

114TH CONGRESS
1ST SESSION

S. 1840

To amend title 11, United States Code, to provide for the liquidation, reorganization, or recapitalization of a covered financial corporation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2015

Mr. CORNYN (for himself, Mr. TOOMEY, Mr. CRAPO, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend title 11, United States Code, to provide for the liquidation, reorganization, or recapitalization of a covered financial corporation, 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 “Taxpayer Protection
5 and Responsible Resolution Act”.

1 **SEC. 2. GENERAL PROVISIONS RELATING TO COVERED FI-**
 2 **NANCIAL CORPORATIONS.**

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

6 “(9A) The term ‘covered financial corporation’
 7 means any corporation incorporated or organized
 8 under any Federal or State law, other than a stock-
 9 broker, a commodity broker, or an entity of the kind
 10 specified in paragraph (2) or (3) of section 109(b),
 11 that is—

12 “(A) a bank holding company, as defined
 13 in section 2(a) of the Bank Holding Company
 14 Act of 1956 (12 U.S.C. 1841(a)); or

15 “(B) a corporation that exists for the pri-
 16 mary purpose of owning, controlling, and fi-
 17 nancing subsidiaries that are predominantly en-
 18 gaged in activities that the Board of Governors
 19 of the Federal Reserve System has determined
 20 are financial in nature or incidental to such fi-
 21 nancial activity for purposes of section 4(k) of
 22 the Bank Holding Company Act of 1956 (12
 23 U.S.C. 1843(k)).”.

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

26 (1) in subsection (a)—

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

3 (B) by striking “or 13” and inserting “13,
 4 or 14”;

5 (2) in subsection (g), by inserting “subsection
 6 (m) and” before “section”; and

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

8 “(l) Chapter 14 of this title applies only in a case
 9 under such chapter.

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

13 (c) WHO MAY BE A DEBTOR.—Section 109 of title
 14 11, United States Code, is amended—

15 (1) in subsection (d)—

16 (A) by striking “and”;

17 (B) by striking “or a” and inserting “or”;

18 and

19 (C) by inserting “, or a covered financial
 20 corporation” after “Federal Deposit Insurance
 21 Corporation Improvement Act of 1991”; and

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

23 “(i) Only a covered financial corporation may be a
 24 debtor in a case under chapter 14.”.

1 (d) DISTRIBUTION OF PROPERTY OF THE ESTATE.—
 2 Section 726(a)(1) of title 11, United States Code, is
 3 amended by inserting “in payment of any unpaid fees,
 4 costs, and expenses of a special trustee appointed under
 5 section 1406, and then” after “first,”.

6 (e) CONFIRMATION OF PLAN.—Section 1129(a) of
 7 title 11, United States Code, is amended by adding at the
 8 end the following:

9 “(17) In a case under chapter 14, all payable
 10 fees, costs, and expenses of the special trustee have
 11 been paid or the plan provides for the payment of
 12 all such fees, costs, and expenses, as of the effective
 13 date of the plan.

14 “(18) In a case under chapter 14, confirmation
 15 of the plan is not likely to cause serious adverse ef-
 16 fects on financial stability in the United States.”.

17 (f) QUALIFICATION OF TRUSTEE.—Section 322(b)(2)
 18 of title 11, United States Code, is amended by striking
 19 “The” and inserting “In cases under chapter 14, the
 20 United States trustee shall recommend to the court, and
 21 in all other cases, the”.

1 **SEC. 3. LIQUIDATION, REORGANIZATION, OR RECAPITAL-**
 2 **IZATION OF A COVERED FINANCIAL COR-**
 3 **PORATION.**

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

6 **“CHAPTER 14—LIQUIDATION, REORGA-**
 7 **NIZATION, OR RECAPITALIZATION OF**
 8 **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 transfer of property of the estate.

“1406. Special trustee.

“1407. Automatic stay; assumed debt.

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

“1409. Licenses, permits, and registrations.

“1410. Conversion to chapter 7.

“1411. Exemption from securities laws.

“1412. Inapplicability of certain avoiding powers.

“1413. Consideration of financial stability.

9 **“§ 1401. Inapplicability of other sections**

10 “Sections 303 and 321(c) do not apply in a case
 11 under this chapter.

12 **“§ 1402. Definitions for this chapter**

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

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

16 “(2) The term ‘bridge company’ means a newly
 17 formed corporation to which property of the estate
 18 may be transferred under section 1405(a) and the

1 equity securities of which may be transferred to a
2 special trustee under section 1406(a).

3 “(3) The term ‘capital structure debt’ means all
4 unsecured debt of the debtor for borrowed money for
5 which the debtor is the primary obligor, other than
6 a qualified financial contract and other than debt se-
7 cured by a lien on property of the estate that is to
8 be transferred to a bridge company pursuant to an
9 order of the court under section 1405(a).

10 “(4) The term ‘contractual right’ means a con-
11 tractual right of a kind described in section 555,
12 556, 559, 560, or 561.

13 “(5) The term ‘qualified financial contract’
14 means any contract of a kind defined in paragraph
15 (25), (38A), (47), or (53B) of section 101, section
16 741(7), or paragraph (4), (5), (11), or (13) of sec-
17 tion 761.

18 “(6) The term ‘special trustee’ means a trustee
19 appointed under section 1406(a)(2)(A).

20 “(7) The term ‘trustee’ means a person who
21 is—

22 “(A) appointed or elected under section
23 1104; and

1 “(B) qualified under section 322 to serve
2 as trustee in the case or, in the absence of such
3 person, the debtor in possession.

4 **“§ 1403. Commencement of a case concerning a cov-**
5 **ered financial corporation**

6 “(a) IN GENERAL.—A case under this chapter may
7 be commenced by the filing of a petition with the court
8 by an entity that may be a debtor under section 301 if
9 the entity states to the best of its knowledge, under pen-
10 alty of perjury, in the petition that the entity is a covered
11 financial corporation.

12 “(b) ORDER FOR RELIEF.—The commencement of a
13 case under subsection (a) constitutes an order for relief
14 under this chapter.

15 “(c) LIABILITY.—The members of the board of direc-
16 tors (or body performing similar functions) of a covered
17 financial corporation shall not be liable to shareholders,
18 creditors or other parties in interest for—

19 “(1) a good faith filing of a case under this
20 chapter; or

21 “(2) for any reasonable action taken, before or
22 after the date on which a case is commenced under
23 this chapter, in good faith in contemplation of or in
24 connection with such a filing or a transfer under
25 section 1405 or section 1406.

1 “(d) NOTICE TO COURT.—Counsel to the entity that
 2 may be a debtor shall provide, to the greatest extent prac-
 3 ticable, sufficient confidential notice to the Director of the
 4 Administrative Office of the United States Courts and the
 5 chief judge of the court of appeals embracing the district
 6 in which the case is pending regarding the potential com-
 7 mencement of a case under this chapter without disclosing
 8 the identity of the potential debtor to allow the Director
 9 and chief judge to designate and ensure the ready avail-
 10 ability of 1 of the bankruptcy judges designated under sec-
 11 tion 298(b)(1) of title 28 to be available to preside over
 12 the case.

13 **“§ 1404. Regulators**

14 “The Board, the Securities and Exchange Commis-
 15 sion, the Comptroller of the Currency, and the Federal
 16 Deposit Insurance Corporation may raise and may appear
 17 and be heard on any issue in any case or proceeding under
 18 this chapter.

19 **“§ 1405. Special transfer of property of the estate**

20 “(a) IN GENERAL.—

21 “(1) TRANSFER.—On request of the trustee,
 22 and after notice and hearing not less than 24 hours
 23 after the order for relief, the court may order a
 24 transfer under this section of property of the estate,
 25 and the assignment of debt, executory contracts, un-

1 expired leases, qualified financial contracts, and
 2 agreements of the debtor, to a bridge company. Ex-
 3 cept as provided under this section, the provisions of
 4 sections 363 and 365 shall apply to a transfer and
 5 assignment under this section.

6 “(2) PROPERTY OF ESTATE.—Upon the entry
 7 of an order approving a transfer under this section,
 8 any property transferred, and any debt, executory
 9 contract, unexpired leases, qualified financial con-
 10 tract, or agreement assigned under such order shall
 11 no longer be property of the estate.

12 “(b) NOTICE.—Unless the court orders otherwise, no-
 13 tice of a request for an order under subsection (a) shall
 14 consist of electronic or telephonic notice of not less than
 15 24 hours to—

16 “(1) the holders of the 20 largest secured
 17 claims against the debtor;

18 “(2) the holders of the 20 largest unsecured
 19 claims against the debtor;

20 “(3) counterparties to any debt, executory con-
 21 tract, unexpired lease, qualified financial contract, or
 22 agreement requested to be transferred under this
 23 section;

24 “(4) the Board;

1 “(5) the Federal Deposit Insurance Corpora-
2 tion;

3 “(6) the Secretary of the Treasury;

4 “(7) the Comptroller of the Currency;

5 “(8) the Securities and Exchange Commission;

6 “(9) the United States trustee or bankruptcy
7 administrator; and

8 “(10) each primary financial regulatory agency
9 (as defined in section 2(12) of the Dodd-Frank Wall
10 Street Reform and Consumer Protection Act (12
11 U.S.C. 5301(12))) with respect to any affiliate the
12 equity securities of which are proposed to be trans-
13 ferred under this section.

14 “(c) DETERMINATION.—The court may not order a
15 transfer under this section unless the court determines,
16 based upon a preponderance of the evidence, that—

17 “(1) the transfer under this section is necessary
18 to prevent serious adverse effects on financial sta-
19 bility in the United States;

20 “(2) the transfer does not provide for the as-
21 sumption of any capital structure debt by the bridge
22 company;

23 “(3) the transfer does not provide for the trans-
24 fer to the bridge company of any property of the es-
25 tate that is subject to a lien securing a debt, execu-

1 tory contract, unexpired lease, or agreement of the
2 debtor unless—

3 “(A)(i) the bridge company assumes such
4 debt, executory contract, unexpired lease, or
5 agreement, including any claims arising in re-
6 spect thereof that would not be allowed secured
7 claims under section 506(a)(1), and after giving
8 effect to such transfer, such property remains
9 subject to the lien securing such debt, executory
10 contract, unexpired lease, or agreement; and

11 “(ii) the court has determined that as-
12 sumption of such debt, executory contract, un-
13 expired lease, or agreement by the bridge com-
14 pany is in the best interest of the estate; or

15 “(B) such property is being transferred to
16 the bridge company in accordance with the pro-
17 visions of section 363;

18 “(4) the transfer does not provide for the as-
19 sumption by the bridge company of any debt, execu-
20 tory contract, unexpired lease, or agreement of the
21 debtor secured by a lien on property in which the es-
22 tate has an interest unless the transfer provides for
23 such property to be transferred to the bridge com-
24 pany in accordance with paragraph (3)(A) of this
25 subsection;

1 “(5) the transfer does not provide for the trans-
2 fer of the equity of the debtor;

3 “(6) the debtor has demonstrated that the
4 bridge company is not likely to fail to meet the obli-
5 gations of any debt, executory contract, qualified fi-
6 nancial contract, unexpired lease, or other agree-
7 ment assumed and assigned to the bridge company;

8 “(7) the transfer provides for the transfer to a
9 special trustee all of the equity securities in the
10 bridge company and appointment of a special trustee
11 in accordance with section 1406;

12 “(8) after giving effect to the transfer, ade-
13 quate provision has been made for the payment of
14 the fees, costs, and expenses of the estate and spe-
15 cial trustee; and

16 “(9) the bridge company will have governing
17 documents, and initial directors and senior officers,
18 that are in the best interest of creditors and the es-
19 tate.

20 “(d) REQUIREMENTS BEFORE TRANSFER.—Imme-
21 diately before a transfer under this section, the bridge
22 company that is the recipient of the transfer shall—

23 “(1) not have any property, debts, executory
24 contracts, unexpired leases, qualified financial con-
25 tracts, or agreements, other than any property ac-

1 quired or debts, executory contracts, unexpired
 2 leases, qualified financial contracts, or agreements
 3 assumed when acting as a transferee of a transfer
 4 under this section; and

5 “(2) have equity securities that are property of
 6 the estate, which may be sold or distributed in ac-
 7 cordance with this title.

8 **“§ 1406. Special trustee**

9 “(a) IN GENERAL.—

10 “(1) TRANSFER TO SPECIAL TRUSTEE.—An
 11 order approving a transfer under section 1405 shall
 12 require the trustee to transfer to a special trustee all
 13 of the equity securities in the bridge company that
 14 is the recipient of a transfer under section 1405 to
 15 hold in trust for the sole benefit of the estate subject
 16 to satisfaction of the special trustee’s fees, costs,
 17 and expenses. The trust of which the special trustee
 18 is the trustee shall be a newly formed trust governed
 19 by a trust agreement approved by the court as in the
 20 best interests of the estate, and shall exist for the
 21 sole purpose of holding and administering, and shall
 22 be permitted to dispose of, the equity securities of
 23 the bridge company in accordance with the trust
 24 agreement.

25 “(2) APPOINTMENT OF SPECIAL TRUSTEE.—

1 “(A) IN GENERAL.—A special trustee shall
2 be qualified and independent and shall be ap-
3 pointed by the court.

4 “(B) PROPOSAL BY TRUSTEE.—In connec-
5 tion with the hearing to approve a transfer
6 under section 1405, the trustee may propose to
7 the court a person to serve as special trustee,
8 if the trustee confirms to the court that the
9 Board has been consulted regarding the identity
10 of the proposed special trustee and advises the
11 court of the results of such consultation.

12 “(b) TRUST AGREEMENT.—The trust agreement gov-
13 erning a trust formed under subsection (a)(1) shall pro-
14 vide—

15 “(1) for the payment of the fees, costs, ex-
16 penses, and indemnities of the special trustee from
17 the assets of the debtor’s estate;

18 “(2) that the special trustee provide—

19 “(A) quarterly reporting to the estate,
20 which shall be filed with the court; and

21 “(B) information about the bridge com-
22 pany reasonably requested by a party in inter-
23 est to prepare a disclosure statement for a plan
24 providing for distribution of any securities of

1 the bridge company if such information is nec-
2 essary to prepare such disclosure statement;

3 “(3) that for as long as the equity securities of
4 the bridge company are held by the trust, the special
5 trustee shall file a notice with the court in connec-
6 tion with—

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

9 “(B) any modification to the governing
10 documents of the bridge company; or

11 “(C) any material corporate action of the
12 bridge company, including—

13 “(i) recapitalization;

14 “(ii) a material borrowing;

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

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

19 or

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

22 “(4) that any sale of any equity securities of
23 the bridge company shall not be consummated until
24 the special trustee consults with the Federal Deposit
25 Insurance Corporation and the Board regarding

1 such sale and discloses the results of such consulta-
 2 tion with the court;

3 “(5) that, subject to reserves for payments per-
 4 mitted under paragraph (1) provided for in the trust
 5 agreement, the proceeds of the sale of any equity se-
 6 curities of the bridge company by the special trustee
 7 be held in trust for the benefit of or transferred to
 8 the estate;

9 “(6) the process and guidelines for the replace-
 10 ment of the special trustee; and

11 “(7) that the property held in trust by the spe-
 12 cial trustee is subject to distribution in accordance
 13 with subsection (c).

14 “(c) DISTRIBUTION OF ASSETS HELD IN TRUST.—

15 “(1) IN GENERAL.—The special trustee shall
 16 distribute the assets held in trust—

17 “(A) if the court confirms a plan in the
 18 case, in accordance with the plan on the effec-
 19 tive date of the plan; or

20 “(B) if the case is converted to a case
 21 under chapter 7 under section 1410.

22 “(2) TERMINATION.—As soon as practicable
 23 after a final distribution under paragraph (1), the
 24 office of the special trustee shall terminate, except

1 as may be necessary to wind up and conclude the
2 business and financial affairs of the trust.

3 “(d) APPLICABILITY.—After a transfer to the special
4 trustee under this section, the special trustee shall be sub-
5 ject only to applicable nonbankruptcy law, and the actions
6 and conduct of the special trustee shall no longer be sub-
7 ject to approval by the court in the case under this chap-
8 ter.

9 **“§ 1407. Automatic stay; assumption**

10 “(a) AUTOMATIC STAY.—

11 “(1) IN GENERAL.—A petition filed under sec-
12 tion 1403 operates as a stay, applicable to all enti-
13 ties, of the acceleration, termination, or modification
14 of any debt, contract, lease, or agreement of the
15 kind described in paragraph (2), or of any right or
16 obligation under any such debt, contract, lease, or
17 agreement, solely because of—

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

20 “(B) a provision in such debt, contract,
21 lease, or agreement, or in applicable nonbank-
22 ruptcy law, that is conditioned on—

23 “(i) the insolvency or financial condi-
24 tion of the debtor at any time before the
25 closing of the case;

1 “(ii) the commencement of a case
2 under this title concerning the debtor;

3 “(iii) the appointment of or taking
4 possession by a trustee in a case under this
5 title concerning the debtor or by a custo-
6 dian before the commencement of the case;
7 or

8 “(iv) a credit rating agency rating, or
9 absence or withdrawal of a credit rating
10 agency rating of—

11 “(I) the debtor at any time after
12 the commencement of the case;

13 “(II) an affiliate during the 48
14 hours after the commencement of the
15 case;

16 “(III) the bridge company while
17 the trustee or the special trustee is a
18 direct or indirect beneficial holder of
19 more than 50 percent of the equity se-
20 curities of—

21 “(aa) the bridge company;
22 or

23 “(bb) an affiliate, if all of
24 the direct or indirect interests in
25 the affiliate that are property of

1 the estate are transferred under
2 section 1406; or

3 “(IV) an affiliate while the trust-
4 ee or the special trustee is a direct or
5 indirect beneficial holder of more than
6 50 percent of the equity securities
7 of—

8 “(aa) the bridge company;
9 or

10 “(bb) the affiliate, if all of
11 the direct or indirect interests in
12 the affiliate that are property of
13 the estate are transferred under
14 section 1405.

15 “(2) DEBT, CONTRACT, LEASE, OR AGREE-
16 MENT.—A debt, contract, lease, or agreement de-
17 scribed in this paragraph—

18 “(A) is—

19 “(i) any debt, executory contract, or
20 unexpired lease of the debtor;

21 “(ii) any agreement under which the
22 debtor issued or is obligated for debt;

23 “(iii) any debt, executory contract, or
24 unexpired lease of an affiliate; and

1 “(iv) any agreement under which an
2 affiliate issued or is obligated for debt; and

3 “(B) does not include capital structure
4 debt or qualified financial contracts.

5 “(3) TERMINATION OF STAY.—A stay under
6 this subsection terminates—

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

9 “(i) 48 hours after the commencement
10 of the case;

11 “(ii) assumption of the debt, contract,
12 lease, or agreement by the bridge company
13 under an order authorizing a transfer
14 under section 1405;

15 “(iii) a final order of the court deny-
16 ing the request for a transfer of the debt,
17 contract, lease, or agreement under section
18 1405; or

19 “(iv) the time the case is dismissed;
20 and

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

23 “(i) 48 hours after the commencement
24 of the case, if the court has not ordered a
25 transfer under section 1405;

1 “(ii) the entry of an order authorizing
2 a transfer under section 1405 in which the
3 direct or indirect interests in the affiliate
4 that are property of the estate are not
5 transferred under section 1405;

6 “(iii) a final order of the court deny-
7 ing the request for a transfer under section
8 1405; or

9 “(iv) the time the case is dismissed.

10 “(4) APPLICABILITY.—Sections (d), (e), (f),
11 and (g) of section 362 apply to a stay under this
12 subsection.

13 “(b) ASSUMPTION BY BRIDGE COMPANY.—A debt,
14 executory contract, unexpired lease of the debtor, or any
15 other agreement described in subsection (a)(2), may be as-
16 sumed by a bridge company in a transfer under section
17 1405 notwithstanding any provision in an agreement or
18 in applicable nonbankruptcy law that—

19 “(1) prohibits, restricts, or conditions the as-
20 signment of the debt, contract, lease, or agreement;
21 or

22 “(2) accelerates, terminates, or modifies, or
23 permits a party other than the debtor to accelerate,
24 terminate, or modify, the debt, contract, lease, or
25 agreement on account of—

1 “(A) the assignment of the debt, contract,
2 lease, or agreement; or

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

5 “(c) NO ACCELERATION, TERMINATION, OR MODI-
6 FICATION OF AGREEMENTS OF DEBTOR.—

7 “(1) IN GENERAL.—A debt, contract, lease, or
8 agreement of the kind described in subsection (a)(2)
9 may not be accelerated, terminated, or modified, and
10 any right or obligation under such debt, contract,
11 lease, or agreement may not be accelerated, termi-
12 nated, or modified, as to the bridge company solely
13 because of a provision in the debt, contract, lease, or
14 agreement or in applicable nonbankruptcy law—

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

17 “(B) that prohibits, restricts, or conditions
18 the assignment of the debt, contract, lease, or
19 agreement; or

20 “(C) that accelerates, terminates, or modi-
21 fies, or permits a party other than the debtor
22 to accelerate, terminate, or modify, the debt,
23 contract, lease or agreement, on account of—

24 “(i) the assignment of the debt, con-
25 tract, lease, or agreement; or

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

3 “(2) DEFAULT.—If there has been a default by
4 the debtor under a provision other than the kind de-
5 scribed in paragraph (1) in a debt, contract, lease,
6 or agreement of the kind described in subsection
7 (a)(2), the bridge company may assume such debt,
8 contract, lease, or agreement only if the bridge com-
9 pany—

10 “(A) cures, or provides adequate assurance
11 in connection with a transfer under section
12 1405 that the bridge company will promptly
13 cure, the default;

14 “(B) compensates, or provides adequate
15 assurance in connection with a transfer under
16 section 1405 that the bridge company will
17 promptly compensate, a party other than the
18 debtor to the debt, contract, lease, or agree-
19 ment, for any actual pecuniary loss to the party
20 resulting from the default; and

21 “(C) provides adequate assurance in con-
22 nection with a transfer under section 1405 of
23 future performance under the debt, contract,
24 lease, or agreement, as determined by the court
25 under section 1405(c)(4).

1 **“§ 1408. Treatment of qualified financial contracts**
2 **and affiliate contracts**

3 “(a) IN GENERAL.—Notwithstanding sections
4 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 362(o),
5 555, 556, 559, 560, and 561, a petition filed under section
6 1403 operates as a stay, during the period specified in
7 section 1407(a)(3)(A), applicable to all entities, of the ex-
8 ercise of a contractual right—

9 “(1) to cause the acceleration, termination,
10 modification, or liquidation of a qualified financial
11 contract of the debtor or an affiliate;

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

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

20 “(b) PAYMENT AND DELIVERY OBLIGATIONS.—

21 “(1) IN GENERAL.—During the period specified
22 in section 1407(a)(3)(A), the trustee or the affiliate
23 shall perform all payment and delivery obligations
24 under a qualified financial contract of the debtor or
25 the affiliate, as the case may be, that become due
26 after the commencement of the case. The stay pro-

1 vided under subsection (a) terminates as to a quali-
2 fied financial contract of the debtor or an affiliate
3 immediately upon the failure of the trustee or the
4 affiliate, as the case may be, to perform any such
5 obligation during such period.

6 “(2) FAILURE TO PERFORM.—Any failure by a
7 counterparty to any qualified financial contract of
8 the debtor or any affiliate to perform any payment
9 or delivery obligation under such qualified financial
10 contract, including during the pendency of the stay
11 provided under subsection (a), shall constitute a
12 breach of such qualified financial contract by the
13 counterparty.

14 “(c) ASSIGNMENT OR ASSUMPTION.—Notwith-
15 standing any provision of subsection 1407(b) or applicable
16 nonbankruptcy law, subject to the court’s approval, a
17 qualified financial contract between an entity and the
18 debtor may be assigned to or assumed by the bridge com-
19 pany in a transfer under section 1405 only if—

20 “(1) all qualified financial contracts between
21 the entity and the debtor are assigned to and as-
22 sumed by the bridge company in the transfer under
23 section 1405;

24 “(2) all claims of the entity against the debtor
25 under any qualified financial contract between the

1 entity and the debtor (other than any claim that,
2 under the terms of the qualified financial contract,
3 is subordinated to the claims of general unsecured
4 creditors) are assigned to and assumed by the bridge
5 company;

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

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

17 “(d) NO ACCELERATION, TERMINATION, OR MODI-
18 FICATION OF QUALIFIED FINANCIAL CONTRACTS.—Not-
19 withstanding any provision of a qualified financial con-
20 tract or of applicable nonbankruptcy law, a qualified fi-
21 nancial contract of the debtor that is assumed by or as-
22 signed to the bridge company in a transfer under section
23 1405 may not be accelerated, terminated, modified, or liq-
24 uidated after the entry of the order approving a transfer
25 under section 1405, and any right or obligation under the

1 qualified financial contract may not be accelerated, termi-
2 nated, or modified, after the entry of the order approving
3 a transfer under section 1405 solely because of a provision
4 of the kind described in section 1407(c)(1), other than a
5 provision of the kind described in section 1407(b) that oc-
6 curs after property of the estate no longer includes a direct
7 beneficial interest or an indirect beneficial interest
8 through the special trustee, in more than 50 percent of
9 the equity securities of the bridge company.

10 “(e) NO ACCELERATION, TERMINATION, MODIFICA-
11 TION, OR LIQUIDATION OF AGREEMENTS OF AFFILI-
12 ATES.—Notwithstanding any provision in any agreement
13 or in applicable nonbankruptcy law, an agreement (includ-
14 ing an executory contract, unexpired lease, qualified finan-
15 cial contract, or an agreement under which the affiliate
16 issued or is obligated for debt) of an affiliate that is as-
17 sumed by or assigned to the bridge company in a transfer
18 under section 1405, and any right or obligation under
19 such agreement, may not be accelerated, terminated,
20 modified, or liquidated after the entry of the order approv-
21 ing a transfer under section 1405 solely because of a pro-
22 vision of the kind described in section 1407(c)(1), other
23 than a provision of the kind described in section 1407(b)
24 that occurs after the bridge company is no longer a direct
25 or indirect beneficial holder of more than 50 percent of

1 the equity securities of the affiliate at any time after the
2 commencement of the case if—

3 “(1) all direct or indirect interests in the affil-
4 iate that are property of the estate are transferred
5 under section 1405 to the bridge company within the
6 period specified in subsection (a);

7 “(2) the bridge company assumes—

8 “(A) any guarantee or other credit en-
9 hancement issued by the debtor relating to the
10 agreement of the affiliate; and

11 “(B) any right of setoff, netting arrange-
12 ment, or debt of the debtor that directly arises
13 out of or directly relates to the guarantee or
14 credit enhancement; and

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

18 **“§ 1409. Licenses, permits, and registrations**

19 “(a) IN GENERAL.—Notwithstanding any otherwise
20 applicable nonbankruptcy law, if a request is made under
21 section 1405 for a transfer of property of the estate, any
22 Federal, State, or local license, permit, or registration that
23 the debtor or an affiliate had immediately before the com-
24 mencement of the case and that is proposed to be trans-
25 ferred under section 1405 may not be accelerated, termi-

1 nated, or modified at any time after the request solely on
2 account of—

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

5 “(2) the commencement of a case under this
6 title concerning the debtor;

7 “(3) the appointment of or taking possession by
8 a trustee in a case under this title concerning the
9 debtor or by a custodian before the commencement
10 of the case; or

11 “(4) a transfer under section 1405.

12 “(b) VALIDITY OF CERTAIN LICENSES, PERMITS,
13 AND REGISTRATIONS.—Notwithstanding any otherwise
14 applicable nonbankruptcy law, any Federal, State, or local
15 license, permit, or registration that the debtor had imme-
16 diately before the commencement of the case that is in-
17 cluded in a transfer under section 1405 shall be valid and
18 all rights and obligations thereunder shall vest in the
19 bridge company.

20 **“§ 1410. Conversion to chapter 7**

21 “Notwithstanding section 109(b), a court may con-
22 vert a case under this chapter to a case under chapter
23 7 if—

24 “(1) a transfer described in section 1405 has
25 taken place;

1 “(2) the court has ordered the appointment of
2 a special trustee under section 1406; and

3 “(3) the court finds, after providing notice and
4 conducting a hearing, that the conversion of the case
5 is in the best interests of the creditors and the es-
6 tate.

7 **“§ 1411. Exemption from securities laws**

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

14 **“§ 1412. Inapplicability of certain avoiding powers**

15 “A transfer made or an obligation incurred by the
16 debtor to an affiliate prior to or after the commencement
17 of the case, including any obligation released by the debtor
18 or the estate to or for the benefit of an affiliate, in con-
19 templation of or in connection with a transfer under sec-
20 tion 1405, is not avoidable under section 544, 547,
21 548(a)(1)(B), or 549, or under any similar nonbankruptcy
22 law.

1 **“§ 1413. Consideration of financial stability**

2 “The court may consider the effect that any decision
3 in connection with this chapter may have on financial sta-
4 bility in the United States.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENT.—
6 The table of chapters for title 11, United States Code,
7 is amended by inserting after the item relating to chapter
8 13 the following:

**“14. Liquidation, reorganization, or recapitalization of a
covered financial corporation 1401”.**

9 **SEC. 4. AMENDMENTS TO TITLE 28, UNITED STATES CODE.**

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

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

14 “(a) Notwithstanding section 295, the Chief Justice
15 of the United States shall designate not fewer than 10
16 bankruptcy judges to be available to hear a case under
17 chapter 14 of title 11. Bankruptcy judges may request to
18 be considered by the Chief Justice of the United States
19 for such designation.

20 “(b)(1) Notwithstanding section 155, a case under
21 chapter 14 of title 11 shall be heard under section 157
22 by a bankruptcy judge designated under subsection (a),
23 who shall be assigned to hear such case by the chief judge

1 of the court of appeals for the circuit embracing the dis-
 2 trict in which the case is pending.

3 “(2) If the bankruptcy judge assigned to hear a case
 4 under paragraph (1) is not assigned to the district in
 5 which the case is pending, the bankruptcy judge shall be
 6 temporarily assigned to the district. To the greatest extent
 7 practicable, the approvals required under section 155(a)
 8 shall be obtained.

9 “(c) A case under chapter 14 of title 11, and all pro-
 10 ceedings in the case, shall take place in the district in
 11 which the case is pending.”.

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

15 “(f) This section does not grant jurisdiction to the
 16 district court after a transfer pursuant to an order under
 17 section 1405 of title 11 of any proceeding related to a spe-
 18 cial trustee appointed, or to a bridge company formed to
 19 accomplish a transfer, under section 1405 of title 11.”.

20 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 21 The table of sections for chapter 13 of title 28, United
 22 States Code, is amended by adding at the end the fol-
 23 lowing:

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

1 **SEC. 5. REPEAL OF TITLE II OF DODD-FRANK WALL STREET**
 2 **REFORM AND CONSUMER PROTECTION ACT.**

3 (a) IN GENERAL.—Title II of the Dodd-Frank Wall
 4 Street Reform and Consumer Protection Act (Public Law
 5 111–203) is repealed and any Federal law amended by
 6 such title shall, on and after the date of enactment of this
 7 Act, be effective as if title II of the Dodd-Frank Wall
 8 Street Reform and Consumer Protection Act had not been
 9 enacted.

10 (b) CONFORMING AMENDMENTS.—

11 (1) DODD-FRANK WALL STREET REFORM AND
 12 CONSUMER PROTECTION ACT.—The Dodd-Frank
 13 Wall Street Reform and Consumer Protection Act is
 14 amended—

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

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

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

21 (D) in section 1105(e)(5), by striking
 22 “amount of any securities issued under that
 23 chapter 31 for such purpose shall be treated in
 24 the same manner as securities issued under sec-
 25 tion 208(n)(5)(E)” and inserting “issuances of
 26 such securities under that chapter 31 for such

purpose shall be treated as public debt transactions of the United States, and the proceeds from the sale of any obligations acquired by the Secretary under this paragraph shall be deposited 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.—Section 10(b)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)(A)) is amended by striking “, or of such nonbank financial company supervised by the Board of Governors or bank holding company described in section 165(a) of the Financial Stability Act of 2010, for the purpose of implementing its authority to provide for orderly liquidation of any such company under title II of that Act”.

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

4 (A) in subparagraph (B)—

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

10 (ii) in clause (iii), by striking “, reso-
 11 lution under title II of the Dodd-Frank
 12 Wall Street Reform and Consumer Protec-
 13 tion Act, or” and inserting “or resolution
 14 under”; and

15 (B) by striking subparagraph (E).

16 **SEC. 6. LIMITATION ON ADVANCES FROM A FEDERAL RE-**
 17 **SERVE BANK.**

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

20 (1) by redesignating paragraph (5) as para-
 21 graph (6);

22 (2) by inserting after paragraph (4) the fol-
 23 lowing:

24 “(5) LIMITATION ON ADVANCES TO COVERED
 25 FINANCIAL CORPORATIONS AND BRIDGE COMPA-

1 NIES.—Notwithstanding paragraph (2), a Federal
 2 Reserve bank may not make advances to any covered
 3 financial corporation that is a debtor in a pending
 4 case under chapter 14 of title 11, United States
 5 Code, or to a bridge company, for the purpose of
 6 providing debtor-in-possession financing pursuant to
 7 section 364 of such title.”; and

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

9 (A) by redesignating subparagraphs (B)
 10 through (E) as subparagraphs (D) through (G),
 11 respectively; and

12 (B) by inserting after subparagraph (A)
 13 the following:

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

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

21 **SEC. 7. LIMITATION ON USE OF FEDERAL FUNDS.**

22 Notwithstanding any other provision of law, no funds
 23 appropriated to the Federal Government may be paid to
 24 a covered financial corporation (as defined in section
 25 101(9A) of title 11, United States Code, as amended by

1 section 2(a) of this Act), or to a creditor of any covered
2 financial corporation, to satisfy a claim in a case under
3 chapter 14 of title 11, United States Code.

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