

111TH CONGRESS
2D SESSION

H. R. 4884

To establish a covered bond regulatory oversight program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2010

Mr. GARRETT of New Jersey (for himself, Mr. KANJORSKI, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a covered bond regulatory oversight program,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Covered
5 Bond Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act, the following definitions
8 shall apply:

1 (1) ANCILLARY ASSET.—The term “ancillary
2 asset” means, with respect to any cover pool—

3 (A) any interest rate or currency swap as-
4 sociated with any eligible asset, substitute asset,
5 or other ancillary asset in the cover pool;

6 (B) any credit enhancement or liquidity ar-
7 rangement associated with any eligible asset,
8 substitute asset, or other ancillary asset in the
9 cover pool;

10 (C) any guarantee, letter-of-credit right, or
11 other secondary obligation that supports any
12 payment or performance on an eligible asset,
13 substitute asset, or other ancillary asset in the
14 cover pool; and

15 (D) any proceeds of, or other property in-
16 cident to, any eligible asset, substitute asset, or
17 other ancillary asset in the cover pool.

18 (2) CORPORATION.—The term “Corporation”
19 means the Federal Deposit Insurance Corporation.

20 (3) COVER POOL.—The term “cover pool”
21 means a dynamic pool of assets that is comprised
22 of—

23 (A) 1 or more eligible assets from a single
24 eligible asset class;

1 (B) substitute assets, without limitation;
2 and

3 (C) ancillary assets, without limitation.

4 (4) COVERED BOND.—The term “covered
5 bond” means any senior recourse debt obligation of
6 an eligible issuer that—

7 (A) has an original term to maturity of not
8 less than 1 year;

9 (B) is secured directly or indirectly by a
10 perfected security interest in a cover pool which
11 is owned directly or indirectly by the issuer of
12 the obligation;

13 (C) is issued under a covered bond pro-
14 gram that has been approved by the covered
15 bond regulator and is identified in a register of
16 covered bonds maintained by the covered bond
17 regulator; and

18 (D) is not a deposit (as defined in section
19 3 of the Federal Deposit Insurance Act).

20 (5) COVERED BOND PROGRAM.—The term
21 “covered bond program” means any of the programs
22 of an eligible issuer under which, on the security of
23 a single cover pool, 1 or more series or tranches of
24 covered bonds may be issued.

1 (6) COVERED BOND REGULATOR.—The term
2 “covered bond regulator” means the Secretary of the
3 Treasury or any officer of the Department of the
4 Treasury designated by the Secretary for purposes
5 of this Act.

6 (7) ELIGIBLE ASSET.—The term “eligible
7 asset” means any of the following assets within a
8 particular eligible asset class:

9 (A) In the case of the residential mortgage
10 asset class—

11 (i) any first-lien mortgage loan that is
12 secured by 1-to-4 family residential prop-
13 erty and that is in compliance with super-
14 visory guidance applicable at the time of
15 loan origination;

16 (ii) any mortgage loan insured under
17 the National Housing Act or any loan
18 guaranteed, insured, or made under chap-
19 ter 37 of title 38, United States Code; and

20 (iii) any residential mortgage-backed
21 security of the highest investment grade
22 that is backed by first-lien mortgage loans
23 and any ancillary property (including any
24 residential mortgage-backed security that
25 is sponsored or issued by, or backed by

1 first-lien mortgage loans originated or ac-
2 quired by, the issuer of the covered bonds
3 or any affiliate of such issuer), to the ex-
4 tent such securities do not exceed an
5 amount equal to 20 percent of the out-
6 standing principal amount of the assets in
7 a cover pool.

8 (B) In the case of the home equity asset
9 class—

10 (i) any home equity loan that is se-
11 cured by 1-to-4 family residential property
12 and that is in compliance with supervisory
13 guidance applicable at the time of loan
14 origination; and

15 (ii) any asset-backed security of the
16 highest investment grade that is backed by
17 home equity loans and any ancillary prop-
18 erty (including any asset-backed security
19 that is sponsored or issued by, or backed
20 by home equity loans originated or ac-
21 quired by, the issuer of the covered bonds
22 or any affiliate of such issuer), to the ex-
23 tent such securities do not exceed an
24 amount equal to 20 percent of the out-

1 standing principal amount of the assets in
2 a cover pool.

3 (C) In the case of the commercial mort-
4 gage asset class—

5 (i) any commercial mortgage loan (in-
6 cluding any multifamily mortgage loan)
7 that is in compliance with supervisory
8 guidance applicable at the time of loan
9 origination; and

10 (ii) any commercial mortgage-backed
11 security of the highest investment grade
12 that is backed by commercial mortgage
13 loans (including multifamily mortgage
14 loans) and any ancillary property (includ-
15 ing any commercial mortgage-backed secu-
16 rity that is sponsored or issued by, or
17 backed by commercial mortgage loans
18 originated or acquired by, the issuer of the
19 covered bonds or any affiliate of such
20 issuer), to the extent such securities do not
21 exceed an amount equal to 20 percent of
22 the outstanding principal amount of the
23 assets in a cover pool.

24 (D) In the case of the public sector asset
25 class—

- 1 (i) investment-grade securities issued
2 by 1 or more States or municipalities;
- 3 (ii) loans (excluding securities) made
4 to 1 or more States or municipalities; and
- 5 (iii) loans, securities, or other obliga-
6 tions that are insured or guaranteed, in
7 full or substantially in full, by the full faith
8 and credit of the United States (whether
9 or not such loans, securities, or other obli-
10 gations are also part of another eligible
11 asset class).

12 (E) In the case of the auto asset class—

- 13 (i) any auto loan or lease that is in
14 compliance with supervisory guidance ap-
15 plicable at the time of loan or lease origi-
16 nation; and

- 17 (ii) any asset-backed security of the
18 highest investment grade that is backed by
19 auto loans or leases and any ancillary
20 property (including any asset-backed secu-
21 rity sponsored or issued by, or backed by
22 loans or leases originated or acquired by,
23 the issuer of the covered bonds or any af-
24 filiate of such issuer), to the extent such
25 securities do not exceed an amount equal

1 to 20 percent of the outstanding principal
2 amount of the assets in a cover pool.

3 (F) In the case of the student loan asset
4 class—

5 (i) any student loan (whether guaran-
6 teed or nonguaranteed) that is in compli-
7 ance with supervisory guidance applicable
8 at the time of loan origination; and

9 (ii) any asset-backed security of the
10 highest investment grade that is backed by
11 student loans and any ancillary property
12 (including any asset-backed security spon-
13 sored or issued by, or backed by loans
14 originated or acquired by, the issuer of the
15 covered bonds or any affiliate of such
16 issuer), to the extent such securities do not
17 exceed an amount equal to 20 percent of
18 the outstanding principal amount of the
19 assets in a cover pool.

20 (G) In the case of the credit or charge
21 card asset class—

22 (i) any credit or charge card loan that
23 is in compliance with supervisory guidance
24 applicable at the time of loan origination;
25 and

1 (ii) any asset-backed security of the
2 highest investment grade that is backed by
3 credit or charge card loans and any ancil-
4 lary property (including any asset-backed
5 security sponsored or issued by, or backed
6 by loans originated or acquired by, the
7 issuer of the covered bonds or any affiliate
8 of such issuer), to the extent such securi-
9 ties do not exceed an amount equal to 20
10 percent of the outstanding principal
11 amount of the assets in a cover pool.

12 (H) In the case of the small business asset
13 class—

14 (i) any loan made under a program
15 established by the Small Business Admin-
16 istration (whether guaranteed or non-
17 guaranteed); and

18 (ii) any asset-backed security of the
19 highest investment grade that is backed by
20 loans made under 1 or more programs es-
21 tablished by the Small Business Adminis-
22 tration and any ancillary property (includ-
23 ing any asset-backed security sponsored or
24 issued by, or backed by loans originated or
25 acquired by, the issuer of the covered

1 bonds or any affiliate of such issuer), to
2 the extent such securities do not exceed an
3 amount equal to 20 percent of the out-
4 standing principal amount of the assets in
5 a cover pool.

6 (I) In the case of any other eligible asset
7 class designated by the covered bond regulator,
8 the assets designated by the covered bond regu-
9 lator for such class.

10 (8) ELIGIBLE ASSET CLASS.—The term “eligi-
11 ble asset class” means each of the following classes
12 of assets:

13 (A) Residential mortgage asset class.

14 (B) Home equity asset class.

15 (C) Commercial mortgage asset class.

16 (D) Public sector asset class.

17 (E) Auto asset class.

18 (F) Student loan asset class.

19 (G) Credit or charge card asset class.

20 (H) Small business asset class.

21 (I) Such other eligible asset classes as may
22 be designated by the covered bond regulator.

23 (9) ELIGIBLE ISSUER.—The term “eligible
24 issuer” means—

1 (A) any insured depository institution (as
2 defined in section 3 of the Federal Deposit In-
3 surance Act) and any subsidiary of any such in-
4 stitution;

5 (B) any bank holding company (as defined
6 in section 2 of the Bank Holding Company Act
7 of 1956) or any savings and loan holding com-
8 pany (as defined in section 10 of the Home
9 Owners' Loan Act); and

10 (C) any issuing entity that is sponsored by
11 1 or more eligible issuers for the sole purpose
12 of issuing covered bonds on a pooled basis.

13 (10) OVERSIGHT PROGRAM.—The term “over-
14 sight program” means the covered bonds regulatory
15 oversight program established under section 3(a).

16 (11) SUBSTITUTE ASSET.—The term “sub-
17 stitute asset” means—

18 (A) cash;

19 (B) any direct obligation of the United
20 States Government, and any security or other
21 obligation whose full principal and interest are
22 insured or guaranteed by the full faith and
23 credit of the United States Government;

24 (C) any direct obligation of a United
25 States Government corporation or Government-

1 sponsored enterprise of the highest investment
2 grade, and any other security or other obliga-
3 tion of the highest investment grade whose full
4 principal and interest are insured or guaranteed
5 by any such corporation or enterprise (including
6 any mortgage-backed security issued, insured,
7 or guaranteed by any such corporation or enter-
8 prise);

9 (D) any overnight investment in Federal
10 funds; and

11 (E) any deposit account or securities ac-
12 count into which only substitute assets may be
13 deposited or credited.

14 **SEC. 3. REGULATORY OVERSIGHT OF COVERED BOND PRO-**
15 **GRAMS ESTABLISHED.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—The covered bond regulator
18 shall issue regulations establishing a covered bond
19 regulatory oversight program that meets the require-
20 ments of this section and that provides for covered
21 bond programs to be maintained in a manner con-
22 sistent with safe and sound banking practices.

23 (2) APPROVAL OF EACH COVERED BOND PRO-
24 GRAM.—

1 (A) APPROVAL BY COVERED BOND REGU-
2 LATOR.—A covered bond shall be subject to this
3 Act only if such covered bond is issued by an
4 eligible issuer under a covered bond program
5 that is approved by the covered bond regulator.
6 An eligible issuer may have 1 or more covered
7 bond programs. The covered bond regulator
8 may approve a covered bond program that is al-
9 ready in existence, and upon such approval, all
10 covered bonds under such covered bond pro-
11 gram shall be subject to this Act regardless of
12 when the covered bonds are issued.

13 (B) CONSULTATION WITH ANY FEDERAL
14 PRIMARY REGULATOR.—Before approving any
15 covered bond program of any eligible issuer, the
16 covered bond regulator shall consult with the
17 primary Federal regulator, if any, of such
18 issuer.

19 (3) REGISTRY.—Under the oversight program,
20 the covered bond regulator shall maintain a registry
21 on a Web site available to the public containing the
22 name of each approved covered bond program and
23 information on all outstanding covered bonds issued
24 under each approved covered bond program.

1 (4) FEES.—The covered bond regulator shall
2 levy fees on issuers of covered bonds in an amount,
3 in the aggregate, equal to the costs of the covered
4 bond regulator in carrying out the provisions of this
5 Act.

6 (b) MINIMUM OVER-COLLATERALIZATION REQUIRE-
7 MENTS.—

8 (1) ESTABLISHMENT REQUIRED.—The covered
9 bond regulator from time to time shall establish
10 minimum over-collateralization requirements for cov-
11 ered bonds backed by each of the eligible asset class-
12 es based on the credit, collection, and interest-rate
13 risks, but not the liquidity risks, associated with
14 such eligible asset class.

15 (2) RELIANCE ON FEDERAL RESERVE SYSTEM
16 STANDARDS.—In establishing requirements under
17 paragraph (1), the covered bond regulator may rely
18 on over-collateralization levels required for the same
19 or similar asset classes by the Board of Governors
20 of the Federal Reserve System when extending cred-
21 it to depository institutions under the Federal Re-
22 serve Act.

23 (3) TESTING.—Each cover pool securing cov-
24 ered bonds shall be required at all times to satisfy
25 an asset-coverage test. The asset-coverage test shall

1 measure (as such term is defined by the covered
2 bond regulator) whether the eligible assets and the
3 substitute assets in a cover pool satisfy the min-
4 imum over-collateralization requirements established
5 by the covered bond regulator for covered bonds
6 backed by the applicable eligible asset class. Each
7 issuer of covered bonds shall be required to perform
8 the asset-coverage test monthly on each of its cover
9 pools and to disclose the results to the primary Fed-
10 eral regulator of such issuer, if any, the covered
11 bond regulator, and the applicable covered bond-
12 holders. Each issuer of covered bonds also shall be
13 required to appoint the indenture trustee for such
14 covered bonds or another unaffiliated entity as an
15 independent asset monitor for the applicable cover
16 pool, and such asset monitor shall be required, on an
17 annual or more frequent basis, to verify whether
18 such cover pool satisfies the asset-coverage test and
19 to disclose the results to the primary Federal regu-
20 lator of such issuer, if any, the covered bond regu-
21 lator, and the applicable covered bondholders.

22 (4) NO LOSS OF STATUS.—Covered bonds shall
23 remain subject to this Act regardless of whether the
24 applicable cover pool ceases to satisfy the asset-cov-
25 erage test at any time after issuance. If a cover pool

1 securing covered bonds fails to satisfy the asset-cov-
2 erage test and if such failure is not cured within the
3 time specified in the related transaction documents,
4 such failure shall constitute a default that results in
5 the creation of an estate under section 4.

6 (c) ELIGIBILITY REQUIREMENTS.—

7 (1) SINGLE ELIGIBLE ASSET CLASS.—No cover
8 pool may include eligible assets from more than one
9 eligible asset class.

10 (2) INELIGIBLE ASSETS.—A loan shall not
11 qualify as an eligible asset while such loan is delin-
12 quent for more than 60 consecutive days. A security
13 shall not qualify as an eligible asset while such secu-
14 rity does not meet any investment-grade requirement
15 under this Act.

16 (d) OTHER REQUIREMENTS.—

17 (1) BOOKS AND RECORDS OF ISSUER.—Each
18 issuer of covered bonds shall clearly mark its books
19 and records to identify the assets that comprise the
20 applicable cover pool.

21 (2) SCHEDULE OF ELIGIBLE ASSETS AND SUB-
22 STITUTE ASSETS.—Each issuer of covered bonds
23 shall deliver to the applicable indenture trustee, on
24 at least a monthly basis, a schedule of all eligible as-

1 sets and substitute assets in the applicable cover
2 pool.

3 **SEC. 4. DEFAULT AND INSOLVENCY.**

4 (a) DEFAULT ON COVERED BONDS PRIOR TO CON-
5 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
6 RUPTCY.—

7 (1) CREATION OF SEPARATE ESTATE.—If an
8 uncured default occurs with respect to a covered
9 bond before the issuer of such covered bond enters
10 conservatorship, receivership, liquidation, or bank-
11 ruptcy, an estate shall be automatically created by
12 operation of law and shall exist separate and apart
13 from such issuer or any subsequent conservatorship,
14 receivership, liquidating agency, or estate in bank-
15 ruptcy for such issuer or any of its other assets.

16 (2) ASSETS AND LIABILITIES OF ESTATE.—Any
17 estate created under paragraph (1) shall be com-
18 prised of the applicable cover pool, which shall be
19 automatically released to and held by such estate
20 free and clear of any right, title, interest, or claim
21 of the issuer or any conservator, receiver, liquidating
22 agent, or trustee in bankruptcy for the issuer or any
23 of its other assets, and such estate shall be fully lia-
24 ble on all covered bonds and related obligations of
25 the issuer (including obligations under related deriv-

1 ative transactions) that are secured by such cover
2 pool.

3 (3) RETENTION OF CLAIMS.—Any holder of a
4 covered bond or related obligation secured by a cover
5 pool for which an estate has been created under
6 paragraph (1) shall retain a claim against the issuer
7 for any deficiency with respect to such covered bond
8 or related obligation.

9 (4) RESIDUAL INTEREST.—Upon the creation
10 of an estate under paragraph (1), a residual interest
11 in such estate shall be automatically issued by oper-
12 ation of law to the issuer. The residual interest
13 shall—

14 (A) be an exempted security as described
15 in section 5;

16 (B) represent the right to any surplus
17 from the cover pool after the applicable covered
18 bonds and all other liabilities of such estate
19 have been paid in full; and

20 (C) be evidenced by a certificate executed
21 by the covered bond regulator as trustee of such
22 estate.

23 (5) OBLIGATION OF ISSUER.—After the cre-
24 ation of an estate under paragraph (1), the issuer
25 shall be obligated to cooperate in effecting a transfer

1 to the covered bond regulator or its designee of all
2 tangible or electronic books, records, files, and other
3 documents or materials relating to the assets and li-
4 abilities of such estate and, at the election of the
5 covered bond regulator, shall continue servicing the
6 cover pool for 120 days after the creation of such es-
7 tate in return for a fair-market-value fee.

8 (6) TRUSTEE, SERVICER, AND ADMINIS-
9 TRATOR.—

10 (A) IN GENERAL.—The covered bond regu-
11 lator shall—

12 (i) act as the trustee of any estate
13 created under paragraph (1); and

14 (ii) appoint 1 or more servicers or ad-
15 ministrators for the cover pool held by
16 such estate.

17 (B) POWERS AND DUTIES OF SERVICER OR
18 ADMINISTRATOR.—Any servicer or adminis-
19 trator appointed for an estate—

20 (i) shall collect, realize on (by liquida-
21 tion or other means), and otherwise man-
22 age the cover pool held by such estate;

23 (ii) may borrow or otherwise procure
24 funds for the benefit of such estate on a
25 secured or unsecured basis;

1 (iii) shall invest and use the proceeds
2 and funds received to make all remaining
3 interest and principal payments on the ap-
4 plicable covered bonds according to their
5 terms (or, if an acceleration or similar
6 event occurs under the related transaction
7 documents, at the times specified in such
8 transaction documents) and to satisfy any
9 other liabilities of such estate; and

10 (iv) shall, in the event of a liquidity
11 constraint caused by a timing mismatch
12 among the assets and the liabilities of an
13 estate, pursue private market alternatives
14 to provide the needed liquidity.

15 (C) SUPERVISION OF SERVICER OR ADMIN-
16 ISTRATOR.—The covered bond regulator shall
17 supervise any servicer or administrator that is
18 appointed for an estate and, if in the best inter-
19 ests of the estate, may remove or replace any
20 servicer or administrator. Each servicer or ad-
21 ministrator for an estate, as and when required
22 by the covered bond regulator, shall deliver re-
23 ports that describe its activities on behalf of
24 such estate and the performance of the cover
25 pool held by such estate. All fees and expenses

1 of any servicer or administrator for an estate
2 shall be approved by the covered bond regulator
3 and shall be paid from such estate.

4 (b) DEFAULT ON COVERED BONDS UPON CON-
5 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
6 RUPTCY.—

7 (1) FDIC CONSERVATORSHIP OR RECEIVER-
8 SHIP.—

9 (A) IN GENERAL.—If the Corporation is
10 appointed as conservator or receiver for an
11 issuer of covered bonds before an uncured de-
12 fault results in the creation of an estate under
13 subsection (a), the Corporation as conservator
14 or receiver shall have an exclusive right, for 15
15 days from the date of such appointment, to
16 transfer any cover pool owned by such issuer in
17 its entirety together with all covered bonds and
18 related obligations secured by such cover pool to
19 another eligible issuer that meets all conditions
20 and requirements specified in the related trans-
21 action documents.

22 (B) OBLIGATIONS DURING 15-DAY PE-
23 RIOD.—During the 15-day period described in
24 subparagraph (A), the Corporation as conser-
25 vator or receiver shall satisfy all monetary and

1 nonmonetary obligations of the issuer under the
2 covered bonds and the related transaction docu-
3 ments until any transfer to another eligible
4 issuer is completed.

5 (C) ASSUMPTION BY TRANSFEREE.—If the
6 Corporation as conservator or receiver effects a
7 transfer described in subparagraph (A) within
8 the 15-day period, the transferee shall take
9 ownership of the applicable cover pool and shall
10 become fully liable on all covered bonds and re-
11 lated obligations of the issuer that are secured
12 by such cover pool.

13 (2) OTHER CIRCUMSTANCES.—If—

14 (A) a conservator, receiver, liquidating
15 agent, or trustee in bankruptcy, other than the
16 Corporation, is appointed for an issuer of cov-
17 ered bonds before an uncured default results in
18 the creation of an estate under subsection (a);
19 or

20 (B) in the case an issuer of covered bonds
21 for which the Corporation is appointed as con-
22 servator or receiver as described in paragraph
23 (1)(A), no transfer by the Corporation as con-
24 servator or receiver is completed within the 15-
25 day period as described in such paragraph, an

1 estate shall be automatically created by oper-
2 ation of law and shall exist separate and apart
3 from such issuer and the conservatorship, re-
4 ceivership, liquidating agency, or estate in
5 bankruptcy for such issuer or any of its other
6 assets.

7 (3) ASSETS AND LIABILITIES OF ESTATE.—Any
8 estate created under paragraph (2) shall be com-
9 prised of the applicable cover pool, which shall be
10 automatically released to and held by such estate
11 free and clear of any right, title, interest, or claim
12 of the issuer or any conservator, receiver, liquidating
13 agent, or trustee in bankruptcy for the issuer or any
14 of its other assets, and such estate shall be fully lia-
15 ble on all covered bonds and related obligations of
16 the issuer (including obligations under related deriv-
17 ative transactions) that are secured by such cover
18 pool.

19 (4) CONTINGENT CLAIM.—Any contingent claim
20 for a deficiency with respect to a covered bond or re-
21 lated obligation for which an estate has been created
22 under paragraph (2) shall be estimated by the con-
23 servator, receiver, liquidating agent, or bankruptcy
24 court for purposes of allowing such claim as a prov-
25 able claim if awaiting the fixing of that contingent

1 claim would unduly delay the resolution of the con-
2 servatorship, receivership, liquidating agency, or
3 bankruptcy case.

4 (5) RESIDUAL INTEREST.—Upon the creation
5 of an estate under paragraph (2), and regardless of
6 whether any contingent claim described in paragraph
7 (4) becomes fixed or is estimated, a residual interest
8 in such estate shall be automatically issued by oper-
9 ation of law to the conservator, receiver, liquidating
10 agent, or trustee in bankruptcy for the issuer. The
11 residual interest shall—

12 (A) be an exempted security as described
13 in section 5;

14 (B) represent the right to any surplus
15 from the cover pool after the applicable covered
16 bonds and all other liabilities of such estate
17 have been paid in full; and

18 (C) be evidenced by a certificate executed
19 by the covered bond regulator as trustee of such
20 estate.

21 (6) OBLIGATION OF ISSUER.—After the cre-
22 ation of an estate under paragraph (2), the issuer
23 and its conservator, receiver, liquidating agent, or
24 trustee in bankruptcy shall transfer to the covered
25 bond regulator or its designee all tangible or elec-

1 tronic books, records, files, and other documents or
2 materials relating to the assets and liabilities of such
3 estate and, at the election of the covered bond regu-
4 lator (but subject to any right of repudiation or re-
5 jection held by such conservator, receiver, liquidating
6 agent, or trustee in bankruptcy), shall continue serv-
7 icing the cover pool for 120 days after the creation
8 of such estate in return for a fair-market-value fee.

9 (7) TRUSTEE, SERVICER, AND ADMINIS-
10 TRATOR.—

11 (A) IN GENERAL.—The covered bond regu-
12 lator shall—

13 (i) act as the trustee of any estate
14 created under paragraph (2); and

15 (ii) appoint 1 or more servicers or ad-
16 ministrators for the cover pool held by
17 such estate.

18 (B) POWERS AND DUTIES OF SERVICER OR
19 ADMINISTRATOR.—Any servicer or adminis-
20 trator appointed for an estate—

21 (i) shall collect, realize on (by liquida-
22 tion or other means), and otherwise man-
23 age the cover pool held by such estate;

1 (ii) may borrow or otherwise procure
2 funds for the benefit of such estate on a
3 secured or unsecured basis;

4 (iii) shall invest and use the proceeds
5 and funds received to make all remaining
6 interest and principal payments on the ap-
7 plicable covered bonds according to their
8 terms (or, if an acceleration or similar
9 event occurs under the related transaction
10 documents, at the times specified in such
11 transaction documents) and to satisfy any
12 other liabilities of such estate; and

13 (iv) shall, in the event of a liquidity
14 constraint caused by a timing mismatch
15 among the assets and the liabilities of an
16 estate, pursue private market alternatives
17 to provide the needed liquidity.

18 (C) SUPERVISION OF SERVICER OR ADMIN-
19 ISTRATOR.—The covered bond regulator shall
20 supervise any servicer or administrator that is
21 appointed for an estate and, if in the best inter-
22 ests of the estate, may remove or replace any
23 servicer or administrator. Each servicer or ad-
24 ministrator for an estate, as and when required
25 by the covered bond regulator, shall deliver re-

1 ports that describe its activities on behalf of
2 such estate and the performance of the cover
3 pool held by such estate. All fees and expenses
4 of any servicer or administrator for an estate
5 shall be approved by the covered bond regulator
6 and shall be paid from such estate.

7 **SEC. 5. SECURITIES LAW PROVISIONS.**

8 (a) REGISTRATION.—

9 (1) APPLICABILITY TO BANK ISSUERS.—Cov-
10 ered bonds that are offered and sold to the public
11 by a bank (or a subsidiary of a bank) shall be—

12 (A) subject to—

13 (i) securities regulations issued by the
14 primary Federal regulator of such bank;
15 and

16 (ii) applicable antifraud rules; and

17 (B) exempt from all other Federal securi-
18 ties laws.

19 (2) APPLICABILITY TO ISSUERS SPONSORED BY
20 1 OR MORE BANKS WITH SAME REGULATOR.—Cov-
21 ered bonds that are offered and sold to the public
22 by an issuing entity that is sponsored only by 1 or
23 more banks with the same primary Federal regu-
24 lator shall be—

25 (A) subject to—

- 1 (i) securities regulations issued by
2 such primary Federal regulator; and
3 (ii) applicable antifraud rules; and
4 (B) exempt from all other Federal securi-
5 ties laws.

6 (3) OTHER ISSUERS.—For covered bonds that
7 are offered and sold to the public by any other eligi-
8 ble issuer and that are not otherwise exempted secu-
9 rities, the Securities and Exchange Commission shall
10 develop a streamlined registration scheme.

11 (4) EXTENSION OF EXEMPTIONS TO SEPARATE
12 ESTATES.—Each exemption described in paragraph
13 (1) or (2) shall continue to apply to any estate cre-
14 ated under subsection (a) or (b) of section 4 and to
15 any residual interest in such estate.

16 (b) DISCLOSURE AND REPORTING.—

17 (1) APPLICABILITY TO BANK ISSUERS.—At a
18 reasonable time before the initial sale of a covered
19 bond by a bank or a subsidiary of a bank, such bank
20 or subsidiary shall make available to investors the
21 information required by the securities regulations
22 issued by such bank's primary Federal regulator and
23 applicable antifraud rules.

24 (2) APPLICABILITY TO ISSUERS SPONSORED BY
25 1 OR MORE BANKS WITH SAME REGULATOR.—At a

1 reasonable time before the initial sale of a covered
2 bond by an issuing entity that is sponsored only by
3 1 or more banks with the same primary Federal reg-
4 ulator, such issuing entity shall make available to in-
5 vestors the information required by the securities
6 regulations issued by such primary Federal regulator
7 and applicable antifraud rules.

8 (3) OTHER ISSUERS.—At a reasonable time be-
9 fore the initial sale of a covered bond that is not an
10 exempted security by any other eligible issuer, such
11 issuer shall make available to investors the informa-
12 tion required under the streamlined approach estab-
13 lished by the Securities and Exchange Commission
14 under paragraph (a)(3) and applicable antifraud
15 rules.

16 (4) STANDARDS.—For each of the issuers de-
17 scribed in paragraphs (1) to (3), the content and
18 frequency of reports to investors shall be determined
19 according to the same standards that govern the ini-
20 tial information delivery requirement.

21 **SEC. 6. MISCELLANEOUS PROVISIONS.**

22 (a) DOMESTIC SECURITIES.—Section 106(a)(1) of
23 the Secondary Mortgage Market Enhancement Act of
24 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

1 (1) in subparagraph (C), by striking “or” at
2 the end;

3 (2) in subparagraph (D), by adding “or” at the
4 end; and

5 (3) by inserting after subparagraph (D) the fol-
6 lowing:

7 “(E) covered bonds (as defined under sec-
8 tion 2(3) of the United States Covered Bond
9 Act of 2010),”.

10 (b) REAL ESTATE MORTGAGE INVESTMENT CON-
11 DITS.—Section 860G(a)(3) of the Internal Revenue Code
12 of 1986 is amended—

13 (1) in subparagraph (B), by striking “and” at
14 the end;

15 (2) in subparagraph (C), by striking the period
16 and inserting a comma; and

17 (3) by inserting after subparagraph (C) the fol-
18 lowing:

19 “(D) covered bonds secured by eligible as-
20 sets from the residential mortgage asset class,
21 the home equity asset class, or the commercial
22 mortgage asset class (within the meaning of
23 section 2 of the United States Covered Bond
24 Act of 2010).”.

1 (c) TAX PROVISIONS.—Any estate created under sub-
2 section (a) or (b) of section 4 shall not be taxable as a
3 separate entity. No transfer of any asset or liability to an
4 estate under such subsections shall be a taxable event. The
5 acquisition of any covered bond shall be treated as an ac-
6 quisition of a security, and not as an interest in a loan
7 or a lending transaction, for purposes of determining the
8 character of any related trade or business activity of the
9 acquirer or any asset held by such acquirer.

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