

114TH CONGRESS
1ST SESSION

S. 1206

To address the concept of “Too Big To Fail” with respect to certain financial entities.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2015

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

A BILL

To address the concept of “Too Big To Fail” with respect to certain financial entities.

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 “Too Big To Fail, Too
5 Big To Exist Act”.

6 **SEC. 2. COMPILATION AND REPORT ON INSTITUTIONS**
7 **THAT ARE TOO BIG TO FAIL.**

8 (a) COMPILATION.—Notwithstanding any other pro-
9 vision of law, not later than 90 days after the date of en-
10 actment of this Act, the Financial Stability Oversight

1 Council shall compile and submit to the Secretary of the
 2 Treasury a list of entities that it deems Too Big To Fail,
 3 which shall include, but is not limited to, any United
 4 States bank holding companies that have been identified
 5 as systemically important banks by the Financial Stability
 6 Board (in this Act referred to as the “Too Big To Fail
 7 List”).

8 (b) SUBMISSION TO CONGRESS AND THE PRESI-
 9 DENT.—Upon receipt of the Too Big To Fail List, the
 10 Secretary of the Treasury shall submit the List to Con-
 11 gress and the President.

12 **SEC. 3. BREAKING-UP TOO BIG TO FAIL INSTITUTIONS.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
 14 sion of law, but not later than 1 year after the date of
 15 enactment of this Act, the Secretary of the Treasury shall
 16 break up entities included on the Too Big To Fail List,
 17 so that their failure would no longer cause a catastrophic
 18 effect on the United States or global economy without a
 19 taxpayer bailout.

20 (b) CONSULTATION WITH OTHER REGULATORS.—In
 21 carrying out the requirement of subsection (a), the Sec-
 22 retary of the Treasury shall consult with the primary fi-
 23 nancial regulatory agency of the entity to be broken up.

1 **SEC. 4. PROHIBITION AGAINST USE OF FEDERAL RESERVE**
 2 **FINANCING.**

3 Notwithstanding any other provision of law (includ-
 4 ing regulations), any entity included on the Too Big To
 5 Fail List may not use or otherwise have access to advances
 6 from any Federal Reserve credit facility, the Federal Re-
 7 serve discount window, or any other program or facility
 8 made available under the Federal Reserve Act (12 U.S.C.
 9 221 et seq.), including any asset purchases, temporary or
 10 bridge loans, government investments in debt or equity,
 11 or capital injections from any Federal institution.

12 **SEC. 5. PROHIBITION ON USE OF INSURED DEPOSITS.**

13 (a) IN GENERAL.—Any entity included on the Too
 14 Big To Fail List that is an insured depository institution,
 15 or owns such an institution, may not use any insured de-
 16 posit amounts to fund—

17 (1) any activity relating to hedging that is not
 18 directly related to commercial banking activity at the
 19 insured bank;

20 (2) any use of derivatives for speculative pur-
 21 poses;

22 (3) any activity related to the dealing of deriva-
 23 tives; or

24 (4) any other form of speculative activity that
 25 regulators specify.

1 (b) RISK OF LOSS.—An entity included on the Too
 2 Big To Fail List may not conduct any activity listed in
 3 subsection (a) in such a manner that—

4 (1) puts insured deposits at risk; or

5 (2) creates a risk of loss to the Deposit Insur-
 6 ance Fund.

7 **SEC. 6. DEFINITIONS.**

8 For purposes of this Act—

9 (1) the term “primary financial regulatory
 10 agency” has the same meaning as in section 2(12)
 11 of the Dodd-Frank Wall Street Reform and Con-
 12 sumer Protection Act (12 U.S.C. 5301(12)); and

13 (2) the term “Too Big To Fail” means any en-
 14 tity whose failure, due to its size, exposure to
 15 counterparties, liquidity position, interdependencies,
 16 role in critical markets, or other characteristics or
 17 factors, would have a catastrophic effect on the sta-
 18 bility of either the financial system or the United
 19 States economy without substantial Government as-
 20 sistance.

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