

HR 4979 IH

102d CONGRESS  
2d Session  
**H. R. 4979**

To provide consumers with a stronger voice in the financial services industry and before government bodies through the establishment of the Financial Consumers Association, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**April 9, 1992**

Mr. KENNEDY (for himself, Mr. EVANS, Mr. LIPINSKI, Ms. KAPTUR, Mr. OWENS of New York, and Mr. LEVINE) introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce

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**A BILL**

To provide consumers with a stronger voice in the financial services industry and before government bodies through the establishment of the Financial Consumers Association, and for other purposes.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Financial Consumers Association Act of 1992'.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS- The Congress hereby finds the following:

- (1) Consumers and depositors are an integral part of the financial system and are affected by the safety and soundness of the financial industry in the economy.
- (2) Consumers have more financial choices today than ever before, but not enough information with which to make those choices.
- (3) The American public is confronting the worst banking crisis in the history of the United States since the depression of the 1930s.
- (4) major factors contributing to the banking crisis include--
  - (A) the deregulation of the savings and loan industry without regard to the interests of or the effect on financial service consumers; and

(B) the State and Federal regulators' failure to adequately police the financial services markets to curb insider abuse, fraud, and mismanagement.

(5) The financial industry has enjoyed access to, and has powerfully represented its interests before, Congress and Federal and State regulators, and the courts, while financial service consumers have had limited representation.

(6) The Comptroller General of the United States currently estimates the cost of the savings and loan bailout to be \$500,000,000,000 over the next 30 years and that most of this cost will be borne by consumer taxpayers.

(7) Consumers insure financial depository institutions through their tax dollars, yet lack adequate representation before Congress, State legislatures, and State and Federal regulatory agencies.

(8) The resources available for representation of consumer, minority, and local community interests in the financial industry need to be expanded so citizens can better monitor the performance of State and Federal agencies which regulate depository institutions and participate in public policy debate regarding the financial industry.

(9) The creation of a public purpose, democratically controlled, self-funded, nationwide membership Association of financial service consumers is the most effective way to enhance the representation of consumer, minority and local community interest in the financial industry and to meet the expanding information needs of consumers in the financial services market.

(10) It is appropriate for the Federal Government to require federally insured depository institutions to include in their mailings to depositors an insert informing the depositors about a financial consumers association.

(b) PURPOSES- It is the purpose of this Act--

(1) to establish a public purpose, nonprofit, democratically controlled, membership Association of financial service consumers;

(2) to give the Association a mandate to inform consumers and represent consumer, local community, and broad public interests in financial service matters;

(3) to establish democratic rules of governance for the Association; and

(4) to require federally insured depository institutions to include inserts concerning the Association within their deposit account mailings to consumers.

### **SEC. 3. DEFINITIONS.**

For purposes of this Act--

(1) ASSOCIATION- The term `Association' means the Financial Consumers Association authorized to be established under this Act.

(2) FINANCIAL SERVICE- The term `financial service'--

(A) means any financial service, any financial service delivery system, and any activity closely related to or functionally similar to a financial service; and

(B) includes the following:

(i) Any payment or transfer of funds.

- (ii) Any acceptance of a deposit.
  - (iii) The making of a loan or an extension of credit.
  - (iv) Credit reporting.
  - (v) Securities activities.
  - (vi) Investment or management of funds.
  - (vii) Investment advice.
  - (viii) Financial counseling.
- (3) CONSUMER AND RELATED TERMS- The terms `financial service consumer', `consumer customer' and `consumer' means an individual who uses a financial service.
- (4) INTERESTS OF CONSUMERS IN FINANCIAL SERVICE MATTERS- The terms `interests of consumers in financial service matters' and `interests of financial service consumers' means the interests of consumers in financial service matters, as individual consumers, collectively in terms of local community needs, or as reflected in the broad public interest.
- (5) MEMBER- The term `member' means any individual who meets the requirements for membership in the Association set forth in section 4 of this Act.
- (6) ASSOCIATION DIRECTOR- The terms `association director' and `director' means any individual serving on the board of directors of the Association.
- (7) CAMPAIGN CONTRIBUTION- The term `campaign contribution' means any money, good, service, credit, or other benefit provided or promised for the purpose of electing a delegate.
- (8) CAMPAIGN EXPENDITURE- The term `campaign expenditure' means any payment, use, distribution, or gift of money or anything of value made or promised for the purpose of electing a delegate.
- (9) REGULATORY AGENCY- The term `regulatory agency' means any governmental office, agency, department, or commission at the Federal, State, or local level, which controls, monitors, directs, or governs financial services.
- (10) REGULATORY PROCEEDING- The term `regulatory proceeding' means any formal or informal proceeding conducted by any governmental office, agency, department, or commission at the Federal, State, or local level, which affects financial services.
- (11) IMMEDIATE FAMILY- The term `immediate family' means a person's spouse and legal dependents.
- (12) FINANCIAL SERVICE PROVIDER- The term `financial service provider' means any person who engages in the business of providing any financial service to any consumer.

#### **SEC. 4. ESTABLISHMENT OF THE ASSOCIATION.**

- (a) CHARTER- There is hereby authorized to be established a nonprofit corporation by the interim board of directors which will not be an agency or establishment of the United States Government, to be known as the `Financial Consumers Association' (hereafter in this Act referred to as the `Association'). The Association shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of

Columbia Nonprofit Corporations Act. The Association's head office shall be located in Washington, District of Columbia.

(b) REGIONAL AND LOCAL OFFICES- The Association shall establish regional offices in each of the Federal Reserve districts established pursuant to the Federal Reserve Act. The Association shall also establish local offices in each of the several States, Puerto Rico, Guam, Virgin Islands, and American Samoa pursuant to criteria contained in the bylaws adopted by the first elected Board of Directors.

(c) BYLAWS- Except as provided in this Act and in the District of Columbia Nonprofit Corporation Act, the affairs of the Association shall be regulated as determined in the bylaws.

(d) NONPROFIT, NONSTOCK STATUS- The Association chartered under this section-

(1) shall be a nonprofit corporation; and

(2) may not issue any shares of stock or other securities or pay any dividends.

(e) MEMBERSHIP- The membership of the Association shall consist of all individuals who--

(1) are 18 years of age or older; and

(2) have contributed the required annual membership fee to the Association.

(f) MEMBERSHIP FEE-

(1) INITIAL FEE- Until the end of the 180-day period beginning on the date of the first election of directors, the Association's annual membership fee shall be \$10.

(2) PERMANENT FEE DETERMINED BY BOARD OF DIRECTORS- After the end of the 180-day period referred to in paragraph (1), the Association may, by vote of the board of directors, alter the annual membership fee, including the adoption of a sliding fee structure related to a member's income.

(g) POLITICAL CONTRIBUTIONS PROHIBITED- The Association shall not make any contributions to any political candidate or party.

## **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for the purpose of establishing the Financial Consumer Association \$1,000,000 for the fiscal year ending 1 year after enactment of this Act.

## **SEC. 6. DUTIES AND POWERS OF THE ASSOCIATION.**

(a) DUTIES- The Association shall have the following duties, and all actions by the Association shall be directed toward the performance of such duties:

(1) To inform, educate, and advise consumers and others on financial service matters.

(2) To represent and promote the interests of consumers in financial service matters as individual consumers and collectively in terms of local community needs and broad public interests.

- (3) To take affirmative measures to encourage membership by low- and moderate-income and minority consumers, to disseminate information and advice to consumers, and to represent consumer interests in financial service matters.
  - (4) To inform financial service consumers about the Association, including the procedures for obtaining membership in the Association.
  - (5) To allocate not less than 5 percent of the Association's budget to public education programs and to allocate not less than 50 percent of the Association's budget each year to establish and maintain regional and local offices.
- (b) POWERS- In addition to the rights and powers provided by other provisions of this Act, the Association shall have the following powers:
- (1) To represent the interests of consumers in financial service matters before regulatory agencies, legislative bodies, the courts, and other public forums.
  - (2) To establish the policies of the Association regarding appearances before the regulatory agencies, the courts, and other public bodies, and regarding other activities which the Association has the authority to perform under this Act.
  - (3) To maintain up-to-date membership rolls, and to keep them in confidence to the extent required by the provisions of this Act.
  - (4) To initiate, to intervene as a party, or otherwise participate on behalf of financial service consumers in any regulatory proceeding which the Association reasonably determines may affect their interests in financial service matters.
  - (5) To sue on behalf of any member, group of members, or all members for judicial relief, including damages, in any court of competent jurisdiction in regard to any financial service matter.
  - (6) To generally assist financial service consumers in the resolution of complaints involving financial service providers.
  - (7) To negotiate on behalf of financial service consumers as a class with financial service providers.
  - (8) To conduct, support, and assist research, surveys, and investigations in financial service matters.
  - (9) To establish regional and local offices and to provide any such offices with appropriate financial, technical, and other assistance.
  - (10) To contract for services which cannot reasonably be performed by its employees.
  - (11) To solicit and accept gifts, loans, grants, or other aid in order to support activities concerning the interests of financial service consumers, except that the Association may not accept gifts, loans, or other aid from any financial service providers or from any director, employee or agent or member of the immediate family of a director, employee, or agent of any financial service provider.
- (c) STANDING- The Association shall be deemed to have an interest sufficient to obtain judicial review or enforcement in any court of competent jurisdiction of any regulatory decision or other regulatory action which the Association reasonably determines may affect the interest of consumers in financial service matters.

## **SEC. 7. THE INTERIM BOARD.**

- (a) ESTABLISHMENT OF THE INTERIM BOARD-

(1) IN GENERAL- The interim board of directors of the Association shall be appointed as follows:

(A) 3 members appointed by the President of the United States.

(B) 3 members appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives, from among individuals who represent 1 or more of the following categories of citizens' organizations:

(i) Consumer groups.

(ii) Labor unions.

(iii) Civil right groups.

(C) 3 members appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate, from among individuals who represent 1 or more of the following categories of citizens' organizations:

(i) Neighborhoods groups.

(ii) Elderly groups.

(iii) Organizations representing low-income persons.

(2) REGIONAL REPRESENTATION- Individuals considered for appointment to the interim board shall, to the extent possible, represent different regions of the United States.

(b) ELIGIBILITY- To qualify for nomination or appointment as an interim director representing a category of citizens' organizations designated in subparagraph (B) or (C) of subsection (a)(1), an individual must currently be an officer, employee, or member of a citizens' organization within such category or previously have been an officer or employee of 1 or more citizens' organizations within such category for a cumulative period of at least 2 years.

(c) DUTIES OF INTERIM BOARD- The interim board of directors shall have the following duties:

(1) Within 60 days of appointment, incorporate the Association under the laws of the District of Columbia subject to the provisions and limitations of this Act.

(2) Manage the affairs of the Association until the first elected delegates and board of directors takes office.

(3) Inform the residents of the election districts of the existence, nature, and purpose of the Association, and encourage such persons to join the Association, participate in its activities, and to contribute to the Association.

(4) Adopt procedures and standards, consistent with the requirements of this Act, for the nomination and election of the Association's first elected delegates.

(5) Make all necessary preparations for the Association's first election of delegates and oversee the election campaign and tally the votes.

(6) Conduct meetings of the interim board of directors at least once every 3 months, which shall comply with the open meeting requirement of section 9(d)(5).

(7) Keep minutes, financial books, and records which shall reflect the acts and transactions of the interim board of directors.

- (8) Employ such interim staff as the interim directors deem necessary to carry out their responsibilities under this Act.
- (d) **APPLICABILITY OF CERTAIN OTHER PROVISIONS OF THIS ACT-** Interim directors shall be subject to the requirements of subsections (g), (h), and (i) of section 10 and subsections (d), (e), and (f) of section 13.
- (e) **LIMITATION ON AUTHORITY TO APPEAR BEFORE OTHER BODIES-** The interim board of directors shall not engage in representation or intervention on behalf of consumers or otherwise before any regulatory, legislative, judicial, or other body, except to the extent necessary to maintain or exercise the powers granted and the duties imposed upon it by this Act.
- (f) **FIRST GENERAL ELECTION-**
- (1) **IN GENERAL-** Once the membership of the Association reaches 100,000 or within 18 months of the appointment of the last interim director, whichever occurs first, the interim board of directors shall set a date for the first general election of delegates and shall promptly notify every member.
  - (2) **TIMELY ELECTION REQUIREMENT-** The date set for the election shall be not more than 90 days after such notification.
  - (3) **EXCEPTION-** Notwithstanding the provisions of paragraph (1) above, no election shall be held in an election district unless there are at least 50 residents of any such district who are Association members.

## **SEC. 8. INSERT PROVISIONS.**

- (a) **DEFINITIONS-** For purposes of this section--
- (1) **INSURED DEPOSITORY INSTITUTION-** The term 'insured depository institution' means--
    - (A) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and
    - (B) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act).
  - (2) **DEPOSIT ACCOUNT-** The term 'deposit account' means--
    - (A) any deposit (as defined in section 3(l) of the Federal Deposit Insurance Act);
    - (B) any deposit, certificate, share, or other such account which is authorized for savings associations pursuant to section 5 of the Home Owners' Loan Act; or
    - (C) a member account (as defined in section 101 of the Federal Credit Union Act) or a deposit at a credit union which is eligible for insurance under section 201 of the Federal Credit Union Act.
  - (3) **DEPOSIT ACCOUNT STATEMENT-** The term 'deposit account statement' means a statement which--
    - (A) indicates the balance on a deposit account;
    - (B) involves an outstanding deposit account contractor agreement between a federally insured depository institution and a customer of such institution; and
    - (C) is mailed or otherwise distributed to such customer.

(4) STATUTORY INSERT- The term `statutory insert' means--

(A) except as provided in subsection (e), a statement containing the following information:

`The Financial Consumers Association (FCA) is a consumer membership organization established under Federal law to inform and represent consumers on financial service matters.

`FCA provides consumers with information and advice on a range of financial services, such as consumer loans, mortgage loans, credit cards, debit cards, deposit accounts, investment funds, securities and financial planning.

`FCA also represents consumer, local community, and broad public interests in financial service issues before regulatory agencies and legislative bodies.

`FCA is a democratically controlled consumer membership organization.

`Although the FCA has been established under Federal law, as a consumer membership organization, the Association is primarily supported by membership fees, not public funds. Thus the FCA depends on its membership base for funding to undertake its information and representation activities.

`Anyone who is 18 years of age or older is entitled to become a member of FCA by paying the annual membership fee. The amount of the annual membership fee is \$10.

`You may become a member simply by filling out the attached application and mailing it and the membership fee to FCA in the attached preaddressed envelope.'

(B) an application for Association membership which requests the applicant's name and indicates the annual membership fee; and

(C) a preaddressed, business reply envelope for mailing the application and membership fee to the Association.

(b) REQUIREMENTS APPLICABLE TO STATUTORY INSERTS- The statutory insert required by this section shall be subject to the following requirements:

(1) The statutory insert shall contain only the statement, application, and preaddressed business reply envelope specified in subsection (a)(4).

(2) The statement, application, and preaddressed business reply envelope shall be presented to the customer as a single document, although the document may be separable into different parts by tearing along perforated lines.

(3) The statement and application shall be printed in at least 10-point type.

(4) The Financial Consumers Association shall pay the cost of printing and placing the statutory insert in all appropriate mailings but shall not pay any postage costs if the insert weighs less than .35 ounces.

(c) STATUTORY INSERT REQUIRED TO BE INCLUDED IN STATEMENTS OF DEPOSITORY INSTITUTION-

(1) IN GENERAL- Each insured depository institution shall include, or cause such institution's agent to include, a statutory insert or a Financial Consumers Association insert in deposit account statements that such institution mails or

otherwise distributes to the institution's depositors as specified in paragraphs (2) and (3).

(2) STATUTORY INSERT- The Financial Consumers Association shall have the right to include statutory inserts in each depository account statement for each depositor once each calendar quarter.

(3) FINANCIAL CONSUMERS ASSOCIATION INSERTS- In addition, the Financial Consumers Association shall have the right to include in deposit account statements once each calendar quarter an insert that it prepares and furnishes to any institution required to carry the statutory insert.

(4) CONTENTS OF FCA INSERTS- The insert furnished by the Association shall be limited to soliciting information and membership from consumers and explaining--

(A) the purpose, history, nature, activities, and achievements of the Association;

(B) that the Association is open to membership by residential consumers;

(C) that the Association is not connected to any financial services entity;

(D) that the Association is a nonprofit Association directed by its consumer members;

(E) the procedure for contributing to or becoming a member of the Association; and

(F) the yearly membership fee.

(5) CERTIFICATION- Prior to furnishing an insert to an insured depository institution for mailing, the Association shall certify that the insert--

(A) is not false or misleading; and

(B) contains and is limited to the information permitted by this section.

(6) REVISIONS-

(A) RETURN FOR REVISION- If a depository institution finds that the insert may be false or misleading or is not limited to the information permitted by this section, then it may return the insert to the Association for revision.

(B) SUBMISSION TO FDIC-

(i) IN GENERAL- If the financial services entity and the Association are unable to agree on said revision, the insert shall be submitted to the board of directors of the Federal Deposit Insurance Corporation.

(ii) REVIEW- The Federal Deposit Insurance Corporation shall review the insert and make a determination promptly, but in no event later than 30 days after receipt of the insert.

(iii) DETERMINATION- The Federal Deposit Insurance Corporation may disapprove the insert for mailing if the Corporation finds that the insert is false or misleading or contains information not permitted by this section.

## **SEC. 9. DELEGATES.**

(a) IN GENERAL- Members of the Association shall have duly elected representatives who shall be elected in accordance with the provisions of this section and sections 11 and 13.

(b) ONE DELEGATE TO BE ELECTED FROM EACH DISTRICT- 1 delegate shall be elected by the Association members from each Association election district, except that an election shall not take place in an election district if there is no candidate who has satisfied the qualification requirements of sections 11 and 13.

(c) ELECTION DISTRICTS-

(1) IN GENERAL- The Association election districts shall correspond to the United States congressional districts.

(2) DISTRICTS IN UNITED STATES POSSESSIONS- For the purposes of this Act, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and American Samoa shall each be considered an election district.

(d) DUTIES AND POWERS OF DELEGATES- Each delegate shall have the following duties and powers:

(1) ANNUAL SURVEY- To survey Association members in the delegate's election district at least 1 time each year to ascertain members' concerns using written surveys provided by the Association up to 50 percent of the survey questions in which may be provided by the delegate.

(2) LIAISON- To act as a liaison between the board of directors and the members in the delegate's election district, including transmitting any comments, writings, and suggestions concerning the Association from members in the delegate's election district to the board of directors and informing such members of the board's response to their statements.

(3) OFFICE PLANNING- To develop plans for the organization of regional and local offices.

(4) VOTING ON CHANGES IN ARTICLES OF INCORPORATION, BYLAWS, AND MAJOR POLICIES- To vote at the annual meeting of delegates and at special meetings of delegates called by the board of directors on amendments to the bylaws or the articles of incorporation or on matters involving changes in major policies or operations of the Association.

(5) APPROVAL OF RULES- To approve rules proposed by the board of directors for the nomination and election of the directors.

(6) VOTING AT ANNUAL AND SPECIAL MEETINGS- To vote on other items submitted to delegates by the board of directors at annual and special meetings.

(7) OTHER DUTIES AND POWERS- To carry out all other duties and exercise all other powers accorded to delegates under this Act.

(e) ANNUAL MEETINGS-

(1) TIME AND PLACE- An annual meeting of delegates shall be held in the month of January on a date and at a place within the United States to be determined by the board of directors at least 6 months in advance of the meeting.

(2) PROCEDURES-

(A) VOTING- All delegates shall be eligible to attend, participate in, and vote in the annual meeting of delegates.

(B) QUORUM- A majority of the delegates shall constitute a quorum.

(C) 1 PERSON-1 VOTE- Each delegate shall have 1 vote at such meetings.

(D) MAJORITY VOTE- A majority vote of the delegates shall indicate approval by the delegates of any items submitted for the consideration of the delegates.

(E) ABSENTEE VOTING- The 1st elected board of directors shall establish procedures for absentee voting.

(3) AGENDA- Items may be placed on the meeting's agenda by any of the following methods:

(A) By request of any director or delegate not less than 5 days and not more than 4 months in advance of the date of such meeting.

(B) By petition which--

(i) contains the valid signatures of at least 20 percent of the members in any delegate's election district or at least 1 percent of the total membership; and

(ii) was filed with the board of directors not less than 5 days and not more than 4 months in advance of the date of such meeting.

(4) FORM OF MEETING- The form of the annual meeting of delegates shall be as provided in the laws of the District of Columbia regarding nonprofit corporations; and

(5) OPEN MEETINGS-

(A) MEETINGS OPEN TO PUBLIC- The annual meeting of delegates shall be open to the public.

(B) MEMBERS OPPORTUNITY TO BE HEARD- Members shall be given a reasonable opportunity at any annual meeting to present any comment, criticism, or suggestion concerning the Association, but members may not vote at such meetings.

(6) MINUTES- Complete minutes of each annual meeting shall be kept and shall be distributed to 1 Federal depository library in each election district.

(f) TERMS AND CONDITIONS OF OFFICE-

(1) IN GENERAL- The term of office for any delegate shall be 3 years.

(2) MAXIMUM NUMBER OF TERMS- No delegate shall serve more than 2 terms.

(3) SERVICE WITHOUT PAY OTHER THAN REIMBURSEMENT FOR EXPENSES- Delegates of the Association shall serve without compensation, except that delegates may be reimbursed for actual expenses incurred by them in the performance of their duties.

(g) VACANCY-

(1) IN GENERAL- If a vacancy occurs in any position of delegate, the board of directors shall appoint, as the successor for the balance of the term, the person who--

(A) meets the requirements of sections 11 and 13; and

(B) had the highest vote total in the most recent delegate election from the district in which such vacancy occurred of all candidates (who meet the requirements of sections 11 and 13) other than the candidate whose failure to continue to serve as delegate created the vacancy.

(2) ALTERNATIVE METHOD OF APPOINTMENT- If any vacancy referred to in paragraph (1) cannot be filled in the manner described in such paragraph, the board of directors, by vote of not less than 2/3 of all directors, shall appoint within 60 days of the occurrence of the vacancy a successor from the same election district for the remainder of the current term. The person appointed by the board of directors shall meet the qualifications for delegate.

(h) RECALL- Any delegate shall be removed from office by the board of directors if not less than 40 percent of the members from the delegate's election district who voted in the last election have signed a petition for recall.

## **SEC. 10. BOARD OF DIRECTORS.**

(a) MANAGEMENT- The affairs of the Association shall be managed by a board of directors consisting of 17 members elected by the delegates of the Association in accordance with the provisions of section 12.

(b) 1 PERSON-1 VOTE- Each director shall have 1 vote on the board of directors.

(c) TERMS AND CONDITIONS OF OFFICE-

(1) IN GENERAL- The term of office for any director shall be 3 years.

(2) MAXIMUM NUMBER OF TERMS- No director shall serve more than 2 terms.

(3) SERVICE WITHOUT PAY OTHER THAN REIMBURSEMENT FOR EXPENSES- Directors shall serve without compensation, except that directors may be reimbursed for actual expenses incurred in the performance of their duties.

(d) RECALL- Any director shall be removed from the board of directors by the board of directors if not fewer than 40 percent of the delegates or members of a director's election district who voted in the last election have signed a petition for recall.

(e) POWERS AND DUTIES OF BOARD OF DIRECTORS- The board of directors shall, in addition to its other responsibilities, have the following powers and duties:

(1) MEETINGS-

(A) IN GENERAL- Conduct meetings of the board of directors at least once every 3 months, which meetings shall be open to the public, unless 2/3 of the directors present vote to adjourn into executive session.

(B) EXECUTIVE SESSION- The only matters which may be discussed in executive session are personnel actions, potential or pending civil or criminal proceedings involving the Association, and material which would result in an unwarranted invasion of personal privacy if discussed in open sessions.

(2) CONDUCT ANNUAL MEETING- Conduct an annual delegate meeting.

(3) MINUTES AND FINANCIAL RECORDS- Keep minutes, financial records, and other records which shall reflect the acts and transactions of the board of directors.

(4) AUDITS- Cause the Association's financial books to be audited by a qualified certified public accountant at least once each fiscal year.

- (5) **PREPARE STATEMENTS AND REPORTS-** Prepare quarterly statements and an annual report indicating the substantive activities and financial operations of the Association.
- (6) **APPROVAL OF BYLAWS-** Approve the bylaws of the Association consistent with the requirements of this Act. All rules approved by the delegates pursuant to the provisions of this Act shall be incorporated in the bylaws.
- (7) **MAKE DOCUMENTS AVAILABLE TO PUBLIC-** Make available to the public any of the following documents prepared by or filed with the Association within the preceding 5 years:
  - (A) Minutes of the meetings of the board of directors.
  - (B) Any director's, executive director's, or candidate's financial statement and any candidate's statement.
  - (C) The annual report of the Association.
- (f) **ELECTION OF OFFICERS-**
  - (1) **REQUIRED OFFICERS-** At the first regular meeting of the board of directors at which a majority of its members are present subsequent to the installation of new directors following each annual election, the board shall elect by majority vote of directors present and voting and from among the directors a president, vice-president, secretary, and treasurer.
  - (2) **ADDITIONAL OFFICERS-** The board shall also have the power to elect a comptroller and such other officers as the board of directors deems necessary.
- (g) **EXECUTIVE DIRECTOR-**
  - (1) **IN GENERAL-** The board of directors shall hire and supervise an executive director for the Association.
  - (2) **DUTIES OF EXECUTIVE DIRECTOR-** The executive director shall implement the policies established by the board of directors, employ and discharge Association employees, and manage the offices, facilities, and employees of the Association.
  - (3) **ELIGIBILITY STANDARDS-** Any applicant for the position of executive director and each executive director shall satisfy the requirements for director eligibility established by subsections (d), (e), and (f) of section 13.
- (h) **NO COMPENSATION FOR ASSOCIATION DIRECTORS-** No Association director may receive any compensation for such director's services but shall be reimbursed for wages actually lost in an amount not to exceed \$160 per day and for necessary expenses, including travel expenses incurred in the discharge of duties.
- (i) **BONDING REQUIREMENT FOR STAFF-** Any director or staff person eligible to receive, handle, or disburse funds on behalf of the Association shall be bonded. The cost of such bonds shall be paid for by the Association.
- (j) **ANNUAL FINANCIAL STATEMENTS OF DIRECTORS-** Each director and the executive director shall file annually with the board of directors a director's financial statement which shall include the same information required in section 13(b).

## **SEC. 11. ELECTIONS OF DELEGATES.**

- (a) **VOTING STANDARD-** Each member of the Association shall be entitled to cast 1 vote for a candidate for a delegate to represent such member's district. Voting shall be by secret mail ballot.
- (b) **ELIGIBILITY STANDARDS FOR NOMINATION AS A DELEGATE-** To qualify for nomination as a candidate for election as a delegate of the Association, an individual shall--
- (1) be a member of the Association and a resident of the election district which such individual seeks to represent;
  - (2) submit to the Association, not less than 60 days and not more than 120 days before the election, a nomination petition signed by at least 25 Association members from the election district which such individual seeks to represent;
  - (3) submit to the Association the statements required by section 13; and
  - (4) satisfy all other requirements of this Act and any applicable bylaws of the Association.
- (c) **DISTRIBUTION OF ELECTION MATERIAL-**
- (1) **IN GENERAL-** The Association shall mail to each member the following documents concerning duly nominated candidates for election as a delegate:
    - (A) An official ballot listing all such candidates from the member's election district.
    - (B) The candidate's statement required by section 13(a) for each such candidate from the member's election district.
  - (2) **SUMMARY AND COSTS-** The delegate summaries shall have a uniform format and shall provide information on the same characteristics for each candidate. The costs for all mailings described in this subsection shall be borne by the Association.
- (d) **LIMITATION ON CAMPAIGN EXPENDITURES-** No candidate for election as a delegate or director shall incur campaign expenditures for any such election in an amount greater than the amount determined by multiplying the number of members in the candidate's election district by 150 percent of the cost of postage for a 1-ounce 1st class mailing.
- (e) **LIMITATION ON USE OF CAMPAIGN CONTRIBUTIONS-** No candidate for election as a delegate or to the board of directors may use any campaign contribution for any purpose other than campaign expenditures. Any unused contributions shall be donated to the Association not later than 60 days after the election.
- (f) **LIMITATION ON AMOUNT OF CAMPAIGN CONTRIBUTIONS-** No candidate for election as a delegate shall accept more than \$250 in campaign contributions from any 1 contributor in any election.
- (g) **PROHIBITION ON ACCEPTANCE OF CERTAIN CONTRIBUTIONS-** A candidate for election as a delegate may not accept political action committee contributions.

## **SEC. 12. ELECTIONS OF DIRECTORS.**

- (a) Election of the Board of Directors-
- (1) **REGULAR ELECTION PROCEDURES-**

(A) 1 DELEGATE-1 VOTE- Each delegate shall cast 1 vote for 1 candidate for the board of directors.

(B) TOP 17 CANDIDATES BECOME DIRECTORS- The 17 candidates receiving the largest number of votes shall become the directors.

(2) RUNOFF ELECTION-

(A) IN GENERAL- In the event of a tie involving the 17th position on the board of directors, a runoff election shall be conducted.

(B) VOTING AND CANDIDATE ELIGIBILITY- Any delegate may vote for 1 candidate in the runoff election, and only those nominees involved in the tie that included the 17th position shall be eligible for the runoff election.

(b) ELIGIBILITY STANDARDS FOR THE BOARD OF DIRECTORS- To qualify for nomination as a candidate for election to the board of directors, an individual shall--

(1) be a delegate; and

(2) be nominated by 25 other delegates.

(c) APPLICABILITY TO ALL BOARD ELECTIONS- The requirements of this section shall apply to the first election of directors conducted by the interim board of directors pursuant to section 8 as well as to all subsequent elections.

## **SEC. 13. QUALIFICATIONS.**

(a) CANDIDATE'S STATEMENT-

(1) STATEMENT REQUIRED- Any person seeking nomination as a candidate for election as a delegate or to the board of directors shall file with the Association, no less than 60 days and no more than 120 days prior to the election, a candidate's statement.

(2) CONTENTS- The contents of a candidate's statement may not contain false statements and the Association may, by bylaw or interim board of directors' procedure, impose a uniform limitation on the length of all candidate's statements.

(b) FINANCIAL STATEMENT-

(1) STATEMENT REQUIRED- Any person seeking nomination as a candidate for election as a delegate or director shall file with the Association, not less than 60 days and not more than 120 days before the election, a financial statement and shall affirm in writing, that the information in the statement is true and complete.

(2) CONTENTS- Each candidate's financial statement shall include the following information for the candidate and the immediate family of the candidate:

(A) PRECEDING 3 YEARS' INCOME- Income during each of the preceding 3 years (including income derived from salary, commissions, real estate holdings, and financial assets) itemized by type of source, identity of source, and amount.

(B) PRECEDING 5 YEAR'S BUSINESS AND FINANCIAL RELATIONSHIPS- A detailed list of any business or financial relationships during the preceding 5 years with any financial service provider or organization of financial service providers, including any attorney, legislative agent, officer, or director relationship;

(C) CURRENT AND PRECEDING 5 YEARS' CORPORATE POSITIONS- A list of all corporate and organizational directorships or other offices and all fiduciary relationships currently held or held at any time during the preceding 5 years.

(D) INVESTMENTS OF \$3,000 OR MORE IN ANY CORPORATION- A list of all corporations in which the candidate holds securities worth \$3,000 or more at current market value and the dollar value of each such holding.

(E) OBLIGATIONS OF \$3,000 OR MORE TO ANY CREDITOR- A list of all creditors to whom outstanding debt of \$3,000 or more is owed and the dollar amount of each such debt.

(F) OTHER INFORMATION- Such other information as the board of directors may require by bylaw.

(c) AFFIRMATION OF TRUTH OF STATEMENTS- Each candidate for election as a delegate or director shall affirm in writing, that the information in such candidate's financial statement is true and complete and that the candidate has complied with all the campaign contribution and campaign expenditure requirements of this Act and any such bylaws of the Association. Each candidate shall furnish the board of directors with such information regarding campaign contributions and expenditures as the board may request.

(d) INELIGIBILITY OF INTERIM DIRECTORS AND STAFF DURING 1ST ELECTION- No interim director shall be eligible for election as a delegate or director during the 1st election. The executive director and other Association staff persons, including interim staff persons, shall not be eligible for election as a delegate or director while serving as executive director or staff person or for 1 year after such service is terminated.

(e) INELIGIBILITY OF DELEGATES AND DIRECTORS TO HOLD OTHER PUBLIC OFFICE- No delegate or director shall hold any elective Federal, State, or local office or be a candidate for such office, or be appointed to hold such office, unless such appointee receives no compensation other than reimbursement of expenses.

(f) INELIGIBILITY OF OFFICERS, DIRECTORS, EMPLOYEES, AND SHAREHOLDERS OF FINANCIAL SERVICE PROVIDERS- Any director, officer, or employee of a financial service provider, any person who owns common stock or other securities of financial service providers in an aggregate amount in excess of \$10,000, any agent, consultant, attorney, or accountant for a financial service provider, and any member of the immediate family of any such person shall be ineligible to be a delegate or a director.

(g) INELIGIBILITY OF OFFICERS AND EMPLOYEES OF FEDERAL OR STATE DEPOSITORY INSTITUTION REGULATORY AGENCIES- No officer or employee of any State or Federal agency that regulates depository institutions or any member of the immediate family of any such officer or employee shall be eligible to be a delegate or a director.

## **SEC. 14. BALLOT ISSUES.**

(a) PROCEDURE FOR OBTAINING MEMBERSHIP VOTE ON ISSUES- Issues may be placed on a ballot for vote by the general membership if--

- (1) a majority of the board of directors votes to place an issue before the membership for vote;
  - (2) a petition is received by the board of directors which--
    - (A) contains the valid signatures of at least 20 percent of the members in any district or at least 1 percent of the total membership; and
    - (B) requests that an issue be placed on a ballot is received by the board of directors; or
  - (3) a majority of the delegates vote to place an issue before the membership for a vote.
- (b) PROCEDURES FOR CONDUCTING VOTE ON ISSUES-
- (1) TIME FOR ELECTION- Upon certification of a vote of the directors or delegates which meets the requirements of paragraph (1) or (3) of subsection (a) or the receipt of a petition which meets the requirement of subsection (a)(2), the board of directors shall place the issue on a special ballot and schedule a date for a vote on the issue to be held within 2 months after receipt of the certification or petition.
  - (2) MAIL BALLOT- The board of directors shall send or have sent by mail to each member, not later than 30 days after receipt of a petition or certification pursuant to this section, an official ballot containing the issue for membership vote.
  - (3) VOTE CAST BY RETURN MAIL- Each member may cast a vote regarding the ballot issue by returning the ballot, properly marked, to the head office of the Association the date and time fixed for the balloting pursuant to this subsection.
  - (4) SECRET BALLOT- Voting shall be by secret ballot.
  - (5) VOTE TALLY- The board of directors shall tally votes with all reasonable speed and inform the membership and delegates promptly of the outcome of the vote.

## **SEC. 15. ACCESS TO MEMBER MAILINGS.**

The board of directors shall provide any Association member free access through Association mailings to the Association's membership for Association purposes, but shall not disclose the identity of Association members. No person shall use any list of members of the Association, or any part of such list, for purposes other than the conduct of business of the Association as prescribed in this Act. No person shall disclose any such list or part thereof to any other individual who the person has reason to believe does not intend to use it for the lawful purposes described in this Act.

## **SEC. 16. PENALTIES.**

A violation of any provision of this Act by a regulated financial institution or officer, employee, or agent of any such institution shall be subject to a civil penalty of not more than \$10,000 for each violation to be levied by the Federal Deposit Insurance Corporation.

## **SEC. 17. DISSOLUTION.**

If, after the end of the 3-year period beginning on the date the Association is incorporated, the Association's membership remains below 5,000 members during any 1-year period, the board of directors of the Association shall dissolve the Association. Upon the termination, dissolution, or winding up of the Association in any manner or for any reason, voluntary or involuntary, its assets, if any, remaining after the payment or provision for payment of all liabilities of the Association shall be distributed to, and only to, 1 or more charitable organizations. No part of the income or assets of the Association shall inure to any of its members, directors, or officers, or be distributed to any of them during the life of the Association or upon its dissolution. At the time of dissolution, any unexpended funds appropriated by Congress for the establishment of the organization shall be returned to the United States Treasury.

#### **SEC. 18. RELATIONSHIP TO EXISTING LAW.**

Nothing in this Act shall be construed to limit the right of any individual or group of individuals to initiate, intervene in, or otherwise participate in any proceeding before a regulatory agency or court, nor to relieve any regulatory agency, court, or other public body of any obligation, or affect its discretion to permit intervention or participation by a consumer or group or class of consumers or citizens in any proceeding or activity.

*END*