

# PRESERVING AND EXPANDING MINORITY DEPOSITORY INSTITUTIONS ACT

DECEMBER 4, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

## R E P O R T

[To accompany H.R. 4043]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4043) to amend the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to preserve and expand minority depository institutions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 4043, the “Preserving and Expanding Minority Depository Institutions Act,” extends the requirements under Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of (FIRREA) 1989 to the Chairman of the Board of Governors of the Federal Reserve System and the Comptroller of the Currency (OCC). H.R. 4043 also requires the federal banking agencies subject to Section 308 of FIRREA to submit an annual report to Congress describing their efforts to implement it.

## BACKGROUND AND NEED FOR LEGISLATION

Minority-owned financial institutions<sup>1</sup> comprise about two percent of all financial institutions and total industry assets in the United States. Under Section 308 of the FIRREA, the Secretary of the Treasury is required to consult with the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) and the Director of the Office of Thrift Supervision (OTS) on the methods to achieve the following five goals:

- (1) preserving the present number of minority banks;
- (2) preserving their minority character in cases involving mergers or acquisitions of minority banks;
- (3) providing technical assistance to prevent the insolvency of institutions that are not currently insolvent;
- (4) promoting and encouraging the creation of new minority banks; and
- (5) providing for training, technical assistance and educational programs.

Only the OTS, under Section 3(g)(2) of the Home Owners’ Loan Act, is required to submit an annual report to Congress describing its actions to carry out Section 308 of FIRREA.

In November 1993, the U.S. General Accounting Office<sup>2</sup> (GAO) issued a report entitled, “Minority-Owned Financial Institutions: Status of Federal Efforts to Preserve Minority Ownership” at the request of Representative John Conyers, then Chairman of the Government Operations Committee, on the implementation of Section 308 of FIRREA and Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. (GAO/GGD-94-1). In this report, GAO found that the agencies had taken steps to satisfy the statutory requirements under Section 308 of FIRREA but they had not assessed whether these steps were effective. 1993 GAO Report at 3. GAO also found that minority trade associations and the executives of minority-owned financial institutions had mixed perceptions of the effectiveness of these agencies’ programs. *Id.* at 15. GAO recommended that Treasury consult with the FDIC and OTS to systematically assess the effectiveness of their approaches. *Id.* at 19. GAO also noted that a key component

<sup>1</sup>For purposes of the GAO Report, “minority-owned financial institutions” or “minority banks” refers to all depository institutions, including thrifts, that are considered minority- or women-owned by the Department of the Treasury (Treasury) and federal banking regulators—the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve), the Office of the Comptroller of Currency (OCC) and the Office of Thrift Supervision (OTS). FDIC and OTS are subject to the “minority depository institution” definition set forth in Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

<sup>2</sup>Effective July 7, 2004, GAO’s legal name was changed from the U.S. General Accounting Office to the U.S. Government Accountability Office.

of the assessment process should be surveys of minority-owned financial institutions to glean their views on the federal regulators' efforts to preserve these institutions. *Id.*

In October 2005, 29 Financial Services Committee Democratic members sent a letter to the GAO requesting a review of all of the federal banking agencies' current efforts to promote and preserve minority-owned financial institutions and the views of the minority financial services industry on the effectiveness of these efforts. In October 2006, the GAO issued a report entitled, "Minority Banks: Regulators Need to Better Assess Effectiveness of Support Efforts." (GAO-07-6). While the scope of the 1993 GAO Report was limited to just the agencies that are statutorily mandated under Section 308 of FIRREA to try to maintain minority ownership of banks, the 2006 GAO Report more broadly addressed the efforts of the FDIC, OTS, OCC, and the Federal Reserve to promote and preserve minority banks.

Despite the recommendation contained in the 1993 GAO Report, GAO found that none of the banking regulators have routinely surveyed institutions within their jurisdiction to assess the effectiveness of support efforts to minority banks, nor have they established outcome-oriented performance measures to gauge results. 2006 GAO Report at 20. As a result, according to the GAO, regulators need more information in order to assess the results of their efforts, or to identify areas for improvement. *Id.* However, the 2005 report also found while the regulators offer training and educational opportunities to assist minority banks, these programs are underutilized. The GAO also found that the banks that do participate in these programs find this assistance very helpful.

#### HEARINGS

The Oversight and Investigations Subcommittee of the Financial Services Committee held a hearing entitled, "Preserving and Expanding Minority Banks," on Tuesday, October 30, 2007, to examine federal banking regulators' efforts to promote and preserve minority-owned financial institutions and to review the GAO report entitled, "Minority Banks: Regulators Need to Better Assess Effectiveness of Support Efforts," that was issued in October 2006. The following witnesses testified:

- Mr. George Scott, Director, Education, Workforce & Income Security Issues, Government Accountability Office
- Ms. Sandra L. Thompson, Director, Division of Supervision and Consumer Protection, Federal Deposit Insurance Corporation
- Ms. Montrice Yakimov, Managing Director, Compliance and Consumer Protection, Office of Thrift Supervision
- Ms. Sandra F. Braunstein, Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System
- Mr. John Walsh, Chief of Staff and Public Affairs, Office of Comptroller of the Currency
- Mr. Bob Cooper, Senior Counsel, One United Bank, on behalf of the National Bankers Association (NBA)
- Ms. Kim Saunders, Chief Executive Officer of Mechanics & Farmers Bank

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 7, 2007, and ordered H.R. 4043, the “Preserving and Expanding Minority Depository Institutions Act”, favorably reported to the House 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 with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

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

#### PERFORMANCE GOALS AND OBJECTIVES

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

H.R. 4043 extends the requirements under Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of (FIRREA) 1989 to the Chairman of the Board of Governors of the Federal Reserve System and the Comptroller of the Currency. H.R. 4043 also requires the federal banking agencies subject to Section 308 of FIRREA to submit an annual report to Congress describing their efforts to implement it.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 30, 2007.*

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4043, the Preserving and Expanding Minority Depository Institutions Act.

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

Sincerely,

PETER H. FONTAINE  
(For Peter R. Orszag, Director).

Enclosure.

*H.R. 4043—Preserving and Expanding Minority Depository Institutions Act*

Existing law requires officials from two of the federal agencies that regulate banks—the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC)—to consult with the Department of the Treasury on methods to preserve and promote minority ownership of depository institutions. H.R. 4043 would direct the Chairman of the Board of Governors of the Federal Reserve System and the Comptroller of the Currency to participate in those activities. In addition, the bill would require each of the participating agencies to submit an annual report to the Congress on actions taken to implement the law.

Based on information from the Federal Reserve and affected agencies, CBO estimates that additional costs under the bill incurred by the Office of the Comptroller of the Currency, the OTS, and FDIC would affect direct spending, but such expenditures would be offset by income from annual fees or deposit insurance premiums. The budgetary effects on the Federal Reserve would be recorded as changes in revenues, and CBO estimates that such changes would reduce revenues by less than \$500,000 a year. Enacting the bill would have a negligible net effect on direct spending.

H.R. 4043 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Kathleen Gramp. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

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

ADVISORY COMMITTEE STATEMENT

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

## CONSTITUTIONAL AUTHORITY STATEMENT

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

## APPLICABILITY TO LEGISLATIVE BRANCH

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

## EARMARK IDENTIFICATION

H.R. 4043 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section establishes the short title of the bill as the “Preserving and Expanding Minority Depository Institutions Act.”

*Section 2. Preserving and expanding minority depository institutions*

This section extends the requirements under Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of (FIRREA) 1989 to the Chairman of the Board of the Governors of the Federal Reserve System and the Comptroller of the Currency. It also requires the federal banking agency subject to Section 308 of FIRREA to submit an annual report to Congress describing actions taken to carry out the requirements of Section 308 of FIRREA. Because the OTS is currently required to submit an annual report of its actions to implement Section 308 of FIRREA under Section 3(g)(2) of the Home Owners’ Loan Act, the bill makes a technical and conforming change to repeal the existing reporting requirement under HOLA.

## 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):

**FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND  
ENFORCEMENT ACT OF 1989**

\* \* \* \* \*

## TITLE III—SAVINGS ASSOCIATIONS

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### SEC. 308. PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS.

(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with *the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation* on methods for best achieving the following goals:

(1) \* \* \*

\* \* \* \* \*

(c) REPORTS.—*The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the Chairperson of the Federal Deposit Insurance Corporation shall each submit an annual report to the Congress containing a description of actions taken to carry out this section.*

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## HOME OWNERS' LOAN ACT

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### SEC. 3. DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) \* \* \*

\* \* \* \* \*

(g) ANNUAL REPORT REQUIRED.—The Director shall make an annual report to the Congress. Such report shall include—

(1) \* \* \*

[(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.]

(2) *[Repealed]*.

\* \* \* \* \*