

Financial Services Modernization Act

Gramm-Leach-Bliley

Summary of Provisions

TITLE I -- FACILITATING AFFILIATION AMONG BANKS, SECURITIES FIRMS, AND INSURANCE COMPANIES

- Repeals the restrictions on banks affiliating with securities firms contained in sections 20 and 32 of the Glass-Steagall Act.
- Creates a new "financial holding company" under section 4 of the Bank Holding Company Act. Such holding company can engage in a statutorily provided list of financial activities, including insurance and securities underwriting and agency activities, merchant banking and insurance company portfolio investment activities. Activities that are "complementary" to financial activities also are authorized. The nonfinancial activities of firms predominantly engaged in financial activities (at least 85% financial) are grandfathered for at least 10 years, with a possibility for a five year extension.
- The Federal Reserve may not permit a company to form a financial holding company if any of its insured depository institution subsidiaries are not well capitalized and well managed, or did not receive at least a satisfactory rating in their most recent CRA exam.
- If any insured depository institution or insured depository institution affiliate of a financial holding company received less than a satisfactory rating in its most recent CRA exam, the appropriate Federal banking agency may not approve any additional new activities or acquisitions under the authorities granted under the Act.
- Provides for State regulation of insurance, subject to a standard that no State may discriminate against persons affiliated with a bank.
- Provides that bank holding companies organized as a mutual holding companies will be regulated on terms comparable to other bank holding companies.
- Lifts some restrictions governing nonbank banks.
- Provides for a study of the use of subordinated debt to protect the financial system and deposit funds from "too big to fail" institutions and a study on the effect of financial modernization on the accessibility of small business and farm loans.
- Streamlines bank holding company supervision by clarifying the regulatory roles of the Federal Reserve as the umbrella holding company supervisor, and the State and other Federal financial regulators which 'functionally' regulate various affiliates.
- Provides for Federal bank regulators to prescribe prudential safeguards for bank

organizations engaging in new financial activities.

- Prohibits FDIC assistance to affiliates and subsidiaries of banks and thrifts.
- Allows a national bank to engage in new financial activities in a financial subsidiary, except for insurance underwriting, merchant banking, insurance company portfolio investments, real estate development and real estate investment, so long as the aggregate assets of all financial subsidiaries do not exceed 45% of the parent bank's assets or \$50 billion, whichever is less. To take advantage of the new activities through a financial subsidiary, the national bank must be well capitalized and well managed. In addition, the top 100 banks are required to have an issue of outstanding subordinated debt. Merchant banking activities may be approved as a permissible activity beginning 5 years after the date of enactment of the Act.
- Ensures that appropriate anti-trust review is conducted for new financial combinations allowed under the Act.
- Provides for national treatment for foreign banks wanting to engage in the new financial activities authorized under the Act.
- Allows national banks to underwrite municipal revenue bonds

TITLE II -- FUNCTIONAL REGULATION

- Amends the Federal securities laws to incorporate functional regulation of bank securities activities.
- The broad exemptions banks have from broker-dealer regulation would be replaced by more limited exemptions designed to permit banks to continue their current activities and to develop new products.
- Provides for limited exemptions from broker-dealer registration for transactions in the following areas: trust, safekeeping, custodian, shareholder and employee benefit plans, sweep accounts, private placements (under certain conditions), and third party networking arrangements to offer brokerage services to bank customers, among others.
- Allows banks to continue to be active participants in the derivatives business for all credit and equity swaps (other than equity swaps to retail customers).
- Provides for a "jump ball" rulemaking and resolution process between the SEC and the Federal Reserve regarding new hybrid products.
- Amends the Investment Company Act to address potential conflicts of interest in the mutual fund business and amendments to the Investment Advisers Act to require banks that advise mutual funds to register as investment advisers.

TITLE III -- INSURANCE

- Provides for the functional regulation of insurance activities.
- Establishes which insurance products banks and bank subsidiaries may provide as principal.
- Prohibits national banks not currently engaged in underwriting or sale of title insurance from commencing that activity. However, sales activities by banks are permitted in States that specifically authorize such sales for State banks, but only on

the same conditions. National bank subsidiaries are permitted to sell all types of insurance including title insurance. Affiliates may underwrite or sell all types of insurance including title insurance.

- State insurance and Federal regulators may seek an expedited judicial review of disputes with equalized deference.
- The Federal banking agencies are directed to establish consumer protections governing bank insurance sales.
- Preempts state laws interfering with affiliations.
- Provides for interagency consultation and confidential sharing of information between the Federal Reserve Board and State insurance regulators.
- Allows mutual insurance companies to re-domesticate.
- Allows multi-state insurance agency licensing.

TITLE IV -- UNITARY SAVINGS AND LOAN HOLDING COMPANIES

- De novo unitary thrift holding company applications received by the Office of Thrift Supervision after May 4, 1999, shall not be approved.
- Existing unitary thrift holding companies may only be sold to financial companies.

TITLE V -- PRIVACY

- Requires clear disclosure by all financial institutions of their privacy policy regarding the sharing of non-public personal information with both affiliates and third parties.
- Requires a notice to consumers and an opportunity to "opt-out" of sharing of non-public personal information with nonaffiliated third parties subject to certain limited exceptions.
- Addresses a potential imbalance between the treatment of large financial services conglomerates and small banks by including an exception, subject to strict controls, for joint marketing arrangements between financial institutions.
- Clarifies that the disclosure of a financial institution's privacy policy is required to take place at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship.
- Provides for a separate rather than joint rulemaking to carry out the purposes of the subtitle; the relevant agencies are directed, however, to consult and coordinate with one another for purposes of assuring to the maximum extent possible that the regulations that each prescribes are consistent and comparable with those prescribed by the other agencies.
- Allows the functional regulators sufficient flexibility to prescribe necessary exceptions and clarifications to the prohibitions and requirements of section 502.
- Clarifies that the remedies described in section 505 are the exclusive remedies for violations of the subtitle.
- Clarifies that nothing in this title is intended to modify, limit, or supersede the operation of the Fair Credit Reporting Act.

- Extends the time period for completion of a study on financial institutions' information-sharing practices from 6 to 18 months from date of enactment.
- Requires that rules for the disclosure of institutions' privacy policies must be issued by regulators within 6 months of the date of enactment. The rules will become effective 6 months after they are required to be prescribed unless the regulators specify a later date.
- Assigns authority for enforcing the subtitle's provisions to the Federal Trade Commission and the Federal banking agencies, the National Credit Union Administration, the Securities and Exchange Commission, according to their respective jurisdictions, and provides for enforcement of the subtitle by the States.

TITLE VI -- FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION

- Banks with less than \$500 million in assets may use long-term advances for loans to small businesses, small farms and small agri-businesses.
- A new, permanent capital structure for the Federal Home Loan Banks is established. Two classes of stock are authorized, redeemable on 6-months and 5-years notice. Federal Home Loan Banks must meet a 5% leverage minimum tied to total capital and a risk-based requirement tied to permanent capital
- Equalizes the stock purchase requirements for banks and thrifts.
- Voluntary membership for Federal savings associations takes effect six months after enactment.
- The current annual \$300 million funding formula for the REFCORP obligations of the Federal Home Loan Banks is changed to 20% of annual net earnings.
- Governance of the Federal Home Loan Banks is decentralized from the Federal Housing Finance Board to the individual Federal Home Loan Banks. Changes include the election of chairperson and vice chairperson of each Federal Home Loan Bank by its directors rather than the Finance Board, and a statutory limit on Federal Home Loan Bank directors' compensation.

TITLE VII -- OTHER PROVISIONS

- Requires ATM operators who impose a fee for use of an ATM by a non-customer to post a notice on the machine that a fee will be charged and on the screen that a fee will be charged and the amount of the fee. This notice must be posted before the consumer is irrevocably committed to completing the transaction. A paper notice issued from the machine may be used in lieu of a posting on the screen. No surcharge may be imposed unless the notices are made and the consumer elects to proceed with the transaction. Provision is made for those older machines that are unable to provide the notices required. Requires a notice when ATM cards are issued that surcharges may be imposed by other parties when transactions are initiated from ATMs not operated by the card issuer. Exempts ATM operators from liability if properly placed notices on the machines are subsequently removed, damaged, or altered by anyone other than the ATM operator.
- Clarifies that nothing in the act repeals any provision of the CRA.
- Requires full public disclosure of all CRA agreements.

- Requires each bank and each non-bank party to a CRA agreement to make a public report each year on how the money and other resources involved in the agreement were used.
- Grants regulatory relief regarding the frequency of CRA exams to small banks and savings and loans (those with no more than \$250 million in assets). Small institutions having received an outstanding rating at their most recent CRA exam shall not receive a routine CRA exam more often than once each 5 years. Small institutions having received a satisfactory rating at their most recent CRA exam shall not receive a routine CRA exam more often than once each 4 years.
- Directs the Federal Reserve Board to conduct a study of the default rates, delinquency rates, and profitability of CRA loans.
- Directs the Treasury, in consultation with the bank regulators, to study the extent to which adequate services are being provided as intended by the CRA.
- Requires a GAO study of possible revisions to S corporation rules that may be helpful to small banks.
- Requires Federal banking regulators to use plain language in their rules published after January 1, 2000.
- Allows Federal savings associations converting to national or State bank charters to retain the term "Federal" in their names.
- Allows one or more thrifts to own a banker's bank.
- Provides for technical assistance to microenterprises (meaning businesses with fewer than 5 employees that lack access to conventional loans, equity, or other banking services). This program will be administered by the Small Business Administration.
- Requires annual independent audits of the financial statements of each Federal Reserve bank and the Board of Governors of the Federal Reserve System.
- Authorizes information sharing among the Federal Reserve Board and Federal or State authorities.
- Requires a GAO study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.
- Requires the Federal banking agencies to conduct a study of banking regulations regarding the delivery of financial services, and recommendations on adapting those rules to online banking and lending activities.
- Protects FDIC resources by restricting claims for the return of assets transferred from a holding company to an insolvent subsidiary bank.
- Provides relief to out-of-State banks generally by allowing them to charge interest rates in certain host states that are no higher than rates in their home states.
- Allows foreign banks generally to establish and operate Federal branches or agencies with the approval of the Federal Reserve Board and the appropriate banking regulator if the branch has been in operation since September 29, 1994 or

the applicable period under appropriate State law.

- Expresses the sense of the Congress that individuals offering financial advice and products should offer such services and products in a nondiscriminatory, nongender-specific manner.
- Permits the Chairman of the Federal Reserve Board and the Chairman of the Securities and Exchange Commission to substitute designees to serve on the Emergency Oil and Gas Guarantee Loan Guarantee Board and the Emergency Steel Loan Guarantee Board.
- Repeals section 11(m) of the Federal Reserve Act, removing the stock collateral restriction on the amount of a loan made by a State bank member of the Federal Reserve System.
- Allows the FDIC to reverse an accounting entry designating about \$1 billion of SAIF dollars to a SAIF special reserve, which would not otherwise be available to the FDIC unless the SAIF designated reserve ratio declines by about 50% and would be expected to remain at that level for more than one year.
- Allow directors serving on the boards of public utility companies to also serve on the boards of banks.