

## HR 1375

Financial Services Regulatory Relief Act of 2004

**Congress:** 108 (2003–2005, Ended)

**Chamber:** House

**Policy Area:** Finance and Financial Sector

**Introduced:** Mar 20, 2003

**Current Status:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.

**Latest Action:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs. (Mar 22, 2004)

**Official Text:** <https://www.congress.gov/bill/108th-congress/house-bill/1375>

### Sponsor

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

**Party:** Republican • **State:** WV • **Chamber:** Senate

### Cosponsors (11 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Bachus, Spencer [R-AL-6]	R · AL		Mar 20, 2003
Rep. Oxley, Michael G. [R-OH-4]	R · OH		Mar 20, 2003
Rep. Ross, Mike [D-AR-4]	D · AR		Mar 20, 2003
Rep. Hart, Melissa A. [R-PA-4]	R · PA		Apr 7, 2003
Rep. LaTourette, Steven C. [R-OH-14]	R · OH		Apr 7, 2003
Rep. Ney, Robert W. [R-OH-18]	R · OH		Apr 7, 2003
Rep. Royce, Edward R. [R-CA-40]	R · CA		Apr 7, 2003
Rep. Sandlin, Max [D-TX-1]	D · TX		Apr 7, 2003
Rep. Tiberi, Patrick J. [R-OH-12]	R · OH		Apr 7, 2003
Rep. Hensarling, Jeb [R-TX-5]	R · TX		Apr 9, 2003
Rep. Cantor, Eric [R-VA-7]	R · VA		May 8, 2003

### Committee Activity

Committee	Chamber	Activity	Date
Banking, Housing, and Urban Affairs Committee	Senate	Referred To	Mar 22, 2004
Financial Services Committee	House	Reported by	Apr 9, 2003
Judiciary Committee	House	Discharged from	Jul 3, 2003

### Subjects & Policy Tags

#### Policy Area:

Finance and Financial Sector

## Related Bills

Bill	Relationship	Last Action
108 HRES 566	Procedurally related	<b>Mar 18, 2004:</b> Motion to reconsider laid on the table Agreed to without objection.

Financial Services Regulatory Relief Act of 2004 - **Title I: National Bank Provisions** - (Sec. 101) Amends the Revised Statutes of the United States 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. Allows 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 prerequisite to a removal or suspension order by the Comptroller of the Currency concerning an institution-affiliated party requiring a notice to provide for a hearing, and for the findings and conclusions of an Administrative Law Judge have been certified to the Board of Governors of the Federal Reserve System for final determination. (Thus repeals a limitation placed upon the removal authority of the Comptroller).

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

(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 a Comptroller determination that an emergency exists justifying such waiver (as currently required). Continues to allow such waiver if the Comptroller makes such a determination, even if the shareholders of the State bank or the association are not in unanimous agreement.

(Sec. 107) Revises the prohibition against receipt of deposits by a foreign bank at a Federal agency to limit it to receipt of deposits from U.S. citizens or residents. (Thus allows a foreign bank to receive foreign source uninsured deposits at a Federal agency).

(Sec. 108) Restricts the prohibition against foreign bank maintenance of a Federal branch and a Federal agency in the same State to those States that prohibit such a maintenance (thus allowing such maintenance where State law does not forbid it).

(Sec. 109) Amends the Revised Statutes to: (1) authorize Comptroller regulations permitting a national bank to be organized other than as a body corporate (thus permitting an alternative business organization); and (2) declare that the main place of business of a national bank is the location of its main office (a significant factor for Federal diversity jurisdiction).

**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 (thereby subjecting such associations 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 by a Federal savings association to promote the public welfare. Establishes an aggregate limit on investments of five percent of an association's unimpaired 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 its 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 grants discretionary authority to the OTS Director to require one); and (2) the special rules for purchased mortgage servicing rights.

(Sec. 205) Revises HOLA requirements governing holding companies to cover any business trust or any other trust that owns a savings association (unless by its terms the trust terminates 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) Increases from one percent to up to five percent the amount of its capital and assets a Federal savings association may invest in a small business investment company.

(Sec. 208) Permits a Federal savings association to invest in, sell, or otherwise deal in motor vehicle loans and leases for personal, 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 to 20 percent the lending limitation placed upon business loans made by a Federal savings association.

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

**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 real estate leases at minimal charge to credit unions that finance the construction of credit union facilities on Federal land.

(Sec. 303) Amends the FCUA to authorize a credit union, in addition to investments otherwise authorized, 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 (currently limited to actual members).

(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 that 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 constituting 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 credit union 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 loan balance. 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.

(Sec. 313) Amends the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 to treat credit unions

as depository institutions for certain purposes.

**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 and nonmember banks. (Currently State law must expressly permit such branching.)

Amends the FDIA to: (1) permit interstate mergers between insured banks of different home States; (2) permit interstate fiduciary activity by a State bank or State-chartered trust company if approved by its State bank supervisor; and (3) prohibit interstate branching by subsidiaries of commercial firms. Exempts ("grandfathers") specified institutions from the latter prohibition.

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

Amends the FDIA to declare that its guidelines governing treatment of branches in connection with certain interstate merger transactions shall not be construed as authorizing approval of currently proscribed transactions involving an industrial loan company, or certain other institutions.

(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) States 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 regarding a change in bank control to cite conditions under which the appropriate Federal banking agency may extend the period of review and disapproval of a proposed acquisition of an insured depository institution.

**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 FDIA guidelines governing maximum annual loan interest rates to include a credit sale, 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 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 the FDIA and the FCUA to authorize interagency data sharing of confidential supervisory information by Federal banking agencies.

(Sec. 603) 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. 604) 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 records any documents in its possession or custody.

(Sec. 606) 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. 607) Repeals the requirement that the reviewing agency responsible for depository institution mergers must request reports from all other Federal banking agencies on the competitive factors involved. Retains the requirement that such agency seek competitive factors reports from the Attorney General and the FDIC.

(Sec. 608) 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.

(Sec. 609) Amends the International Banking Act of 1978 to cite circumstances that prohibit compulsory disclosure by Federal banking regulators regarding confidential information received from foreign banking supervisors.

(Sec. 610) Amends the FDIA to prohibit convicts from participating in the affairs of either a bank holding company or specified corporations operating under the Federal Reserve Act.

(Sec. 612) Amends the FDIA to impose civil penalties for misrepresentation regarding FDIC deposit insurance coverage.

(Sec. 613) Amends the Federal Home Loan Bank Act to: (1) replace the limitation for Board of Directors' compensation with a mandate to include in the annual report to Congress the compensation and expenses paid by the Federal home

loan banks to the directors on the boards of directors of the banks; and (2) extend the terms of service on the Board from three years to four years.

(Sec. 615) Requires each Federal banking agency to report biennially to Congress on the status of agency employment of minorities and women.

(Sec. 616) Amends the FDIA to revamp requirements governing the coordination of State examination authority.

**Title VII: Business Checking Freedom Act** - Business Checking Freedom Act of 2004 - (Sec.702) Amends Federal law to authorize interest-bearing transaction accounts for all businesses, permitting up to 24 transfers per month to another account of the owner in the same institution (or any greater number the Federal Reserve Board may determine).

(Sec. 703) Amends the Federal Reserve Act, the Home Owners' Loan Act, and the Federal Deposit Insurance Act to repeal the prohibition against the payment of interest on demand deposits effective two years from the date of enactment.

(Sec. 704) Authorizes the payment of interest on reserves by a Federal reserve bank at least quarterly on balances maintained there on behalf of a depository institution.

Amends the Federal Reserve Act to require the Board to survey annually and report to Congress on bank fees and services including: (1) checking and other transaction accounts; (2) negotiable order of withdrawal and savings accounts; (3) automated teller machine transactions; and (4) other electronic transactions. Sets forth minimum survey requirements for each such account or transaction. Requires the survey to address minimum balance requirements as well as fees.

Requires the Board to report annually to Congress on the survey results.

Amends the Truth in Lending Act to detail the credit card price and availability information that the Board is required to collect on a semi-annual basis.

Amends the Federal Reserve Act to repeal the requirement that Federal Reserve Banks maintain certain supplemental reserves in an Earnings Participation Account.

Amends the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, to repeal certain reporting requirements.

(Sec. 705) Amends the Federal Reserve Act to revise the ratio of reserves a depository institution must maintain against its transaction accounts. Permits a zero reserve ratio.

(Sec.706) Directs the Federal reserve banks to deposit additional surplus funds into the general fund of the Treasury to cover interest payments for FY 2003 through 2007.

Precludes such banks, during FY 2003 through 2007, from replenishing their respective surplus funds by the amount of any such transfer made to cover interest payments.

**Title VIII: Clerical and Technical Amendments** - (Sec. 804 ) Amends the BHCA to repeal the exclusion of certain savings banks and the Investors Fiduciary Trust Company of Kansas City, Missouri, from the meaning of "bank" covered by the Act (thus subjecting them to BHCA jurisdiction). Removes qualified savings banks from definition and coverage by the Act.

## Actions Timeline

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- **Mar 22, 2004:** Received in the Senate and Read twice and referred to the Committee on Banking, Housing, and Urban Affairs.
- **Mar 18, 2004:** Rule H. Res. 566 passed House.
- **Mar 18, 2004:** Considered under the provisions of rule H. Res. 566. (consideration: CR H1234-1241, H1274; text of measure as reported in House: CR H1251-1262)
- **Mar 18, 2004:** Rule provides for consideration of H.R. 1375 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order.
- **Mar 18, 2004:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 566 and Rule XVIII.
- **Mar 18, 2004:** The Speaker designated the Honorable Ray LaHood to act as Chairman of the Committee.
- **Mar 18, 2004:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 1375.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566 the Committee of the Whole proceeded with twenty minutes of debate on the Oxley amendment.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566 the Committee of the Whole proceeded with ten minutes of debate on the Waters amendment.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566 the Committee of the Whole proceeded with ten minutes of debate on the Bachus amendment.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566 the Committee of the Whole proceeded with ten minutes of debate on the Weiner amendment.
- **Mar 18, 2004:** POSTPONED VOTE - At the conclusion of debate on the Weiner amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Mr. Weiner demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566 the Committee of the Whole proceeded with ten minutes of debate on the Jackson-Lee amendment.
- **Mar 18, 2004:** POSTPONED VOTE - At the conclusion of debate on the Jackson-Lee amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the noes had prevailed. Ms. Jackson-Lee demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 18, 2004:** DEBATE - Pursuant to House Resolution 566, the Committee of the Whole proceeded with ten minutes of debate on the Kelly amendment.
- **Mar 18, 2004:** POSTPONED VOTE - At the conclusion of debate on the Kelly amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Mrs. Kelly deanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until later in the legislative day.
- **Mar 18, 2004:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 1375.
- **Mar 18, 2004:** Passed/agreed to in House: On passage Passed by the Yeas and Nays: 392 - 25 (Roll no. 69).
- **Mar 18, 2004:** On passage Passed by the Yeas and Nays: 392 - 25 (Roll no. 69).
- **Mar 18, 2004:** Motion to reconsider laid on the table Agreed to without objection.
- **Mar 17, 2004:** Rules Committee Resolution H. Res. 566 Reported to House. Rule provides for consideration of H.R. 1375 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order.
- **Mar 16, 2004:** Supplemental report filed by the Committee on Financial Services, H. Rept. 108-152, Part III.
- **Jul 14, 2003:** Reported (Amended) by the Committee on Judiciary. H. Rept. 108-152, Part II.
- **Jul 14, 2003:** Placed on the Union Calendar, Calendar No. 113.
- **Jul 9, 2003:** Committee Consideration and Mark-up Session Held.
- **Jul 9, 2003:** Ordered to be Reported (Amended) by Voice Vote.
- **Jul 3, 2003:** Subcommittee on Commercial and Administrative Law Discharged.
- **Jun 25, 2003:** Referred to the Subcommittee on Commercial and Administrative Law.

- Jun 12, 2003:** Reported (Amended) by the Committee on Financial Services. H. Rept. 108-152, Part I.
- **Jun 12, 2003:** Referred sequentially to the House Committee on the Judiciary for a period ending not later than July 14, 2003 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.
  - **May 21, 2003:** Committee Consideration and Mark-up Session Held.
  - **May 21, 2003:** Ordered to be Reported (Amended) by Voice Vote.
  - **Apr 9, 2003:** Subcommittee Consideration and Mark-up Session Held.
  - **Apr 9, 2003:** Forwarded by Subcommittee to Full Committee (Amended) by Voice Vote.
  - **Mar 27, 2003:** Referred to the Subcommittee on Financial Institutions and Consumer Credit.
  - **Mar 27, 2003:** Subcommittee Hearings Held.
  - **Mar 20, 2003:** Introduced in House
  - **Mar 20, 2003:** Referred to the House Committee on Financial Services.

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