

HOUSE PROPOSED AMENDMENTS TO TITLE II

Page 128, line 6, strike “(a) IN GENERAL.—”

Page 130, strike line 19 and all that follows through page 132, line 8, and insert the following:

- 1 (11) FINANCIAL COMPANY.—The term “finan-
- 2 cial company” means any company that—
- 3 (A) is incorporated or organized under
- 4 Federal law or the laws of any State;
- 5 (B) is—
- 6 (i) any bank holding company as de-
- 7 fined in section 2(a) of the Bank Holding
- 8 Company Act of 1956 (12 U.S.C.
- 9 1841(a));
- 10 (ii) any company that has been sub-
- 11 jected to stricter prudential regulation
- 12 under section 124;
- 13 (iii) any insurance company;
- 14 (iv) any company predominantly en-
- 15 gaged in activities that are financial in na-
- 16 ture or incidental thereto for purposes of
- 17 section 4(k) of the Bank Holding Company
- 18 Act of 1956 (12 U.S.C. 1843(k)) or activi-

1 ties that have been identified for stricter
2 prudential standards under section 124; or

3 (v) any subsidiary of companies de-
4 scribed in clauses (i) through (iv) (other
5 than an insured depository institution or
6 any broker or dealer registered with the
7 Commission under section 15(b) of the Se-
8 curities Exchange Act of 1934 (15 U.S.C.
9 78o(b)) that is a member of the Securities
10 Investor Protection Corporation);

11 (C) that is not a Farm Credit System in-
12 stitution chartered under and subject to the
13 provisions of the Farm Credit Act of 1971, as
14 amended (12 U.S.C. 2001 et seq.);

15 (D) that is not a Federal home loan bank,
16 the Federal National Mortgage Association, or
17 the Federal Home Loan Mortgage Corporation;
18 and

19 (E) is not an insured depository institution
20 (as defined in section 3(c) of the Federal De-
21 posit Insurance act), a Federal credit union or
22 a State-chartered credit union (as such terms
23 are defined in section 101 of the Federal Credit
24 Union Act), or a government-sponsored enter-
25 prise (as such term is defined in section 1004(f)

1 of the Financial Institutions Reform, Recovery
2 and Enforcement Act of 1989 (12 U.S.C. 1811
3 note)).

Page 132, strike line 21 and all that follows through
page 133, line 3.

Page 133, strike lines 6 through 20.

Page 149, line 7, strike “On” and insert “Except as
provided in subparagraph (B) or (C), on”.

Page 150, after line 10, insert the following new
subparagraph:

4 (C) CASES INVOLVING INSURANCE COMPA-
5 NIES.—In the case of an insurance company, or
6 in which the largest United States subsidiary
7 (as measured by total assets as of the end of
8 the previous calendar quarter) of a financial
9 company is an insurance company, the applica-
10 ble State insurance authority of the State in
11 which the insurance company is domiciled and
12 the Board of Governors, at the request of the
13 Secretary or on their own initiative, shall con-
14 sider whether to make the written recommenda-
15 tion described in paragraph (2) with respect to
16 the financial company. Subject to the require-
17 ments in paragraph (2), such recommendation

1 shall be made upon a vote of not fewer than $\frac{2}{3}$
2 of the Board of Governors then serving and the
3 affirmative approval of the insurance authority,
4 and in consultation with the Corporation.

Page 159, strike line 15 and all that follows through
page 160, line 2, and insert the following:

5 (1) IN GENERAL.—Notwithstanding subsection
6 (b), if an insurance company is a covered financial
7 company or a subsidiary or affiliate of a covered fi-
8 nancial company, the insolvency, liquidation, or re-
9 habilitation of such insurance company, and any
10 subsidiary or affiliate of such company that is not
11 excepted under paragraph (2), shall be conducted as
12 provided under State law, and the assets of such in-
13 surance company, including the value of any solvent
14 subsidiary of such insurance company, shall be used
15 for the protection of policy holders.

16 (2) EXCEPTION FOR SUBSIDIARIES AND AFFILI-
17 ATES.—The requirement of paragraph (1) regarding
18 application of State insolvency laws shall not apply
19 with respect to any subsidiary or affiliate of an in-
20 surance company that is not itself an insurance com-
21 pany.

Section 204(d) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively; and

(2) by moving such subparagraphs 2 ems to the right.

Page 163, line 3, strike “Upon” and insert the following:

1 (1) IN GENERAL.—Upon

Page 163, line 9, strike “section 210(n)(11)” and insert “paragraph (2)”.

Page 164, after line 12, insert the following new paragraph:

2 (2) ORDERLY LIQUIDATION PLAN.—Amounts in
3 the Fund shall be available to the Corporation with
4 regard to a covered financial company for which the
5 Corporation is appointed receiver after the Corpora-
6 tion has developed an orderly liquidation plan that
7 is acceptable to the Secretary with regard to such
8 covered financial company, including the provision
9 and use of funds, including taking any actions speci-
10 fied under section 204(d) and subsection
11 (h)(2)(G)(iv) and (h)(9) of this section, and pay-
12 ments to third parties. The orderly liquidation plan
13 shall take into account actions to avoid or mitigate

1 potential adverse effects on low income, minority, or
2 underserved communities affected by the failure of
3 the covered financial company, and shall provide for
4 coordination with the primary financial regulatory
5 agencies, as appropriate, to ensure that such actions
6 are taken. The Corporation may, at any time, amend
7 any orderly liquidation plan approved by the Sec-
8 retary with the concurrence of the Secretary.

Page 307, strike line 1 and all that follows through
page 320, line 21, and insert the following (and redesignate
subsequent subsections accordingly):

9 (n) SYSTEMIC DISSOLUTION FUND.—

10 (1) ESTABLISHMENT AND PURPOSE.—

11 (A) IN GENERAL.—There is established in
12 the Treasury a separate fund to be known as
13 the “Systemic Dissolution Fund”—

14 (i) to facilitate and provide for the or-
15 derly and complete dissolution of any failed
16 financial company or companies that pose
17 a systemic threat to the financial markets
18 or economy, as determined under section
19 203(b); and

20 (ii) to ensure that any taxpayer funds
21 utilized to facilitate such liquidations are
22 fully repaid from assessments levied on fi-

1 nancial companies that have assets of
2 \$50,000,000,000, adjusted for inflation, or
3 more.

4 (B) ADJUSTMENT OF THRESHOLD.—The
5 threshold referred to in subparagraph (A)(ii)
6 shall be adjusted on an annual basis, based on
7 the growth of assets owned or managed by fi-
8 nancial companies (as defined in section
9 201(a)(10)).

10 (2) AUTHORITY.—The Systemic Dissolution
11 Fund shall be administered by the Corporation,
12 which shall have exclusive authority to—

13 (A) impose assessments on covered finan-
14 cial companies in accordance with paragraphs
15 (6) through (8);

16 (B) maintain and administer the Fund in
17 a manner so as to make clear to the general
18 public that such Fund is unrelated to any other
19 Fund maintained and administered by the Cor-
20 poration, including the Deposit Insurance
21 Fund;

22 (C) utilize the Fund to facilitate the dis-
23 solution of a covered financial company (as de-
24 fined by section 201(a)(7)) as provided in para-

1 graph (3), or take such other actions as are au-
2 thorized by this subtitle;

3 (D) invest the Fund in accordance with
4 section 13(a) of the Federal Deposit Insurance
5 Act; and

6 (E) exercise borrowing authority as pre-
7 scribed in subsection (o).

8 (3) USES.—

9 (A) The Fund shall be available to the
10 Corporation for use with respect to the dissolu-
11 tion of a covered financial company to—

12 (i) cover the costs incurred by the
13 Corporation, including as receiver, in exer-
14 cising its rights, authorities, and powers
15 and fulfilling its obligations and respon-
16 sibilities under this section;

17 (ii) repay such funds in accordance
18 with subsection (o)(6); and

19 (iii) cover the costs of systemic sta-
20 bilization actions, pursuant to section
21 204(d).

22 (B) The Fund shall not be used in any
23 manner to benefit any officer or director of
24 such company removed pursuant to section
25 206(a)(5).

1 (4) DEPOSITS TO FUND.—All amounts assessed
2 against a financial company under this section shall
3 be deposited into the Fund.

4 (5) SIZE OF FUND.—The Corporation shall, by
5 rule, establish the minimum size of the Fund con-
6 sistent with subparagraphs (D) and (E) of para-
7 graph (6).

8 (6) ASSESSMENTS.—

9 (A) ASSESSMENTS TO MAINTAIN FUND.—
10 The Corporation shall impose risk-based assess-
11 ments on financial companies in such amount
12 and manner and subject to such terms and con-
13 ditions that the Corporation determines, by reg-
14 ulation and in consultation with the Council,
15 are necessary for the amount in the Fund to at
16 least equal the minimum size established pursu-
17 ant to paragraph (5).

18 (B) ASSESSMENTS TO REPLENISH THE
19 FUND.—If the Fund falls below the minimum
20 size established pursuant to paragraph (5), the
21 Corporation shall impose assessments on finan-
22 cial companies in such amounts and manner
23 and subject to such terms and conditions as the
24 Corporation determines, by regulation and in
25 consultation with the Council, are necessary to

1 replenish the fund subject to the limitations in
2 subparagraph (E).

3 (C) OTHER ASSESSMENTS.—When assess-
4 ments are required for the purpose of repaying
5 amounts owed to Treasury, the Corporation
6 shall—

7 (i) before assessing any financial com-
8 pany, impose assessments, as soon as prac-
9 ticable, on any claimant that received addi-
10 tional payments or amounts from the Cor-
11 poration pursuant to subsection (b)(4),
12 (d)(4), or (h)(5)(E), except for payments
13 or amounts necessary to initiate and con-
14 tinue operations essential to implementa-
15 tion of the receivership or any bridge fi-
16 nancial company, to recover on a cumu-
17 lative basis, the entire difference be-
18 tween—

19 (I) the aggregate value the claim-
20 ant received from the Corporation on
21 a claim pursuant to this title (includ-
22 ing pursuant to subsection (b)(4),
23 (d)(4), and (h)(5)(E)), as of the date
24 on which such value was received; and

1 (II) the value the claimant was
2 entitled to receive from the Corpora-
3 tion on such claim solely from the
4 proceeds of the liquidation of the cov-
5 ered financial company under this
6 title; and

7 (ii) if the amounts recovered on a cu-
8 mulative basis under clause (i) are insuffi-
9 cient to meet the requirements of subpara-
10 graph (B), after taking into account the
11 considerations set forth in paragraph (7),
12 impose assessments on those eligible finan-
13 cial companies and those financial compa-
14 nies with total consolidated assets equal to
15 or greater than \$50,000,000,000 that are
16 not eligible financial companies that the
17 Corporation determines to be in the high-
18 risk category in accordance with paragraph
19 (7); and

20 (iii) if the amounts recovered on a cu-
21 mulative basis under clauses (i) and (ii)
22 are insufficient, after taking into account
23 the considerations set forth in paragraph
24 (7), impose assessments on those eligible
25 financial companies and those financial

1 companies with total consolidated assets
2 equal to or greater than \$50,000,000,000
3 that are not eligible financial companies
4 that the Corporation determines not to be
5 in the high-risk category in accordance
6 with paragraph (7).

7 (D) MINIMUM ASSESSMENT THRESH-
8 OLD.—

9 (i) IN GENERAL.—The Corporation
10 shall not assess financial companies with
11 less than \$50,000,000,000, adjusted for in-
12 flation, of assets on a consolidated basis,
13 subject to any differentiation as permitted
14 in paragraph (8) and shall assess financial
15 companies with \$50,000,000,000, adjusted
16 for inflation, or more in assets in accord-
17 ance with paragraphs (7) and (8).

18 (ii) HEDGE FUNDS.—The Corporation
19 shall not assess financial companies that
20 manage hedge funds (as defined by the
21 Corporation for the purpose of this section,
22 in consultation with the Securities and Ex-
23 change Commission) with less than
24 \$10,000,000,000, adjusted for inflation, of
25 assets, under management on a consoli-

1 dated basis, subject to any differentiation
2 as permitted in paragraph (8) and shall
3 assess any financial companies that man-
4 age hedge funds with \$10,000,000,000 or
5 more of assets under management in ac-
6 cordance with paragraphs (7) and (8).

7 (E) MAXIMUM SIZE OF FUND VIA ASSESS-
8 MENTS.—

9 (i) IN GENERAL.—The Corporation
10 shall suspend assessments on financial
11 companies on the day after the date on
12 which the total of the assessments, exclud-
13 ing interest or other earnings from invest-
14 ments made pursuant to paragraph (2)(D),
15 equals \$150,000,000,000.

16 (ii) EXCEPTIONS.—Any suspension of
17 assessments under clause (i)—

18 (I) may be set aside if the Fund
19 falls below \$150,000,000,000; and

20 (II) shall be set aside if the Fund
21 falls below the minimum level estab-
22 lished in subparagraph (D).

23 (7) FACTORS.—The Corporation, in consulta-
24 tion with the Council shall establish a risk matrix to

1 be used in establishing assessments that takes into
2 account—

3 (A) the actual or expected risk of losses to
4 the Fund;

5 (B) economic conditions generally affecting
6 financial companies so as to allow assessments
7 and the Fund to increase during more favorable
8 economic conditions and to decrease during less
9 favorable economic conditions;

10 (C) any assessments imposed on a finan-
11 cial company or an affiliate of a financial com-
12 pany that—

13 (i) is an insured depository institu-
14 tion, assessed pursuant to section 7 or
15 13(c)(4)(G) of the Federal Deposit Insur-
16 ance Act;

17 (ii) is a member of the Securities In-
18 vestor Protection Corporation, assessed
19 pursuant to section 4 of the Securities In-
20 vestor Protection Act of 1970 (15 U.S.C.
21 78ddd);

22 (iii) is an insured credit union, as-
23 sessed pursuant to section 202(c)(1)(A)(i)
24 of the Federal Credit Union Act (12
25 U.S.C. 1782(c)(1)(A)(i)); or

1 (iv) is an insurance company, assessed
2 pursuant to applicable State law to cover
3 (or reimburse payments made to cover) the
4 costs of the rehabilitation, liquidation or
5 other State insolvency proceeding with re-
6 spect to 1 or more insurance companies;

7 (D) the risks presented by the financial
8 company to the financial system and the extent
9 to which the financial company has benefitted,
10 or likely would benefit, from the dissolution of
11 a financial company under this title, includ-
12 ing—

13 (i) the amount, different categories,
14 and concentrations of assets of the finan-
15 cial company and its affiliates, including
16 both on-balance sheet and off-balance sheet
17 assets;

18 (ii) the activities of the financial com-
19 pany and its affiliates;

20 (iii) the relevant market share of the
21 financial company and its affiliates;

22 (iv) the extent to which the financial
23 company is leveraged;

1 (v) the potential exposure to sudden
2 calls on liquidity precipitated by economic
3 distress;

4 (vi) the amount, maturity, volatility,
5 and stability of the company's financial ob-
6 ligations to, and relationship with, other fi-
7 nancial companies;

8 (vii) the amount, maturity, volatility,
9 and stability of the company's liabilities,
10 including the degree of reliance on short-
11 term funding, taking into consideration ex-
12 isting systems for measuring a company's
13 risk-based capital;

14 (viii) the stability and variety of the
15 company's sources of funding;

16 (ix) the company's importance as a
17 source of credit for households, businesses,
18 and State and local governments and as a
19 source of liquidity for the financial system;

20 (x) the extent to which assets are sim-
21 ply managed and not owned by the finan-
22 cial company and the extent to which own-
23 ership of assets under management is dif-
24 fuse; and

1 (xi) the amount, different categories,
2 and concentrations of liabilities, both in-
3 sured and uninsured, contingent and non-
4 contingent, including both on-balance sheet
5 and off-balance sheet liabilities, of the fi-
6 nancial company and its affiliates; and

7 (E) such other factors as the Corporation,
8 in consultation with the Council, may determine
9 to be appropriate.

10 The Corporation shall, based on the consideration of
11 all the factors in such risk matrix, determine which
12 companies are and are not in the high-risk category
13 for purposes of the sequential assessments required
14 under paragraph (6)(C).

15 (8) REQUIREMENT FOR EQUITABLE TREAT-
16 MENT IN ASSESSMENTS.—In establishing the assess-
17 ment system for the Fund, the Corporation, by regu-
18 lation and in consultation with the Council, shall dif-
19 ferentiate among financial companies based on com-
20 plexity of operations or organization, interconnected-
21 ness, size, direct or indirect activities, and any other
22 factors the Corporation or the Council may deem ap-
23 propriate to ensure that the assessments charged eq-
24 uitably reflect the risk posed to the Fund by par-
25 ticular classes of financial companies.

1 (9) MINIMUM COMMENT PERIOD.—In order to
2 ensure sufficient opportunity for public and congress-
3 sional review and evaluation of any assessment sys-
4 tem, any proposed regulations regarding the imple-
5 mentation of the assessment system under this sub-
6 title shall provide an opportunity for public comment
7 during a period of not less than 60 days.

8 (o) BORROWING AUTHORITY.—

9 (1) BORROWING FROM TREASURY.—

10 (A) IN GENERAL.—Subject to paragraphs
11 (3), (4), and (5), the Corporation may borrow
12 from the Treasury, and the Secretary of the
13 Treasury is authorized to lend to the Corpora-
14 tion on such terms as may be fixed by the Cor-
15 poration and the Secretary, such funds as in
16 the judgment of the Board of Directors of the
17 Corporation are required, in addition to the
18 funds available in the Systemic Dissolution
19 Fund, to permit the orderly dissolution of 1 or
20 more covered systemically significant financial
21 companies, covered affiliates, or covered sub-
22 sidiaries under this title.

23 (B) RATE OF INTEREST.—The rate of in-
24 terest to be charged in connection with any loan
25 made pursuant to this subsection shall not be

1 less than an amount determined by the Sec-
2 retary of the Treasury, taking into consider-
3 ation current market yields on outstanding
4 marketable obligations of the United States of
5 comparable maturities.

6 (2) PUBLIC DEBT ISSUANCES.—For the pur-
7 poses described in paragraph (1), the Secretary of
8 the Treasury may use as a public-debt transaction
9 the proceeds of the sale of any securities hereafter
10 issued under chapter 31 of title 31, and the pur-
11 poses for which securities may be issued under chap-
12 ter 31 of title 31 are extended to include such loans.
13 All loans and repayments under this subsection shall
14 be treated as public-debt transactions of the United
15 States.

16 (3) BORROWING AUTHORITY WHEN FUND AS-
17 SETS ARE LESS THAN \$150,000,000,000.—

18 (A) Subject to paragraph (B), the bor-
19 rowing authority granted in paragraph (1) shall
20 be available to the Corporation where—

21 (i) the value of the Fund is less than
22 \$150,000,000,000;

23 (ii) the Corporation determines that
24 the immediate dissolution of a financial
25 company or financial companies requires

1 more funds than are available in the Fund;
2 and

3 (iii) the Corporation has provided a
4 specific plan for repayment under para-
5 graph (7)(A).

6 (B) The Corporation may borrow, and the
7 Secretary may lend, any amount of funds that,
8 when added to the amount available in the
9 Fund on the date the Corporation makes a re-
10 quest to borrow funds, would not exceed
11 \$150,000,000,000.

12 (C) For purposes of paragraph (1), the
13 Corporation's total debt may not exceed
14 \$150,000,000,000 (not including any funds bor-
15 rowed pursuant to subsection (s)).

16 (4) ADDITIONAL BORROWING AUTHORITY.—

17 (A) If at any time the Corporation antici-
18 pates that the dissolution of any financial com-
19 pany or financial companies will require funds
20 in excess of \$150,000,000,000—

21 (i) the Corporation shall submit to the
22 Secretary and the President a written re-
23 quest for additional borrowing authority
24 subject to the limitation in subparagraph
25 (5), which shall be accompanied by a cer-

1 tification indicating the anticipated amount
2 needed, the basis on which such amount
3 was determined, and any such information
4 as the Secretary may deem necessary; and

5 (ii) the President shall transmit a re-
6 quest to the House of Representatives and
7 the Senate requesting the additional bor-
8 rowing authority, which shall include the
9 certification referred to in clause (i) and
10 which includes a repayment schedule as
11 outlined in paragraph (7).

12 (B) Any request for borrowing authority
13 under paragraph (A) shall be effective only if
14 approved by affirmative vote of the House of
15 Representatives and the Senate in accordance
16 with subsection (s).

17 (5) LIMITATIONS ON ADDITIONAL BORROWING
18 AUTHORITY.—

19 (A) No request for borrowing authority is
20 permitted under paragraph (4) unless the
21 President, in consultation with the Council, cer-
22 tifies to the House of Representatives and the
23 Senate that the borrowing authority is nec-
24 essary to avoid or mitigate an imminent finan-
25 cial emergency.

1 (B) The amount of borrowing authority re-
2 quested under subparagraph (A)(i) may not ex-
3 ceed \$50,000,000,000.

4 (6) PROCEEDS FROM LIQUIDATION, REPAYMENT
5 OF FUNDS.—

6 (A) IN GENERAL.—The Corporation shall
7 take such measures as may be appropriate to
8 maximize the amount of funds from any dis-
9 solution that may be available for repayment
10 under subparagraph (B) consistent with sys-
11 temic concerns.

12 (B) REPAYMENT PRIORITY.—Amounts re-
13 alized from the dissolution of any financial com-
14 pany under this subtitle that are not otherwise
15 utilized by the Corporation to dissolve a finan-
16 cial company under subsection (n)(3)(A) shall
17 be paid—

18 (i) first, to repay any costs incurred
19 in exercising the borrowing authority
20 granted in paragraph (1); and

21 (ii) second, to recapitalize the Fund,
22 subject to the requirements of section
23 1604(g), to such level as the Corporation
24 deems necessary, but not to exceed
25 \$150,000,000,000.

1 (7) REPAYMENT PLAN AND SCHEDULES RE-
2 QUIRED FOR ANY BORROWING.—

3 (A) IN GENERAL.—No amount may be
4 provided by the Secretary of the Treasury to
5 the Corporation under paragraph (1) unless an
6 agreement is in effect between the Secretary
7 and the Corporation which—

8 (i) provides a specific plan and sched-
9 ule for assessments under (n)(6) to achieve
10 the repayment of the outstanding amount
11 of any borrowing under such subsection;
12 and

13 (ii) demonstrates that income to the
14 Corporation from assessments under this
15 section will be sufficient to amortize the
16 outstanding balance within the period es-
17 tablished in the repayment schedule and
18 pay the interest accruing on such balance.

19 (B) CONSULTATION WITH AND REPORT TO
20 CONGRESS.—The Secretary of the Treasury and
21 the Corporation shall—

22 (i) consult with the Committee on Fi-
23 nancial Services of the House of Rep-
24 resentatives and the Committee on Bank-
25 ing, Housing, and Urban Affairs of the

1 Senate on the terms of any repayment
2 schedule agreement; and

3 (ii) submit a copy of each repayment
4 schedule agreement to the Committee on
5 Financial Services of the House of Rep-
6 resentatives and the Committee on Bank-
7 ing, Housing, and Urban Affairs of the
8 Senate before the end of the 30-day period
9 beginning on the date any amount is pro-
10 vided by the Secretary of the Treasury to
11 the Corporation under paragraph (1).

12 (p) INFORMATION GATHERING AND VERIFICATION;
13 PAYMENTS.—

14 (1) IN GENERAL.—The Corporation may re-
15 quire each financial company to make available such
16 information as the Corporation may require—

17 (A) for purposes of—

18 (i) determining the financial com-
19 pany's assessment under this section;

20 (ii) verifying the accuracy of informa-
21 tion; and

22 (iii) preparing for dissolution, includ-
23 ing a dissolution plan as required by this
24 section; and

1 (B) for such other purposes as may be ap-
2 propriate and necessary to promote the orderly
3 dissolution of the financial company.

4 (2) USE OF EXISTING REPORTS.—The Corpora-
5 tion shall, to the fullest extent possible, accept—

6 (A) reports that a financial company has
7 provided or been required to provide to other
8 Federal or State supervisors or to appropriate
9 self-regulatory organizations;

10 (B) information that is otherwise required
11 to be reported publicly; and

12 (C) externally audited financial statements.

13 (3) AUTHORITY FOR ON-SITE INSPECTION.—
14 The Corporation may make on-site inspections of a
15 financial company's books and records as necessary
16 to carry out the purposes of this subsection.

17 (4) RULEMAKING.—The Corporation may pro-
18 mulgate such rules or regulations as are necessary
19 or appropriate to implement this subsection.

20 (5) PAYMENTS OF ASSESSMENTS REQUIRED.—

21 (A) IN GENERAL.—Any financial company
22 subject to an assessment under this section
23 shall pay to the Corporation such assessment.

24 (B) FORM OF PAYMENT.—The payments
25 required under this section shall be made in

1 such manner and at such time or times as the
2 Corporation, in consultation with the Council,
3 shall prescribe by regulation.

4 (6) PENALTY FOR FAILURE TO TIMELY PAY AS-
5 SESSMENTS.—Any financial company that fails or
6 refuses to pay any assessment under this section
7 shall be subject to a penalty under section 18(h) of
8 the Federal Deposit Insurance Act, as if that finan-
9 cial company were an insured depository institution.

10 (q) ASSESSMENT ACTIONS.—

11 (1) IN GENERAL.—The Corporation, in any
12 court of competent jurisdiction, shall be entitled to
13 recover from any financial company the amount of
14 any unpaid assessment lawfully payable by such
15 company.

16 (2) STATUTE OF LIMITATIONS.—Notwith-
17 standing any other provision in Federal law, or the
18 law of any State—

19 (A) any action by a financial company to
20 recover from the Corporation the overpaid
21 amount of any assessment shall be brought
22 within 3 years after the date the assessment
23 payment was due, subject to subparagraph (C);

24 (B) any action by the Corporation to re-
25 cover from a financial company the underpaid

1 amount of any assessment shall be brought
2 within 3 years after the date the assessment
3 payment was due, subject to subparagraph (C);
4 and

5 (C) if a financial company has made a
6 false or fraudulent statement with intent to
7 evade any or all of its assessment, the Corpora-
8 tion shall have until 3 years after the date of
9 discovery of the false or fraudulent statement in
10 which to bring an action to recover the under-
11 paid amount.

12 (r) REQUIREMENT TO MAINTAIN SYSTEMIC DIS-
13 SOLUTION FUND AS SEPARATE FUND.—The Systemic
14 Dissolution Fund shall at all times be administered in a
15 manner that is separate and distinct from the Deposit In-
16 surance Fund, and the Corporation shall take such actions
17 as may be necessary to ensure that such distinction is
18 made with respect to internal processes and procedures
19 as well as with regard to any public information, discus-
20 sion or other communications involving either Fund.

21 (s) CONGRESSIONAL APPROVAL OF ADDITIONAL
22 BORROWING AUTHORITY.—

23 (1) INTRODUCTION.—On the day on which the
24 request of the President is received by the House of
25 Representatives and the Senate under subsection

1 (o)(4)(A)(ii), a joint resolution specified in para-
2 graph (5) shall be introduced in the House by the
3 majority leader of the House and in the Senate by
4 the majority leader of the Senate. If either House is
5 not in session on the day on which such a request
6 is received, the joint resolution with respect to such
7 request shall be introduced in that House, as pro-
8 vided in the preceding sentence, on the first day
9 thereafter on which that House is in session.

10 (2) CONSIDERATION IN THE HOUSE OF REP-
11 RESENTATIVES.—

12 (A) REPORTING AND DISCHARGE.—Any
13 committee of the House of Representatives to
14 which a joint resolution introduced under para-
15 graph (1) is referred shall report such joint res-
16 olution to the House not later than 5 calendar
17 days after the applicable date of introduction of
18 the joint resolution. If a committee fails to re-
19 port such joint resolution within that period,
20 the committee shall be discharged from further
21 consideration of the joint resolution and the
22 joint resolution shall be referred to the appro-
23 priate calendar.

24 (B) PROCEEDING TO CONSIDERATION.—
25 After all committees authorized to consider a

1 joint resolution have reported such joint resolu-
2 tion to the House or have been discharged from
3 its consideration, it shall be in order, not later
4 than the sixth day after the applicable date of
5 introduction of the joint resolution, for the ma-
6 jority leader to move to proceed to consider the
7 joint resolution in the House. Such a motion
8 shall not be in order after the House has dis-
9 posed of a motion to proceed on the joint reso-
10 lution and shall not be in order if the House
11 has received a message from the Senate under
12 paragraph (4)(C). The previous question shall
13 be considered as ordered on the motion to its
14 adoption without intervening motion. A motion
15 to reconsider the vote by which the motion is
16 disposed of shall not be in order.

17 (C) CONSIDERATION.—The joint resolution
18 shall be considered in the House and shall be
19 considered as read. All points of order against
20 a joint resolution and against its consideration
21 are waived. The previous question shall be con-
22 sidered as ordered on the joint resolution to its
23 passage without intervening motion except two
24 hours of debate equally divided and controlled
25 by the proponent and an opponent. A motion to

1 reconsider the vote on passage of a joint resolu-
2 tion shall not be in order.

3 (3) CONSIDERATION IN THE SENATE.—

4 (A) PLACEMENT ON CALENDAR.—Upon in-
5 troduction in the Senate, the joint resolution
6 shall be placed immediately on the calendar.

7 (B) FLOOR CONSIDERATION.—

8 (i) IN GENERAL.—Notwithstanding
9 rule XXII of the Standing Rules of the
10 Senate, it is in order at any time during
11 the period beginning on the fourth day
12 after the applicable date of introduction in
13 the Senate and ending on the sixth day
14 after the applicable date of introduction in
15 the Senate (even though a previous motion
16 to the same effect has been disagreed to)
17 to move to proceed to the consideration of
18 the joint resolution, and all points of order
19 against the joint resolution (and against
20 consideration of the joint resolution) are
21 waived. The motion to proceed is not de-
22 batable. The motion is not subject to a mo-
23 tion to postpone. A motion to reconsider
24 the vote by which the motion is agreed to
25 or disagreed to shall not be in order. If a

1 motion to proceed to the consideration of
2 the resolution is agreed to, the joint resolu-
3 tion shall remain the unfinished business
4 until disposed of.

5 (ii) DEBATE.—Debate on the joint
6 resolution, and on all debatable motions
7 and appeals in connection therewith, shall
8 be limited to not more than 10 hours,
9 which shall be divided equally between the
10 majority and minority leaders or their des-
11 ignees. A motion further to limit debate is
12 in order and not debatable. An amendment
13 to, or a motion to postpone, or a motion to
14 proceed to the consideration of other busi-
15 ness, or a motion to recommit the joint
16 resolution is not in order.

17 (iii) VOTE ON PASSAGE.—The vote on
18 passage shall occur immediately following
19 the conclusion of the debate on a joint res-
20 olution, and a single quorum call at the
21 conclusion of the debate if requested in ac-
22 cordance with the rules of the Senate.

23 (iv) RULINGS OF THE CHAIR ON PRO-
24 CEDURE.—Appeals from the decisions of
25 the Chair relating to the application of the

1 rules of the Senate, as the case may be, to
2 the procedure relating to a joint resolution
3 shall be decided without debate.

4 (4) RULES RELATING TO SENATE AND HOUSE
5 OF REPRESENTATIVES.—

6 (A) COORDINATION WITH ACTION BY
7 OTHER HOUSE.—If, before the passage by one
8 House of a joint resolution of that House, that
9 House receives from the other House a joint
10 resolution, then the following procedures shall
11 apply:

12 (i) The joint resolution of the other
13 House shall not be referred to a com-
14 mittee.

15 (ii) With respect to the joint resolu-
16 tion of the House receiving the resolution,
17 the procedure in that House shall be the
18 same as if no such joint resolution had
19 been received from the other House; but
20 the vote on passage shall be on the joint
21 resolution of the other House.

22 (B) TREATMENT OF COMPANION MEAS-
23 URES.—If, following passage of a joint resolu-
24 tion in the Senate, the Senate then receives the
25 companion measure from the House of Rep-

1 representatives, the companion measure shall not
2 be debatable.

3 (C) FAILURE OF JOINT RESOLUTION IN
4 THE SENATE.—

5 (i) If, in the Senate, the motion to
6 proceed to the consideration of the joint
7 resolution fails on adoption, the Secretary
8 of the Senate shall transmit a message to
9 that effect to the House of Representa-
10 tives.

11 (ii) If, in the Senate, the joint resolu-
12 tion fails on passage, the Secretary of the
13 Senate shall transmit a message to that ef-
14 fect to the House of Representatives.

15 (D) RULES OF HOUSE OF REPRESENTA-
16 TIVES AND SENATE.—This paragraph and the
17 preceding paragraphs are enacted by Con-
18 gress—

19 (i) as an exercise of the rulemaking
20 power of the Senate and House of Rep-
21 resentatives, respectively, and as such it is
22 deemed a part of the rules of each House,
23 respectively, but applicable only with re-
24 spect to the procedure to be followed in
25 that House in the case of a joint resolu-

1 tion, and it supersedes other rules only to
2 the extent that it is inconsistent with such
3 rules; and

4 (ii) with full recognition of the con-
5 stitutional right of either House to change
6 the rules (so far as relating to the proce-
7 dure of that House) at any time, in the
8 same manner, and to the same extent as in
9 the case of any other rule of that House.

10 (5) DEFINITION.—In this section, the term
11 “joint resolution” means only a joint resolution—

12 (A) which does not have a preamble;

13 (B) the title of which is as follows: “Joint
14 resolution relating to the approval of request
15 for borrowing authority under the Financial
16 Stability Improvement Act of 2009.”; and

17 (C) the sole matter after the resolving
18 clause of which is as follows: “That the Con-
19 gress approves the request for additional bor-
20 rowing authority transmitted to the Congress
21 on _____ by the President under section
22 1609(o)(4)(A)(ii) of the Financial Stability Im-
23 provement Act of 2009.”, the blank space being
24 filled with the appropriate date.

Page 337, after line 6, insert the following sections:

1 **SEC. 215. SYSTEMIC LIQUIDATION AUTHORITY.**

2 The Federal Deposit Insurance Act (12 U.S.C. 1811
3 et seq.) is amended by inserting after section 11A the fol-
4 lowing new section:

5 **“SEC. 11B. SYSTEMIC DISSOLUTION AUTHORITY AND FUND.**

6 “(a) SYSTEMIC DISSOLUTION AUTHORITY.—The
7 Corporation shall establish a Systemic Dissolution Author-
8 ity, which shall function as a subsidiary of the Corpora-
9 tion.

10 “(b) SYSTEMIC DISSOLUTION FUND.—Any fund es-
11 tablished for the purpose of facilitating the dissolution of
12 a financial company under title II of the Restoring Amer-
13 ican Financial Stability Act of 2010 shall be called the
14 Systemic Dissolution Fund, which shall be managed by
15 the Corporation, through the Systemic Dissolution Au-
16 thority.

17 “(c) MANAGEMENT OF FUND.—

18 “(1) SEPARATE MAINTENANCE.—The Systemic
19 Dissolution Fund shall be separately maintained and
20 not commingled with any other fund of the Corpora-
21 tion.

22 “(2) TREATMENT OF AND ACCOUNTING FOR AS-
23 SETS.—The assets and liabilities of the Systemic
24 Dissolution Fund—

25 “(A) shall be the assets and liabilities of
26 the Fund and not of the Corporation; and

1 “(B) shall not be consolidated with the as-
2 sets and liabilities of the Deposit Insurance
3 Fund or the Corporation for accounting, report-
4 ing, or any other purpose.

5 “(d) RIGHTS, POWERS, AND DUTIES.—

6 “(1) IN GENERAL.—The Corporation, in addi-
7 tion to any rights, powers, and duties under this Act
8 or any other law, shall, through the Systemic Dis-
9 solution Authority, have all rights, powers, and du-
10 ties necessary to implement and maintain the Sys-
11 temic Dissolution Fund in accordance with title II of
12 the Restoring American Financial Stability Act of
13 2010.

14 “(2) POWERS AS RECEIVER FOR COVERED FI-
15 NANCIAL COMPANY.—When acting as receiver with
16 respect to any covered financial company, as defined
17 in title II of the Restoring American Financial Sta-
18 bility Act of 2010, the Corporation, through the Sys-
19 temic Dissolution Authority, shall have all rights,
20 powers, and duties that the Corporation has as re-
21 ceiver under such subtitle.

22 “(3) SPECIFIC AND INCIDENTAL POWERS.—The
23 Corporation, through the Systemic Dissolution Au-
24 thority, or any duly authorized officer or agent of
25 the Authority, may exercise all powers specifically

1 granted by the provisions of this Act and title II of
2 the Restoring American Financial Stability Act of
3 2010 and such incidental powers as shall be nec-
4 essary to carry out the powers so granted and ac-
5 complish the purposes of title II of the Restoring
6 American Financial Stability Act of 2010.

7 “(e) STAFF AND RESOURCES.—

8 “(1) IN GENERAL.—The Corporation shall as-
9 sign such staff, and provide such administrative and
10 other support services to the Systemic Dissolution
11 Authority as is necessary to fulfill the statutory re-
12 sponsibilities of the Authority.

13 “(2) ADMINISTRATIVE EXPENSES.—The cost
14 of all personnel, services, and resources provided on
15 behalf of the Systemic Dissolution Authority shall be
16 paid from the Systemic Dissolution Fund.”.

17 **SEC. 216. STUDY ON SECURED CREDITOR HAIRCUTS.**

18 (a) STUDY REQUIRED.—The Corporation shall con-
19 duct a study evaluating the importance of maximizing
20 United States taxpayer protections and promoting market
21 discipline with respect to the treatment of fully secured
22 creditors in the utilization of the Orderly Liquidation Au-
23 thority authorized by this Act. In carrying out such study,
24 the Corporation shall—

1 (1) not be prejudicial to current or past laws or
2 regulations with respect to secured creditor treat-
3 ment in a resolution process;

4 (2) study the similarities and differences be-
5 tween the resolution mechanisms authorized by the
6 United States Bankruptcy Code, the Federal De-
7 posit Insurance Corporation Improvement Act of
8 1991, and the Orderly Liquidation Authority author-
9 ized by this Act;

10 (3) determine how various secured creditors are
11 treated in these resolution mechanisms and examine
12 how a haircut (of various degrees) on secured credi-
13 tors could improve market discipline and protect tax-
14 payers;

15 (4) compare the benefits and dynamics of pru-
16 dent lending practices by depository institutions in
17 secured loans for consumers and small businesses to
18 the lending practices of secured creditors to large,
19 interconnected financial firms;

20 (5) consider whether credit differs according to
21 different types of collateral and different terms and
22 timing of the extension of credit;

23 (6) include an examination of stakeholders who
24 were unsecured or under-collateralized and seek col-
25 lateral when a firm is failing, and the impact this

1 behavior has on financial stability and an orderly
2 resolution that protects taxpayers if the firm fails.

3 (b) REPORT.—Not later than the end of the 1-year
4 period beginning on the date of the enactment of this Act,
5 the Corporation shall issue a report to the Congress con-
6 taining all findings and conclusions made by the Corpora-
7 tion in carrying out the study required under subsection
8 (a).

