

113TH CONGRESS
1ST SESSION

S. 1861

To save taxpayer money and end bailouts of financial institutions by providing for a process to allow financial institutions to go bankrupt.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2013

Mr. CORNYN (for himself and Mr. TOOMEY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To save taxpayer money and end bailouts of financial institutions by providing for a process to allow financial institutions to go bankrupt.

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 “Taxpayer Protection
5 and Responsible Resolution Act”.

6 **SEC. 2. REPEAL OF TITLE II OF DODD-FRANK WALL STREET**
7 **REFORM AND CONSUMER PROTECTION ACT.**

8 (a) IN GENERAL.—Title II of the Dodd-Frank Wall
9 Street Reform and Consumer Protection Act (Public Law
10 111–203) is repealed and any Federal law amended by

1 such title shall, on and after the date of enactment of this
 2 Act, be effective as if title II of the Dodd-Frank Wall
 3 Street Reform and Consumer Protection Act had not been
 4 enacted.

5 (b) CONFORMING AMENDMENTS.—

6 (1) DODD-FRANK WALL STREET REFORM AND
 7 CONSUMER PROTECTION ACT.—The Dodd-Frank
 8 Wall Street Reform and Consumer Protection Act is
 9 amended—

10 (A) in the table of contents, by striking all
 11 items relating to title II;

12 (B) in section 165(d)(6), by striking “, a
 13 receiver appointed under title II,”;

14 (C) in section 716(g), by striking “or a
 15 covered financial company under title II”;

16 (D) in section 1105(e)(5), by striking
 17 “amount of any securities issued under that
 18 chapter 31 for such purpose shall be treated in
 19 the same manner as securities issued under sec-
 20 tion 208(n)(5)(E)” and inserting “issuances of
 21 such securities under that chapter 31 for such
 22 purpose shall be treated as public debt trans-
 23 actions of the United States, and the proceeds
 24 from the sale of any obligations acquired by the
 25 Secretary under this paragraph shall be depos-

ited into the Treasury of the United States as
miscellaneous receipts”; and

(E) in section 1106(c)(2)(A)—

(i) in clause (i), by inserting “, other
than a covered financial corporation (as
defined in section 101(9A) of title 11,
United States Code),” after “company”;
and

(ii) in clause (ii), by inserting “, other
than a covered financial corporation (as
defined in section 101(9A) of title 11,
United States Code),” after “company”.

(2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
tion 10(b)(3)(A) of the Federal Deposit Insurance
Act (12 U.S.C. 1820(b)(3)(A)) is amended by strik-
ing “, or of such nonbank financial company super-
vised by the Board of Governors or bank holding
company described in section 165(a) of the Finan-
cial Stability Act of 2010, for the purpose of imple-
menting its authority to provide for orderly liquida-
tion of any such company under title II of that Act”.

(3) FEDERAL RESERVE ACT.—Section 13(3) of
the Federal Reserve Act (12 U.S.C. 343(3)) is
amended—

(A) in subparagraph (B)—

(i) in clause (ii), by striking “, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or” and inserting “or is subject to resolution under”; and

(ii) in clause (iii), by striking “, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or” and inserting “or resolution under”; and

(B) by striking subparagraph (E).

SEC. 3. GENERAL PROVISIONS RELATING TO COVERED FINANCIAL CORPORATIONS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting the following after paragraph (9):

“(9A) The term ‘covered financial corporation’ means any corporation incorporated or organized under any Federal or State law, other than a stockbroker, a commodity broker, or an entity of the kind specified in paragraph (2) or (3) of section 109(b), that is—

“(A) a bank holding company, as that term is defined in section 2(a) of the Bank

1 Holding Company Act of 1956 (12 U.S.C.
2 1841(a)); or

3 “(B) predominantly engaged in activities
4 that the Board of Governors of the Federal Re-
5 serve System has determined are financial in
6 nature or incidental to such financial activity
7 for purposes of section 4(k) of the Bank Hold-
8 ing Company Act of 1956 (12 U.S.C.
9 1843(k)).”.

10 (b) APPLICABILITY OF CHAPTERS.—Section 103 of
11 title 11, United States Code, is amended—

12 (1) in subsection (a)—

13 (A) by striking “section 1161” and insert-
14 ing “sections 1161 and 1401”; and

15 (B) by striking “or 13” and inserting “13,
16 or 14”; and

17 (2) by adding at the end the following:

18 “(l) Chapter 14 of this title applies only in a case
19 under this title concerning a covered financial corporation.

20 “(m) Except as otherwise provided in chapter 14 of
21 this title, chapter 11 of this title applies in a case under
22 chapter 14 of this title.”.

23 (c) WHO MAY BE A DEBTOR.—Section 109 of title
24 11, United States Code, is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (2), by striking “or” at
2 the end;

3 (B) in paragraph (3)(B), by striking the
4 period at the end and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(4) a covered financial corporation.”; and

7 (2) by adding at the end the following:

8 “(i) An entity may be a debtor under chapter 14 of
9 this title only if the entity is a covered financial corpora-
10 tion.”.

11 **SEC. 4. LIQUIDATION, REORGANIZATION, OR RECAPITAL-**
12 **IZATION OF A COVERED FINANCIAL COR-**
13 **PORATION.**

14 (a) IN GENERAL.—Title 11, United States Code, is
15 amended by inserting before chapter 15 the following:

16 **“CHAPTER 14—LIQUIDATION, REORGA-**
17 **NIZATION, OR RECAPITALIZATION OF**
18 **A COVERED FINANCIAL CORPORATION**

“Sec.

“1401. Inapplicability of other sections.

“1402. Definitions for this chapter.

“1403. Commencement of a case concerning a covered financial corporation.

“1404. Regulators.

“1405. Special trustee and bridge company.

“1406. Special transfer of property of the estate.

“1407. Automatic stay; assumed debt.

“1408. Treatment of qualified financial contracts and affiliate contracts.

“1409. Licenses, permits, and registrations.

“1410. Exemption from securities laws.

“1411. Inapplicability of certain avoiding powers.

1 **“§ 1401. Inapplicability of other sections**

2 “Sections 321(c) and 322(b) do not apply in a case
3 under this chapter.

4 **“§ 1402. Definitions for this chapter**

5 “In this chapter, the following definitions shall apply:

6 “(1) The term ‘Board’ means the Board of
7 Governors of the Federal Reserve System.

8 “(2) The term ‘bridge company’ means a newly
9 formed corporation the equity securities of which are
10 transferred to a special trustee under section
11 1405(a).

12 “(3) The term ‘capital structure debt’ means
13 debt, other than a qualified financial contract, of the
14 debtor for borrowed money with an original maturity
15 of at least 1 year.

16 “(4) The term ‘contractual right’ means a con-
17 tractual right as defined in section 555, 556, 559,
18 or 560.

19 “(5) The term ‘qualified financial contract’
20 means any contract of a kind specified in paragraph
21 (25), (38A), (47), or (53B) of section 101, section
22 741(7), or paragraph (4), (5), (11), or (13) of sec-
23 tion 761.

1 **“§ 1403. Commencement of a case concerning a cov-**
 2 **ered financial corporation**

3 “(a) A case under this chapter may be commenced
 4 by the filing of a petition with the bankruptcy court—

5 “(1) under section 301; or

6 “(2) by the Board, only if—

7 “(A) the Board certifies in the petition
 8 that it has determined that—

9 “(i) the covered financial corpora-
 10 tion—

11 “(I) has incurred losses that will
 12 deplete all or substantially all of the
 13 capital of the covered financial cor-
 14 poration, and there is no reasonable
 15 prospect for the covered financial cor-
 16 poration to avoid such depletion;

17 “(II) is insolvent;

18 “(III) is not paying or is unable
 19 to pay the debts of the covered finan-
 20 cial corporation (other than debts sub-
 21 ject to a bona fide dispute as to liabil-
 22 ity or amount) as they become due; or

23 “(IV) is likely to be in a financial
 24 condition specified in subclause (I),
 25 (II), or (III) sufficiently soon such
 26 that the immediate commencement of

1 a case under this chapter concerning
2 the covered financial corporation is
3 necessary to prevent imminent sub-
4 stantial harm to financial stability in
5 the United States; and

6 “(ii) the commencement of a case
7 under this chapter concerning the covered
8 financial corporation and the effect of a
9 transfer under section 1406 is necessary to
10 prevent imminent substantial harm to fi-
11 nancial stability in the United States; and

12 “(B) the bankruptcy court determines,
13 after a hearing described in subsection (b), that
14 the Board has shown by a preponderance of the
15 evidence that the requirements under subpara-
16 graph (A) have been satisfied.

17 “(b)(1) A hearing described in this subsection is a
18 hearing held not later than 12 hours after the Board
19 makes a certification under subsection (a)(2)(A), with no-
20 tice only to—

21 “(A) the covered financial corporation;

22 “(B) the Federal Deposit Insurance Corpora-
23 tion; and

24 “(C) the Secretary of the Treasury.

1 “(2) Only the Board and the entities listed in para-
2 graph (1) may attend or participate in a hearing described
3 in this subsection. Transcripts of such hearing shall be
4 sealed until the end of the case.

5 “(c)(1) The covered financial corporation may file an
6 appeal in the district court of a determination made by
7 the bankruptcy court under subsection (a)(2)(B) not later
8 than 12 hours after the bankruptcy court makes such de-
9 termination, with notice only to the entities listed in sub-
10 section (b)(1) and the Board.

11 “(2) The district judge specified under section
12 298(c)(1) of title 28 for the judicial circuit in which the
13 case is pending shall hear the appeal under paragraph (1)
14 and review within 12 hours the determination of the bank-
15 ruptcy court under subsection (a)(2)(B) for abuse of dis-
16 cretion.

17 “(d)(1) The commencement of a case under sub-
18 section (a)(1) constitutes an order for relief under this
19 chapter.

20 “(2) In a case commenced under subsection (a)(2),
21 the bankruptcy court shall immediately order relief under
22 this chapter if—

23 “(A) the bankruptcy court makes a determina-
24 tion under subsection (a)(2)(B) that the require-

1 ments of subsection (a)(2)(A) have been satisfied;
2 and

3 “(B)(i) the period for appeal under subsection
4 (c)(1) has passed without an appeal having been
5 filed; or

6 “(ii) the district court affirms the determina-
7 tion of the bankruptcy court under subsection (c)(2).

8 “(3) Notwithstanding paragraph (2), the bankruptcy
9 court shall order relief in a case commenced under sub-
10 section (a)(2) if the debtor consents to the order.

11 **“§ 1404. Regulators**

12 “(a) The Board may raise and may appear and be
13 heard on any issue in any case or proceeding under this
14 title relevant to the regulation of the debtor by the Board
15 or to financial stability in the United States.

16 “(b) The Federal Deposit Insurance Corporation may
17 raise and may appear and be heard on any issue in any
18 case or proceeding under this title in connection with a
19 transfer under section 1406.

20 **“§ 1405. Special trustee and bridge company**

21 “(a) On request of the trustee or the Board, the court
22 may order the trustee to appoint 1 special trustee and
23 transfer to the special trustee all of the equity securities
24 in a corporation to hold in trust for the sole benefit of
25 the estate, if—

1 “(1) the corporation does not have any prop-
2 erty, executory contracts, unexpired leases, or debts,
3 other than any property acquired or executory con-
4 tracts, unexpired leases, or debts assumed when act-
5 ing as a transferee of a transfer under section 1406;

6 “(2) the equity securities of the corporation are
7 property of the estate; and

8 “(3) the court approves—

9 “(A) the trust agreement governing the
10 special trustee;

11 “(B) the governing documents of the cor-
12 poration; and

13 “(C) the identity of—

14 “(i) the special trustee; and

15 “(ii) the directors and senior officers
16 of the corporation.

17 “(b) The trust agreement governing the special trust-
18 ee shall provide—

19 “(1) for the payment of the costs and expenses
20 of the special trustee from the assets of the trust
21 and not from the property of the estate;

22 “(2) that the special trustee provide—

23 “(A) periodic reporting to the estate; and

24 “(B) information about the bridge com-
25 pany as reasonably requested by a party in in-

1 terest to prepare a disclosure statement for a
 2 plan providing for distribution of any securities
 3 of the bridge company, if such information is
 4 necessary to prepare such disclosure statement;

5 “(3) that the special trustee provide notice to
 6 and consult with parties in interest in the case in
 7 connection with—

8 “(A) any change in a director or senior of-
 9 ficer of the bridge company;

10 “(B) any modification to the governing
 11 documents of the bridge company; and

12 “(C) any major corporate action of the
 13 bridge company, including—

14 “(i) recapitalization;

15 “(ii) a liquidity borrowing;

16 “(iii) termination of an intercompany
 17 debt or guarantee;

18 “(iv) a transfer of a substantial por-
 19 tion of the assets of the bridge company;

20 or

21 “(v) the issuance or sale of any secu-
 22 rities of the bridge company;

23 “(4) that the proceeds of the sale of any equity
 24 securities of the bridge company by the special trust-

1 ee be held in trust for the benefit of or transferred
2 to the estate; and

3 “(5) that the property held in trust by the spe-
4 cial trustee is subject to distribution in accordance
5 with the plan and subsection (c).

6 “(c) The special trustee shall distribute the assets
7 held in trust in accordance with the plan on the effective
8 date of the plan, after which time the office of the special
9 trustee shall terminate, except as may be necessary to
10 wind up and conclude the business and financial affairs
11 of the trust.

12 “(d) After a transfer under section 1406, the special
13 trustee shall be subject only to applicable nonbankruptcy
14 law, and the actions and conduct of the special trustee
15 shall no longer be subject to approval by the court in the
16 case under this chapter.

17 **“§ 1406. Special transfer of property of the estate**

18 “(a) On request of the trustee or the Board, and after
19 notice and hearing and not less than 24 hours after the
20 commencement of the case, the court may order a transfer
21 under this section of property of the estate to a bridge
22 company. Except as provided under this section, the provi-
23 sions of section 363 shall apply to a transfer under this
24 section.

1 “(b) Unless the court orders otherwise, notice of a
2 request for an order under subsection (a) shall consist of
3 electronic or telephonic notice of not less than 24 hours
4 to—

5 “(1) the debtor;

6 “(2) the trustee;

7 “(3) the holders of the 20 largest secured
8 claims against the debtor;

9 “(4) the holders of the 20 largest unsecured
10 claims against the debtor;

11 “(5) the Board;

12 “(6) the Federal Deposit Insurance Corpora-
13 tion;

14 “(7) the Secretary of the Treasury;

15 “(8) the United States trustee; and

16 “(9) each primary financial regulatory agency,
17 as defined in section 2(12) of the Dodd-Frank Wall
18 Street Reform and Consumer Protection Act (12
19 U.S.C. 5301(12)), with respect to any affiliate that
20 is proposed to be transferred under this section.

21 “(c) The court may not order a transfer under this
22 section unless the court determines, based upon a prepon-
23 derance of the evidence, that—

1 “(1) the transfer under this section is necessary
2 to prevent imminent substantial harm to financial
3 stability in the United States;

4 “(2) the proposed transfer does not provide for
5 the assumption of any capital structure debt by the
6 bridge company;

7 “(3) the proposed transfer provides for the
8 transfer of any accounts of depositors of the debtor
9 that are insured by the Federal Deposit Insurance
10 Company to the bridge company; and

11 “(4) the Board certifies to the court that the
12 Board has determined that the bridge company pro-
13 vides adequate assurance of future performance of
14 any executory contract or unexpired leased assumed
15 and assigned to the bridge company, and of payment
16 of any debt assumed by the bridge company, in the
17 transfer under this section.

18 **“§ 1407. Automatic stay; assumed debt**

19 “(a)(1) A petition filed under section 301 or 1403
20 operates as a stay, applicable to all entities, of the termi-
21 nation or modification of any debt, contract, lease, or
22 agreement described in paragraph (2), or of any right or
23 obligation under any such debt, contract, lease or agree-
24 ment, solely because of—

1 “(A) a default by the debtor under any such
2 debt, contract, lease, or agreement; or

3 “(B) a provision in such debt, contract, lease,
4 or agreement or in applicable nonbankruptcy law
5 that is conditioned on—

6 “(i) the insolvency or financial condition of
7 the debtor at any time before the closing of the
8 case;

9 “(ii) the commencement of a case under
10 this title concerning the debtor;

11 “(iii) the appointment of or taking posses-
12 sion by a trustee in a case under this title con-
13 cerning the debtor or by a custodian before the
14 commencement of the case; or

15 “(iv) a credit rating agency rating, or ab-
16 sence or withdrawal of a credit rating agency
17 rating—

18 “(I) of the debtor at any time after
19 the commencement of the case;

20 “(II) of an affiliate during the 48
21 hours after the commencement of the case;
22 or

23 “(III) while the special trustee is a di-
24 rect or indirect beneficial holder of more

1 than 50 percent of the equity securities of
2 the bridge company—

3 “(aa) of the bridge company; or
4 “(bb) of an affiliate, if all of the
5 direct or indirect interests in the affil-
6 iate that are property of the estate
7 are transferred under section 1406.

8 “(2) A debt, contract, lease, or agreement described
9 in this paragraph is—

10 “(A) any debt (other than capital structure
11 debt), executory contract (other than a qualified fi-
12 nancial contract), or unexpired lease of the debtor;

13 “(B) any agreement under which the debtor
14 issued or is obligated for debt (other than capital
15 structure debt);

16 “(C) any debt, executory contract (other than a
17 qualified financial contract), or unexpired lease of an
18 affiliate; or

19 “(D) any agreement under which an affiliate
20 issued or is obligated for debt.

21 “(3) The stay under this subsection terminates—

22 “(A) as to the debtor, upon the earliest of—

23 “(i) 48 hours after the commencement of
24 the case;

1 “(ii) assumption of the debt, contract, or
 2 lease under an order authorizing a transfer
 3 under section 1406; or

4 “(iii) a determination by the court not to
 5 order a transfer under section 1406; and

6 “(B) as to an affiliate, upon the earliest of—

7 “(i) entry of an order authorizing a trans-
 8 fer under section 1406 in which the direct or
 9 indirect interests in the affiliate that are prop-
 10 erty of the estate are not transferred under sec-
 11 tion 1406;

12 “(ii) a determination by the court not to
 13 order a transfer under section 1406; or

14 “(iii) 48 hours after the commencement of
 15 the case, if the court has not ordered a transfer
 16 under section 1406.

17 “(4) Sections 362(d), 362(e), 362(f), and 362(g)
 18 apply to a stay under this subsection.

19 “(b) A debt, executory contract (other than a quali-
 20 fied financial contract), or unexpired lease of the debtor,
 21 or an agreement under which the debtor has issued or is
 22 obligated for any debt, may be assumed by a bridge com-
 23 pany in a transfer under section 1406 notwithstanding
 24 any provision in an agreement or in applicable nonbank-
 25 ruptcy law that—

1 “(1) prohibits, restricts, or conditions the as-
 2 signment of the debt, contract, lease, or agreement;
 3 or

4 “(2) terminates or modifies, or permits a party
 5 other than the debtor to terminate or modify, the
 6 debt, contract, lease, or agreement on account of—

7 “(A) the assignment of the debt, contract,
 8 lease, or agreement; or

9 “(B) a change in control of any party to
 10 the debt, contract, lease, or agreement.

11 “(c)(1) A debt, contract, lease, or agreement of the
 12 kind described in subsection (a)(2)(A) or (a)(2)(B) may
 13 not be terminated or modified, and any right or obligation
 14 under such debt, contract, lease, or agreement may not
 15 be terminated or modified, as to the bridge company solely
 16 because of a provision in the debt, contract, lease, or
 17 agreement or in applicable nonbankruptcy law—

18 “(A) of the kind described in subsection
 19 (a)(1)(B) as applied to the debtor;

20 “(B) that prohibits, restricts, or conditions the
 21 assignment of the debt, contract, lease, or agree-
 22 ment; or

23 “(C) that terminates or modifies, or permits a
 24 party other than the debtor to terminate or modify,

1 the debt, contract, lease or agreement, on account
2 of—

3 “(i) the assignment of the debt, contract,
4 lease, or agreement; or

5 “(ii) a change in control of any party to
6 the debt, contract, lease, or agreement.

7 “(2) If there has been a default by the debtor of a
8 provision other than the kind described in paragraph (1)
9 in a debt, contract, lease or agreement of the kind de-
10 scribed in subsection (a)(2)(A) or (a)(2)(B), the bridge
11 company may assume such debt, contract, lease, or agree-
12 ment only if the bridge company—

13 “(A) cures, or provides adequate assurance to
14 the court in connection with a transfer under section
15 1406 that the bridge company will promptly cure,
16 the default;

17 “(B) compensates, or provides adequate assur-
18 ance to the court in connection with a transfer
19 under section 1406 that the bridge company will
20 promptly compensate, a party other than the debtor
21 to the debt, contract, lease, or agreement, for any
22 actual pecuniary loss to the party resulting from the
23 default; and

24 “(C) provides adequate assurance to the court
25 in connection with a transfer under section 1406 of

1 future performance under the debt, contract, lease,
2 or agreement.

3 **“§ 1408. Treatment of qualified financial contracts**
4 **and affiliate contracts**

5 “(a) Notwithstanding sections 362(b)(6), 362(b)(7),
6 362(b)(17), 362(b)(27), 555, 556, 559, 560, and 561, a
7 petition filed under section 301 or 1403 operates as a stay,
8 during the period specified in section 1407(a)(3)(A), ap-
9 plicable to all entities, of the exercise of a contractual
10 right—

11 “(1) to cause the liquidation or termination of
12 a qualified financial contract of the debtor or an af-
13 filiate; or

14 “(2) to offset or net out any termination value,
15 payment amount, or other transfer obligation arising
16 under or in connection with a qualified financial con-
17 tract of the debtor or an affiliate; or

18 “(3) under any security agreement or arrange-
19 ment or other credit enhancement forming a part of
20 or related to a qualified financial contract of the
21 debtor or an affiliate.

22 “(b)(1) During the period specified in section
23 1407(a)(3)(A), the trustee or the affiliate shall perform
24 all payment and delivery obligations under a qualified fi-
25 nancial contract of the debtor or the affiliate, respectively,

1 that become due after the commencement of the case. The
 2 stay provided under subsection (a) terminates as to a
 3 qualified financial contract of the debtor or an affiliate
 4 immediately upon the failure of the trustee or the affiliate,
 5 respectively, to perform any such obligation during such
 6 period.

7 “(2) A counterparty to any qualified financial con-
 8 tract of the debtor that is assumed and assigned in a
 9 transfer under section 1406 may perform any
 10 unperformed payment or delivery obligation under the
 11 qualified financial contract promptly after the assumption
 12 and assignment with the same effect as if the counterparty
 13 had timely performed such obligations.

14 “(c) A qualified financial contract between an entity
 15 and the debtor may not be assigned to or assumed by the
 16 bridge company in a transfer under section 1406 unless—

17 “(1) all qualified financial contracts between
 18 the entity and the debtor are assigned to and as-
 19 sumed by the bridge company in the transfer under
 20 section 1406;

21 “(2) all claims of the entity against the debtor
 22 under any qualified financial contract between the
 23 entity and the debtor (other than any claim that,
 24 under the terms of the qualified financial contract,
 25 is subordinated to the claims of general unsecured

1 creditors) are assigned to and assumed by the bridge
2 company;

3 “(3) all claims of the debtor against the entity
4 under any qualified financial contract between the
5 entity and the debtor are assigned to and assumed
6 by the bridge company; and

7 “(4) all property securing or any other credit
8 enhancement furnished by the debtor for any quali-
9 fied financial contract described in paragraph (1) or
10 any claim described in paragraph (2) or (3) under
11 any qualified financial contract between the entity
12 and the debtor is assigned to and assumed by the
13 bridge company.

14 “(d) Section 365(b)(1) does not apply to a default
15 under a qualified financial contract of the debtor that is
16 assumed and assigned in a transfer under section 1406
17 if the default—

18 “(1) is a breach of a provision of the kind spec-
19 ified in section 1407(a)(1)(B)(iv); and

20 “(2) in the case of a breach of a provision of
21 the kind specified in section 1407(a)(1)(B)(iv)(III),
22 occurs while the bridge company is a direct or indi-
23 rect beneficial holder of more than 50 percent of the
24 equity securities of the affiliate.

1 “(e) Notwithstanding any provision in a qualified fi-
2 nancial contract or in applicable nonbankruptcy law, a
3 qualified financial contract of the debtor that is assumed
4 or assigned in a transfer under section 1406 may not be
5 terminated or modified, and any right or obligation under
6 the qualified financial contract may not be terminated or
7 modified, for a breach of a provision of the kind specified
8 in section 1407(b) at any time after the entry of an order
9 under section 1406 until such time as the special trustee
10 is no longer the direct or indirect beneficial holder of more
11 than 50 percent of the equity securities of the bridge com-
12 pany.

13 “(f) Notwithstanding any provision in any agreement
14 or in applicable nonbankruptcy law, an agreement of an
15 affiliate (including an executory contract, unexpired lease,
16 or agreement under which the affiliate issued or is obli-
17 gated for debt), and any right or obligation under such
18 agreement, may not be terminated or modified at any time
19 after the commencement of the case solely because of a
20 condition described in section 1407(b) if—

21 “(1) all direct or indirect interests in the affil-
22 iate that are property of the estate are transferred
23 under section 1406 to the bridge company within the
24 period specified in subsection (a);

25 “(2) the bridge company assumes—

1 “(A) any guarantee or other credit en-
 2 hancement issued by the debtor relating to the
 3 agreement of the affiliate; and

4 “(B) any right of setoff, netting arrange-
 5 ment, or debt of the debtor that directly arises
 6 out of or directly relates to the guarantee or
 7 credit enhancement; and

8 “(3) any property of the estate that directly
 9 serves as collateral for the guarantee or credit en-
 10 hancement is transferred to the bridge company.

11 **“§ 1409. Licenses, permits, and registrations**

12 “(a) Notwithstanding any otherwise applicable non-
 13 bankruptcy law, if a request is made under section 1406
 14 for a transfer of property of the estate, any Federal, State,
 15 or local license, permit, or registration that the debtor or
 16 an affiliate had immediately before the commencement of
 17 the case and that is proposed to be transferred under sec-
 18 tion 1406 may not be terminated or modified at any time
 19 after the request solely on account of—

20 “(1) the insolvency or financial condition of the
 21 debtor at any time before the closing of the case;

22 “(2) the commencement of a case under this
 23 title concerning the debtor;

24 “(3) the appointment of or taking possession by
 25 a trustee in a case under this title concerning the

1 debtor or by a custodian before the commencement
 2 of the case; or

3 “(4) a transfer under section 1406.

4 “(b) Notwithstanding any otherwise applicable non-
 5 bankruptcy law, any Federal, State, or local license, per-
 6 mit, or registration that the debtor had immediately before
 7 the commencement of the case that is included in a trans-
 8 fer under section 1406 shall vest in the bridge company.

9 **“§ 1410. Exemption from securities laws**

10 “For purposes of section 1145, a security of the
 11 bridge company shall be deemed to be a security of a suc-
 12 cessor to the debtor under a plan if the court approves
 13 the disclosure statement for the plan as providing ade-
 14 quate information (as defined in section 1125(a)) about
 15 the bridge company and the security.

16 **“§ 1411. Inapplicability of certain avoiding powers**

17 “Except with respect to a capital structure debt, a
 18 transfer made or an obligation incurred by the debtor, in-
 19 cluding any obligation released by the debtor or the estate,
 20 to or for the benefit of an affiliate in a transfer under
 21 section 1406, is not avoidable under section 544, 547,
 22 548(a)(1)(B), or 549, or under any similar nonbankruptcy
 23 law.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—

25 The table of chapters for title 11, United States Code,

1 is amended by inserting after the item relating to chapter
2 13 the following:

“14. Liquidation, reorganization, or recapitalization of a covered finan-
cial corporation 1401”.

3 **SEC. 5. AMENDMENTS TO TITLE 28, UNITED STATES CODE.**

4 (a) AMENDMENT TO CHAPTER 13.—Chapter 13 of
5 title 28, United States Code, is amended by adding at the
6 end the following:

7 **“§ 298. Judge for a case under chapter 14 of title 11**

8 “(a) Notwithstanding section 295, the Chief Justice
9 of the United States shall designate not less than 1 dis-
10 trict judge from each circuit to be available to hear an
11 appeal under section 158(a) in a case under title 11 con-
12 cerning a covered financial corporation or under section
13 1403(c) of title 11.

14 “(b)(1) Notwithstanding section 295, the Chief Jus-
15 tice of the United States shall designate a panel of not
16 less than 10 bankruptcy judges, who are experts in cases
17 under title 11 in which a financial institution is a debtor,
18 to be available to hear a case under chapter 14 of title
19 11.

20 “(2) Notwithstanding section 295, a case under chap-
21 ter 14 of title 11 shall be heard under section 157 by a
22 bankruptcy judge designated under paragraph (1), who
23 shall be assigned to hear such case by the chief judge of

1 the court of appeals for the circuit embracing the district
 2 in which the case is pending.

3 “(3) If the bankruptcy judge designated and assigned
 4 to hear a case under paragraphs (1) and (2) is not as-
 5 signed to the district in which the case is pending, the
 6 bankruptcy judge shall be temporarily assigned to the dis-
 7 trict.

8 “(c)(1) Notwithstanding section 295, an appeal
 9 under section 158(a) in a case under title 11 concerning
 10 a covered financial corporation or under section 1403(c)
 11 of title 11 shall be heard by a district judge who—

12 “(A) is the district judge designated under sub-
 13 section (a) from the circuit in which the case is
 14 pending;

15 “(B) if more than 1 district judge has been des-
 16 igned under subsection (a) from the circuit in
 17 which the case is pending, is 1 such district judge
 18 who is designated by the chief judge of that circuit
 19 to hear the case; or

20 “(C) if none of the district judges designated
 21 under subsection (a) for the circuit in which the case
 22 is pending are immediately available, is designated
 23 under subsection (a) from another circuit and has
 24 been designated by the Chief Justice of the United
 25 States to hear the case.

1 “(2) If the district judge specified in paragraph (1)
 2 is not assigned to the district in which the case is pending,
 3 the district judge shall be temporarily assigned to the dis-
 4 trict.

5 “(d) A case under chapter 14 of title 11, and all pro-
 6 ceedings in the case, shall take place in the district in
 7 which the case is pending.

8 “(e) In this section, the terms ‘covered financial cor-
 9 poration’ and ‘financial institution’ have the meaning
 10 given such terms in section 101 of title 11.”.

11 (b) AMENDMENT TO SECTION 1334.—Section 1334
 12 of title 28, United States Code, is amended by adding at
 13 the end the following:

14 “(f) This section does not grant jurisdiction to the
 15 district courts after a transfer pursuant to an order under
 16 section 1406 of title 11—

17 “(1) of any proceeding related to a special
 18 trustee appointed, or to a bridge company formed,
 19 under section 1405 of title 11; or

20 “(2) over the property held in trust by the spe-
 21 cial trustee, the bridge company, or the property of
 22 the bridge company.”.

23 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 24 The table of sections for chapter 13 of title 28, United

1 States Code, is amended by adding at the end the fol-
 2 lowing:

“298. Judge for a case under chapter 14 of title 11.”.

3 **SEC. 6. LIMITATION ON ADVANCES FROM A FEDERAL RE-**
 4 **SERVE BANK.**

5 Section 10B(b) of the Federal Reserve Act (12
 6 U.S.C. 347b(b)) is amended—

7 (1) by redesignating paragraph (5) as para-
 8 graph (6);

9 (2) by inserting after paragraph (4) the fol-
 10 lowing:

11 “(5) LIMITATION ON ADVANCES TO COVERED
 12 FINANCIAL CORPORATIONS AND BRIDGE COMPA-
 13 NIES.—Notwithstanding paragraph (2), a Federal
 14 Reserve bank may not make advances to any covered
 15 financial corporation that is a debtor in a pending
 16 case under chapter 14 of title 11, United States
 17 Code, or to a bridge company, for the purpose of
 18 providing debtor-in-possession financing pursuant to
 19 section 364 of such title.”; and

20 (3) in paragraph (6), as redesignated—

21 (A) by redesignating subparagraphs (B)
 22 through (E) as subparagraphs (D) through (G),
 23 respectively; and

24 (B) by inserting after subparagraph (A)
 25 the following:

1 “(B) BRIDGE COMPANY.—The term
2 ‘bridge company’ has the same meaning as in
3 section 1402(2) of title 11, United States Code.

4 “(C) COVERED FINANCIAL CORPORA-
5 TION.—The term ‘covered financial corporation’
6 has the same meaning as in section 101(9A) of
7 title 11, United States Code.”.

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