

EXAMINATION PARITY AND YEAR 2000 READINESS FOR  
FINANCIAL INSTITUTIONS ACT

FEBRUARY 24, 1998.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial  
Services, submitted the following

REPORT

[To accompany H.R. 3116]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 3116) to address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; DEFINITION.**

(a) **SHORT TITLE.**—This Act may be cited as the “Examination Parity and Year 2000 Readiness for Financial Institutions Act”.

(b) **YEAR 2000 COMPUTER PROBLEM DEFINED.**—For purposes of this Act, the term “Year 2000 computer problem” means, with respect to information technology, any problem which prevents such technology from accurately processing, calculating, comparing, or sequencing date or time data—

- (1) from, into, or between—
  - (A) the 20th and 21st centuries; or
  - (B) the years 1999 and 2000; or
- (2) with regard to leap year calculations.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

- (1) The Year 2000 computer problem poses a serious challenge to the American economy, including the Nation’s banking and financial services industries.
- (2) Thousands of banks, savings associations, and credit unions rely heavily on internal information technology and computer systems, as well as outside service providers, for mission-critical functions, such as check clearing, direct

deposit, accounting, automated teller machine networks, credit card processing, and data exchanges with domestic and international borrowers, customers, and other financial institutions.

(3) Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation's financial institutions will not be at risk.

**SEC. 3. SEMINARS AND MODEL APPROACHES TO YEAR 2000 COMPUTER PROBLEM.**

(a) SEMINARS.—

(1) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall offer seminars to all depository institutions and credit unions under the jurisdiction of such agency on the implication of the Year 2000 computer problem for—

(A) the safe and sound operations of such depository institutions and credit unions; and

(B) transactions with other financial institutions, including Federal reserve banks and Federal home loan banks.

(2) CONTENT AND SCHEDULE.—The content and schedule of seminars offered pursuant to paragraph (1) shall be determined by each Federal banking agency and the National Credit Union Administration Board taking into account the resources and examination priorities of such agency.

(b) MODEL APPROACHES.—

(1) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall make available to all depository institutions and credit unions under the jurisdiction of such agency model approaches to common Year 2000 computer problems, such as model approaches with regard to project management, vendor contracts, testing regimes, and business continuity planning.

(2) VARIETY OF APPROACHES.—In developing model approaches to the Year 2000 computer problem pursuant to paragraph (1), each Federal banking agency and the National Credit Union Administration Board shall take into account the need to develop a variety of approaches to correspond to the variety of depository institutions or credit unions within the jurisdiction of the agency.

(c) COOPERATION.—In carrying out this section, the Federal banking agencies and the National Credit Union Administration Board may cooperate and coordinate activities with each other, the Financial Institutions Examination Council, and appropriate organizations representing depository institutions or credit unions.

(d) FEDERAL BANKING AGENCY DEFINED.—For purposes of this section, the term “Federal banking agency” has the meaning given to such term in section 3(z) of the Federal Deposit Insurance Act.

**SEC. 4. REGULATION AND EXAMINATION OF SERVICE CORPORATIONS CONTROLLED BY SAVINGS ASSOCIATIONS AND SERVICE PROVIDERS.**

Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following new paragraph:

“(7) REGULATION AND EXAMINATION OF SERVICE CORPORATIONS, SUBSIDIARIES, AND SERVICE PROVIDERS.—

“(A) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—

“(i) IN GENERAL.—A service corporation or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as such savings association.

“(ii) EXAMINATION BY OTHER BANKING AGENCIES.—The Director may authorize any other Federal banking agency that supervises any other person who maintains an ownership interest in the service corporation or subsidiary to make an examination of the corporation or subsidiary for purposes of clause (i).

“(B) APPLICABILITY OF SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—

“(i) IN GENERAL.—A service corporation or subsidiary that is owned in whole or in part by a savings association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act as if the service corporation or subsidiary were an insured depository institution.

“(ii) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of clause (i), the Director shall be the appropriate Federal banking agency with regard to a service corporation or subsidiary described in such clause.

“(C) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subparagraph (A), if a savings association or subsidiary, or any savings and loan holding company, affiliate, or entity referred to in section 8(b)(9) of the

Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any services authorized under this Act or any applicable State law, whether on or off its premises—

“(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association itself on its own premises; and

“(ii) the savings association, service corporation, subsidiary, holding company, affiliate, or entity shall notify the Director of the existence of the service relationship before the end of the 30-day period beginning on the earlier of—

“(I) the date on which the contract is entered into; or

“(II) the date on which the performance of the service is initiated.

“(D) ADMINISTRATION BY THE DIRECTOR.—The Director may prescribe such regulations and issue such orders, including regulations prescribed or orders issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out the purposes of this paragraph and prevent evasions of this paragraph.”.

**SEC. 5. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS.**

Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by inserting after section 206 the following new section:

**“SEC. 206A. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS.**

“(a) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—

“(1) IN GENERAL.—A credit union organization shall be subject to examination and regulation by the Board to the same extent as an insured credit union.

“(2) EXAMINATION BY OTHER FEDERAL AGENCIES.—The Board may authorize—

“(A) any Federal regulatory agency that supervises any activity of a credit union organization; or

“(B) any Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) that supervises any other person who maintains an ownership interest in a credit union organization,

to make an examination of the credit union organization for purposes of paragraph (1).

“(3) CREDIT UNION ORGANIZATION DEFINED.—For purposes of this section, the term ‘credit union organization’ means any entity that—

“(A) is not a credit union;

“(B) is an entity in which an insured credit union may lawfully hold an ownership interest or investment; and

“(C) is owned in whole or in part by an insured credit union.

“(b) APPLICABILITY OF SECTION 206.—A credit union organization shall be subject to the provisions of section 206 as if the credit union organization were an insured credit union.

“(c) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subsection (a), if an insured credit union or a credit union organization that is regularly examined or subject to examination by the Board, causes to be performed for itself, by contract or otherwise, any services authorized under this Act or any applicable State law, whether on or off its premises—

“(1) the performance of such services shall be subject to regulation and examination by the Board to the same extent as if such services were being performed by the insured credit union itself on its own premises; and

“(2) the insured credit union or credit union organization shall notify the Board of the existence of the service relationship before the end of the 30-day period beginning on the earlier of—

“(A) the date on which the contract is entered into; or

“(B) the date on which the performance of the service is initiated.

“(d) ADMINISTRATION BY THE BOARD.—The Board may prescribe such regulations and issue such orders as may be necessary to enable the Board to administer and carry out the purposes of this section and prevent evasions of this section.

“(e) EXPIRATION OF AUTHORITY.—This section, and all power and authority of the Board under this section, shall cease to be effective as of December 31, 2001.”.

## PURPOSE

The purpose of H.R. 3116, the Examination Parity and Year 2000 Readiness for Financial Institutions Act (the Act), as reported out of the Committee on Banking and Financial Services with an amendment, is to instruct the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration to take proactive steps to assist federally regulated institutions in remediating their computer systems so as to preclude system failures caused by the century date change. Furthermore, this bill ensures that all federal financial regulatory agencies have statutory parity with respect to authority to examine and regulate institutions' third party service providers, including those that provide critical Year 2000-related services.

Financial institutions are reliant upon technologically driven operations to provide everyday business functions to their customers—federally insured depositors. Without appropriate action to prepare for the Year 2000 computer problem, an institution may experience widespread failure of its information systems. It is incumbent that the federal financial regulators have the necessary authority to oversee and guide their regulated institutions' efforts to become Year 2000 compliant. In this regard, the Act is intended to strengthen the assurance that each depositor's funds are safe and that the U.S. financial institutions remain domestically viable and internationally competitive.

## SUMMARY

H.R. 3116 requires the federal financial regulatory agencies to hold seminars for financial institutions on the implications of the Year 2000 problem for safe and sound operations, and to provide model approaches for solving common Year 2000 problems.

Second, the bill extends authority to the Office of Thrift Supervision and the National Credit Union Administration to examine and regulate the operations of service corporations or other entities that perform services under contract for thrifts and credit unions, a statutory authority that already exists for the Federal Reserve Board, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

## BACKGROUND AND NEED FOR LEGISLATION

The Year 2000 problem (also referred to as the "Y2K" problem or "CDC/century date change" problem) arises from the fact that most computer systems have relied on a 6-digit code for dates, with two digits each for year, month, and day. Dates like December 31, 1999, are typically recorded in computer shorthand simply as "991231." The practice of using only two digits to identify the year saved computer data storage space and cut costs. Unfortunately, as a result of that economy, when the clock rolls over to January 1, 2000, many computers will assume that "00" means the year "1900" rather than "2000," and may reject entries, calculate erroneous results, or simply refuse to operate.

The Year 2000 computer problem poses a serious challenge to the American economy, including the Nation's technology-dependent

banking and financial services industries. One of the nation's leading bank agency officials, Comptroller of the Currency Eugene Ludwig, warned in a speech on September 25, 1997, that "Y2K poses challenges of unprecedented urgency and complexity."

Nearly all of the thousands of financial institutions in the United States today rely on computers for such functions as check clearing, direct deposit, accounting, automated teller machine (ATM) networks, credit card processing, and electronic data exchanges with borrowers, customers, and other financial institutions. Even bank security systems, vaults, phone systems, elevators, and other building systems could malfunction if embedded, date-sensitive microchips fail to process the Year 2000 date change. Financial institutions are also vulnerable to the Year 2000 readiness of their borrowers because a borrower who fails to correct a Year 2000 problem may suffer business losses and default on loan repayment.

Financial institutions face potential problems with internal, mission-critical computer systems but, perhaps even more significantly, are facing serious vulnerabilities as a result of their dependency on outside vendors for computer related services. At the Committee's February 5, 1998, hearing, a witness representing America's Community Bankers reported that, "According to ACB research, approximately 97 percent of savings institutions use third-party service providers for some part of their operations." A representative of the National Association of Federal Credit Unions also reported that the credit union community is highly dependent on vendors and that, "Although many credit unions [\* \* \*] have contacted their vendors for information on the status of their vendors' year 2000 compliance, this information from vendors may be incomplete, inaccurate and cannot be independently verified."

The federal financial regulatory agencies—the Federal Reserve Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) are engaged in individual efforts, as well as collective interagency efforts under the umbrella of the Federal Financial Institutions Examination Council (FFIEC), to address the Year 2000 problem and ensure timely, corrective action is taken by the financial institutions under their supervision.

A May 5, 1997, FFIEC statement to CEOs of financial institutions, service providers, federal agency officials, and examiners laid out a 5-phase process for managing Year 2000 projects: awareness, assessment, renovation, validation (testing), and implementation. The statement also laid out a timetable for Year 2000 remediation, calling for all mission critical systems needing Year 2000 repairs to be identified by the third quarter of 1997, and strongly encouraging the industry to ensure that programming, hardware, and any other changes are largely finished and testing well underway by the end of 1998. This schedule will allow a full year—1999—to be dedicated to testing computer systems and their interdependencies internally as well as with external parties.

At an earlier Committee hearing on November 4, 1997, the Committee heard testimony from Edward W. Kelley, Jr., a member of the Federal Reserve Board of Governors and Comptroller of the Currency Eugene A. Ludwig on the steps federal regulators are

taking to ensure the nation's banking and financial systems will be prepared for the century date change. During that hearing, Governor Kelley reported that by mid-1998, the Federal Reserve Board will have conducted a Year 2000 examination of every bank, U.S. branch and agency of foreign banks, and service provider that the Federal Reserve supervises. Speaking for the OCC, Comptroller Ludwig also reported that his agency will conduct on-site Year 2000 exams of every national bank by the same deadline. Testifying also in his capacity as Chairman of the FFIEC, Comptroller Ludwig described the interagency supervisory strategy as "aggressive and comprehensive."

In order to stay abreast of the Year 2000 progress of the federal financial regulatory agencies and the financial institutions under their jurisdiction, the Committee has requested quarterly progress reports from each of the agencies.

The Committee endorses the efforts of the agencies and the FFIEC to provide guidance to financial institutions on the Year 2000 and has included in H.R. 3116 language requiring the agencies to extend Year 2000 assistance to financial institutions by offering seminars and providing model approaches on the Year 2000 problem.

The Committee also believes it is important for the federal financial regulators to work closely with their counterpart state regulatory agencies. In this regard, it is the Committee's intent that the examination authority extended to the NCUA in H.R. 3116 be implemented in accordance with the agency's commitments enunciated in the letter below. To the extent possible, NCUA should rely on state regulators for examinations of service providers for federal-insured state-chartered credit unions, and NCUA should share with state regulators any information derived from examinations of service providers to federally-insured state-chartered credit unions. The letter follows:

NATIONAL CREDIT UNION ADMINISTRATION,  
*Alexandria, VA, January 28, 1998.*

DOUG DUERR,  
*Executive Director, National Association of State Credit Union Supervisors, Arlington, VA.*

DEAR DOUG: I am writing to respond to NASCUS's concerns about the proposed Year 2000 legislation, as outlined in Mary Martha Fortney's January 26th memorandum to Bob Loftus. As NCUA seeks every opportunity to work cooperatively with state regulators and your concerns are addressed under existing practices, we do not believe explicit statutory language covering the points you raise is necessary.

First, your concern about information-sharing is addressed through our Document of Cooperation, through which we share credit union examination reports with state credit union supervisors. If we receive statutory authority to examine credit union service providers, these examinations, like credit union examinations, would be shared with state regulators under the Document of Cooperation.

Next, your concern about requiring NCUA to rely on Y2K assessments of state regulators is also covered under existing policy. As

you know, NCUA currently relies on examination information provided by state regulators. However, NCUA reserves the right to examine a state-chartered credit union with continued insurability concerns at any point. We have every confidence in the state regulators' abilities, but our statutory mandate to preserve the insurance fund requires us to reserve the right to take action if we believe there is a threat to a credit union's safety and soundness. NCUA would treat state credit union supervisors' oversight of credit union service providers the same way we currently treat their oversight of credit unions. That is, we would rely on their conclusions to the extent possible while reserving the right to examine the service provider ourselves at any time that we believe continued insurability concerns exist.

In summary, because your reliance and information-sharing concerns are addressed under existing agreements and procedures, explicit statutory amendments to the Year 2000 bill are not necessary.

Sincerely,

DAVID MARQUIS,  
*Director, Examination and Insurance.*

Finally, the Committee wants to make clear that nothing in sections 4 or 5 of H.R. 3116 should be interpreted to limit or restrict in any way the existing statutory or regulatory authority of the Federal Reserve Board, the OCC, or the FDIC.

#### HEARINGS

H.R. 3116, the Examination Parity and Year 2000 Readiness for Financial Institutions Act, was introduced on January 28, 1998, by Chairman James A. Leach (R-IA) following his announcement at the Banking Committee's hearing on November 4, 1997, that he was drafting legislation to address several aspects of the Year 2000 problem. The bill is cosponsored by all five of the Banking Committee's Subcommittee Chairs: Congressmen Michael N. Castle (R-DE), Richard H. Baker (R-LA), Rick Lazio (R-NY), Spencer Bachus (R-AL), and Congresswoman Marge Roukema (R-NJ).

On February 5, 1998, the Committee held a hearing on H.R. 3116. Testifying at the hearing were: The Honorable Norman D'Amours, Chairman, National Credit Union Administration; The Honorable Ellen Seidman, Director, Office of Thrift Supervision; Mr. James D. Shelton, Chairman, President and CEO of First Federal S&L of East Hartford (CT), on behalf of America's Community Bankers; Mr. James G. Mills, President and CEO of Three Rivers Federal Credit Union (IN), on behalf of the National Association of Federal Credit Unions; and Mr. Thomas E. Sargent, President and CEO of First Technology Credit Union (OR), on behalf of the Credit Union National Association.

The Committee also received written comments for the hearing from the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Association of State Credit Union Supervisors.

## COMMITTEE CONSIDERATION AND VOTES

On February 5, 1998, the full Committee met in open session to mark up H.R. 3116, the "Examination Parity and Year 2000 Readiness for Financial Institutions Act." The Committee called up H.R. 3116 as original text for purposes of amendment.

During the mark up, there was only one amendment offered which the Committee adopted by voice vote. The amendment was offered by Messrs. Baker and Bachus to sunset by December 31, 2001 the regulatory powers and authority of the National Credit Union Administration to examine and supervise the operations of service corporations or other entities that perform services under contract for credit unions.

The Committee adopted by voice vote H.R. 3116, as amended, for final passage and to be reported to the full House of Representatives for consideration. Also, the Committee adopted, by voice vote, a motion to authorize the Chairman to offer such motions as may be necessary in the House of Representatives to go to conference with the Senate on a similar bill.

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

## CONSTITUTIONAL AUTHORITY

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of the Representatives, the constitutional authority for Congress to enact this legislation is derived from the interstate commerce clause (Clause 3, Section 8, Article I). In addition, the power "to coin money" and to "regulate the value thereof" provided for in Clause 5, Section 8, Article I, has been broadly construed to allow for the Federal chartering and regulation of banks and other financial institutions.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 19, 1998.*

Hon. JAMES A. LEACH,  
*Chairman, Committee on Banking and Financial Services, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3116, the Examination Parity and Year 2000 Readiness for Financial Institutions Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mary Maginniss (for federal costs), and Jean Wooster (for the private-sector impact).

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 3116—Examination Parity and Year 2000 Readiness for Financial Institutions Act*

Summary: H.R. 3116 would require the federal regulators of financial institutions to provide those institutions with model approaches for dealing with the year 2000 computer problem. Agencies would be required to take into account the need for different approaches for different institutions in developing guidance on year 2000 compliance. It also would give the Office of Thrift Supervision (OTS) and the National Credit Union Administration (NCUA) statutory parity with other federal banking regulators, including the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller, and the Board of Governors of the Federal Reserve, to examine entities that provide services to financial institutions. Finally, the bill would require the federal financial regulatory agencies to hold seminars for financial institutions on the implications of the year 2000 problems for safety and soundness practices.

CBO estimates that enacting this bill would have no significant impact on the federal budget and no pay-as-you-go implications. H.R. 3116 includes new private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but we estimate that the costs of complying with these mandates would not exceed the threshold set in UMRA (\$100 million in 1996, adjusted annually for inflation) in any one year. The bill contains no intergovernmental mandates, as defined in UMRA, and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: Provisions requiring the banking regulators to provide model approaches and to hold

seminars on the year 2000 problem are consistent with existing agency practices and thus would have no significant budgetary effect.

The expansion of the examination authority of the OTS and NCUA also would have no net budgetary impact. The OTS now requires savings associations to obtain a service provider's consent before the OTS can examine the vendor, and in some cases, the lack of this consent has resulted in delays in conducting the examination. According to the OTS, the statutory authority provided by H.R. 3116 would allow the agency to continue to perform the types of examinations it is now conducting, but it would no longer have to rely primarily on contract provisions negotiated by the institutions it regulates to conduct these examinations. Because the bill would provide clear authority to the OTS and would make the examination process more efficient, CBO expects that OTS could realize some minimal savings. Because savings institutions reimburse the OTS for all administrative costs, however, any savings would be offset by a reduction in fees, resulting in no net budgetary effect.

The bill also would extend through 2001 the authority of the NCUA to examine service contractors, including service organizations owned by credit unions. The legislation would allow the agency to review services that private-sector vendors provide but that are not currently subject to examination. It would also clarify the authority of the NCUA to oversee vendors currently complying with year 2000 reviews. As a result, CBO estimates that enacting H.R. 3116 would eliminate delays in obtaining consent from some service providers thereby reducing costs. These savings would be offset by expanding the number of service providers the agency examines. Because the agency collects fees to offset its supervisory costs, the net effect would be zero in any case.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending and receipts. Legislation providing funding necessary to meet the deposit insurance commitment is excluded from these procedures. CBO believes that any costs incurred to implement H.R. 3116 would be related to maintaining the safety and soundness of financial institutions and thus would fall within this exemption. Therefore, the bill would have no pay-as-you-go implications.

Estimated impact on the private sector: Sections 4 and 5 of H.R. 3116 would create new private-sector mandates, as defined by the Unfunded Mandates Reform Act, by granting authority to the OTS and the NCUA to examine operations of entities that perform services for financial institutions they regulate. The authority for the NCUA would be in effect through the year 2001. CBO estimates that the annual direct costs of complying with those mandates would not exceed the statutory threshold for private-sector mandates (\$100 million in 1996, adjusted annually for inflation).

Section 5 would require that credit union organizations and service providers be subject to the same examinations as an insured credit union. Currently, the NCUA performs examinations of the credit unions. However, it does not perform any examinations on independent service providers (i.e., ones that are not affiliated with credit unions) that provide financial services to credit unions and

credit union organizations. Furthermore, it does not have an accurate count of those service providers, although they have identified approximately 120 primary independent service providers. According to information from the NCUA, it would limit its examination of those providers to critical areas that relate to the year 2000 computer problem and would not impose any examination fee on the vendor. Based on published estimates of the cost of comprehensive examinations for financial institutions and on information provided by the FDIC, CBO estimates that the direct cost to the independent service providers to comply with the NCUA examinations would be well below the statutory threshold for private-sector mandates.

Section 4 would require that service corporations and subsidiaries owned by savings associations and contractors performing services for those financial institutions would be subject to the same examination as an insured depository institution. Currently, under federal regulation, the OTS already performs those examinations. Thus, this requirement would not impose additional costs on the private sector.

Sections 4 and 5 would also require that any savings association, service corporation, subsidiary, holding company, affiliate, insured credit union, or credit union organization notify the appropriate regulatory agency of any independent contract for financial services. CBO estimates that the cost of such notification would be negligible.

Estimated impact on State, local, and tribal governments: H.R. 3116 contains no intergovernmental mandates as defined in UMRA and would not affect the budget of state, local or tribal governments.

Estimate prepared by: Federal Costs: Mary Maginniss and Impact on the Private Sector: Jean Wooster.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

## SECTION-BY-SECTION ANALYSIS

### SECTION 1. SHORT TITLE; DEFINITION

Subsection (a) cites the short title as the "Examination Parity and Year 2000 Readiness for Financial Institutions Act."

Subsection (b) defines the Year 2000 computer problem to mean a problem which prevents technology from accurately processing, calculating, comparing, or sequencing data or time data from, into, or between the years 1999 and 2000, or between the 20th and 21st centuries. It also includes leap year calculations.

### SECTION 2. FINDINGS

This section lists three findings pertaining to the Year 2000 challenge to the nation's banking and financial services industries and the need for examination authority to ensure financial institutions will not be at risk.

SECTION 3. SEMINARS AND MODEL APPROACHES TO YEAR 2000  
COMPUTER PROBLEM

Subsection (a) requires the federal banking agencies and National Credit Union Administration ("NCUA") to offer seminars to financial institutions on the implications of the Year 2000 problem for safe and sound operations. The content and schedule of seminars is to be determined by each agency taking into account its resources and examination priorities.

Subsection (b) requires each agency to make available to financial institutions model approaches to addressing common Year 2000 problems in such areas as project management, vendor contracts, testing, and business continuing planning. In developing such models, the agencies are to take into account the need for different approaches for different institutions.

Subsection (c) authorizes the agencies, in carrying out their responsibilities under this section, to cooperate and coordinate activities with each other, the Federal Financial Institutions Examination Council ("FFIEC"), and appropriate outside organizations.

Subsection (d) defines the banking agencies covered under this section to include the Board of Governors of the Federal Reserve, the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), and the Director of the Office of Thrift Supervision ("OTS").

SECTION 4. REGULATION AND EXAMINATION OF SERVICE CORPORATIONS CONTROLLED BY SAVINGS ASSOCIATIONS AND SERVICE PROVIDERS

This section gives the OTS statutory parity with the Federal Reserve Board of Governors, OCC, and FDIC to examine the operations of service providers by authorizing OTS to examine service corporations owned in whole or in part by insured savings associations as well as the operations of other entities that perform services for savings associations.

SECTION 5. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS

Section 5 likewise extends statutory parity to NCUA until December 31, 2001, to examine credit union service organizations ("CUSOs") which are owned in whole or in part by credit unions, as well as other service providers under contract to federally insured credit unions.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**SECTION 5 OF THE HOME OWNERS' LOAN ACT**

**SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.**

(a) \* \* \*

\* \* \* \* \*

## (d) REGULATORY AUTHORITY.—

(1) \* \* \*

\* \* \* \* \*

## (7) REGULATION AND EXAMINATION OF SERVICE CORPORATIONS, SUBSIDIARIES, AND SERVICE PROVIDERS.—

## (A) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—

(i) *IN GENERAL.*—A service corporation or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as such savings association.

(ii) *EXAMINATION BY OTHER BANKING AGENCIES.*—The Director may authorize any other Federal banking agency that supervises any other person who maintains an ownership interest in the service corporation or subsidiary to make an examination of the corporation or subsidiary for purposes of clause (i).

## (B) APPLICABILITY OF SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—

(i) *IN GENERAL.*—A service corporation or subsidiary that is owned in whole or in part by a savings association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act as if the service corporation or subsidiary were an insured depository institution.

(ii) *APPROPRIATE FEDERAL BANKING AGENCY.*—For purposes of clause (i), the Director shall be the appropriate Federal banking agency with regard to a service corporation or subsidiary described in such clause.

## (C) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subparagraph (A), if a savings association or subsidiary, or any savings and loan holding company, affiliate, or entity referred to in section 8(b)(9) of the Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any services authorized under this Act or any applicable State law, whether on or off its premises—

(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association itself on its own premises; and

(ii) the savings association, service corporation, subsidiary, holding company, affiliate, or entity shall notify the Director of the existence of the service relationship before the end of the 30-day period beginning on the earlier of—

(I) the date on which the contract is entered into;

or

(II) the date on which the performance of the service is initiated.

## (D) ADMINISTRATION BY THE DIRECTOR.—The Director may prescribe such regulations and issue such orders, in-

*cluding regulations prescribed or orders issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out the purposes of this paragraph and prevent evasions of this paragraph.*

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**FEDERAL CREDIT UNION ACT**

\* \* \* \* \*

**TITLE II—SHARE INSURANCE**

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**SEC. 206A. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS.**

(a) *GENERAL EXAMINATION AND REGULATORY AUTHORITY.—*

(1) *IN GENERAL.—A credit union organization shall be subject to examination and regulation by the Board to the same extent as an insured credit union.*

(2) *EXAMINATION BY OTHER FEDERAL AGENCIES.—The Board may authorize—*

(A) *any Federal regulatory agency that supervises any activity of a credit union organization; or*

(B) *any Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) that supervises any other person who maintains an ownership interest in a credit union organization, to make an examination of the credit union organization for purposes of paragraph (1).*

(3) *CREDIT UNION ORGANIZATION DEFINED.—For purposes of this section, the term “credit union organization” means any entity that—*

(A) *is not a credit union;*

(B) *is an entity in which an insured credit union may lawfully hold an ownership interest or investment; and*

(C) *is owned in whole or in part by an insured credit union.*

(b) *APPLICABILITY OF SECTION 206.—A credit union organization shall be subject to the provisions of section 206 as if the credit union organization were an insured credit union.*

(c) *SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subsection (a), if an insured credit union or a credit union organization that is regularly examined or subject to examination by the Board, causes to be performed for itself, by contract or otherwise, any services authorized under this Act or any applicable State law, whether on or off its premises—*

(1) *the performance of such services shall be subject to regulation and examination by the Board to the same extent as if such services were being performed by the insured credit union itself on its own premises; and*

(2) *the insured credit union or credit union organization shall notify the Board of the existence of the service relationship before the end of the 30-day period beginning on the earlier of—*

(A) *the date on which the contract is entered into; or*

(B) *the date on which the performance of the service is initiated.*

(d) *ADMINISTRATION BY THE BOARD.—The Board may prescribe such regulations and issue such orders as may be necessary to enable the Board to administer and carry out the purposes of this section and prevent evasions of this section.*

(e) *EXPIRATION OF AUTHORITY.—This section, and all power and authority of the Board under this section, shall cease to be effective as of December 31, 2001.*

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