

112TH CONGRESS
2D SESSION

S. 3497

To amend the Financial Stability Act of 2010 to repeal certain designation authority of the Financial Stability Oversight Council, to repeal the Payment, Clearing, and Settlement Supervision Act of 2010, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2012

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Financial Stability Act of 2010 to repeal certain designation authority of the Financial Stability Oversight Council, to repeal the Payment, Clearing, and Settlement Supervision Act of 2010, 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 “Terminating the Ex-
5 pansion of Too-Big-To-Fail Act of 2012”.

1 **SEC. 2. REPEAL OF DESIGNATION AUTHORITY UNDER THE**
 2 **FINANCIAL STABILITY ACT OF 2010.**

3 (a) IN GENERAL.—The Dodd Frank Wall Street Re-
 4 form and Consumer Protection Act (Public Law 111–203)
 5 is amended—

6 (1) in section 102 (12 U.S.C. 5311)—

7 (A) in subsection (a)—

8 (i) by striking paragraph (4); and

9 (ii) by amending paragraph (7) to
 10 read as follows:

11 “(7) SIGNIFICANT BANK HOLDING COMPANY.—

12 The term ‘significant bank holding company’ has the
 13 meanings given to it by rule of the Board of Gov-
 14 ernors.”; and

15 (B) by striking subsection (c);

16 (2) in section 112 (12 U.S.C. 5322)—

17 (A) in subsection (a)—

18 (i) in paragraph (1)(A), by striking

19 “or nonbank financial companies”; and

20 (ii) in paragraph (2)—

21 (I) in subparagraph (A), by strik-
 22 ing “and nonbank financial compa-
 23 nies”;

24 (II) by striking subparagraphs
 25 (H) and (J);

1 (III) by redesignating subpara-
 2 graphs (I), (K), (L), (M), and (N) as
 3 subparagraphs (H), (I), (J), (K), and
 4 (L), respectively;

5 (IV) in subparagraph (H), as so
 6 redesignated, by striking “nonbank fi-
 7 nancial companies and”;

8 (V) in subparagraph (I), as so re-
 9 designated, by striking “, nonbank fi-
 10 nancial companies,”; and

11 (VI) in subparagraph (L), as so
 12 redesignated—

13 (aa) by striking clause (iv);

14 and

15 (bb) by redesignating
 16 clauses (v) and (vi) as clauses
 17 (iv) and (v), respectively; and

18 (B) in subsection (d)—

19 (i) in paragraph (3)—

20 (I) in subparagraph (A), by strik-
 21 ing “nonbank financial company or”
 22 each place such term appears;

23 (II) in subparagraph (B), by
 24 striking “nonbank financial company
 25 or”; and

1 (III) in subparagraph (C), by
 2 striking “foreign nonbank financial
 3 company or”; and

4 (ii) by striking paragraph (4);

5 (3) by striking sections 113 (12 U.S.C. 5323),
 6 114 (12 U.S.C. 5324), 161 (12 U.S.C. 5361), 162
 7 (12 U.S.C. 5362), 164 (12 U.S.C. 5364), 167 (12
 8 U.S.C. 5367), 170 (12 U.S.C. 5370), 216 (124 Stat.
 9 1519), and 217 (124 Stat. 1519);

10 (4) in section 115 (12 U.S.C. 5325)—

11 (A) in the heading for such section, by
 12 striking “**NONBANK FINANCIAL COMPANIES**
 13 **SUPERVISED BY THE BOARD OF GOV-**
 14 **ERNORS AND**”;

15 (B) in subsection (a)(1)—

16 (i) by striking “nonbank financial
 17 companies supervised by the Board of Gov-
 18 ernors and”; and

19 (ii) in subparagraph (A), by striking
 20 “nonbank financial companies and”;

21 (C) in subsection (b)—

22 (i) in paragraph (2)—

23 (I) in the heading for such para-
 24 graph, by striking “FINANCIAL COM-

1 PANIES” and inserting “BANK HOLD-
2 ING COMPANIES”;

3 (II) by striking “foreign nonbank
4 financial companies supervised by the
5 Board of Governors or”; and

6 (III) in subparagraph (B), by
7 striking “foreign nonbank financial
8 company or”; and

9 (ii) in paragraph (3)—

10 (I) in subparagraph (A)—

11 (aa) by striking “nonbank
12 financial companies supervised by
13 the Board of Governors and”;
14 and

15 (bb) in clause (i), by insert-
16 ing before the semicolon the fol-
17 lowing: “(as in effect on the day
18 before the date of the enactment
19 of the Terminating the Expan-
20 sion of Too-Big-To-Fail Act of
21 2012)”; and

22 (II) in subparagraph (B), by in-
23 serting after “section 113” the fol-
24 lowing: “(as in effect on the day be-
25 fore the date of the enactment of the

1 Terminating the Expansion of Too-
 2 Big-To-Fail Act of 2012)”;

3 (D) in subsection (c)—

4 (i) in paragraph (1), by striking
 5 “nonbank financial companies supervised
 6 by the Board of Governors and”; and

7 (ii) in paragraph (3)—

8 (I) in subparagraph (A), by strik-
 9 ing “any nonbank financial company
 10 supervised by the Board of Governors
 11 and”; and

12 (II) in subparagraph (B)(iii), by
 13 striking “a nonbank financial com-
 14 pany supervised by the Board of Gov-
 15 ernors or”;

16 (E) in subsection (d)—

17 (i) in paragraph (1), by striking “each
 18 nonbank financial company supervised by
 19 the Board of Governors and”; and

20 (ii) in paragraph (2)—

21 (I) by striking “nonbank finan-
 22 cial company supervised by the Board
 23 of Governors and”; and

1 (II) by striking “significant
 2 nonbank financial companies and”
 3 each place such term appears;

4 (F) in subsection (e), by striking “nonbank
 5 financial companies supervised by the Board of
 6 Governors or”;

7 (G) in subsection (f), by striking “and by
 8 nonbank financial companies supervised by the
 9 Board of Governors”; and

10 (H) in subsection (g), by striking “,
 11 nonbank financial companies supervised by the
 12 Board of Governors,”;

13 (5) in section 116 (12 U.S.C. 5326)—

14 (A) in subsection (a), by striking “or a
 15 nonbank financial company supervised by the
 16 Board of Governors”; and

17 (B) in subsection (b)—

18 (i) in paragraph (1)(A), by striking “,
 19 nonbank financial company supervised by
 20 the Board of Governors,”; and

21 (ii) in paragraph (2), by striking “and
 22 nonbank financial company supervised by
 23 the Board of Governors”;

24 (6) in section 117 (12 U.S.C. 5327)—

(A) in subsection (b), by striking “such entity shall be treated as a nonbank financial company supervised by the Board of Governors, as if the Council had made a determination under section 113 with respect to that entity” and inserting “for purposes of this title, such entity shall be treated as a bank holding company with total consolidated assets of \$50,000,000,000”; and

(B) in subsection (c)—

(i) in paragraph (1), by striking “a nonbank financial company supervised by the Board of Governors” and inserting “a bank holding company with total consolidated assets of \$50,000,000,000”; and

(ii) in paragraph (2), by striking subparagraph (C);

(7) in section 119(a) (12 U.S.C. 5329(a)), by striking “, nonbank financial company,”;

(8) in section 120 (12 U.S.C. 5330)—

(A) in subsection (a)—

(i) by striking “or nonbank financial companies”; and

(ii) by striking “and nonbank financial companies”; and

1 (B) in subsection (d)—

2 (i) in paragraph (1), by adding “and”
3 at the end;

4 (ii) in paragraph (2), by striking “;
5 and” and inserting a period; and

6 (iii) by striking paragraph (3);

7 (9) in section 121 (12 U.S.C. 5331)—

8 (A) in subsection (a), by striking “, or a
9 nonbank financial company supervised by the
10 Board of Governors,”;

11 (B) in subsection (c), by inserting after
12 “section 113” the following: “(as in effect on
13 the day before the date of the enactment of the
14 Terminating the Expansion of Too-Big-To-Fail
15 Act of 2012)”; and

16 (C) in subsection (d)—

17 (i) in the heading for such subsection,
18 by striking “FOREIGN FINANCIAL COMPA-
19 NIES” and inserting “FOREIGN-BASED
20 BANK HOLDING COMPANIES”;

21 (ii) by striking “foreign nonbank fi-
22 nancial companies supervised by the Board
23 of Governors and”; and

24 (iii) by amending paragraph (2) to
25 read as follows:

1 “(2) taking into account the extent to which the
 2 foreign-based bank holding company is subject on a
 3 consolidated basis to home country standards that
 4 are comparable to those applied to bank holding
 5 companies in the United States.”;

6 (10) in the heading for subtitle C, by striking
 7 **“Certain Nonbank Financial Companies**
 8 **and”**;

9 (11) in section 155(d) (12 U.S.C. 5345(d)), by
 10 striking “and nonbank financial companies super-
 11 vised by the Board of Governors”;

12 (12) in section 163 (12 U.S.C. 5363)—

13 (A) by striking subsection (a),

14 (B) by redesignating subsection (b) as sub-
 15 section (a); and

16 (C) in subsection (a), as so redesignated,
 17 by striking “or a nonbank financial company
 18 supervised by the Board of Governors” each
 19 place such term appears;

20 (13) in section 165 (12 U.S.C. 5365)—

21 (A) in the heading for such section, by
 22 striking **“NONBANK FINANCIAL COMPANIES**
 23 **SUPERVISED BY THE BOARD OF GOV-**
 24 **ERNORS AND”**;

25 (B) in subsection (a)(1)—

1 (i) by striking “nonbank financial
2 companies supervised by the Board of Gov-
3 ernors and”; and

4 (ii) in subparagraph (A), by striking
5 “nonbank financial companies and”;
6 (C) in subsection (b)—

7 (i) in paragraph (1), by striking
8 “nonbank financial companies supervised
9 by the Board of Governors and” each place
10 such term appears;

11 (ii) in paragraph (2)—

12 (I) in the heading for such para-
13 graph, by striking “FOREIGN FINAN-
14 CIAL COMPANIES” and inserting
15 “FOREIGN-BASED BANK HOLDING
16 COMPANIES”;

17 (II) by striking “foreign nonbank
18 financial company supervised by the
19 Board of Governors or”; and

20 (III) in subparagraph (B)—

21 (aa) by striking “foreign fi-
22 nancial company” and inserting
23 “foreign-based bank holding com-
24 pany”; and

1 (bb) by striking “financial
2 companies” and inserting “bank
3 holding companies”;

4 (iii) in paragraph (3)—

5 (I) by inserting after “section
6 113” each place such term appears
7 the following: “(as in effect on the day
8 before the date of the enactment of
9 the Terminating the Expansion of
10 Too-Big-To-Fail Act of 2012)”; and

11 (II) in subparagraph (A), by
12 striking “nonbank financial companies
13 supervised by the Board of Governors
14 and”; and

15 (iv) in paragraph (4), by striking “a
16 nonbank financial company supervised by
17 the Board of Governors or”;

18 (D) in subsection (c)—

19 (i) in paragraph (1)—

20 (I) by striking “nonbank finan-
21 cial company supervised by the Board
22 of Governors and”; and

23 (II) by striking “bank holding
24 companies” and inserting “bank hold-
25 ing company”; and

1 (ii) in paragraph (2)(D), by striking
 2 “nonbank financial company supervised by
 3 the Board of Governors or a”;

4 (E) in subsection (d)—

5 (i) by striking “nonbank financial
 6 company supervised by the Board of Gov-
 7 ernors and” each place such term appears;

8 (ii) in paragraph (1), by striking
 9 “bank holding companies” and inserting
 10 “bank holding company”;

11 (iii) in paragraph (2)—

12 (I) by striking “significant
 13 nonbank financial companies and”
 14 each place such term appears; and

15 (II) by striking “bank holding
 16 companies” and inserting “bank hold-
 17 ing company”;

18 (iv) in paragraph (4), by striking “a
 19 nonbank financial company supervised by
 20 the Board of Governors or”;

21 (v) in paragraph (5), by striking “a
 22 nonbank financial company supervised by
 23 the Board of Governors or” each place
 24 such term appears; and

1 (vi) in paragraph (6), by striking “the
2 nonbank financial company supervised by
3 the Board, any bank holding company, or
4 any subsidiary or affiliate of the foregoing”
5 and inserting “any bank holding company
6 or any subsidiary or affiliate of the bank
7 holding company”;

8 (F) in subsection (e)—

9 (i) in paragraph (1), by striking “a
10 nonbank financial company supervised by
11 the Board of Governors or”;

12 (ii) in paragraph (2), by striking
13 “nonbank financial company supervised by
14 the Board of Governors and”;

15 (iii) in paragraph (3), by striking “the
16 nonbank financial company supervised by
17 the Board of Governors or” each place
18 such term appears; and

19 (iv) in paragraph (4), by striking “a
20 nonbank financial company supervised by
21 the Board of Governors or”;

22 (G) in subsection (f), by striking “nonbank
23 financial companies supervised by the Board of
24 Governors and”;

(H) in subsection (g)(1), by striking “and any nonbank financial company supervised by the Board of Governors”;

(I) in subsection (h)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1), as so redesignated, by striking “paragraph (3)” each place such term appears and inserting “paragraph (2)”; and

(iv) in paragraph (2), as so redesignated, by striking “nonbank financial company supervised by the Board of Governors or” each place such term appears;

(J) in subsection (i)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking “nonbank financial companies supervised by the Board of Governors and”; and

(II) in subparagraph (B), by striking “and nonbank financial companies”; and

1 (ii) in paragraph (2)(A), by striking
 2 “nonbank financial company supervised by
 3 the Board of Governors and a”;

4 (K) in subsection (j)—

5 (i) in paragraph (1), by striking “or a
 6 nonbank financial company supervised by
 7 the Board of Governors”; and

8 (ii) in paragraph (2), by inserting
 9 after “section 113” the following: “(as in
 10 effect on the day before the date of the en-
 11 actment of the Terminating the Expansion
 12 of Too-Big-To-Fail Act of 2012)”; and

13 (L) in subsection (k)(1), by striking “or
 14 nonbank financial company supervised by the
 15 Board of Governors”;

16 (14) in section 166 (12 U.S.C. 5366), by strik-
 17 ing “a nonbank financial company supervised by the
 18 Board of Governors or” each place such term ap-
 19 pears;

20 (15) in section 169 (12 U.S.C. 5369), by strik-
 21 ing “and nonbank financial companies”;

22 (16) in section 171(b) (12 U.S.C. 5371(b))—

23 (A) by striking “, depository institution
 24 holding companies, and nonbank financial com-
 25 panies supervised by the Board of Governors”

1 each place such term appears and inserting
2 “and depository institution holding companies”;

3 (B) in paragraph (3)—

4 (i) by striking “or nonbank financial
5 companies supervised by the Board of Gov-
6 ernors”; and

7 (ii) by striking “or the primary finan-
8 cial regulatory agency in the case of
9 nonbank financial companies supervised by
10 the Board of Governors”; and

11 (C) in paragraph (4)—

12 (i) by striking “or by nonbank finan-
13 cial companies supervised by the Board of
14 Governors” each place such term appears;
15 and

16 (ii) by adding a period at the end.

17 (b) CONFORMING AMENDMENTS.—

18 (1) BANK HOLDING COMPANY ACT OF 1956.—

19 The Bank Holding Company Act of 1956 (12 U.S.C.
20 1841 et seq.) is amended—

21 (A) in section 13 (12 U.S.C. 1851)—

22 (i) in subsection (a), by striking para-
23 graph (2);

24 (ii) in subsection (b)(2)(B)—

1 (I) in clause (i)(II), by striking “,
2 any nonbank financial company super-
3 vised by the Board”; and

4 (II) in clause (ii), by striking
5 “and nonbank financial companies su-
6 pervised by the Board”;

7 (iii) in subsection (c)(2)—

8 (I) by striking “or nonbank fi-
9 nancial company supervised by the
10 Board”; and

11 (II) by striking “or 2 years after
12 the date on which the entity or com-
13 pany becomes a nonbank financial
14 company supervised by the Board”;

15 (iv) in subsection (e)(2), by striking
16 “or nonbank financial company supervised
17 by the Board” each place such term ap-
18 pears;

19 (v) in subsection (g), by striking “or
20 nonbank financial company supervised by
21 the Board” each place such term appears;
22 and

23 (vi) in subsection (h)—

24 (I) by striking paragraph (3);

1 (II) by redesignating paragraphs
 2 (4), (5), (6), and (7) as paragraphs
 3 (3), (4), (5), and (6), respectively; and
 4 (III) in paragraph (3), as so re-
 5 designated, by striking “or nonbank
 6 financial company supervised by the
 7 Board” each place such term appears;
 8 (B) in section 14(a) (12 U.S.C.
 9 1852(a))—

10 (i) in paragraph (2)—

11 (I) by striking subparagraph (E);
 12 and

13 (II) by redesignating subpara-
 14 graph (F) as subparagraph (E); and

15 (ii) in paragraph (3)(C), by striking
 16 “or other nonbank financial company su-
 17 pervised by the Board”.

18 (2) DODD-FRANK WALL STREET REFORM AND
 19 CONSUMER PROTECTION ACT.—The Dodd-Frank
 20 Wall Street Reform and Consumer Protection Act
 21 (Public Law 111–203) is amended—

22 (A) in the table of contents for such Act
 23 under section 1(b)—

1 (i) by striking the items relating to
 2 sections 113, 114, 161, 162, 164, 167,
 3 170, 216, and 217;

4 (ii) in the item relating to section
 5 115, by striking “nonbank financial com-
 6 panies supervised by the Board of Gov-
 7 ernors and”;

8 (iii) in the item relating to subtitle C
 9 of title II, by striking “certain nonbank fi-
 10 nancial companies and”; and

11 (iv) in the item relating to section
 12 165, by striking “nonbank financial com-
 13 panies supervised by the Board of Gov-
 14 ernors and”;

15 (B) in section 201(a) (12 U.S.C.
 16 5381(a))—

17 (i) in paragraph (11)(B)—

18 (I) by striking clause (ii); and

19 (II) by redesignating clauses (iii)
 20 and (iv) as clauses (ii) and (iii), re-
 21 spectively;

22 (ii) by striking paragraphs (14) and
 23 (15); and

24 (iii) by redesignating paragraph (16)
 25 as paragraph (14);

1 (C) in section 210(o)(1)(A) (12 U.S.C.
 2 5390(o)(1)(A)), by striking “and any nonbank
 3 financial company supervised by the Board of
 4 Governors”;

5 (D) in section 618(a)(4)(B) (12 U.S.C.
 6 1850a(a)(4)(B))—

7 (i) by striking clause (i); and

8 (ii) by redesignating clauses (ii), (iii),
 9 (iv), (v), and (vi) as clauses (i), (ii), (iii),
 10 (iv), and (v), respectively;

11 (E) in section 716(i)(1) (15 U.S.C.
 12 8305(i)(1))—

13 (i) by striking subparagraph (B);

14 (ii) by redesignating subparagraph
 15 (C) as subparagraph (B); and

16 (iii) in subparagraph (B), as so rededesignated—
 17

18 (I) in the heading for such sub-
 19 paragraph, by striking “, NON-SYS-
 20 TEMICALLY SIGNIFICANT INSTITU-
 21 TIONS NOT SUBJECT TO HEIGHTENED
 22 PRUDENTIAL SUPERVISION AS REGU-
 23 LATED UNDER SECTION 113” and in-
 24 serting “SWAPS ENTITIES”; and

1 (II) by striking “, non-system-
 2 ically significant institutions not sub-
 3 ject to heightened prudential super-
 4 vision as regulated under section
 5 113”; and

6 (F) in section 726(a) (15 U.S.C. 8323(i)),
 7 by striking “a nonbank financial company (as
 8 defined in section 102) supervised by the
 9 Board, an affiliate of such a bank holding com-
 10 pany or nonbank financial company,” and in-
 11 serting “an affiliate of such a bank holding
 12 company,”; and

13 (G) in section 765(a) (15 U.S.C. 8343(a)),
 14 by striking “a nonbank financial company (as
 15 defined in section 102) supervised by the Board
 16 of Governors of the Federal Reserve System, af-
 17 filiate of such a bank holding company or
 18 nonbank financial company,” and inserting “af-
 19 filiate of such a bank holding company,”.

20 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
 21 tion 10(b)(3) of the Federal Deposit Insurance Act
 22 (12 U.S.C. 1820(b)(3)) is amended—

23 (A) in subparagraph (A)—

1 (i) by striking “or nonbank financial
 2 company supervised by the Board of Gov-
 3 ernors”; and

4 (ii) by striking “or of such nonbank
 5 financial company supervised by the Board
 6 of Governors”; and

7 (B) in subparagraph (B), by striking “a
 8 nonbank financial company supervised by the
 9 Board of Governors or”.

10 (4) FEDERAL RESERVE ACT.—Section 11 of the
 11 Federal Reserve Act (12 U.S.C. 248) is amended—

12 (A) by redesignating the second subsection
 13 (s), as added by section 318(c) of the Dodd-
 14 Frank Wall Street Reform and Consumer Pro-
 15 tection Act, as subsection (t); and

16 (B) in paragraph (2) of subsection (t), as
 17 so redesignated—

18 (i) in subparagraph (A), by adding
 19 “and” at the end;

20 (ii) in subparagraph (B), by striking
 21 “; and” and inserting a period; and

22 (iii) by striking subparagraph (C);

23 (5) TITLE 31.—Section 313(c)(1) of title 31,
 24 United States Code, is amended—

25 (A) by striking subparagraph (C); and

1 (B) by redesignating subparagraphs (D),
2 (E), (F), (G), and (H) as subparagraphs (C),
3 (D), (E), (F), and (G), respectively.

4 **SEC. 3. REPEAL OF THE PAYMENT, CLEARING, AND SETTLE-**
5 **MENT SUPERVISION ACT OF 2010.**

6 Title VIII of the Dodd-Frank Wall Street Reform
7 and Consumer Protection Act (12 U.S.C. 5461 et seq.),
8 and the item relating to that title in the table of contents
9 in section 1(b) of such Act, are hereby repealed.

○