"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7.5 miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations.".

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska.".

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

Regulations.
8 USC 1288 note.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

Approved December 17, 1993.

LEGISLATIVE HISTORY—H.R. 2840:

HOUSE REPORTS: No. 103-286 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 139 (1993):
Oct. 12, considered and passed House.
Nov. 20, considered and passed Senate, amended.
Nov. 22, House concurred in Senate amendment.

Public Law 103-199
103d Congress

An Act

For reform in emerging new democracies and support and help for improved partnership with Russia, Ukraine, and other new independent states of the former Soviet Union.

Dec. 17, 1993
[H.R. 3000]

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

Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States.
FRIENDSHIP Act.
Foreign relations.
22 USC 5801 note.

SECTION 1. SHORT TITLES.

This Act may be cited as the "Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States" or as the "FRIENDSHIP Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

22 USC 5801 note.

SEC. 3. DEFINITION.

As used in this Act (including the amendments made by this Act), the terms "independent states of the former Soviet Union" and "independent states" have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5801).

TITLE I—POLICY OF FRIENDSHIP AND COOPERATION

22 USC 5801 note.

SEC. 101. STATEMENT OF PURPOSE.

The purpose of this Act is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and the Russian Federation, Ukraine, and the other independent states of the former Soviet Union. All of the statutory provisions amended or repealed by this Act were relevant and appropriate at the time of enactment, but with the end of the Cold War, they have become obsolete. It is not the purpose of this Act to rewrite or erase history, or to forget those who suffered in the past from the injustices or repression of communist regimes in the Soviet Union, but rather to update United States law to reflect changed international circumstances and to demonstrate for reformers and democrats in the independent states of the former Soviet Union the resolve of the people of the United States to support the process of democratic and economic reform and to conduct business with those states in a new spirit of friendship and cooperation.

22 USC 5801 note.

SEC. 102. FINDINGS.

The Congress finds and declares as follows:

(1) The Vancouver Declaration issued by President Clinton and President Yeltsin in April 1993 marked a new milestone in the development of the spirit of cooperation and partnership

between the United States and Russia. The Congress affirms its support for the principles contained in the Vancouver Declaration.

(2) The Vancouver Declaration underscored that—

(A) a dynamic and effective partnership between the United States and Russia is vital to the success of Russia's historic transformation;

(B) the rapid integration of Russia into the community of democratic nations and the world economy is important to the national interest of the United States; and

(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protection of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

(3) The Congress enacted the FREEDOM Support Act (Public Law 102–511), as well as other legislation such as the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228) and the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484), to help meet the historic opportunities and challenges presented by the transformation that has taken place, and is continuing to take place, in what once was the Soviet Union.

(4) The process of reform in Russia, Ukraine, and the other independent states of the former Soviet Union is ongoing. The holding of a referendum in Russia on April 25, 1993, that was free and fair, and that reflected the support of the Russian people for the process of continued and strengthened democratic and economic reform, represents an important and encouraging hallmark in this ongoing process.

(5) There remain in force many United States laws that are relics of the Cold War, and repeals or revisions of these provisions can play an important role in efforts to foster and strengthen the bonds of trust and friendship, as well as mutually beneficial trade and economic relations, between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union.

SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

22 USC 5801 note.

(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations

that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

(1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316),

(2) sections 136 and 804 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93),

(3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411),

(4) the Multilateral Export Control Enhancement Amendments Act (50 U.S.C. 2410 note, et seq.),

(5) the joint resolution providing for the designation of "Captive Nations Week" (Public Law 86–90),

(6) the Communist Control Act of 1954 (Public Law 83–637),

(7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3),

(8) section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East", approved March 9, 1957 (Public Law 85–7), and

(9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),

should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.

TITLE II—TRADE AND BUSINESS RELATIONS

SEC. 201. POLICY UNDER EXPORT ADMINISTRATION ACT.

(a) CONFORMING AMENDMENTS.—Section 2 of the Export Administration Act of 1979 (50 U.S.C. App. 2401) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively.

50 USC app. 2402 note.

(b) POLICY REGARDING KAL.—

(1) The Congress finds that—

(A) President Yeltsin should be commended for meeting personally with representatives of the families of the victims of the shootdown of Korean Airlines (KAL) Flight 7;

(B) President Yeltsin's Government has met on two separate occasions with United States Government and family members to answer questions associated with the shootdown and has arranged for the families to interview Russians involved in the incident or the search and rescue operations that followed;

(C) President Yeltsin's Government has also cooperated fully with the International Civil Aviation Organization (ICAO) to allow it to complete its investigation of the

incident and has provided numerous materials requested by the ICAO, including radar data and so-called "black boxes", the digital flight data and cockpit voice recorders from the flight;

(D) the Export Administration Act of 1979 continues to state that the United States should continue to object to exceptions to the International Control List for the Union of Soviet Socialist Republics in light of the KAL tragedy, even though the "no exceptions" policy was rescinded by President Bush in 1990;

(E) the Government of the United States is seeking compensation from the Russian Government on behalf of the families of the KAL victims, and the Congress expects the Administration to continue to pursue issues related to the shootdown, including that of compensation, with officials at the highest level of the Russian Government; and

(F) in view of the cooperation provided by President Yeltsin and his government regarding the KAL incident and these other developments, it is appropriate to remove such language from the Export Administration Act of 1979.

(2) Section 3(15) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(15)) is repealed.

SEC. 202. REPRESENTATION OF COUNTRIES OF EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION IN LEGAL COMMERCIAL TRANSACTIONS.

Reports.

Section 951(e) of title 18, United States Code, is amended by striking "the Soviet Union" and all that follows through "or Cuba" and inserting "Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section".

SEC. 203. PROCEDURES REGARDING TRANSFERS OF CERTAIN DEPARTMENT OF DEFENSE-FUNDED ITEMS.

(a) LIMITATION ON CERTAIN MILITARY TECHNOLOGY TRANSFERS.—(1) Section 223 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 2431 note) is amended to read as follows:

"SEC. 223. LIMITATION ON TRANSFER OF CERTAIN MILITARY TECHNOLOGY TO INDEPENDENT STATES OF THE FORMER SOVIET UNION.

President.

"Military technology developed with funds appropriated or otherwise made available for the Ballistic Missile Defense Program may not be transferred (or made available for transfer) to Russia or any other independent state of the former Soviet Union by the United States (or with the consent of the United States) unless the President determines, and certifies to the Congress at least 15 days prior to any such transfer, that such transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace.".

(2) Section 6 of that Act is amended by amending the item in the table of contents relating to section 223 to read as follows:

"Sec. 223. Limitation on transfer of certain military technology to independent states of the former Soviet Union.".

(b) REPEAL OF OBSOLETE PROVISION.—Section 709 of the Department of Defense Appropriations Authorization Act, 1975 (50 U.S.C. App. 2403–1) is repealed.

SEC. 204. SOVIET SLAVE LABOR.

(a) REPEAL.—Section 1906 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 1307 note) is repealed.

102 Stat. 1107.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1906.

TITLE III—CULTURAL, EDUCATIONAL, AND OTHER EXCHANGE PROGRAMS

SEC. 301. MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961.

The Mutual Educational and Cultural Exchange Act of 1961 is amended—

(1) in section 112(a)(8) (22 U.S.C. 2460(a)(8)), by striking "Soviet Union" both places it occurs and inserting "independent states of the former Soviet Union"; and

(2) in section 113 (22 U.S.C. 2461)—

(A) by amending the section caption to read "EXCHANGES BETWEEN THE UNITED STATES AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—";

(B) by striking "an agreement with the Union of Soviet Socialist Republics" and inserting "agreements with the independent states of the former Soviet Union";

(C) by striking "made by the Soviet Union" and inserting "made by the independent states";

(D) by striking "and the Soviet Union" and inserting "and the independent states"; and

(E) by striking "by Soviet citizens in the United States" and inserting "in the United States by citizens of the independent states".

SEC. 302. SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING.

The Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4501–4508) is amended—

(1) by amending the title heading to read "**TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION**";

22 USC 4501 note.

(2) in section 801, by striking "Soviet-Eastern European Research and Training" and inserting "Research and Training for Eastern Europe and the Independent States of the Former Soviet Union";

22 USC 4501.

(3) in paragraphs (1), (2), and (3)(E) of section 802, by striking "Soviet Union and Eastern European countries" and inserting "countries of Eastern Europe and the independent states of the former Soviet Union";

22 USC 4502.

(4) in section 803(2), by striking "Soviet-Eastern European Studies Advisory Committee" and inserting "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union";

22 USC 4503.

(5) in section 804—

(A) in the section heading by striking "THE SOVIET-EASTERN EUROPEAN STUDIES";

(B) in subsection (a), by striking "Soviet-Eastern European Studies Advisory Committee" and inserting "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union"; and

(C) in subsection (d), by striking "Soviet and Eastern European countries" and inserting "the countries of Eastern Europe and the independent states of the former Soviet Union"; and

(6) in section 805(b)— 22 USC 4504.

(A) in paragraphs (2)(A), (2)(B), and (6), by striking "Soviet and Eastern European studies" and inserting "studies on the countries of Eastern Europe and the independent states of the former Soviet Union";

(B) in paragraphs (3)(A) and (3)(B), by striking "fields of Soviet and Eastern European studies and related studies" and inserting "independent states of the former Soviet Union and the countries of Eastern Europe and related fields";

(C) in paragraph (3)(A) by striking "the Soviet Union and Eastern European countries" and inserting "those states and countries";

(D) in paragraph (4)—

(i) by striking "Union of Soviet Socialist Republics" the first place it appears and inserting "independent states of the former Soviet Union", and

(ii) by striking "the Union of Soviet Socialist Republics and Eastern European countries" and inserting "those states and countries"; and

(E) in paragraph (5)—

(i) by striking everything in the first sentence following "support" and inserting "training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe."; and

(ii) in the last sentence by inserting immediately before the period "and, as appropriate, studies of other languages of the independent states of the former Soviet Union".

SEC. 303. FASCELL FELLOWSHIP ACT.

Section 1002 of the Fascell Fellowship Act (22 U.S.C. 4901) is amended in the section heading by striking "IN THE SOVIET UNION AND EASTERN EUROPE" and inserting "ABROAD".

SEC. 304. BOARD FOR INTERNATIONAL BROADCASTING ACT.

(a) BALTIC DIVISION.—Section 307 of the Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III of Public Law 98-164; 97 Stat. 1037) is repealed.

(b) JAMMING OF BROADCASTS.—Section 308 of that Act (97 Stat. 1037) is amended—

(1) by striking "(a) The" and all that follows through "(b) It" and inserting "It"; and

(2) by striking "Government of the Soviet Union" and inserting "government of any country engaging in such activities".

SEC. 305. SCHOLARSHIP PROGRAMS FOR DEVELOPING COUNTRIES.

Section 602 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4702) is amended by striking paragraphs (6) and (7) and by redesignating paragraphs (8), (9), and (10) as paragraphs (6), (7), and (8), respectively.

SEC. 306. REPORT ON SOVIET PARTICIPANTS IN CERTAIN EXCHANGE PROGRAMS.

22 USC 2458 note.

Section 126 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 102–138; 96 Stat. 282) is repealed.

TITLE IV—ARMS CONTROL

SEC. 401. ARMS CONTROL AND DISARMAMENT ACT.

(a) REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES.—Section 38 of the Arms Control and Disarmament Act (22 U.S.C. 2578) is amended by striking "United States-Union of Soviet Socialist Republics".

(b) LANGUAGE SPECIALISTS.—Section 51 of that Act (22 U.S.C. 2591) is amended—

(1) by amending the section heading to read "SPECIALISTS FLUENT IN RUSSIAN OR OTHER LANGUAGES OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION";

(2) by striking "Soviet foreign and military policies" and inserting "the foreign and military policies of the independent states of the former Soviet Union"; and

(3) by inserting "or another language of the independent states of the former Soviet Union" after "Russian language".

(c) COMPLIANCE WITH AGREEMENTS.—Section 52 of that Act (22 U.S.C. 2592) is amended—

(1) in paragraph (1), by striking "the Soviet Union" both places it appears and inserting "Russia";

(2) in paragraph (3), by striking "Soviet adherence" and inserting "Russian adherence" and by striking "the Soviet Union" and inserting "Russia"; and

(3) in paragraph (5), by striking "the Soviet Union" and inserting "Russia".

(d) ON-SITE INSPECTION AGENCY.—Section 61(4) of that Act (22 U.S.C. 2595(4)) is amended—

(1) in subparagraph (A), by striking "the Soviet Union, Czechoslovakia, and the German Democratic Republic" and inserting "Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany";

(2) in subparagraph (B), by striking "Soviet";

(3) in subparagraph (C), by striking "the Soviet Union" and inserting "Russia"; and

(4) in subparagraph (D), by striking "Soviet".

SEC. 402. ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended—

(1) in section 94(b)(3)(B) (22 U.S.C. 2799c(b)(3)(B)), by striking "Warsaw Pact country" and inserting "country of the Eastern Group of States Parties"; and

(2) in section 95(5) (22 U.S.C. 2799d(5))—

(A) by striking "Warsaw Pact country" and inserting "country of the Eastern Group of States Parties"; and

(B) by inserting before the period at the end "or a successor state to such a country".

SEC. 403. ANNUAL REPORTS ON ARMS CONTROL MATTERS.

(a) SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS.—(1) Section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1002.

(b) ARMS CONTROL STRATEGY.—(1) Section 906 of the National Defense Authorization Act, Fiscal Year 1989 (22 U.S.C. 2592b) is repealed.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 906. 102 Stat. 1918.

(c) ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION.—(1) Section 907 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2034) is repealed.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 907.

SEC. 404. UNITED STATES/SOVIET DIRECT COMMUNICATION LINK.

(a) CHANGING REFERENCES.—The joint resolution entitled "Joint Resolution authorizing the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services necessary for an improved United States/Soviet Direct Communication Link for crisis control," approved August 8, 1985 (10 U.S.C. 113 note) is amended—

(1) in the first section— 10 USC 113 note.

(A) by striking "to the Soviet Union" both places it appears and inserting "to Russia"; and

(B) by striking "Soviet Union part" and inserting "Russian part"; and

(2) in section 2(b), by striking "the Soviet Union" and inserting "Russia". 10 USC 113 note.

(b) SAVINGS PROVISION.—The amendment made by subsection (a)(2) does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union. 10 USC 113 note.

TITLE V—DIPLOMATIC RELATIONS

SEC. 501. PERSONNEL LEVELS AND LIMITATIONS.

(a) PERSONNEL CEILING ON UNITED STATES AND SOVIET MISSIONS.—Section 602 of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101-193; 103 Stat. 1710) is repealed.

(b) REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.—(1) Section 154 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1353) is repealed.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 154. 101 Stat. 1331.

(c) REPORT ON ADMISSION OF CERTAIN ALIENS.—Section 501 of the Intelligence Authorization Act, Fiscal Year 1988 (22 U.S.C. 254c-2) is repealed.

(d) SOVIET MISSION AT THE UNITED NATIONS.—Section 702 of the Intelligence Authorization Act for Fiscal Year 1987 (22 U.S.C. 287 note) is repealed.

(e) DIPLOMATIC EQUIVALENCE AND RECIPROCITY.—(1) Section 813 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 455) is repealed.

99 Stat. 405.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 813.

SEC. 502. OTHER PROVISIONS RELATED TO OPERATION OF EMBASSIES AND CONSULATES.

(a) CONSTRUCTION OF DIPLOMATIC FACILITIES.—Section 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 662) is amended—

(1) by repealing subsections (a) through (d) and subsections (h) through (j); and

(2) in subsection (e)—

(A) by striking "(e) EXTRAORDINARY SECURITY SAFEGUARDS.—";

(B) by striking "(1) In" and inserting "(a) EXTRAORDINARY SECURITY SAFEGUARDS.—In" and by striking "(2) Such" and inserting "(b) SAFEGUARDS TO BE INCLUDED.—Such";

(C) by setting subsections (a) and (b), as so redesignated, on a full measure margin; and

(D) in subsection (b), as so redesignated—

(i) by striking "paragraph (1)" and inserting "subsection (a)"; and

(ii) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively, and by setting such redesignated paragraphs on a 2-em indention.

(b) POSSIBLE MOSCOW EMBASSY SECURITY BREACH.—(1) Section 133 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 665) is repealed.

105 Stat. 647.

(2) Section 2 of that Act is amended by striking the item in the table of contents relating to section 133.

(c) UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.—(1) Section 134 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4301 note) is repealed.

104 Stat. 15.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 134.

(d) REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.—(1) Section 1232 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2056) is repealed.

102 Stat. 1918.

(2) Section 3 of that Act is amended by striking the item in the table of contents relating to section 1232.

(e) DIPLOMATIC RECIPROCITY.—(1) Sections 151 through 153 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1351) are repealed.

22 USC 4301 note.

101 Stat. 1331.

(2) Section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 151 through 153.

(f) ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE.—(1) Section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1149) is repealed.

101 Stat. 1020.

(2) Section 6 of that Act is amended by striking the item in the table of contents relating to section 1122.

(g) ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITIES.—Section 901 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100–178; 101 Stat. 1017) is repealed.

(h) FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES.—Section 1364 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4001) is amended by—

(1) repealing subsections (a) and (c); and

(2) striking "(b) CONGRESSIONAL POLICY.—".

SEC. 503. FOREIGN SERVICE BUILDINGS ACT.

Section 4(j) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 295(j)) is repealed.

TITLE VI—OCEANS AND THE ENVIRONMENT

SEC. 601. ARCTIC RESEARCH AND POLICY ACT.

Section 102(a) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4101(a)) is amended—

(1) in paragraph (2), by striking "as" and all that follows through the comma; and

(2) in paragraph (10), by striking ", particularly the Soviet Union,".

SEC. 602. FUR SEAL MANAGEMENT.

The Act of November 2, 1966, commonly known as the Fur Seal Act of 1966, is amended—

(1) in section 101(h) (16 U.S.C. 1151(h)), by striking "the Union of Soviet Socialist Republics" and inserting "Russia (except that as used in subsection (b) of this section, 'party' and 'parties' refer to the Union of Soviet Socialist Republics)"; and

(2) in section 102 (16 U.S.C. 1152), by striking "the Union of Soviet Socialist Republics" and inserting "Russia".

SEC. 603. GLOBAL CLIMATE PROTECTION.

The Global Climate Protection Act of 1987 (title XI of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; 15 U.S.C. 2901 note) is amended—

(1) in section 1106— 15 USC 2901 note.

(A) by striking "UNITED STATES-SOVIET RELATIONS" in the section heading and inserting "UNITED STATES RELATIONS WITH THE INDEPENDENT STATES OF THE FORMER SOVIET UNION";

(B) by striking "Soviet Union" and inserting "independent states of the former Soviet Union";

(C) by striking "their joint role as the world's two major" and inserting "the extent to which they are"; and

(D) by striking "United States-Soviet relations" and inserting "United States relations with the independent states"; and

(2) in section 1(b), in the item in the table of contents relating to section 1106, by striking "United States-Soviet relations" and inserting "United States relations with the independent states of the former Soviet Union". 101 Stat. 1331.

TITLE VII—REGIONAL AND GENERAL DIPLOMATIC ISSUES

SEC. 701. UNITED NATIONS ASSESSMENTS.

Section 717 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1549) is amended—

(1) in the section heading by striking "OF THE SOVIET UNION";

(2) in subsection (a)—

(A) in paragraph (2), by inserting "and" after the semicolon;

(B) in paragraph (3) by striking "; and" and inserting a period; and

(C) by striking paragraph (4); and

(3) in subsection (b), by striking "a diplomatic" and all that follows through "including its", and inserting "appropriate diplomatic initiatives to ensure that members of the United Nations make payments of all their outstanding financial obligations to the United Nations, including their".

SEC. 702. SOVIET OCCUPATION OF AFGHANISTAN.

(a) REPEAL.—Section 1241 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1420) is repealed.

101 Stat. 1331.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1241.

22 USC 2293 note.

SEC. 703. ANGOLA.

Section 405 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2293 note) is repealed.

SEC. 704. SELF DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES.

Paragraph (1) of section 1206 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is amended by striking "from the Soviet Union".

SEC. 705. OBSOLETE REFERENCES IN FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended—

(1) in section 501 (22 U.S.C. 2301)—

(A) in the second undesignated paragraph by striking "international communism and the countries it controls" and inserting "hostile countries";

(B) in the fourth undesignated paragraph, by striking "Communist or Communist-supported"; and

(C) in the fifth undesignated paragraph, by striking everything following "victims of" and inserting "aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.";

(2) in section 614(a)(4)(C) (22 U.S.C. 2364(a)(4)(C)), by striking "Communist or Communist-supported"; and

(3) in section 620(h) (22 U.S.C. 2370(h)), by striking "the Communist-bloc countries" and inserting "any country that is a Communist country for purposes of subsection (f)".

SEC. 706. REVIEW OF UNITED STATES POLICY TOWARD THE SOVIET UNION.

Section 24 of the International Security Assistance Act of 1978 (22 U.S.C. 2151 note) is repealed.

TITLE VIII—INTERNAL SECURITY; WORLDWIDE COMMUNIST CONSPIRACY

SEC. 801. CIVIL DEFENSE.

(a) IN GENERAL.—Except as provided in paragraph (2), section 501(b)(2) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2301(b)) is amended by striking the first comma and all that follows through "stability,".

(b) EXCEPTION.—The amendment made by subsection (a) shall not apply if, before the date of enactment of this Act, title V of the Federal Civil Defense Act of 1950 has been repealed.

SEC. 802. REPORT ON SOVIET PRESS MANIPULATION IN THE UNITED STATES.

(a) REPEAL.—Section 147 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 426) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 147. 99 Stat. 405.

SEC. 803. SUBVERSIVE ACTIVITIES CONTROL ACT.

The Subversive Activities Control Act of 1950 (50 U.S.C. 781 and following) is amended—

(1) by repealing sections 1 through 3, 5, 6, and 9 through 16; and 50 USC 781 *et seq.*

(2) in section 4— 50 USC 783.

(A) by repealing subsections (a) and (f);

(B) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively;

(C) in subsection (a), as so redesignated, by striking "or an officer" and all that follows through "section 3 of this title"; and

(D) in subsection (b), as so redesignated, by striking ", or any officer" and all that follows through "section 3 of this title,".

SEC. 804. REPORT ON SOVIET AND INTERNATIONAL COMMUNIST BEHAVIOR.

(a) REPEAL.—Section 155 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93) is repealed. 99 Stat. 429.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 155. 99 Stat. 405.

TITLE IX—MISCELLANEOUS

SEC. 901. BALLISTIC MISSILE TESTS NEAR HAWAII.

(a) REPEAL.—Section 1201 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1409) is repealed.

101 Stat. 1331.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1201.

SEC. 902. NONDELIVERY OF INTERNATIONAL MAIL.

(a) REPEAL.—Section 1203 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is repealed.

(b) CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 1203.

SEC. 903. STATE-SPONSORED HARASSMENT OF RELIGIOUS GROUPS.

(a) POLICY.—Section 1204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411) is amended—

(1) by amending the section heading to read "**SEC. 1204. STATE SPONSORED HARASSMENT OF RELIGIOUS GROUPS.**";

(2) in paragraph (1)—

(A) by striking "governments of the Union" and all that follows through "countries" and inserting "government of any country that engages in the harassment of religious groups", and

(B) by striking "to the harassment of Christians and other religious believers" and inserting "to such activities";

(3) in paragraph (2), by striking "the Union of Soviet Socialist Republics and Eastern European" and inserting "all" ; and

(4) by striking paragraph (3).

(b) REPEAL.—(1) Section 1202 of that Act (Public Law 100–204; 101 Stat. 1410) is repealed.

(2) Section 1(b) of that Act is amended—

(A) by striking the item in the table of contents relating to section 1202; and

(B) by amending the item in the table of contents relating to section 1204 to read as follows:

"Sec. 1204. State sponsored harassment of religious groups.".

(c) REPEAL.—(1) Section 805 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 450) is repealed.

99 Stat. 405.

(2) Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 805.

SEC. 904. MURDER OF MAJOR ARTHUR NICHOLSON.

(a) FOREIGN RELATIONS AUTHORIZATION ACT.—Section 148 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 427) is repealed.

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—Section 1(b) of that Act is amended by striking the item in the table of contents relating to section 148.

SEC. 905. MONUMENT TO HONOR VICTIMS OF COMMUNISM.

40 USC 1003 note.

(a) FINDINGS.—Congress finds that—

(1) since 1917, the rulers of empires and international communism led by Vladimir I. Lenin and Mao Tse-tung have been responsible for the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust through conquests, revolutions, civil wars, purges, wars by proxy, and other violent means;

(2) the imperialist regimes of international communism have brutally suppressed the human rights, national independence, religious liberty, intellectual freedom, and cultural life of the peoples of over 40 captive nations;

(3) there is a danger that the heroic sacrifices of the victims of communism may be forgotten as international communism and its imperial bases continue to collapse and crumble; and

(4) the sacrifices of these victims should be permanently memorialized so that never again will nations and peoples allow so evil a tyranny to terrorize the world.

(b) AUTHORIZATION OF MEMORIAL.—

(1) AUTHORIZATION.—

(A) The National Captive Nations Committee, Inc., is authorized to construct, maintain, and operate in the District of Columbia an appropriate international memorial to honor victims of communism.

(B) The National Captive Nations Committee, Inc., is encouraged to create an independent entity for the purposes of constructing, maintaining, and operating the memorial.

(C) Once created, this entity is encouraged and authorized, to the maximum extent practicable, to include as active participants organizations representing all groups that have suffered under communism.

(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The design, location, inscription, and construction of the memorial authorized by paragraph (1) shall be subject to the requirements of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The entity referred to in subsection (b)(1) shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial, including the maintenance and preservation amount provided for in section 8(b) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1008(b)), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 4010(b)), there remains a balance of funds received for the establishment of the memorial, the entity referred to in subsection (b)(1) shall transmit the amount of the balance to the

Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

Approved December 17, 1993.

LEGISLATIVE HISTORY—H.R. 3000 (S. 1672):

HOUSE REPORTS: No. 103-297, Pt. 1 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 139 (1993):
Nov. 15, considered and passed House.
Nov. 22, considered and passed Senate, amended, in lieu of S. 1672. House concurred in Senate amendment.

Public Law 103-200
103d Congress

An Act

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes.

Dec. 17, 1993
[H.R. 3216]

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

SECTION 1. SHORT TITLE.

Domestic Chemical Diversion Control Act of 1993.
21 USC 801 note.

This Act may be cited as the "Domestic Chemical Diversion Control Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33), by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters," before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38), by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v), by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title III based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40), by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(42) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(43) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

Regulations.
21 USC 814.

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion. Regulations.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of that portion relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B), by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D), by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e), by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State, and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b), by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f), by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2), by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2), by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3), by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6), by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e), by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h), by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by amending paragraphs (6) and (7) to read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III;

"(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III or, in the case of an exportation, in violation of this title or title III or of the laws of the country to which it is exported;";

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) to distribute, import, or export a list I chemical without the registration required by this title or title III.".

SEC. 4. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance

in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 5. EXEMPTION AUTHORITY; ANTISMUGGLING PROVISION.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1505(a) of this Act, is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation. Reports. Regulations.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.". Reports. Regulations.

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 4(b) of this Act, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or Exports and imports.

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 6. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C), by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 7. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 8. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 9. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 10. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).". Regulations.

SEC. 11. EFFECTIVE DATE. 21 USC 802 note.

This Act and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act.

Approved December 17, 1993.

LEGISLATIVE HISTORY—H.R. 3216:

HOUSE REPORTS: No. 103-379, Pt. 1 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 139 (1993):
Nov. 21, considered and passed House.
Nov. 24, considered and passed Senate.

Public Law 103-201
103d Congress

An Act

Dec. 17, 1993
[H.R. 3514]

To clarify the regulatory oversight exercised by the Rural Electrification Administration with respect to certain electric borrowers.

Loans.

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

SECTION 1. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO CERTAIN ELECTRIC BORROWERS.

7 USC 936e.

Section 306E of the Rural Electrification Act of 1936 is amended to read as follows:

Regulations.

"SEC. 306E. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO CERTAIN ELECTRIC BORROWERS.

"(a) IN GENERAL.—For the purpose of relieving borrowers of unnecessary and burdensome requirements, the Administrator, guided by the practices of private lenders with respect to similar credit risks, shall issue regulations, applicable to any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator, to minimize those approval rights, requirements, restrictions, and prohibitions that the Administrator otherwise may establish with respect to the operations of such a borrower.

"(b) SUBORDINATION OR SHARING OF LIENS.—At the request of a private lender providing financing to such a borrower for a capital investment, the Administrator shall, expeditiously, either offer to share the government's lien on the borrower's system or offer to subordinate the government's lien on that property financed by the private lender.

"(c) ISSUANCE OF REGULATIONS.—In issuing regulations implementing this section, the Administrator may establish requirements, guided by the practices of private lenders, to ensure that the security for any loan made or guaranteed under this Act is reasonably adequate.

"(d) AUTHORITY OF THE ADMINISTRATOR.—Nothing in this section limits the authority of the Administrator to establish terms and conditions with respect to the use by borrowers of the proceeds of loans made or guaranteed under this Act or to take any other action specifically authorized by law.".

7 USC 936e note.

SEC. 2. ISSUANCE OF REGULATIONS.

The Administrator of the Rural Electrification Administration shall issue interim final regulations implementing this Act not later than 180 days after enactment. If the regulations are not issued within such period of time, the Administrator may not,

until the Administrator issues such regulations, require prior approval of, establish any requirement, restriction, or prohibition, with respect to the operations of any electric borrower under the Rural Electrification Act of 1936 whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.

Approved December 17, 1993.

LEGISLATIVE HISTORY—H.R. 3514:

HOUSE REPORTS: No. 103-381 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 139 (1993):
Nov. 19, considered and passed House.
Nov. 22, considered and passed Senate.

Public Law 103-202
103d Congress

An Act

Dec. 17, 1993
[S. 422]

To extend and revise rulemaking authority with respect to government securities under the Federal securities laws, and for other purposes.

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

Government Securities Act Amendments of 1993.
15 USC 78a note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

15 USC 78o-5 note.

SEC. 101. FINDINGS.

The Congress finds that—

(1) the liquid and efficient operation of the government securities market is essential to facilitate government borrowing at the lowest possible cost to taxpayers;

(2) the fair and honest treatment of investors will strengthen the integrity and liquidity of the government securities market;

(3) rules promulgated by the Secretary of the Treasury pursuant to the Government Securities Act of 1986 have worked well to protect investors from unregulated dealers and maintain the efficiency of the government securities market; and

(4) extending the authority of the Secretary and providing new authority will ensure the continued strength of the government securities market.

SEC. 102. EXTENSION OF GOVERNMENT SECURITIES RULEMAKING AUTHORITY.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended by striking subsection (g).

SEC. 103. TRANSACTION RECORDS.

(a) AMENDMENT.—Section 15C(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(d)) is amended by adding at the end the following new paragraph:

"(3) GOVERNMENT SECURITIES TRADE RECONSTRUCTION.—

"(A) FURNISHING RECORDS.—Every government securities broker and government securities dealer shall furnish to the Commission on request such records of government securities transactions, including records of the date and time of execution of trades, as the Commission may require to reconstruct trading in the course of a particular inquiry or investigation being conducted by the Commission for enforcement or surveillance purposes. In requiring information pursuant to this paragraph, the Commission shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission, to the Federal Reserve Bank of New York, or to an appropriate regulatory agency or self-regulatory organization with responsibility for examining the government securities broker or government securities dealer. The Commission may require that such information be furnished in machine readable form notwithstanding any limitation in subparagraph (B). In utilizing its authority to require information in machine readable form, the Commission shall minimize the burden such requirement may place on small government securities brokers and dealers.

"(B) LIMITATION; CONSTRUCTION.—The Commission shall not utilize its authority under this paragraph to develop regular reporting requirements, except that the Commission may require information to be furnished under this paragraph as frequently as necessary for particular inquiries or investigations for enforcement or surveillance purposes. This paragraph shall not be construed as requiring, or as authorizing the Commission to require, any government securities broker or government securities dealer to obtain or maintain any information for purposes of this paragraph which is not otherwise maintained by such broker or dealer in accordance with any other provision of law or usual and customary business practice. The Commission shall, where feasible, avoid requiring any information to

be furnished under this paragraph that the Commission may obtain from the Federal Reserve Bank of New York.

"(C) PROCEDURES FOR REQUIRING INFORMATION.—At the time the Commission requests any information pursuant to subparagraph (A) with respect to any government securities broker or government securities dealer for which the Commission is not the appropriate regulatory agency, the Commission shall notify the appropriate regulatory agency for such government securities broker or government securities dealer and, upon request, furnish to the appropriate regulatory agency any information supplied to the Commission.

"(D) CONSULTATION.—Within 90 days after the date of enactment of this paragraph, and annually thereafter, or upon the request of any other appropriate regulatory agency, the Commission shall consult with the other appropriate regulatory agencies to determine the availability of records that may be required to be furnished under this paragraph and, for those records available directly from the other appropriate regulatory agencies, to develop a procedure for furnishing such records expeditiously upon the Commission's request.

"(E) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this paragraph shall be construed so as to permit the Commission to require any government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any appropriate regulatory agency other than the Commission or any supervisory recommendations or analysis contained in any such examination report.

Confidentiality.

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission and the appropriate regulatory agencies shall not be compelled to disclose any information required or obtained under this paragraph. Nothing in this paragraph shall authorize the Commission or any appropriate regulatory agency to withhold information from Congress, or prevent the Commission or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Commission, or the appropriate regulatory agency. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

(b) CONFORMING AMENDMENTS.—(1) Section 15C(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(4)) is amended by inserting ", other than subsection (d)(3)," after "subsection (a), (b), or (d) of this section".

(2) Section 15C(f)(2) of such Act is amended—

(A) in the first sentence, by inserting ", other than subsection (d)(3)", after "threatened violation of the provisions of this section"; and

(B) in the second sentence, by inserting "(except subsection (d)(3))" after "other than this section".

SEC. 104. LARGE POSITION REPORTING.

Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LARGE POSITION REPORTING.—

"(1) REPORTING REQUIREMENTS.—The Secretary may adopt rules to require specified persons holding, maintaining, or controlling large positions in to-be-issued or recently issued Treasury securities to file such reports regarding such positions as the Secretary determines to be necessary and appropriate for the purpose of monitoring the impact in the Treasury securities market of concentrations of positions in Treasury securities and for the purpose of otherwise assisting the Commission in the enforcement of this title, taking into account any impact of such rules on the efficiency and liquidity of the Treasury securities market and the cost to taxpayers of funding the Federal debt. Unless otherwise specified by the Secretary, reports required under this subsection shall be filed with the Federal Reserve Bank of New York, acting as agent for the Secretary. Such reports shall, on a timely basis, be provided directly to the Commission by the person with whom they are filed.

"(2) RECORDKEEPING REQUIREMENTS.—Rules under this subsection may require persons holding, maintaining, or controlling large positions in Treasury securities to make and keep for prescribed periods such records as the Secretary determines are necessary or appropriate to ensure that such persons can comply with reporting requirements under this subsection.

"(3) AGGREGATION RULES.—Rules under this subsection—

"(A) may prescribe the manner in which positions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control; and

"(B) may define which persons (individually or as a group) hold, maintain, or control large positions.

"(4) DEFINITIONAL AUTHORITY; DETERMINATION OF REPORTING THRESHOLD.—

"(A) In prescribing rules under this subsection, the Secretary may, consistent with the purpose of this subsection, define terms used in this subsection that are not otherwise defined in section 3 of this title.

"(B) Rules under this subsection shall specify—

"(i) the minimum size of positions subject to reporting under this subsection, which shall be no less than the size that provides the potential for manipulation or control of the supply or price, or the cost of financing arrangements, of an issue or the portion thereof that is available for trading;

"(ii) the types of positions (which may include financing arrangements) to be reported;

"(iii) the securities to be covered; and

"(iv) the form and manner in which reports shall be transmitted, which may include transmission in machine readable form.

"(5) EXEMPTIONS.—Consistent with the public interest and the protection of investors, the Secretary by rule or order may exempt in whole or in part, conditionally or unconditionally,

any person or class or persons, or any transaction or class of transactions, from the requirements of this subsection.

Confidentiality.

"(6) LIMITATION ON DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Secretary or the Commission to withhold information from Congress, or prevent the Secretary or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or from complying with an order of a court of the United States in an action brought by the United States, the Secretary, or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 105. AUTHORITY OF THE COMMISSION TO REGULATE TRANSACTIONS IN EXEMPTED SECURITIES.

(a) PREVENTION OF FRAUDULENT AND MANIPULATIVE ACTS AND PRACTICES.—Section 15(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking "fictitious quotation, and no municipal securities dealer" and inserting the following:

"fictitious quotation.

"(B) No municipal securities dealer";

(3) by striking "fictitious quotation. The Commission shall" and inserting the following:

"fictitious quotation.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or induce or attempt to induce the purchase or sale of, any government security in connection with which such government securities broker or government securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

(b) FRAUDULENT AND MANIPULATIVE DEVICES AND CONTRIVANCES.—Section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)) is amended—

(1) by inserting "(A)" after "(c)(1)";

(2) by striking "contrivance, and no municipal securities dealer" and inserting the following:
"contrivance.

"(B) No municipal securities dealer";

(3) by striking "contrivance. The Commission shall" and inserting the following:
"contrivance.

"(C) No government securities broker or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

"(D) The Commission shall"; and

(4) by adding at the end the following:

"(E) The Commission shall, prior to adopting any rule or regulation under subparagraph (C), consult with and consider the views of the Secretary of the Treasury and each appropriate regulatory agency. If the Secretary of the Treasury or any appropriate regulatory agency comments in writing on a proposed rule or regulation of the Commission under such subparagraph (C) that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.".

SEC. 106. SALES PRACTICE RULEMAKING AUTHORITY.

(a) RULES FOR FINANCIAL INSTITUTIONS.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b)) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) With respect to any financial institution that has filed notice as a government securities broker or government securities dealer or that is required to file notice under subsection (a)(1)(B), the appropriate regulatory agency for such government securities broker or government securities dealer may issue such rules and regulations with respect to transactions in government securities as may be necessary to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. If the Secretary of the Treasury determines, and notifies the appropriate regulatory agency, that such rule or regulation, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in further-

ance of the purposes of this section, the appropriate regulatory agency shall, prior to adopting the proposed rule or regulation, find that such rule or regulation is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(B) The appropriate regulatory agency shall consult with and consider the views of the Secretary prior to approving or amending a rule or regulation under this paragraph, except where the appropriate regulatory agency determines that an emergency exists requiring expeditious and summary action and publishes its reasons therefor. If the Secretary comments in writing to the appropriate regulatory agency on a proposed rule or regulation that has been published for comment, the appropriate regulatory agency shall respond in writing to such written comment before approving the proposed rule or regulation.

"(C) In promulgating rules under this section, the appropriate regulatory agency shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers.".

(b) RULES BY REGISTERED SECURITIES ASSOCIATIONS.—

(1) REMOVAL OF LIMITATIONS ON AUTHORITY.—(A) Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended—

(i) by striking subsections (f)(1) and (f)(2); and

(ii) by redesignating subsection (f)(3) as subsection (f).

(B) Section 15A(g) of such Act is amended—

(i) by striking "exempted securities" in paragraph (3)(D) and inserting "municipal securities";

(ii) by striking paragraph (4); and

(iii) by redesignating paragraph (5) as paragraph (4).

(2) CONFORMING AMENDMENT.—

(A) Section 3(a)(12)(B)(ii) of such Act (15 U.S.C. 78c(a)(12)(B)(ii)) is amended by striking "15, 15A (other than subsection (g)(3)), and 17A" and inserting "15 and 17A".

(B) Section 15(b)(7) of such Act (15 U.S.C. 78o(b)(7)) is amended by inserting "or government securities broker or government securities dealer registered (or required to register) under section 15C(a)(1)(A)" after "No registered broker or dealer".

(c) OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.—Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(1) in subsection (b), by adding at the end the following new paragraphs:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury prior to approving a proposed rule filed by a registered securities association that primarily concerns conduct related to transactions in government securities, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary of the Treasury comments in writing to the Commission on a proposed rule that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule. If the Secretary of the Treasury determines, and notifies the Commission,

that such rule, if implemented, would, or as applied does (i) adversely affect the liquidity or efficiency of the market for government securities; or (ii) impose any burden on competition not necessary or appropriate in furtherance of the purposes of this section, the Commission shall, prior to adopting the proposed rule, find that such rule is necessary and appropriate in furtherance of the purposes of this section notwithstanding the Secretary's determination.

"(6) In approving rules described in paragraph (5), the Commission shall consider the sufficiency and appropriateness of then existing laws and rules applicable to government securities brokers, government securities dealers, and persons associated with government securities brokers and government securities dealers."; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(5) With respect to rules described in subsection (b)(5), the Commission shall consult with and consider the views of the Secretary of the Treasury before abrogating, adding to, and deleting from such rules, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor.".

SEC. 107. MARKET INFORMATION.

Section 23(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended—

(1) by striking subparagraphs (C), (D), and (H);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (C), (D), and (E), respectively;

(3) by redesignating subparagraphs (I), (J), and (K) as subparagraphs (F), (G), and (H), respectively;

(4) by striking "and" at the end of such redesignated subparagraph (G);

(5) by striking the period at the end of such redesignated subparagraph (H) and inserting "; and"; and

(6) by inserting after such redesignated subparagraph (H) the following new subparagraph:

"(I) the steps that have been taken and the progress that has been made in promoting the timely public dissemination and availability for analytical purposes (on a fair, reasonable, and nondiscriminatory basis) of information concerning government securities transactions and quotations, and its recommendations, if any, for legislation to assure timely dissemination of (i) information on transactions in regularly traded government securities sufficient to permit the determination of the prevailing market price for such securities, and (ii) reports of the highest published bids and lowest published offers for government securities (including the size at which persons are willing to trade with respect to such bids and offers).".

SEC. 108. DISCLOSURE BY GOVERNMENT SECURITIES BROKERS AND GOVERNMENT SECURITIES DEALERS WHOSE ACCOUNTS ARE NOT INSURED BY THE SECURITIES INVESTOR PROTECTION CORPORATION.

Section 15C(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

"(4) No government securities broker or government securities dealer that is required to register under paragraph (1)(A) and that is not a member of the Securities Investor Protection Corporation shall effect any transaction in any security in contravention of such rules as the Commission shall prescribe pursuant to this subsection to assure that its customers receive complete, accurate, and timely disclosure of the inapplicability of Securities Investor Protection Corporation coverage to their accounts.".

SEC. 109. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in paragraph (34)(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amending paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by redesignating paragraph (51) (as added by section 204 of the International Securities Enforcement Cooperation Act of 1990) as paragraph (52).

(b) EFFECTIVE DATE OF BROKER/DEALER REGISTRATION.—

(1) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(a)(2)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(a)(2)(ii)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such government securi-

ties broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.".

(2) OTHER BROKERS AND DEALERS.—Section 15(b)(1)(B) of such Act (15 U.S.C. 78o(b)(1)(B)) is amended by inserting before "The Commission may extend" the following: "The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.".

(c) INFORMATION SHARING.—Section 15C(d)(2) of such Act is amended to read as follows: 15 USC 78o-5.

"(2) Information received by an appropriate regulatory agency, the Secretary, or the Commission from or with respect to any government securities broker, government securities dealer, any person associated with a government securities broker or government securities dealer, or any other person subject to this section or rules promulgated thereunder, may be made available by the Secretary or the recipient agency to the Commission, the Secretary, the Department of Justice, the Commodity Futures Trading Commission, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank.".

SEC. 110. OFFERINGS OF CERTAIN GOVERNMENT SECURITIES.

Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(7) In connection with any bid for or purchase of a government security related to an offering of government securities by or on behalf of an issuer, no government securities broker, government securities dealer, or bidder for or purchaser of securities in such offering shall knowingly or willfully make any false or misleading written statement or omit any fact necessary to make any written statement made not misleading.".

SEC. 111. RULE OF CONSTRUCTION. 15 USC 78o-5 note.

(a) IN GENERAL.—No provision of, or amendment made by, this title may be construed—

(1) to govern the initial issuance of any public debt obligation, or

(2) to grant any authority to (or extend any authority of) the Securities and Exchange Commission, any appropriate regulatory agency, or a self-regulatory organization—

(A) to prescribe any procedure, term, or condition of such initial issuance,

(B) to promulgate any rule or regulation governing such initial issuance, or

(C) to otherwise regulate in any manner such initial issuance.

(b) EXCEPTION.—Subsection (a) of this section shall not apply to the amendment made by section 110 of this Act.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means an obligation subject to the public debt limit established in section 3101 of title 31, United States Code.

15 USC 78o-5 note.

SEC. 112. STUDY OF REGULATORY SYSTEM FOR GOVERNMENT SECURITIES.

(a) JOINT STUDY.—The Secretary of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System shall—

(1) with respect to any rules promulgated or amended after October 1, 1991, pursuant to section 15C of the Securities Exchange Act of 1934 or any amendment made by this title, and any national securities association rule changes applicable principally to government securities transactions approved after October 1, 1991—

(A) evaluate the effectiveness of such rules in carrying out the purposes of such Act; and

(B) evaluate the impact of any such rules on the efficiency and liquidity of the government securities market and the cost of funding the Federal debt;

(2) evaluate the effectiveness of surveillance and enforcement with respect to government securities, and the impact on such surveillance and enforcement of the availability of automated, time-sequenced records of essential information pertaining to trades in such securities; and

(3) submit to the Congress, not later than March 31, 1998, any recommendations they may consider appropriate concerning—

(A) the regulation of government securities brokers and government securities dealers;

(B) the dissemination of information concerning quotations for and transactions in government securities;

(C) the prevention of sales practice abuses in connection with transactions in government securities; and

(D) such other matters as they consider appropriate.

(b) TREASURY STUDY.—The Secretary of the Treasury, in consultation with the Securities and Exchange Commission, shall—

(1) conduct a study of—

(A) the identity and nature of the business of government securities brokers and government securities dealers that are registered with the Securities and Exchange Commission under section 15C of the Securities Exchange Act of 1934; and

(B) the continuing need for, and regulatory and financial consequences of, a separate regulatory system for such government securities brokers and government securities dealers; and

(2) submit to the Congress, not later than 18 months after the date of enactment of this Act, the Secretary's recommendations for change, if any, or such other recommendations as the Secretary considers appropriate.

TITLE II—REPORTS ON PUBLIC DEBT

SEC. 201. ANNUAL REPORT ON PUBLIC DEBT.

(a) GENERAL RULE.—Subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3130. Annual public debt report

"(a) GENERAL RULE.—On or before June 1 of each calendar year after 1993, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

"(1) the Treasury's public debt activities, and

"(2) the operations of the Federal Financing Bank.

"(b) REQUIRED INFORMATION ON PUBLIC DEBT ACTIVITIES.—Each report submitted under subsection (a) shall include the following information:

"(1) A table showing the following information with respect to the total public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(2) A table showing the following information with respect to the net public debt:

"(A) The past levels of such debt and the projected levels of such debt as of the close of the current fiscal year and as of the close of the next 5 fiscal years under the most recent current services baseline projection of the executive branch.

"(B) The past debt to GDP ratios and the projected debt to GDP ratios as of the close of the current fiscal year and as of the close of the next 5 fiscal years under such most recent current services baseline projection.

"(C) The interest cost on such debt for prior fiscal years and the projected interest cost on such debt for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(D) The interest cost to outlay ratios for prior fiscal years and the projected interest cost to outlay ratios for the current fiscal year and for the next 5 fiscal years under such most recent current services baseline projection.

"(3) A table showing the maturity distribution of the net public debt as of the time the report is submitted and for prior years, and an explanation of the overall financing strategy used in determining the distribution of maturities when issuing public debt obligations, including a discussion of the projections and assumptions with respect to the structure of interest rates for the current fiscal year and for the succeeding 5 fiscal years.

"(4) A table showing the following information as of the time the report is submitted and for prior years:

"(A) A description of the various categories of the holders of public debt obligations.

"(B) The portions of the total public debt held by each of such categories.

"(5) A table showing the relationship of federally assisted borrowing to total Federal borrowing as of the time the report is submitted and for prior years.

"(6) A table showing the annual principal and interest payments which would be required to amortize in equal annual payments the level (as of the time the report is submitted) of the net public debt over the longest remaining term to maturity of any obligation which is a part of such debt.

"(c) REQUIRED INFORMATION ON FEDERAL FINANCING BANK.—Each report submitted under subsection (a) shall include (but not be limited to) information on the financial operations of the Federal Financing Bank, including loan payments and prepayments, and on the levels and categories of the lending activities of the Federal Financing Bank, for the current fiscal year and for prior fiscal years.

"(d) RECOMMENDATIONS.—The Secretary of the Treasury may include in any report submitted under subsection (a) such recommendations to improve the issuance and sale of public debt obligations (and with respect to other matters) as he may deem advisable.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CURRENT FISCAL YEAR.—The term 'current fiscal year' means the fiscal year ending in the calendar year in which the report is submitted.

"(2) TOTAL PUBLIC DEBT.—The term 'total public debt' means the total amount of the obligations subject to the public debt limit established in section 3101 of this title.

"(3) NET PUBLIC DEBT.—The term 'net public debt' means the portion of the total public debt which is held by the public.

"(4) DEBT TO GDP RATIO.—The term 'debt to GDP ratio' means the percentage obtained by dividing the level of the total public debt or net public debt, as the case may be, by the gross domestic product.

"(5) INTEREST COST TO OUTLAY RATIO.—The term 'interest cost to outlay ratio' means, with respect to any fiscal year, the percentage obtained by dividing the interest cost for such fiscal year on the net public debt by the total amount of Federal outlays for such fiscal year.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 31 of title 31, United States Code, is amended by adding at the end the following new item:

"3130. Annual public debt report.".

31 USC 3121 note.

SEC. 202. TREASURY AUCTION REFORMS.

(a) ABILITY TO SUBMIT COMPUTER TENDERS IN TREASURY AUCTIONS.—By the end of 1995, any bidder shall be permitted to submit a computer-generated tender to any automated auction system established by the Secretary of the Treasury for the sale upon issuance of securities issued by the Secretary if the bidder—

(1) meets the minimum creditworthiness standard established by the Secretary; and

(2) agrees to comply with regulations and procedures applicable to the automated system and the sale upon issuance of securities issued by the Secretary.

(b) PROHIBITION ON FAVORED PLAYERS.—

(1) IN GENERAL.—No government securities broker or government securities dealer may receive any advantage, favorable treatment, or other benefit, in connection with the purchase upon issuance of securities issued by the Secretary of the Treasury, which is not generally available to other government securities brokers or government securities dealers under the regulations governing the sale upon issuance of securities issued by the Secretary of the Treasury.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of the Treasury may grant an exception to the application of paragraph (1) if—

(i) the Secretary determines that any advantage, favorable treatment, or other benefit referred to in such paragraph is necessary and appropriate and in the public interest; and

(ii) the grant of the exception is designed to minimize any anticompetitive effect.

(B) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress describing any exception granted by the Secretary under subparagraph (A) during the year covered by the report and the basis upon which the exception was granted.

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) OPEN MEETINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any meeting of the Treasury Borrowing Advisory Committee of the Public Securities Association (hereafter in this subsection referred to as the "advisory committee"), or any successor to the advisory committee, shall be open to the public.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any part of any meeting of the advisory committee in which the advisory committee—

(i) discusses and debates the issues presented to the advisory committee by the Secretary of the Treasury; or

(ii) makes recommendations to the Secretary.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act for any meeting by the advisory committee shall be made available to the public within 3 business days of the date of the meeting.

(3) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR DEPARTMENT.—In connection with any meeting of the advisory committee, no officer or employee of the Department of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (c), any member of such committee, or any other person.

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), a member of the advisory committee may not discuss any part of any discussion, debate, or recommendation at a meeting of the advisory committee which occurs while such meeting is closed to the public (in accordance with paragraph (1)(B)) with, or disclose the contents of such discussion, debate, or recommendation to, anyone other than—

(i) another member of the advisory committee who is present at the meeting; or

(ii) an officer or employee of the Department of the Treasury.

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding; and

(ii) with respect to any other discussion, debate, or recommendation at the meeting, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2).

(C) REMOVAL FROM ADVISORY COMMITTEE FOR VIOLATIONS OF THIS PARAGRAPH.—In addition to any penalty or enforcement action to which a person who violates a provision of this paragraph may be subject under any other provision of law, the Secretary of the Treasury shall—

(i) remove a member of the advisory committee who violates a provision of this paragraph from the advisory committee and permanently bar such person from serving as a member of the advisory committee; and

(ii) prohibit any director, officer, or employee of the firm of which the member referred to in clause (i) is a director, officer, or employee (at the time the member is removed from the advisory committee) from serving as a member of the advisory committee at any time during the 5-year period beginning on the date of such removal.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress containing the following information with respect to material violations or suspected material violations of regulations of the Secretary relating to auctions and other offerings of securities upon the issuance of such securities by the Secretary:

(A) The number of inquiries begun by the Secretary during the year covered by the report regarding such material violations or suspected material violations by any participant in the auction system or any director, officer, or employee of any such participant and the number of inquiries regarding any such violations or suspected violations which remained open at the end of such year.

(B) A brief description of the nature of the violations.

(C) A brief description of any action taken by the Secretary during such year with respect to any such violation, including any referrals made to the Attorney General, the Securities and Exchange Commission, any other law enforcement agency, and any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act).

(2) DELAY IN DISCLOSURE OF INFORMATION IN CERTAIN CASES.—The Secretary of the Treasury shall not be required to include in a report under paragraph (1) any information the disclosure of which could jeopardize an investigation by an agency described in paragraph (1)(C) for so long as such disclosure could jeopardize the investigation.

SEC. 203. NOTICE ON TREASURY MODIFICATIONS TO AUCTION PROCESS.

31 USC 3121 note.

The Secretary of the Treasury shall notify the Congress of any significant modifications to the auction process for issuing United States Treasury obligations at the time such modifications are implemented.

TITLE III—LIMITED PARTNERSHIP ROLLUPS

Limited Partnership Rollup Reform Act of 1993.

SEC. 301. SHORT TITLE.

15 USC 78a note.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1993".

SEC. 302. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under subsections (a) and (d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed limited partnership rollup transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that—

"(i) nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent,

fraudulent, deceptive, or manipulative acts or practices under this title; and

"(ii) any holder of not less than 5 percent of the outstanding securities that are the subject of the proposed limited partnership rollup transaction who engages in the business of buying and selling limited partnership interests in the secondary market shall be required to disclose such ownership interests and any potential conflicts of interests in such preliminary communications;

"(B) require the issuer to provide to holders of the securities that are the subject of the limited partnership rollup transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a limited partnership rollup transaction—

"(i) on the basis of whether the solicited proxy, consent, or authorization either approves or disapproves the proposed limited partnership rollup transaction; or

"(ii) contingent on the approval, disapproval, or completion of the limited partnership rollup transaction;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest, or the compensation of the general partner in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of the interests of the limited partners to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the limited partnership rollup transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the limited partnership rollup transaction with less than all limited partnerships;

"(vi) the statement by the general partner required under subparagraph (E);

"(vii) such other matters deemed necessary or appropriate by the Commission;

"(E) require a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and an evaluation and a description by the general partner of alternatives to the limited partnership rollup transaction, such as liquidation;

"(F) provide that, if the general partner or sponsor has obtained any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the limited partnership rollup transaction, such soliciting materials shall contain or be accompanied by clear, concise, and comprehensible disclosure with respect to—

"(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and any representations and undertakings with respect thereto;

"(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

"(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

"(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records;

"(G) provide that, if the general partner or sponsor has obtained any opinion, appraisal, or report as described in subparagraph (F) from any person whose compensation is contingent on the transaction's approval or completion or who has not been given access by the issuer to its personnel and premises and relevant books and records, the general partner or sponsor shall state the reasons therefor;

"(H) provide that, if the general partner or sponsor has not obtained any opinion on the fairness of the proposed limited partnership rollup transaction to investors in each of the affected partnerships, such soliciting materials shall contain or be accompanied by a statement of such partner's or sponsor's reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informed decision on the proposed transaction;

"(I) require that the soliciting material include a clear, concise, and comprehensible summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of subparagraph (D) and a summary of the matter referred to in subparagraphs (F), (G), and (H)), with the risks of the limited partnership rollup transaction set forth prominently in the fore part thereof;

"(J) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup

transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(K) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this title, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION OF LIMITED PARTNERSHIP ROLLUP TRANSACTION.—Except as provided in paragraph (5), as used in this subsection, the term 'limited partnership rollup transaction' means a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which—

"(A) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(B) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A;

"(C) investors in any of the limited partnerships involved in the transaction are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

"(D) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

"(5) EXCLUSIONS FROM DEFINITION.—Notwithstanding paragraph (4), the term 'limited partnership rollup transaction' does not include—

"(A) a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate;

"(B) a transaction involving only limited partnerships wherein the interests of the limited partners are repurchased, recalled, or exchanged in accordance with the

terms of the preexisting limited partnership agreements for securities in an operating company specifically identified at the time of the formation of the original limited partnership;

"(C) a transaction in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

"(D) a transaction that involves only issuers that are not required to register or report under section 12, both before and after the transaction;

"(E) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, involving the combination or reorganization of one or more limited partnerships in which a non-affiliated party succeeds to the interests of a general partner or sponsor, if—

"(i) such action is approved by not less than 66⅔ percent of the outstanding units of each of the participating limited partnerships; and

"(ii) as a result of the transaction, the existing general partners will receive only compensation to which they are entitled as expressly provided for in the preexisting limited partnership agreements; or

"(F) a transaction, except as the Commission may otherwise provide by rule for the protection of investors, in which the securities offered to investors are securities of another entity that are reported under a transaction reporting plan declared effective before the date of enactment of this subsection by the Commission under section 11A, if—

"(i) such other entity was formed, and such class of securities was reported and regularly traded, not less than 12 months before the date on which soliciting material is mailed to investors; and

"(ii) the securities of that entity issued to investors in the transaction do not exceed 20 percent of the total outstanding securities of the entity, exclusive of any securities of such class held by or for the account of the entity or a subsidiary of the entity.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a), and such regulations shall become effective not later than 12 months after the date of enactment of this Act.

Effective date. 15 USC 78n note.

(c) EVALUATION OF FAIRNESS OPINION PREPARATION, DISCLOSURE, AND USE.—

15 USC 78n note.

(1) EVALUATION REQUIRED.—The Comptroller General of the United States shall, within 18 months after the date of enactment of this Act, conduct a study of—

(A) the use of fairness opinions in limited partnership rollup transactions;

(B) the standards which preparers use in making determinations of fairness;

(C) the scope of review, quality of analysis, qualifications and methods of selection of preparers, costs of