Association for Bank Customer Rights
Sweden

To
European Commission
Directorate General Internal Market and Services
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Reply to Consultation on Reforming the structure of the EU banking sector

Identification of the respondent

The Association for Bank Customer Rights in Sweden was formed as a response to the treatment of bank customers in the Swedish banking crisis 1987 - 1993 when 60,000 small and medium-sized enterprises (SMEs) were closed and 400,000 workers lost their jobs. The devastating effects of this crisis was due to a policy allowing banks to capitalize themselves with the assets of fully operating businesses. The banks used the circumstance that in Sweden they are allowed to cancel loans to customers for no reason. Therefore loans, that were fully serviced and honored by customers, were canceled to force bankruptcies and the seizure of the SME assets by the banks.

Ever since, the Association for Bank Customer Rights have aided and informed the victims of this bank resolution practice in still ongoing, 20 years later, court proceedings. The Association is the major documentation center for SMEs of the psychological, social and economic effects of the banking crisis in Sweden.

Preliminary remarks to the consultation

The experience of businesses in the Swedish banking crisis 1987 - 1993 point to the necessity of a stable banking sector where the customers could be as safe as possible. The Swedish policy to allow the seizure of the the assets of fully operating businesses by banks in crisis should have been a warning for other countries, however the recent example from Cyprus of the use of the bail-in tool alarms us, especially as a similar policy is on its way to become a general policy for the EU. On Cyprus 60 percent of the businesses bank deposits, above the deposit guarantee of EU 100,000, were seized to improve the capital of the banks and the banking system. The rest of the deposits were only available under severe restrictions. The seizures of these necessary business assets created a severe disruption of the real economy on Cyprus, just like in important parts of the Swedish economy in 1990-ies.

The necessity to avoid a general implementation of the bail-in tool for the resolution of banks and bank systems in crisis underscores the urgent need for a structural reform of the banking sector to minimize the risk of speculative activities in the commercial banking sector serving SMEs.

With those preliminary remarks in mind we now respond to the questions asked in the Consultation on Reforming the structure of the EU banking sector.

1. Can structural reform of the largest and most complex banking groups address and alleviate these problems? Please substantiate your answer.

The potential losses in the financial system are indicated already in the volume of assets of the banks of several times the GDP, no matter if calculated by nation, for the EU or the world. Wolfgang Münchau wrote in Financial Times June 25th, 2013, that potential current hidden losses in Eurozone banks from toxic securities can be anywhere between EU 1 trillion and EU 2.6 trillion, thus making any discussion of using the EU 500 billion European Stability Mechanism to recapitalize banks as next to useless. An upcoming bond crisis, when the quantitative easing goes for the dreaded exit, will with its repercussions on all markets add trillions to that. The sheer amounts of losses and potential losses in the European financial system are like a Damocles sword hanging over the nations and populations of Europe.

The government guarantees for the depositors and the functioning of the payment and credit system for people and the real economy are linked to the oversized speculative financial system, and its losses, through the universal banks. Indeed some of the speculative losses could be traced to the commercial bank section of the banks, but the overwhelming part of the losses and potential losses are in the securities and especially in the estimated 1.4 quadrillion dollar global derivative market partly housed in the uncontrollable shadow banking market in distant Caribbean islands. In Sweden the total assets of the four big banks end of last year were four times the Swedish GDP and the nominal derivative contracts stood at 23 times the Swedish GDP. A decoupling from this mountain of liabilities and potential liabilities is a matter of direct survival for the population and the real economy. The only available method to enable such decoupling is a full bank separation like the Glass-Steagall Act of 1933 in the United States.

Without a full bank separation the governments and central banks will be drawn into the financial assistance of the universal banks and other financial institutions with no end in sight, which means that the financial crash will spread its collapse to the fundamental institutions of the nations upholding a functioning society, production and the welfare of the citizens.

Without a full bank separation the deposits on the bank accounts of the European SMEs are endangered just like on Cyprus, which would devastate the real economy in a similar way as in the Swedish banking crisis 1987-1993 when the banks were recapitalized with assets of 60,000 SMEs that were forced into bankruptcy, which led to the loss of 400,000 jobs and a still ongoing austerity.

2. Do you consider that an EU proposal in the field of structural reform is needed? What are the possible advantages or drawbacks associated with such reforms? Please substantiate your answer.

A proposal from the EU must inspire and strengthen the speedy implementation of a full bank separation policy in all member states. The proposals from the Liikanen HLEG, the Vickers report, the Volcker rule as well as the recent government initiatives in Great Britain, France and Germany, all allow, in different ways, for banks to continue operate all the parts of the universal banks in separated legal entities under a bank holding company. The bankruptcy of the investment entity would force the owner to cover the losses with the assets of the commercial entity. The nation, its people, its state budget, its economy and its SMEs would still be endangered.

Any proposal except full bank separation, even halfhearted, would be counterproductive, as they would confuse the necessary action. Even a go alone national approach would be better than an inefficient EU-proposal, which would stall the immediately needed action of full bank separation like the Glass-Steagall in all member countries. The Icelandic example indicates the benefit of a national policy avoiding the responsibility for the liabilities of a banking sector several times the GDP.

3. Which of the four definitions is the best indicator to identify systemically risky trading activities? If none of the above, please propose an alternative indicator.

There is a precedent for defining the the separation in the current bills to reinstate the Glass-Steagall

Act of 1933 in the both houses of the U.S. Congress HR 129 (note1) by representative Marcy Kaptur and the identical bill S 928 by senator Tom Harkin. Both bills propose to reinstate the following definition for investment banking and securities firms in the original Glass-Steagall Act, of what should be separated from depository institutions:
"An insured depository institution may not be or become an affiliate of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities."

Of the four options proposed by the Commission, the HLEG definition is the closest to the original Glass-Steagall Act. However, we see no reason to use any other definition than the Glass-Steagall definition, which served us well in its different European adaptations during the growth years of European post WWII reconstruction, until deregulation undermined and finally dismantled them.

4. Which of the approaches outlines above is the most appropriate? Are there any alternative approaches? Please substantiate your answer.

A banking crisis is mostly unanticipated och comes fast. In such a dynamic situation it is very difficult to reorganize the banking system with the required considerations of justice and need to limit the destruction of the welfare and the real economy. This is emphatically our experience of the banking crisis in Sweden.

An orderly separation allows for the banks six months to do it, if not the appropriate banking agency terminates the proceedings earlier, according to the Glass-Steagall precedent (note 1). We therefore support the EU Commission approach for ex ante separation, where the necessary steps are first deliberated in the full transparency of an orderly democratic decision making and then implemented in the time allowed or available. However, the separation must be a full separation for all banks according to Glass-Steagall.

The urgent for a speedy ex ante implementation of a full bank separation as under the American Glass- Steagall Act has been raised in many parliaments of Europe. The current longest-serving Member of the British House of Commons, Tory MP Sir Peter Tapsell, is a good example of this parliamentary opinion in many European parliaments. Questioning of Chancellor of the Exchequer George Osborne June 25th 2013, Sir Tapsell declared,
``After a lifetime as a stock broker and fund manager, my instinct as bond yields rise all over the world is that we are heading for another banking crisis which will certainly choke off the already inadequate lending of banks to small businesses. My dismay is, you have not yet committed yourself to the total separation of investment and commercial banks, which I have been urging on you ever since you became Chancellor. I am absolutely convinced if we do not go back to something approaching Glass-Steagall, it will be an absolute disaster when the next banking crisis hits us."

5. What are the costs and benefits of separating market-making and/or underwriting activities? Could some of these activities be included in, or exempt from, a separation requirement? If so, which and on what basis?

The Glass-Steagall Act very clearly separated underwriting as well as any proprietary trading like market making for a good reason. The issue here is the moral hazard of a banker dressing up with different hats incompatible with each other. On the one hand representing the customers interests as adviser to the depositor, on the other representing a sales person for securities to the same customer and thirdly representing the insurer overseeing the whole deal. The different cultures of commercial banking, investment banking and insurance are incompatible. Under the influence of profit making and incentive systems the investment bank culture risk to creep into all activities of a universal bank leaving the customers alone. When even the risk management is included, the whole control system between the different market actors disappears, as no one knows whether the interest rates, the credits, the exchange rates etc. are set to increase the bank income from the risk management or vice versa. The only "outside evaluation" left are the rating companies, but they are relying for their income mainly from the universal banks. This lack of separation should be added to the list of "Problem drivers", mentioned in the consultation paper, leading to the subprime mortgage crash and the whole system of financial bubbles currently depressing the world economy. The investment bank Lehman Brothers triggered the banking crash 2008, because the lack of separation of the international universal banks created a nontransparent web of interdependence spreading the crisis to the banking services for the real economy.

With universal banking, we bank customers loose the needed transparency of what we are paying for, as we cannot turn separately to a commercial bank, an investment bank and an insurance company. We also loose the old banker type of adviser looking to our interests.

6. Should deposit banks be allowed to directly provide risk management services to clients? If so, should any (which) additional safeguards/limits be considered?

As indicated in the reply to question no 5, the risk management services should be separated. They should preferably be housed in separately owned insurance companies, that could assess the risks without having a stake in the sale of the instruments that are to be hedged. This would also decrease the appetite for the sales departments of investment banks to sell ever more complicated and risky instruments, that push the need for risk management.

7. As regards the legal dimension of functional separation, what are the costs and benefits of regulating intragroup ownership structures?

The Glass-Steagall Act separates the ownership, but goes even a step further to insulate the different bank cultures from each other and avoid the moral hazard of conflicting interests. A divide is therefore also established between the persons involved, to avoid leakage of inside customer information and deposits between the two types of banking:
"An individual who is an officer, director, partner, or employee of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any insured depository institution."

In the universal banks, or in any of those mixtures indicated in the question of the two types of banks, the costs tend to go to the customer side and the benefits on the bank side, as the customers get into a much weaker position. With such conflict of interest, it is very hard to evaluate the balance between the costs and benefits in the question. As SMEs we see to the customers interest and urge the law makers to stand up for the rights of the general population and real economy, against the vested interests of certain private groups.

8. What are the relevant economic links and associated risks between intragroup entities?

If there is an ownership link between intragroup entities, it overrides all other separations, especially in bankruptcy situations where losses are divided.

9. As regards full ownership separation, what are the associated costs and benefits?

The clear cut separation of ownership and persons involved among commercial banks and investment banks, makes the law transparent and manageable for also minor banks. More complicated bank regulations in the EU-directives, just like the Dodd-Frank Act with its estimated 30.000 pages of legal text when the explications are finalized, forces banks to merge into bigger entities.

Likewise the safety nets to hedge against the risk in the investment part of banking, like the Basel III rules or bank stability funds, incur costs on all banks, even small banks with hardly any such risky activity. Thus we are deprived of the type of smaller banks so important for the funding of SMEs. This has a heavy cost side to it for the SMEs, when credit cost increase or lack of credits cause loss of business opportunities. With a clear full banking separation the possibilities for a flourishing local banking system would be enabled, aiding especially the SMEs.

10. Does the above matrix capture a sufficiently broad range of structural reform options?

The matrix limits the alternatives to separation into only two entities. This is not even covering the recent history before universal banking, where a several other types of separated financial institutions existed and served us well. There is also a need to separate the insurance functions, mortgage financing of homes, financing of development of different kinds of infra structure, utilities and business branches, like agriculture, industry, SMEs, startups, shipping, power and water systems.

11. Which option best addresses the problems identified? Please substantiate your answer.

Only a Glass-Steagall type of ownership bank separation (Option I) addresses the problem of linkage to the oversized speculative financial system, and its losses. The clear demarcation line of separate ownership can insulate the population, the government, the real economy, the deposits, the necessary payments system and the credits for business and trade from the danger of being crushed in the financial crash. With such bank separation the necessary bank services could continue to function in spite of a massive crash of paper asset values. Using these open commercial bank services, the credit lines of central banks and the government resources could be used to service and even expand the real economy, instead of being wasted covering losses of paper assets.

If the responses to the consultation are published, the respondent agrees to publication of this response together with other responses.

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The proposal for the reinstating of the Glass-Steagall Act of 1933 in the both houses of the U.S. Congress. (An exactly similar proposal as HR 129 was introduced in the Senate by senator Tom Harkin on May 17th, 2013.)

Note 1 http://thomas.loc.gov/cgi-bin/query/z?c113:H.R.129:

H.R.129 -- Return to Prudent Banking Act of 2013 (Introduced in House - IH),

113th CONGRESS, 1st Session

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called `Glass-Steagall Act', and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 3, 2013

Ms. KAPTUR (for herself and Mr. JONES) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called `Glass-Steagall Act', and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the `Return to Prudent Banking Act of 2013'.

SEC. 2. GLASS-STEAGALL REVIVED.

`(A) IN GENERAL- An individual who is an officer, director, partner, or employee of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities may not serve at the same time as an officer, director, employee, or other institution-affiliated party of any insured depository institution.

`(B) EXCEPTION- Subparagraph (A) shall not apply with respect to service by any individual which is otherwise prohibited under such subparagraph if the appropriate Federal banking agency determines, by regulation with respect to a limited number of cases, that service by such individual as an officer, director, employee, or other institution-affiliated party of any insured depository institution would not unduly influence the investment policies of the depository institution or the advice the institution provides to customers.

`(C) TERMINATION OF SERVICE- Subject to a determination under subparagraph (B), any individual described in subparagraph (A) who, as of the date of the enactment of the Return to Prudent Banking Act of 2011, is serving as an officer, director, employee, or other institution-affiliated party of any insured depository institution shall terminate such service as soon as practicable after such date of enactment and no later than the end of the 60-day period beginning on such date.

`(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- Any affiliation of an insured depository institution with any broker or dealer, any investment adviser, any investment company, or any other person, as of the date of the enactment of the Return to Prudent Banking Act of 2011, which is prohibited under paragraph (1) shall be terminated as soon as practicable and in any event no later that the end of the 2-year period beginning on such date of enactment.

`(B) EARLY TERMINATION- The appropriate Federal banking agency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the agency determines, having due regard for the purposes of this subsection and the Return to Prudent Banking Act of 2011, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

`(C) EXTENSION- Subject to a determination under subparagraph (B), an appropriate Federal banking agency may extend the 2-year period referred to in subparagraph (A) from time to time as to any particular insured depository institution for not more than 6 months at a time, if, in the judgment of the agency, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

`(1) PROHIBITION ON AFFILIATION BETWEEN INSURED DEPOSITORY INSTITUTIONS AND INVESTMENT BANKS OR SECURITIES FIRMS-
An insured depository institution may not be or become an affiliate of any broker or dealer, any investment adviser, any investment company, or any other person engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities.

`(2) PROHIBITION ON OFFICERS, DIRECTORS AND EMPLOYEES OF SECURITIES FIRMS SERVICE ON BOARDS OF DEPOSITORY
INSTITUTIONS-

(3) TERMINATION OF
EXISTING AFFILIATION-

`(4) DEFINITIONS- For purposes of this subsection, the terms `broker' and `dealer' have the same meanings as in section 3(a) of the Securities Exchange Act of 1934 and the terms `investment adviser' and `investment company' have the meaning given such terms under the Investment Advisers Act of 1940 and the Investment Company Act of 1940, respectively.'.

(1) IN GENERAL- The Congress ratifies the interpretation of the paragraph designated the `Seventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments) and section 21 of the Banking Act of 1933 (12 U.S.C. 378) by the Supreme Court of the United States in the case of Investment Company Institute v. Camp (401 U.S. 617 et seq. (1971)) with regard to the permissible activities of banks and securities firms, except to the extent expressly prescribed otherwise by this section.

(2) APPLICABILITY OF REASONING- The reasoning of the Supreme Court of the United States in the case referred to in paragraph (1) with respect to sections 20 and 32 of the Banking Act of 1933 (as in effect prior to the date of the enactment of the Gramm-Leach-Bliley Act) shall continue to apply to subsection (aa) of section 18 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) except to the extent the scope and application of such subsection as enacted exceed the scope and application of such sections 20 and 32.

(3) LIMITATION ON AGENCY INTERPRETATION OR JUDICIAL CONSTRUCTION- No appropriate Federal banking agency, by regulation, order, interpretation, or other action, and no court within the United States may construe the paragraph designated the `Seventh' of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24, as amended by section 16 of the Banking Act of 1933 and subsequent amendments), section 21 of the Banking Act of 1933, or section 18(aa) of the Federal Deposit Insurance Act more narrowly than the reasoning of the Supreme Court of the United States in the case of Investment Company Institute v. Camp (401 U.S. 617 et seq. (1971)) as to the construction and the purposes of such provisions.

(a) Wall Between Commercial Banks and Securities Activities Reestablished- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828), as amended by section 615(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following new subsection:

`(aa) Limitations on Security Affiliations-

(b) Prohibition on Banking Activities by Securities Firms Clarified- Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by adding at the end the following new subsection:

`(c) Business of Receiving Deposits- For purposes of this section, the term `business of receiving deposits' includes the establishment and maintenance of any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).'.

(c) Continued Applicability of ICI vs. Camp-

SEC. 3. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVISIONS.

(a) Financial Holding Company-

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- In the case of a bank holding company which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with any entity that was permissible for a financial holding company, any affiliation by the bank holding company which is not permitted for a bank holding company shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION- The Board of Governors of the Federal Reserve System, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Board determines, having due regard to the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices, and is in the public interest.

(C) EXTENSION- Subject to a determination under subparagraph (B), the Board of Governors of the Federal Reserve System may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular bank holding company for not more than 6 months at a time, if, in the judgment of the Board, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(i) by striking subparagraph (E) of paragraph (2); and

(ii) by striking paragraphs (3), (4), and (5).

(A) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsection (p).

(B) Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended--

(C) Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by striking subsection (g).

(D) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 45.

(E) The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by striking section 10A.

(F) Subtitle B of title I of the Gramm-Leach-Bliley Act is amended by striking section 114 (12 U.S.C. 1828a) and section 115 (12 U.S.C. 1820a).

(1) IN GENERAL- Section 4 of the Bank Holding

Company Act of 1956 (12 U.S.C. 1843) is amended by striking subsections (k), (l), (m), (n), and (o).

(2) TRANSITION-

(3) TECHNICAL AND CONFORMING AMENDMENTS-

(b) Financial Subsidiaries Repealed-

(1) IN GENERAL- Section 5136A of the Revised Statutes of the United States (12 U.S.C. 24a) is amended to read as follows:

`SEC. 5136A. [REPEALED].'.

(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION- In the case of a national bank which, pursuant to the amendments made by paragraph (1), is no longer authorized to control or be affiliated with financial subsidiary as of the date of the enactment of this Act, such affiliation shall be terminated as soon as practicable and in any event no later that the end of the 2-year period beginning on such date of enactment.

(B) EARLY TERMINATION- The Comptroller of the Currency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the Comptroller determines, having due regard for the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

(C) EXTENSION- Subject to a determination under subparagraph (B), the Comptroller of the Currency may extend the 2-year period referred to in subparagraph (A) above from time to time as to any particular national bank for not more than 6 months at a time, if, in the judgment of the Comptroller, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

(A) The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by striking the last sentence.

(B) The Federal Deposit Insurance Act is amended by striking section 46 (12 U.S.C. 1831w).

(2) TRANSITION-

(3) TECHNICAL AND CONFORMING AMENDMENT-

(4) CLERICAL AMENDMENT- The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5136A.

(c) Definition of Broker- Section 3(a)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)) is amended--

(1) by striking clauses (i), (iii), (v), (vii), (x), and (xi); and

(2) by redesignating clauses (ii), (iv), (vi), (viii), and (ix) as clauses (i), (ii), (iii), (iv), and (v), respectively.

(d) Definition of Dealer- Section 3(a)(5)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)(C)) is amended--

(1) by striking clauses (i) and (iii); and

(2) by redesignating clauses (ii) and (iv) as clauses (i) and (ii), respectively.

(e) Definition of Identified Banking Product- Subsection (a) of section 206 of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) is amended--

(1) by inserting `and' after the semicolon at the end of paragraph (4);

(2) in paragraph (5), by striking `; or' and inserting a period; and

(3) by striking paragraph (6) and all that follows through the end of such subsection.

(f) Definition of Activities Closely Related to Banking-

(1) IN GENERAL- Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking `the day before the date of the enactment of the Gramm-Leach-Bliley Act' and inserting `January 1, 1970,'.

(2) PROVISION ALLOWING FOR EXCEPTIONS AFTER REPORT TO THE CONGRESS- Subsection (j) of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended to read as follows:

`(j) Approval for Certain Post-1970 Subsection (c)(8) Activities-

`(1) IN GENERAL- Notwithstanding the limitation of the January 1, 1970, approval deadline in subsection (c)(8), the Board may determine an activity to be so closely related to banking as to be a proper incident thereto for purposes of such subsection, subject to the requirements of this subsection and such terms and conditions as the Board may require.

`(2) GENERAL STANDARDS- In making any determination under paragraph (1), the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to result in a violation of section 18(aa) of the Federal Deposit Insurance Act, section 21 of the Banking Act of 1933, or the spirit of section 2(c) of the Return to Prudent Banking Act of 2011, and other possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

`(3) REPORT AND WAIT- No determination of the Board under paragraph (1) may take effect before the end of the 180-day period beginning on the date by which notice of the determination has been submitted to both Houses of the Congress together with a detailed explanation of the activities to which the determination relates and the basis for the determination, unless before the end of such period, such activities have been approved by an Act of Congress.'.

(g) Repeal of Provision Relating to Foreign Banks Filing as Financial Holding Companies- Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking paragraph (3).

SEC. 4. REPORTS TO THE CONGRESS.

(a) Reports Required- Each time the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or another appropriate Federal banking agency makes a determination or an extension under subparagraph (B) or (C) of paragraph (2) or (3) of section 18(aa) of the Federal Deposit Insurance Act (as added by section 2(a)) or subparagraph (B) or (C) of subsection (a)(2) or (b)(2) of section 3, as the case may be, the Board, Comptroller, or agency shall promptly submit a report of such determination or extension to the Congress.

(b) Contents- Each report submitted to the Congress under subsection (a) shall contain a detailed description of the basis for the determination or extension.