

1 **Amendment to Financial Stability Improvement Act (Committee Print—10/29/09)**

2 **Amendment Offered By Mr. Green of Texas and Mr. Bachus from Alabama**

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4 Page 94, strike line 12 through line 19 and insert the following:

5 “(1) 3-YEAR PROTECTION.—

6 (A) IN GENERAL.— Except as provided in paragraph (2), each affected
7 employee shall not, during the 3-year period beginning on the transfer date, be
8 involuntarily separated, or involuntarily reassigned outside his or her locality pay
9 area as defined by the Office of Personnel Management.

10 (B) AFFECTED EMPLOYEES.— For purposes of this paragraph, the term
11 “affected employee” means---

12 (i) an employee transferred from the Office of Thrift
13 Supervision holding a permanent position on the day before the transfer
14 date;

15 (ii) an employee of the Office of the Comptroller of the
16 Currency holding a permanent position on the day before the transfer
17 date; and

18 (iii) an employee of the Corporation holding a permanent
19 position on the day before the transfer date.”

20 Page 103, line 16, after “Currency” insert “or the Corporation”.

21 Page 103, line 25, strike the period and insert a semi-colon.

22 Page 103, after line 25, insert the following:

1 “(3) shall, jointly with the Director of the Office of Thrift Supervision,
2 develop and adopt procedures and safeguards designed to ensure that the
3 requirements of this subsection are met; and

4 (4) shall conduct a study detailing the position assignments of all employees
5 transferred pursuant to subsection (a), describing the procedures and safeguards
6 adopted pursuant to paragraph (3), and demonstrating that the requirements of this
7 subsection have been met; and shall, not later than 365 days after the transfer date,
8 submit a copy of such study to Congress.”

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Explanation of Amendment

This amendment makes several changes designed to ensure that in the aftermath of the transfer, OTS, OCC and FDIC employees are treated fairly and equitably and further that transferred OTS employees are not disadvantaged relative to existing OCC and FDIC employees. The specific changes are detailed below.

3-Year Protection

This amendment provides that from 3-years from the transfer date, transferred OTS employees and employees of the OCC and FDIC shall not be involuntarily separated, or involuntarily reassigned outside his or her locality pay area. However, during such period the FDIC and OCC would be able to separate an employee for cause or unacceptable performance. This amendment is intended to ensure fair and equitable treatment among all employees during the period following the transfer of functions and employees of the OTS. Moreover, the OCC and FDIC, including recently transferred OTS employees, are more likely to succeed if their employees are not distracted by the possibility of a reduction-in-force.

Correction of Technical Error

This amendment corrects a technical error in section 313(j). The section prohibits the OCC and FDIC from taking an action “that would unfairly disadvantage transferred employees relative to other employees of the [OCC] based on their prior employment by the [OTS].” This amendment adds a missing reference to the FDIC to ensure that OTS employees would not be disadvantaged relative to other employees of the OCC and FDIC.

Procedures and Safeguards and Congressional Report

This amendment would require that the OCC and FDIC, jointly with the Director of the Office of Thrift Supervision, develop and adopt procedures and safeguards designed to ensure that OTS employees transferred to these agencies are not unfairly disadvantaged relative to other employees. It also requires the OCC and FDIC to submit a report to Congress detailing the position assignments of all employees transferred to these agencies, describing the procedures and safeguards adopted to ensure that OTS employees are not disadvantaged, and demonstrating that the requirements of the subsection have been met. The report is due no later than 365 days after the transfer date.