from which funds are transferred are subject to reserve requirements. The Committee does not intend anything in this section to affect or preempt any State law governing any depository institution which is not otherwise regulated under Federal law with respect to limitations on the transfer of funds from interest bearing accounts to any other account maintained at a depository institution by the transferring account holder.

This section also authorizes depository institutions (other than certain industrial loan companies described below) to pay interest on business accounts from which funds can be withdrawn for payment to third parties by negotiable or transferable instruments. This section does not, however, confer authority to offer demand deposits upon any institution that is prohibited by law from offering such accounts.

An industrial loan company that obtained deposit insurance prior to October 1, 2003, or pursuant to an application for deposit insurance filed before that date, is authorized to pay interest on a business NOW account, provided the industrial loan company is owned by the same parent company that owned it as of that date. Other ILCs may not offer interest-bearing business NOW accounts, unless an appropriate State bank supervisory agency determines that at least 85 percent of the gross revenues of its parent company and its affiliates were derived from activities that were financial in nature or incidental to a financial activity during at least three of the prior four calendar quarters.

Section 3. Interest-bearing transaction accounts authorized

This section repeals the prohibitions in current law on the payment of interest on commercial demand deposits. The repeal takes effect at the end of the two-year period beginning on the date of enactment.

Section 4. Payment of interest on reserves at Federal Reserve Banks

This section permits the Federal Reserve to pay interest on the reserves that depository institutions are required to maintain at

Federal Reserve Banks, at a rate not to exceed the general level of short-term interest rates. The Federal Reserve is also authorized to prescribe regulations governing the payment and distribution of earnings to depository institutions that maintain balances at Federal Reserve Banks.

This section also amends the Federal Reserve Act to require the Board of Governors of the Federal Reserve to conduct an annual survey of retail banking fees, services and products provided by insured depository institutions and insured credit unions.

Section 5. Increased Federal Reserve flexibility in setting Reserve requirements

This section amends the Federal Reserve Act to eliminate the minimum statutory ratios of three percent against the first $25 million in transaction accounts held at a depository institution and eight percent against the amount above that threshold level, thereby giving the Federal Reserve greater flexibility in setting reserve requirements.

Section 6. Transfer of Federal Reserve surpluses

This section provides that during the first five years that the bill is in effect, the revenue loss associated with allowing interest payments on required reserve balances will be offset by requiring the Federal Reserve to remit from its surplus fund to the Treasury an amount equal to the estimated annual net revenue loss.

Section 7. Rule of construction

This section provides that in the case of an escrow account maintained at a depository institution in connection with a real estate transaction, the absorption of expenses incidental to a normal banking function, or the forbearance of any fee in connection with the same, or the receipt of any benefits thereof by the holder or the beneficiary of that escrow account, shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions.

By including this provision, the Committee intends to clarify that the current treatment of such transactions under Federal law and regulation, particularly Regulation Q of the Federal Reserve Board and interpretive letters thereunder, is unaffected by this legislation. Current law does not treat the services and benefits described by this section as the payment of interest to the beneficiary or holder of an escrow account. For example, the Federal Reserve Bank of San Francisco has indicated specifically that, for purposes of deposits by title and escrow companies, a bank's absorption of expenses related to accounting, tax reporting, courier and other services does not constitute the payment of interest and these services may be regulated as normal banking functions for which the bank may absorb the expenses (Interpretive Letter, Federal Reserve Bank of San Francisco (May 3, 1994)).

This section also provides that nothing in the legislation will be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to

pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. Nor shall anything herein be construed to preempt the provisions of law of any State dealing with the payment of interest on post-settlement escrow accounts for taxes and insurance for residential mortgage loans.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

SECTION 2 OF PUBLIC LAW 93–100

AN ACT To extend certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawal to be made with respect to any deposit or account on which any interest or dividend is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans to certain State housing corporations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

SEC. 2. (a)(1) * * *

* * * * * * *

(3) NONQUALIFIED INDUSTRIAL LOAN COMPANIES.—

(A) DEFINITION.—For purposes of this section, the term "nonqualified industrial loan company" means any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 that is determined by an appropriate State bank supervisor (as defined in section 3 of the Federal Deposit Insurance Act) to be controlled, directly or indirectly, by a commercial firm.

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

(C) GRANDFATHERED INSTITUTIONS.—The term "nonqualified industrial loan company" does not include any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

(i) which became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance which was approved by the Fed-

eral Deposit Insurance Corporation before such date; and

(ii) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under section 7(j) or 18(c) of the Federal Deposit Insurance Act, section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.

(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.

[(b)**]** *(c)* For purposes of this section, the term "depository institution" means—

(1) * * *

* * * * * * *

[(c)**]** *(d)* Any depository institutions which violates this section shall be fined $1,000 for each violations

[The amendments to section 2, set out below, shall take effect at the end of the 2-year period beginning on the date of enactment of H.R. 1224. The text of subsection (b) is shown to reflect the amendment made to that subsection by H.R. 1224 that shall take effect on the date of enactment of H.R. 1224.]

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

SEC. 2. (a)(1) * * *

[(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.**]**

(2) PAYMENT OF INTEREST ON CERTAIN NOW ACCOUNTS.—An industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 may not pay interest on any deposit or account of a corporation from which funds may be withdrawn by negotiable instrument for payment to third parties, unless the appropriate State bank supervisor (as defined in section 3 of the

Federal Deposit Insurance Act) of such company, bank, or institution determines that such company, bank, or institution is not a nonqualified industrial loan company.

* * * * * * *

(4) RULE OF CONSTRUCTION RELATING TO DEMAND DEPOSITS.—No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.

(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution, other than a nonqualified industrial loan company, may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid [and is not a deposit or account described in subsection (a)(2)] to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.

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FEDERAL RESERVE ACT

* * * * * * *

DIVISION OF EARNINGS.

SEC. 7. (a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

(1) * * *

* * * * * * *

(3) PAYMENT TO TREASURY.—During fiscal years 2005 through 2009, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.

(b) TRANSFER FOR FISCAL YEAR 2000.—

(1) * * *

* * * * * * *

(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2005 THROUGH 2009.—

(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2005 through 2009.

(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2005 through 2009, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2005 through 2009, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).

SEC. 19. (a) * * *

(b) RESERVE REQUIREMENTS.—

(1) * * *

(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in [the ratio of 3 per centum] *a ratio not greater than 3 percent (and which may be zero)* for that portion of its total transaction accounts of $25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum [and not less than 8 per centum,] *(and which may be zero),* for that portion of its total transaction accounts in excess of $25,000,000, subject to subparagraph (C).

* * * * * * *

(4) SUPPLEMENTAL RESERVES.—(A) * * *

* * * * * * *

[(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.]

[(D)] *(C)* If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

[(E)] *(D)* Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90–day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such

period if the initial ratios specified in paragraph (2) were in effect.

* * * * * * *

(12) EARNINGS ON RESERVES.—

(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

(i) the payment of earnings in accordance with this paragraph;

(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term "depository institution", in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection **[**(b)(4)(C)**]** *(b)*; and

(B) balances maintained by a depository institution **[**which is not a member bank**]** in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account.

Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

* * * * * * *

[The amendment to section 19(i), set out below, shall take effect at the end of the 2–year period beginning on the date of enactment of H.R. 1224.]

SEC. 19. (a) * * *

* * * * * * *

[(i) No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided,* That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: *Provided further,* That this paragraph shall not apply to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia: *Provided further,* That until the expiration of two years after the date of enactment of the Banking Act of 1935 this paragraph shall not apply (1) to any deposit made by a savings bank as defined in section 12B of this Act, as amended, or by a mutual savings bank, or (2) to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law. So much of existing law as requires the payment of interest with respect to any funds deposited by the United States, by any Territory, District, or possession thereof (including the Philippine Islands), or by any public instrumentality, agency, or officer of the foregoing, as is inconsistent with the provisions of this section as amended, is hereby repealed. Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.]

(i) [Repealed]

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SEC. 30. SURVEY OF BANK FEES AND SERVICES.

(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

(1) Checking and other transaction accounts.

(2) Negotiable order of withdrawal and savings accounts.

(3) Automated teller machine transactions.

(4) Other electronic transactions.

(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

(A) Monthly and annual fees and minimum balances to avoid such fees.

(B) Minimum opening balances.

(C) Check processing fees.

(D) Check printing fees.

(E) Balance inquiry fees.

(F) Fees imposed for using a teller or other institution employee.

(G) Stop payment order fees.

(H) Nonsufficient fund fees.

(I) Overdraft fees.

(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.

(K) Deposit items returned fees.

(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

(A) Monthly and annual fees and minimum balances to avoid such fees.

(B) Minimum opening balances.

(C) Rate at which interest is paid to consumers.

(D) Check processing fees for negotiable order of withdrawal accounts.

(E) Fees imposed for using a teller or other institution employee.

(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

(A) Monthly and annual fees.

(B) Card fees.

(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

(F) Point-of-sale transaction fees.

(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

(A) Wire transfer fees.

(B) Fees related to payments made over the Internet or through other electronic means.

(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2006, and not later than June 1 of each subsequent year.

(d) DEFINITIONS.—For purposes of this section, the term "insured depository institution" has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term "insured credit union" has the meaning given such term in section 101 of the Federal Credit Union Act.

SEC. [30] *31.* If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent ju-

risdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Omitted from U.S. Code)

SEC. ⟦31⟧ *32*. The right to amend, alter, or repeal this Act is hereby expressly reserved.

SECTION 5 OF THE HOME OWNERS' LOAN ACT

[The amendment to section 5, set out below, shall take effect at the end of the 2–year period beginning on the date of enactment of H.R. 1224.]

SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

(a) * * *

(b) DEPOSITS AND RELATED POWERS.—

(1) DEPOSIT ACCOUNTS.—

(A) * * *

(B) A Federal ⟦savings association may not—

⟦(i) pay interest on a demand account; or

⟦(ii) permit any⟧ *savings association may not permit any* overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

* * * * * * *

SECTION 18 OF THE FEDERAL DEPOSIT INSURANCE ACT

[The amendment to section 18, set out below, shall take effect at the end of the 2–year period beginning on the date of enactment of H.R. 1224.]

SEC. 18. (a) * * *

* * * * * * *

⟦(g)(1) The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks and for such purpose it may define the term "demand deposits"; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal

Reserve System and the Director of the Office of Thrift Supervision, prescribe rules governing the advertisement of interest or dividends on deposits by insured nonmember banks (including insured mutual savings banks) on time and savings deposits. The Board of Directors is authorized for the purposes of this subsection to define the terms "time deposits" and "savings deposits", to determine what shall be deemed a payment of interest, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this subsection and to prevent evasions thereof. The provisions of this subsection and of regulations issued thereunder shall also apply, in the discretion of the Board of Directors, to obligations other than deposits that are undertaken by insured nonmember banks or their affiliates. As used in this subsection, the term "affiliate" has the same meaning as when used in section 2(b) of the Banking Act of 1933, as amended (12 U.S.C. 221a(b)), except that the term "member bank", as used in such section 2(b), shall be deemed to refer to an insured nonmember bank. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this subsection shall not apply to the rate of interest which may be paid by insured nonmember banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member. The authority conferred by this subsection shall also apply to noninsured banks in any State if the total amount of time and savings deposits held in all such banks in the State, plus the total amount of deposits, shares, and withdrawable accounts held in all building and loan, savings and loan, and homestead associations (including cooperative banks) in the State which are not members of a Federal home loan bank, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks, and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State. Such authority shall only be exercised by the Board of Directors with respect to such noninsured banks prior to July 31, 1970, to limit the rates of interest or dividends which such banks may pay on time and savings deposits to maximum rates not lower than 5½ per centum per annum. Whenever it shall appear to the Board of Directors that any noninsured bank or any affiliate thereof is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this subsection or of any regulations thereunder, the Board of Directors may, in its discretion, bring an action in the United States district court for the judicial district in which the principal office of the noninsured bank or affiliate thereof is located to enjoin such acts or practices, to enforce compliance with this subsection or any regulations thereunder, or for a combination of the foregoing, and such courts shall have jurisdiction of such actions, and, upon a proper showing, an injunction, restraining order, or other appropriate order may be granted without bond.

[(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to

a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.]

(g) [Repealed]

* * * * * * *

SECTION 136 OF THE TRUTH IN LENDING

[The amendment to section 136, set out below, shall take effect on January 1, 2006.]

§ 136. Dissemination of annual percentage rates

(a) * * *

(b) CREDIT CARD PRICE AND AVAILABILITY INFORMATION.—

[(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, credit card price and availability information, including the information required to be disclosed under section 127(c) of this chapter, from a broad sample of financial institutions which offer credit card services.]

(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

(A) the information required to be disclosed under section 127(c) of this chapter;

(B) the average total amount of finance charges paid by consumers; and

(C) the following credit card rates and fees:

(i) Application fees.

(ii) Annual percentage rates for cash advances and balance transfers.

(iii) Maximum annual percentage rate that may be charged when an account is in default.

(iv) Fees for the use of convenience checks.

(v) Fees for balance transfers.

(vi) Fees for foreign currency conversions.

* * * * * * *

SECTION 1002 OF THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

[SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

[(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of—

[(1) certain retail banking services provided by insured depository institutions; and

[(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not

sufficient funds, deposit items returned, and automated teller machine transactions.

[(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

[(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

[(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

[(A) a description of any discernible trend, in the Nation as a whole, in each of the 50 States, and in each consolidated metropolitan statistical area or primary metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of retail banking services (including fees imposed for providing such services), that delineates differences between insured depository institutions on the basis of both the size of the institution and any engagement of the institution in multistate activity; and

[(B) a description of the correlation, if any, among the following factors:

[(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

[(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

[(iii) A decrease in the availability of such services.

[(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.]

SECTION 108 OF THE RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994

[SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

[(a) IN GENERAL.—Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

["SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

["(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of—

["(1) certain retail banking services provided by insured depository institutions; and

["(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

["(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

[“(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

[“(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

[“(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

[“(B) a description of the correlation, if any, among the following factors:

[“(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

[“(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

[“(iii) A decrease in the availability of such services.

[“(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.”.

[(b) SUNSET.—The requirements of subsection (a) shall not apply after the end of the 7–year period beginning on the date of enactment of this Act.]

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