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prepared by Robert J. Pfister for ease of reading and copying/pasting.
The authoritative text is the United States Statutes at Large.**

One Hundred Sixth Congress, Session II
Public Law 106-554 — 114 Stat. 2763 (H.R. 4577)
December 21, 2000

AN ACT *Making consolidated appropriations for the fiscal year ending September 30, 2001, 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. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:

(1) H.R. 5656, as introduced on December 14, 2000.

(2) H.R. 5657, as introduced on December 14, 2000.

(3) H.R. 5658, as introduced on December 14, 2000.

(4) H.R. 5666, as introduced on December 15, 2000, except that the text of H.R. 5666, as so enacted, shall not include section 123 (relating to the enactment of H.R. 4904).

(5) H.R. 5660, as introduced on December 14, 2000.

(6) H.R. 5661, as introduced on December 14, 2000.

(7) H.R. 5662, as introduced on December 14, 2000.

(8) H.R. 5663, as introduced on December 14, 2000.

(9) H.R. 5667, as introduced on December 15, 2000.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end appendixes setting forth the texts of the bills referred to in subsection (a) of this section and the text of any other bill enacted into law by reference by reason of the enactment of this Act.

SEC. 2. (a) Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, legislation enacted in section 505 of the Department of Transportation and Related Agencies Appropriations Act, 2001, section 312 of the Legislative Branch Appropriations Act, 2001, titles X and XI of H.R. 5548 (106th Congress) as enacted by H.R. 4942 (106th Congress), division B of H.R. 5666 (106th Congress) as enacted by this Act, and sections 1(a)(5) through 1(a)(9) of this Act that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) In preparing the final sequestration report required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2001, in addition to the information required by that section, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal year 2001 under section 252 of that Act to zero.

(c) This Act may be cited as the "Consolidated Appropriations Act, 2001".

APPROVED December 21, 2000.

[114 Stat. 2763A-1 to 2763A-392 omitted (392 pages)]

State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

"(2) POWERS.—The conservator or receiver for an uninsured State member bank referred to in paragraph (1) shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(b) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed under subsection (a), and the uninsured State member bank for which the conservator or receiver has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

"(c) BANKRUPTCY PROCEEDINGS.—The Board (in the case of an uninsured State member bank which operates, or operates as, such a multilateral clearing organization) may direct a conservator or receiver appointed for the bank to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the bank in lieu of otherwise applicable Federal or State insolvency law.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 11, UNITED STATES CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking "; or" and inserting the following: ", except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing

organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or".

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

"(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor under chapter 11 of this title.".

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

"(22) the term 'financial institution'—

"(A) means—

"(i) a Federal reserve bank or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator, or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, the customer; or

"(ii) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940; and

"(B) includes any person described in subparagraph (A) which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991;".

(4) DEFINITION OF UNINSURED STATE MEMBER BANK.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (54) the following new paragraph—

"(54A) the term 'uninsured State member bank' means a State member bank (as defined in section 3 of the Federal Deposit Insurance Act) the deposits of which are not insured by the Federal Deposit Insurance Corporation; and".

(5) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following new subsection:

"(e) SCOPE OF APPLICATION.—Subchapter V of chapter 7 of this title shall apply only in a case under such chapter concerning the liquidation of an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(B) CLEARING BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—CLEARING BANK LIQUIDATION

"§ 781. Definitions

"For purposes of this subchapter, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(3) CLEARING BANK.—The term 'clearing bank' means an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"§ 782. Selection of trustee

"(a) IN GENERAL.—

"(1) APPOINTMENT.—Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Board designates an alternative trustee.

"(2) SUCCESSOR.—The Board may designate a successor trustee if required.

"(b) AUTHORITY OF TRUSTEE.—Whenever the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Board in the same way and to the same extent that they apply to a United States trustee.

"§ 783. Additional powers of trustee

"(a) DISTRIBUTION OF PROPERTY NOT OF THE ESTATE.—The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and IV of this chapter.

"(b) DISPOSITION OF INSTITUTION.—The trustee under this subchapter may, after notice and a hearing—

"(1) sell the clearing bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the clearing bank among the consortium);

"(2) merge the clearing bank with a depository institution;

"(3) transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

"(4) transfer assets or liabilities to a depository institution; and

"(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), and (6) of section 11(n) of the Federal Deposit Insurance Act, paragraphs (9) through (13) of such section, and subparagraphs (A) through (H) and subparagraph (K) of paragraph (4) of such section 11(n), except that—

"(A) the bridge bank to which such assets or liabilities are transferred shall be treated as a clearing bank for the purpose of this subsection; and

"(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

"(c) CERTAIN TRANSFERS INCLUDED.—Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

"§ 784. Right to be heard

"The Board or a Federal reserve bank (in the case of a clearing bank that is a member of that bank) may raise and may appear and be heard on any issue in a case under this subchapter.".

(6) DEFINITIONS OF CLEARING ORGANIZATION, CONTRACT MARKET, AND RELATED DEFINITIONS.—

(A) Section 761(2) of title 11, United States Code, is amended to read as follows:

"(2) 'clearing organization' means a derivatives clearing organization registered under the Act;".

(B) Section 761(7) of title 11, United States Code, is amended to read as follows:

"(7) 'contract market' means a registered entity;".

(C) Section 761(8) of title 11, United States Code, is amended to read as follows:

"(8) 'contract of sale', 'commodity', 'derivatives clearing organization', 'future delivery', 'board of trade', 'registered entity', and 'futures commission merchant' have the meanings assigned to those terms in the Act;".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER V—CLEARING BANK LIQUIDATION

"Sec.

"781. Definitions.
"782. Selection of trustee.
"783. Additional powers of trustee.
"784. Right to be heard.".

(e) RESOLUTION OF EDGE ACT CORPORATIONS.—The 16th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

"(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

"(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

"(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a

petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.".

(f) DERIVATIVES CLEARING ORGANIZATIONS.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 5a, as added by section 111 of this Act, the following:

"SEC. 5b. DERIVATIVES CLEARING ORGANIZATIONS.

"(a) REGISTRATION REQUIREMENT.—It shall be unlawful for a derivatives clearing organization, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization described in section 1a(9) of this Act with respect to a contract of sale of a commodity for future delivery (or option on such a contract) or option on a commodity, in each case unless the contract or option—

[114 Stat. 2763A-397 to 2763A-664 omitted (268 pages)]

"(iii) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 percent of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(B) ADJUSTMENTS.—

"(i) IN GENERAL.—The dollar amounts in clauses (i), (ii), and (iii) of subparagraph (A) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

"(ii) INITIAL ADJUSTMENTS.—The initial adjustments made under this subparagraph after the date of the enactment of the Small Business Reauthorization Act of 1937 shall reflect only increases from March 31, 1993.

"(C) INVESTMENTS IN LOW-INCOME GEOGRAPHIC AREAS.—In calculating the outstanding leverage of a company for the purposes of subparagraph (A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low-income geographic area (as defined in section 351), to the extent that the total of such amounts does not exceed 50 percent of the company's private capital.".

(2) MAXIMUM AGGREGATE LEVERAGE.—Section 303(b)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(4)) is amended by adding at the end the following new subparagraph:

"(D) INVESTMENTS IN LOW-INCOME GEOGRAPHIC AREAS.—In calculating the aggregate outstanding leverage of a company for the purposes of subparagraph (A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low-income geographic area (as defined in section 351), to the extent that the total of such amounts does not exceed 50 percent of the company's private capital.".

(e) BANKRUPTCY EXEMPTION FOR NEW MARKETS VENTURE CAPITAL COMPANIES.—Section 109(b)(2) of title 11, United States Code, is amended by inserting "a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958," after "homestead association,".

(f) FEDERAL SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following:

> "(F) NEW MARKETS VENTURE CAPITAL COMPANIES.—A Federal savings association may invest in stock, obligations, or other securities of any New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 5 percent of the capital and surplus of such savings association.".

[114 Stat. 2763A-666 to 2763A-710 omitted (45 pages)]