

HR 3951

Financial Services Regulatory Relief Act of 2002

Congress: 107 (2001–2003, Ended)

Chamber: House

Policy Area: Finance and Financial Sector

Introduced: Mar 13, 2002

Current Status: Placed on the Union Calendar, Calendar No. 358.

Latest Action: Placed on the Union Calendar, Calendar No. 358. (Jul 22, 2002)

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Sponsor

Name: Rep. Capito, Shelley Moore [R-WV-2]

Party: Republican • State: WV • Chamber: Senate

Cosponsors (6 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Bachus, Spencer [R-AL-6]	R · AL		Mar 13, 2002
Rep. Oxley, Michael G. [R-OH-4]	R · OH		Mar 13, 2002
Rep. Sandlin, Max [D-TX-1]	D · TX		Mar 13, 2002
Rep. Gillmor, Paul E. [R-OH-5]	R · OH		Mar 20, 2002
Rep. Wamp, Zach [R-TN-3]	R · TN		May 1, 2002
Rep. Baca, Joe [D-CA-42]	D · CA		Jun 26, 2002

Committee Activity

Committee	Chamber	Activity	Date
Financial Services Committee	House	Reported by	May 8, 2002
Judiciary Committee	House	Reported By	Jul 22, 2002

Subjects & Policy Tags

Policy Area:

Finance and Financial Sector

Related Bills

No related bills are listed.

Financial Services Regulatory Relief Act of 2002 - **Title I: National Bank Provisions** - (Sec. 101) Amends the Revised Statutes of the United States (Revised Statutes) to authorize the Comptroller of the Currency to permit an individual to serve as director of a national bank operating as a subchapter S Corporation if the individual holds debt issued by the bank of at least \$1,000 that is subordinated to the interests of bank depositors and general creditors. (Current law requires capital stock ownership in the bank as a prerequisite for service as a director of a subchapter S national bank).

(Sec. 102) Allows cumulative voting by shareholders for directors of a national bank only if authorized by the bank's articles of association (thus repealing the current requirement of cumulative voting).

(Sec. 103) Repeals the statutory formula for determining when lawful national bank dividend declarations may be made (thus allowing national bank directors to declare a dividend of so much of the bank's undivided profits as they judge to be expedient).

(Sec. 104) Amends the Federal Deposit Insurance Act (FDIA) to repeal the requirement that a removal or suspension order issued by the Comptroller of the Currency (Comptroller) regarding an institution-affiliated party is subject to certification of the findings and conclusions of an Administrative Law Judge to the Board of Governors of the Federal Reserve System for final determination whether an order shall issue.

(Sec. 105) Amends the Revised Statutes to repeal the requirement that a national bank, to establish an intrastate branch, meet State capital requirements for new intrastate branches, including capital stock and surplus requirements.

(Sec. 106) Amends the National Bank Consolidation and Merger Act to authorize waiver of publication of notice of a merger between a national bank or a State bank and a national banking association upon unanimous agreement of the shareholders without (as currently required) a Comptroller determination that an emergency exists justifying such waiver. Continues to allow waiver if the Comptroller makes such a determination, even if the shareholders of the State bank or the association do not agree unanimously.

(Sec. 107) Amends the International Banking Act of 1978 to repeal current requirements specifying capital equivalency deposits (CEDs) of a foreign bank that elects to establish and operate a Federal branch or agency. Replaces such requirements with new CED requirements subject to Comptroller determination of the amounts necessary to protect depositors and other investors, consistent with safety and soundness principles. Terminates these new requirements for any State that enacts a similar law or regulation.

(Sec. 108) Revises the prohibition against receipt of deposits by a foreign bank at a Federal agency to limit such prohibition to receipt of deposits from U.S. citizens or residents (thus allowing receipt of foreign source uninsured deposits).

(Sec. 109) Limits the prohibition against foreign bank maintenance of a Federal branch and a Federal agency in the same State to States which prohibit such a maintenance (thus allowing such a maintenance where State law does not forbid it).

**Title II: Savings Association Provisions** - (Sec. 201) Amends the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 to extend their purview to savings associations and a branch or agency of a foreign bank (thereby subjecting them to the same investment adviser and broker-dealer registration requirements as banks).

(Sec. 202) Amends the Home Owners' Loan Act (HOLA) to prescribe guidelines for investments to promote the public welfare by a Federal savings association. Establishes an aggregate limit on investments of five percent of an

association's capital and surplus, unless: (1) the Federal Deposit Insurance Corporation (FDIC) determines a higher amount poses no significant risk to the deposit insurance fund; and (2) the Office of Thrift Supervision (OTS) determines the association is adequately capitalized. Sets a maximum aggregate investment limit of ten percent of capital and surplus.

Repeals the limitation which restricts an investment by a Federal savings association in certain community developments to two percent of assets.

(Sec. 203) Permits a Federal savings association to merge with any nondepository institution affiliate.

(Sec. 204) Repeals: (1) the dividend notice requirement for a savings association subsidiary of a savings and loan holding company (but granting discretionary authority to the OTS Director to require one); and (2) the special rules for purchased mortgage servicing rights.

(Sec. 205) Amends HOLA with respect to regulation of holding companies to repeal the exclusion from the meaning of savings and loan holding company, and to include in the meaning of any company subject to the Act any business trust or any other trust that owns a savings association unless by its terms it must terminate within 25 years or not later than 21 years and ten months after the death of individuals living on the trust's effective date.

(Sec. 207) Permits a Federal savings association to invest in a small business investment company (SBIC) up to five percent (currently only one percent) of its capital and surplus.

(Sec. 208) Permits a Federal savings association to invest in, sell, or otherwise deal in motor vehicle loans and leases acquired for person, family or household purposes without a percentage of assets limitation.

(Sec. 209) Amends the Securities Exchange Act of 1934 to exempt an agent representing one Federal savings association from mandatory State qualification as a securities broker or dealer if the agent sells or offers FDIC-insured certificate of deposit products issued by such association.

(Sec. 210) Amends HOLA to permit a Federal savings association to offer funeral and cemetery-related fiduciary services.

(Sec. 211) Repeals the qualified thrift lender requirements placed upon out-of-State branches of a Federal savings association.

(Sec. 212) Permits a Federal savings association to deal in small business loans without a percentage of assets limitation.

Increases the lending limitation placed upon business loans made by a Federal savings association to 20 percent.

(Sec. 213) Considers a Federal savings association to be a citizen only of the State in which its main office is located for purposes of determining Federal court diversity jurisdiction.

(Sec. 214) Amends the FDIA to prohibit the use of certain judicial doctrines to order the dismissal of certain claims for monetary relief against the United States for actions of the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board before their dissolution, and arising from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or its implementation.

**Title III: Credit Union Provisions** - (Sec. 301) Amends the Federal Home Loan Bank Act to permit a privately insured

credit union to become a Federal Home Loan Bank member if the supervisor of its charter State certifies that it meets all eligibility requirements for Federal deposit insurance.

(Sec. 302) Amends the Federal Credit Union Act (FCUA) to allow military and civilian authorities responsible for buildings erected on Federal property to extend to credit unions that finance the construction of credit union facilities on Federal land real estate leases at minimal charge.

(Sec. 303) Amends FCUA to authorize a credit union to make investment securities for its own account (up to ten percent of its net worth for the total amount of investment securities of any single obligor or maker).

(Sec. 304) Increases the maturity date on Federal Credit Union loans from 12 years to 15 years or longer, as permitted by the National Credit Union Administration (NCUA) Board.

(Sec. 305) Raises the ceiling on an individual Federal credit union's aggregate investment in credit union service organizations from one percent to three percent of its shares and undivided earnings.

(Sec. 306) Excludes loans made to nonprofit religious organizations from the restrictions placed upon member business loans relating to credit union net worth or capitalization standards.

(Sec. 307) Permits a Federal credit union to offer money transfer instruments, including electronic fund transfers, to persons in the field of membership (not only actual members, as currently limited).

(Sec. 308) Provides that the numerical limitation of 3,000 members shall not apply to a Board-approved merger involving multiple voluntary common-bond credit unions.

(Sec. 309) Requires the NCUA Board to prescribe criteria under which it may determine, in the case of a voluntary conversion of a common-bond credit union into a community credit union, that a member group or other portion of a credit union's existing membership, located outside the well-defined local community, neighborhood, or rural district that shall constitute the community charter, can be satisfactorily served by the credit union and remain within the community credit union's field of membership.

(Sec. 310) Authorizes a credit union board, by majority vote of a quorum, to adopt and enforce a policy of expulsion from membership, by majority vote of the whole board, based on just cause, including disruption of credit union operations.

Authorizes a credit union's bylaws to set term limits for credit union board of directors.

Provides that reimbursement for lost wages owing to voluntary service on a credit union board of directors shall not be treated as prohibited compensation.

(Sec. 311) Revises the criteria by which the NCUA Board may determine that an increase in money market interest rates justifies raising the 15 percent per annum interest rate ceiling on the unpaid balance of a loan. Changes the current requirement that: (1) money market interest rates have risen over the preceding six-month period; and (2) prevailing interest rate levels threaten the safety and soundness of individual credit unions. Makes such criteria alternative rather than joint, thus allowing the Board to raise the maximum rate on the basis of either condition instead of on the basis only of both together.

(Sec. 312) Amends the Clayton Act to exempt from its premerger notification and waiting period requirements any mergers among insured credit unions whose transaction value exceeds \$50 million, and which require agency approval

under the FCUA.

**Title IV: Depository Institution Provisions** - (Sec. 401) Amends the Revised Statutes, the FDIA, and the Federal Reserve Act (FRA) to remove certain restrictions on de novo interstate branching by national and State banks, and State member banks (currently State law must expressly permit such branching).

Amends the FDIA to permit: (1) interstate mergers between insured banks of different home States; and (2) interstate fiduciary activity by a State bank or State-chartered trust company if approved by its State bank supervisor.

Amends the National Bank Consolidation and Merger Act to permit a national bank trust company merger with another trust company of a different home State.

(Sec. 402) Amends the National Bank Receivership Act, the FDIA, and the FCUA to authorize a depository institution action for judicial review within 30 days of being placed in receivership or liquidation.

(Sec. 403) Amends the FRA and the Bank Holding Company Act Amendments of 1970 to repeal specified reporting requirements regarding loans to bank executive officers and principal shareholders (insider lending).

(Sec. 404) Amends the Depository Institution Management Interlocks Act to increase from \$20 million to \$100 million the assets of a small depository institution that are exempt from the prohibition against depository institution management interlocks in the same metropolitan statistical area.

(Sec. 405) Declares that the appropriate Federal banking agency may enforce conditions imposed in writing and written agreements in which an institution-affiliated party or controlling shareholder agrees to provide capital to the depository institution. Amends the FDIA to repeal the prohibition placed on claims against a Federal banking agency for the return of certain assets transferred to an undercapitalized insured depository institution.

(Sec. 406) Amends the Bank Service Company Act to permit savings association and bank investments in bank service companies.

(Sec. 407) Amends the FDIA to extend cross guarantee liability to all insured depository institutions commonly controlled by the same company.

(Sec. 408) Amends the FDIA to authorize the Federal Deposit Insurance Corporation to prohibit or limit a nonbank holding company's golden parachute payment or indemnification payments to institution-affiliated parties.

(Sec. 409) Amends the FDIA and the FCUA to mandate that a customer be notified and afforded the opportunity to verify the accuracy of information furnished to a consumer reporting agency that may affect adversely the interests of the customer.

**Title V: Depository Institution Affiliates Provisions** - (Sec. 501) Amends the Bank Holding Company Act of 1956 (BHCA) to permit financial holding companies to cross market their commercial activities if they own or control less than twenty-five percent of the total equity or any class of voting security of a non-financial company.

(Sec. 502) Amends the BHCA to authorize the Federal Reserve Board on case-by-case basis to waive the attribution rule which deems a bank holding company to control any shares of a company held by a trust for the benefit of the bank holding company or its shareholders, members, or employees.

(Sec. 503) Amends the HOLA to remove the geographic limitation placed upon loans and investments made by a savings

association in service corporations.

(Sec. 504) Amends the FDIA guidelines governing maximum annual loan interest rates to include: (1) a credit sale; or (2) any note, bill of exchange, or financing transaction. (Thus permits finance companies to charge the same rates as national and State banks).

**Title VI: Banking Agency Provisions** - (Sec. 601) Amends the FDIA to authorize a Federal banking agency to adjust the examination cycle for an insured depository institution if necessary to allocate available resources of examiners. (Current law mandates annual on-site examinations).

(Sec. 602) Amends Federal criminal law to permit a Federal banking agency employee, including any bank examiner or assistant examiner, to obtain an open end consumer credit card account upon terms and conditions that are no more favorable than those extended to other consumer credit cardholders.

(Sec. 603) Amends the FDIA and the FCUA to authorize interagency data sharing of confidential supervisory information by Federal banking agencies.

(Sec. 604) Amends the FDIA to subject personnel of noninsured national, State, and foreign banks who are convicted of specified crimes to the same penalty for unauthorized participation as personnel of insured banks.

(Sec. 605) Authorizes the FDIC to: (1) destroy records of a depository institution over ten years old when the FDIC is appointed receiver, without regard to a certain six-year period of limitation; and (2) use contemporary electronic copying technology, including computer scanned images, to retain and copy (as original) documents in its possession or custody.

(Sec. 607) Amends the FDIA and the FCUA to grant the appropriate regulatory agency the authority to suspend, remove, or prohibit an institution-affiliated party charged with a felony from participating in the affairs of any depository institution.

(Sec. 608) Repeals the requirement that the agency responsible for reviewing a depository institution merger request reports from all other Federal banking agencies on the competitive factors involved. Retains the requirement that the agency seek competitive factors reports from the Attorney General and the FDIC.

(Sec. 609) Requires the OTS Director to participate and agree jointly with the Federal Reserve Board, the Comptroller, and the FDIC Board in any decision that Federal insurance customer protection law preempts a particular related State law or regulation.

**Title VII: Clerical and Technical Amendments** - (Sec. ) Makes clerical and technical amendments to HOLA and the FCUA.

## Actions Timeline

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- **Jul 22, 2002:** Reported (Amended) by the Committee on Judiciary. H. Rept. 107-516, Part II.
- **Jul 22, 2002:** Reported (Amended) by the Committee on Judiciary. H. Rept. 107-516, Part II.
- **Jul 22, 2002:** Placed on the Union Calendar, Calendar No. 358.
- **Jul 17, 2002:** Committee Consideration and Mark-up Session Held.
- **Jul 17, 2002:** Ordered to be Reported (Amended) by Voice Vote.
- **Jun 18, 2002:** Reported (Amended) by the Committee on 107-516, Part I.
- **Jun 18, 2002:** Reported (Amended) by the Committee on 107-516, Part I.
- **Jun 18, 2002:** Referred sequentially to the House Committee on the Judiciary for a period ending not later than July 22, 2002 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X.
- **Jun 6, 2002:** Committee Consideration and Mark-up Session Held.
- **Jun 6, 2002:** Ordered to be Reported (Amended) by Voice Vote.
- **May 8, 2002:** Subcommittee Consideration and Mark-up Session Held.
- **May 8, 2002:** Forwarded by Subcommittee to Full Committee (Amended) by Voice Vote.
- **Apr 25, 2002:** Subcommittee Hearings Held.
- **Mar 14, 2002:** Referred to the Subcommittee on Financial Institutions and Consumer Credit.
- **Mar 14, 2002:** Subcommittee Hearings Held.
- **Mar 13, 2002:** Introduced in House
- **Mar 13, 2002:** Introduced in House
- **Mar 13, 2002:** Referred to the House Committee on Financial Services.