

House-passed H.R. 4173	Senate-passed H.R. 4173 (S. 3217 as amended)	Notes
<p align="center">TITLE I--FINANCIAL STABILITY IMPROVEMENT ACT</p>		
<p align="center">Subtitle B--Prudential Regulation of Companies and Activities for Financial Stability Purposes</p> <p>SEC. 1100. FEDERAL RESERVE BOARD AUTHORITY THAT OF AGENT ACTING ON BEHALF OF COUNCIL.</p> <p>For purposes of this subtitle, the Board of Governors of the Federal Reserve System shall act in the capacity of agent for the Council, acting on behalf of the Council.</p>		
<p>SEC. 1101. COUNCIL AND BOARD AUTHORITY TO OBTAIN INFORMATION.</p> <p>(a) In General- The Council and the Board are authorized to receive, and may request the production of, any data or information from members of the Council, as necessary--</p> <p style="padding-left: 40px;">(1) to monitor the financial services marketplace to identify potential threats to the stability of the United States financial system;</p> <p style="padding-left: 40px;">(2) to identify global trends and developments that could pose systemic risks to the stability of the economy of the United States or other economies; or</p> <p style="padding-left: 40px;">(3) to otherwise carry out any of the provisions of this title, including to ascertain a primary financial regulatory agency's implementation of recommended prudential standards under this subtitle.</p> <p>(b) Submission by Council Members- Notwithstanding any provision of law, any voting or nonvoting member of the Council is authorized to provide information to the Council, and the members of the Council shall maintain the confidentiality of such information.</p> <p>(c) Financial Company Data Collection-</p> <p style="padding-left: 40px;">(1) IN GENERAL- The Council or the Board may require the submission of periodic and other reports from any financial company solely for the purpose of assessing the extent to which a financial activity or financial market in</p>	<p><i>Title I</i></p> <p><i>Subtitle A</i></p> <p><i>Sec. 112</i></p> <p style="padding-left: 40px;"><i>(b)</i></p> <p style="padding-left: 80px;"><i>(3) FINANCIAL DATA COLLECTION-</i></p> <p style="padding-left: 120px;"><i>(A) IN GENERAL- The Council, acting through the Office of Financial Research, may require the submission of periodic and other reports from any nonbank financial company or bank holding company for the purpose of assessing the extent to which a financial activity or financial market in which the nonbank financial company or bank holding company participates, or the nonbank financial company or bank holding company itself, poses a threat to the financial stability of the United States.</i></p> <p>SEC. 161. REPORTS BY AND EXAMINATIONS OF NONBANK FINANCIAL COMPANIES BY THE BOARD OF GOVERNORS.</p> <p style="padding-left: 40px;"><i>(a) Reports-</i></p>	

<p>which the financial company participates, or the company itself, poses a threat to financial stability.</p>	<p><i>(1) IN GENERAL- The Board of Governors may require each nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit reports under oath, to keep the Board of Governors informed as to--</i></p> <p><i>(A) the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States; and</i></p> <p><i>(B) compliance by the company or subsidiary with the requirements of this subtitle.</i></p> <p><i>(3) AVAILABILITY- Upon the request of the Board of Governors, a nonbank financial company supervised by the Board of Governors, or a subsidiary thereof, shall promptly provide to the Board of Governors any information described in paragraph (2).</i></p>	
	<p>SEC. 161</p> <p><i>(b) Examinations-</i></p> <p><i>(1) IN GENERAL- Subject to paragraph (2), the Board of Governors may examine any nonbank financial company supervised by the Board of Governors and any subsidiary of such company, to determine--</i></p> <p><i>(A) the nature of the operations and financial condition of the company and such subsidiary;</i></p> <p><i>(B) the financial, operational, and other risks within the company that may pose a threat to the safety and soundness of such company or to the financial stability of the United States;</i></p> <p><i>(C) the systems for monitoring and controlling such risks; and</i></p> <p><i>(D) compliance by the company with the requirements of this subtitle.</i></p> <p><i>(2) USE OF EXAMINATION REPORTS AND INFORMATION- For purposes of this subsection, the Board of Governors shall, to the fullest extent</i></p>	

	<p><i>possible, rely on reports of examination of any depository institution subsidiary or functionally regulated subsidiary made by the primary financial regulatory agency for that subsidiary, and on information described in subsection (a)(2).</i></p>	
<p>(2) MITIGATION OF REPORT BURDEN- Before requiring the submission of reports from financial companies that are regulated by the primary financial regulatory agencies, the Council or the Board shall coordinate with such agencies and shall, whenever possible, rely on information already being collected by such agencies.</p>	<p>Sec. 112</p> <p><i>(B) MITIGATION OF REPORT BURDEN- Before requiring the submission of reports from any nonbank financial company or bank holding company that is regulated by a member agency or any primary financial regulatory agency, the Council, acting through the Office of Financial Research, shall coordinate with such agencies and shall, whenever possible, rely on information available from the Office of Financial Research or such agencies.</i></p> <p>SEC. 161.</p> <p><i>(a)-</i></p> <p>(2) USE OF EXISTING REPORTS AND INFORMATION- <i>In carrying out subsection (a), the Board of Governors shall, to the fullest extent possible, use--</i></p> <p><i>(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;</i></p> <p><i>(B) information otherwise obtainable from Federal or State regulatory agencies;</i></p> <p><i>(C) information that is otherwise required to be reported publicly; and</i></p> <p><i>(D) externally audited financial statements of such company or subsidiary.</i></p>	
<p>(3) MITIGATION REQUIREMENTS IN CASE OF FOREIGN FINANCIAL PARENTS- Before requiring the submission of reports from a company that is a foreign financial parent, the Council or the Board shall, to the extent appropriate, coordinate with any appropriate foreign regulator of such company and any appropriate multilateral organization and, whenever possible, rely on information already being collected by such foreign</p>		<p>Note: See Section 1104 c) of H.R. 4173 as passed by the House below</p>

<p>regulator or multilateral organizational with English translation.</p>		
<p>(d) Consultation With Agencies and Entities- The Council or the Board, as appropriate, may consult with Federal and State agencies and other entities (including the Federal Insurance Office) to carry out any of the provisions of this subtitle.</p>	<p>SEC. 113</p> <p><i>(g) Consultation- The Council shall consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company that is being considered for supervision by the Board of Governors under this section before the Council makes any final determination with respect to such nonbank financial company under subsection (a), (b), or (c).</i></p> <p>SEC. 161.</p> <p><i>(c) Coordination With Primary Financial Regulatory Agency- The Board of Governors shall--</i></p> <p><i>(1) provide to the primary financial regulatory agency for any company or subsidiary, reasonable notice before requiring a report, requesting information, or commencing an examination of such subsidiary under this section; and</i></p> <p><i>(2) avoid duplication of examination activities, reporting requirements, and requests for information, to the extent possible.</i></p>	
<p>(e) Additional Provisions-</p> <p>(1) DATA AND INFORMATION SHARING- The Chairman of the Council, in consultation with the other members of the Council, may--</p> <p>(A) establish procedures to share data and information collected by the Council under this section with the members of the Council;</p> <p>(B) develop an electronic process for sharing all information collected by the Council with the Chairman of the Board on a real-time basis;</p> <p>(C) issue any regulations necessary to carry out this subsection; and</p> <p>(D) designate the format in which requested data and information must be submitted to the Council, including any electronic, digital, or other format that facilitates the use of such data by the Council in its analysis.</p>	<p>Sec. 112</p> <p>(5) CONFIDENTIALITY-</p> <p><i>(A) IN GENERAL- The Council, the Office of Financial Research, and the other member agencies shall maintain the confidentiality of any data, information, and reports submitted under this subsection and subtitle B.</i></p>	

<p>(2) APPLICABLE PRIVILEGES NOT WAIVED- A Federal financial regulator, State financial regulator, United States financial company, foreign financial company operating in the United States, financial market utility, or other person shall not be compelled to waive and shall not be deemed to have waived any privilege otherwise applicable to any data or information by transferring the data or information to, or permitting that data or information to be used by--</p> <ul style="list-style-type: none"> (A) the Council; (B) any Federal financial regulator or State financial regulator, in any capacity; or (C) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code). 	<p><i>(B) RETENTION OF PRIVILEGE- The submission of any nonpublicly available data or information under this subsection and subtitle B shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.</i></p>	
<p>(3) DISCLOSURE EXEMPTION- Any information obtained by the Council under this section shall be exempt from the disclosure requirements under section 552 of title 5, United States Code.</p>	<p><i>(C) FREEDOM OF INFORMATION ACT- Section 552 of title 5, United States Code, including the exceptions thereunder, shall apply to any data or information submitted under this subsection and subtitle B.</i></p>	
<p>(4) CONSULTATION WITH FOREIGN GOVERNMENTS- Under the supervision of the President, and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Chairman of the Council, in consultation with the other members of the Council, shall regularly consult with the financial regulatory entities and other appropriate organizations of foreign governments or international organizations on matters relating to systemic risk to the international financial system.</p>		<p>Note: See Section 1104 c) of H.R. 4173 as passed by the House below</p>
<p>(5) REPORT- Not later than 6 months after the date of the enactment of this title, the Chairman of the Council shall report to the Financial Services Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate the opinion of the Council as to whether setting up an electronic database as described in paragraph (1)(B) would aid the Council in carrying out this section.</p>		
<p>SEC. 1102. COUNCIL PRUDENTIAL REGULATION RECOMMENDATIONS TO FEDERAL FINANCIAL REGULATORY AGENCIES; AGENCY AUTHORITY.</p> <p>(a) In General- The Council is authorized to issue formal recommendations, publicly or privately, that a Federal financial</p>	<p>SEC. 121. MITIGATION OF RISKS TO FINANCIAL STABILITY.</p> <p><i>(a) Mitigatory Actions- If the Board of Governors determines that a bank holding company with total consolidated assets of \$50,000,000,000 or more, or a nonbank financial company supervised by the Board of Governors, poses a grave threat to</i></p>	

<p>regulatory agency adopt stricter prudential standards for firms it regulates to mitigate systemic risk.</p> <p>(b) Agency Authority to Implement Standards-</p> <p>(1) A Federal financial regulatory agency specifically may, in response to a Council recommendation under this section or otherwise, impose, require reports regarding, examine for compliance with, and enforce stricter prudential standards and safeguards for the firms it regulates to mitigate systemic risk. This authority is in addition to and does not limit any other authority of the Federal financial regulatory agencies. Compliance by an entity with actions taken by a Federal financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective Federal financial regulatory agency's jurisdiction over the entity as if the agency action were taken under those statutes.</p>	<p><i>(1) to terminate one or more activities;</i> <i>(2) to impose conditions on the manner in which the company conducts one or more activities; or</i> <i>(3) if the Board of Governors determines that such action is inadequate to mitigate a threat to the financial stability of the United States in its recommendation, to sell or otherwise transfer assets or off-balance-sheet items to unaffiliated entities.</i></p>	
	<p><i>(b) Notice and Hearing-</i></p> <p><i>(1) IN GENERAL- The Board of Governors, in consultation with the Council, shall provide to a company described in subsection (a) written notice that such company is being considered for mitigatory action pursuant to this section, including an explanation of the basis for, and description of, the proposed mitigatory action.</i></p> <p><i>(2) HEARING- Not later than 30 days after the date of receipt of notice under paragraph (1), the company may request, in writing, an opportunity for a written or oral hearing before the Board of Governors to contest the proposed mitigatory action. Upon receipt of a timely request, the Board of Governors shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the discretion of the Board of Governors, in consultation with the Council, oral testimony and oral argument).</i></p> <p><i>(3) DECISION- Not later than 60 days after the date of a hearing under paragraph (2), or not later than 60 days after the provision of a notice under paragraph (1) if no hearing was held, the Board of</i></p>	

	<p><i>(c) Factors for Consideration- The Board of Governors and the Council shall take into consideration the factors set forth in subsection (a) or (b) of section 113, as applicable, in a determination described in subsection (a) and in a decision described in subsection (b).</i></p>	
<p>(2) APPLYING STANDARDS TO FOREIGN FINANCIAL PARENTS- In applying standards under paragraph (1) to any foreign financial parent, or to any branch of, subsidiary of, or other operating entity related to such foreign financial parent that operates within the United States, the Federal financial regulatory agency shall--</p> <p>(A) give due regard to the principles of national treatment and equality of competitive opportunity; and</p> <p>(B) take into account the extent to which the foreign financial parent is subject to comparable standards on a consolidated basis in the home country of such foreign financial parent that are administered by a comparable foreign supervisory authority.</p>	<p>SEC. 113</p> <p><i>(b) Foreign Nonbank Financial Companies Supervised by the Board of Governors-</i></p> <p><i>(1) DETERMINATION- The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, may determine that a foreign nonbank financial company that has substantial assets or operations in the United States shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title, if the Council determines that material financial distress at the foreign nonbank financial company would pose a threat to the financial stability of the United States.</i></p> <p>SEC. 121</p> <p><i>(d) Application to Foreign Financial Companies- The Board of Governors may prescribe regulations regarding the application of this section to foreign nonbank financial companies supervised by the Board of Governors and foreign-based bank holding companies, giving due regard to the principle of national treatment and competitive equity.</i></p>	
<p>(c) Agency Notice to Council- A Federal financial regulatory agency shall, within 60 days of receiving a Council recommendation under this section, notify the Council in writing regarding--</p> <p>(1) the actions the Federal financial regulatory agency has taken in response to the Council's recommendation, additional actions contemplated, and timetables therefore;</p>		

<p>or (2) the reason the Federal financial regulatory agency has failed to respond to the Council's request.</p>		
<p>SEC. 1103. SUBJECTING FINANCIAL COMPANIES TO STRICTER PRUDENTIAL STANDARDS FOR FINANCIAL STABILITY PURPOSES.</p> <p>(a) In General- The Council shall, in consultation with the Board and any other primary financial regulatory agency that regulates the financial company or a subsidiary of such company, and, in the case of a financial holding company subject to stricter standards that is an insurance company, the Federal Insurance Office, subject a financial company to stricter prudential standards under this subtitle if the Council determines that--</p> <p>(1) material financial distress at the company could pose a threat to financial stability or the economy; or</p> <p>(2) the nature, scope, size, scale, concentration, and interconnectedness, or mix of the company's activities could pose a threat to financial stability or the economy.</p>	<p>SEC. 115. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.</p> <p>(a) In General-</p> <p>(1) <i>PURPOSE- In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Council may make recommendations to the Board of Governors concerning the establishment and refinement of prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies, that--</i></p> <p>(A) <i>are more stringent than those applicable to other nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and</i></p> <p>(B) <i>increase in stringency, based on the considerations identified in subsection (b)(3).</i></p> <p>SEC. 165. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.</p> <p>(a) In General-</p> <p>(1) <i>PURPOSE- In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section</i></p>	

	<p>(A) are more stringent than the standards and requirements applicable to nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and (B) increase in stringency, based on the considerations identified in subsection (b)(3).</p>	
	<p>(2) LIMITATION ON BANK HOLDING COMPANIES- Any standards established under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than \$50,000,000,000, but the Board of Governors may establish an asset threshold greater than \$50,000,000,000 for the applicability of any particular standard under subsections (b) through (f).</p>	
<p>(b) Criteria- In making a determination under subsection (a), the Council shall consider the following criteria:</p> <ol style="list-style-type: none"> (1) The extent of the company's leverage. (2) The extent and nature of the company's off-balance sheet exposures. (3) The extent and nature of the company's transactions and relationships with other financial companies. (4) The company's importance as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the financial system. (5) The company's importance as a source of credit for low-income, minority, or underserved communities and the impact the failure of such company would have on the availability of credit in such communities. (6) The extent to which assets are simply managed and not owned by the financial company and the extent to which ownership of assets under management is diffuse. (7) The nature, scope, and mix of the company's activities. (8) The degree to which the company is already regulated by one or more Federal financial regulatory agencies or, in the case of a foreign financial parent, the extent to which such foreign parent is subject to prudential standards on a 	<p>SEC. 113. AUTHORITY TO REQUIRE SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES.</p> <p>(a) <i>U.S. Nonbank Financial Companies Supervised by the Board of Governors-</i></p> <p>(1) DETERMINATION- <i>The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, may determine that a U.S. nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the U.S. nonbank financial company would pose a threat to the financial stability of the United States.</i></p> <p>(2) CONSIDERATIONS- <i>Each determination under paragraph (1) shall be based on a consideration by the Council of--</i></p> <ol style="list-style-type: none"> (A) <i>the degree of leverage of the company;</i> (B) <i>the amount and nature of the financial</i> 	<p>Note: H.R. 4173 as passed by the Senate (S. 3217 as amended) Section 113 b) applies supervision onto determination to impose foreign non-bank companies.</p>

consolidated basis in the home country of such financial parent that are administered and enforced by a comparable foreign supervisory authority.

(9) The amount and nature of the company's financial assets.

(10) The amount and nature of the company's liabilities, including the degree of reliance on short-term funding.

(11) Any other factors that the Council deems appropriate.

(C) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding;

(D) the extent and types of the off-balance-sheet exposures of the company;

(E) the extent and types of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;

(F) the importance of the company as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the United States financial system;

(G) the recommendation, if any, of a member of the Council;

(H) the operation of, or ownership interest in, any clearing, settlement, or payment business of the company;

(I) the extent to which--

(i) assets are managed rather than owned by the company; and

(ii) ownership of assets under management is diffuse; and

(J) any other factors that the Council deems appropriate.

SEC. 113

(b)

(2) CONSIDERATIONS- Each determination under paragraph (1) shall be based on a consideration by the Council of--

(A) the degree of leverage of the company;

(B) the amount and nature of the United States financial assets of the company;

(C) the amount and types of the liabilities of the company used to fund activities and operations in the United States, including the degree of reliance on short-term funding;

	<p>(D) the extent of the United States-related off-balance-sheet exposure of the company;</p> <p>(E) the extent and type of the transactions and relationships of the company with other significant nonbank financial companies and bank holding companies;</p> <p>(F) the importance of the company as a source of credit for United States households, businesses, and State and local governments, and as a source of liquidity for the United States financial system;</p> <p>(G) the recommendation, if any, of a member of the Council;</p> <p>(H) the extent to which--</p> <p style="padding-left: 40px;">(i) assets are managed rather than owned by the company; and</p> <p style="padding-left: 40px;">(ii) ownership of assets under management is diffuse; and</p> <p>(I) any other factors that the Council deems appropriate.</p>	
<p>(c) Notification of Decision- The Board, in an executive capacity on behalf of the Council, shall immediately upon the Council's decision notify the financial company by order, which shall be public, that the financial company is subject to stricter prudential standards, as prescribed by the Board in accordance with section 1104.</p>	<p>SEC. 113</p> <p><i>(e) Notice and Opportunity for Hearing and Final Determination-</i></p> <p><i>(1) IN GENERAL- The Council shall provide to a nonbank financial company written notice of a proposed determination of the Council, including an explanation of the basis of the proposed determination of the Council, that such nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title.</i></p>	
<p>(d) Periodic Review and Rescission of Findings-</p> <p>(1) SUBMISSION OF ASSESSMENT- The Board shall periodically submit a report to the Council containing an assessment of whether each company subjected to stricter prudential standards should continue to be subject to such standards.</p> <p>(2) REVIEW AND RESCISSION- The Council shall--</p> <p style="padding-left: 40px;">(A) review the assessment submitted pursuant to paragraph (1) and any information or</p>	<p>SEC. 113</p> <p><i>(d) Reevaluation and Rescission- The Council shall--</i></p> <p><i>(1) not less frequently than annually, reevaluate each determination made under subsections (a) and (b) with respect to each nonbank financial company supervised by the Board of Governors; and</i></p> <p><i>(2) rescind any such determination, if the Council, by</i></p>	

<p>recommendation submitted by members of the Council regarding whether a financial holding company subject to stricter standards continues to merit stricter prudential standards; and (B) rescind the action subjecting a company to stricter prudential standards if the Council determines that the company no longer meets the conditions for being subjected to stricter prudential standards in subsections (a) and (b).</p>		
<p>(e) Appeal- (1) ADMINISTRATIVE- The Council and the Board, in an executive capacity on behalf of the Council, shall establish a procedure through which a financial company that has been subjected to stricter prudential standards in accordance with this section may appeal being subjected to stricter prudential standards.</p>	<p>SEC. 113</p> <p>(c) <i>(3) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW- Subsections (d), (f), and (g) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.</i></p> <p>(e) <i>(2) HEARING- Not later than 30 days after the date of receipt of any notice of a proposed determination under paragraph (1), the nonbank financial company may request, in writing, an opportunity for a written or oral hearing before the Council to contest the proposed determination. Upon receipt of a timely request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).</i> <i>(3) FINAL DETERMINATION- Not later than 60 days after the date of a hearing under paragraph (2), the Council shall notify the nonbank financial company of the final determination of the Council, which shall contain a statement of the basis for the decision of the Council.</i> <i>(4) NO HEARING REQUESTED- If a nonbank financial company does not make a timely request for a hearing, the Council shall notify the nonbank financial company, in writing, of the final determination of the Council under subsection (a) or (b), as applicable, not later than 10 days after the</i></p>	

	<p><i>(f) Emergency Exception-</i></p> <p><i>(1) IN GENERAL- The Council may waive or modify the requirements of subsection (d) with respect to a nonbank financial company, if the Council determines, by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that such waiver or modification is necessary or appropriate to prevent or mitigate threats posed by the nonbank financial company to the financial stability of the United States.</i></p> <p><i>(2) NOTICE- The Council shall provide notice of a waiver or modification under this paragraph to the nonbank financial company concerned as soon as practicable, but not later than 24 hours after the waiver or modification is granted.</i></p> <p><i>(3) OPPORTUNITY FOR HEARING- The Council shall allow a nonbank financial company to request, in writing, an opportunity for a written or oral hearing before the Council to contest a waiver or modification under this paragraph, not later than 10 days after the date of receipt of notice of the waiver or modification by the company. Upon receipt of a timely request, the Council shall fix a time (not later than 15 days after the date of receipt of the request) and place at which the nonbank financial company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).</i></p> <p><i>(4) NOTICE OF FINAL DETERMINATION- Not later than 30 days after the date of any hearing under paragraph (3), the Council shall notify the subject nonbank financial company of the final determination of the Council under this paragraph, which shall contain a statement of the basis for the decision of the Council.</i></p>	
<p><i>(2) JUDICIAL REVIEW- Any financial company which has been subjected to stricter prudential standards may</i></p>	<p><i>(h) Judicial Review- If the Council makes a final determination under this section with respect to a nonbank</i></p>	

<p>seek judicial review by filing a petition for such review in the United States Court of Appeals for the District of Columbia.</p>		
<p>(f) Effect of Council Decision-</p> <p>(1) APPLICATION OF FEDERAL LAWS-</p> <p>(A) APPLICATION OF BANK HOLDING COMPANY ACT AND FEDERAL DEPOSIT INSURANCE ACT- A financial company subject to stricter standards that does not own a bank (as defined in section 2 of the Bank Holding Company Act of 1956) and that is not a foreign bank or company that is treated as a bank holding company under section 8 of the International Banking Act of 1978 shall be subject to section 4, subsections (b), (c), (d), (e), (f), and (g) of section 5, and section 8 of the Bank Holding Company Act of 1956, and section 8 of the Federal Deposit Insurance Act in the same manner and to the same extent as if such financial holding company subject to stricter standards were a bank holding company that has elected to be a financial holding company (as such terms are defined in the Bank Holding Company Act of 1956), its subsidiaries were subsidiaries of a bank holding company, and the Board was its appropriate Federal banking agency (as such term is defined under the Federal Deposit Insurance Act).</p> <p>(B) BOARD AUTHORITY- For purposes of administering and enforcing the provisions of this title, the Board may take any action with respect to a financial holding company subject to stricter standards described in subparagraph (A) or its subsidiaries under the authorities described in subparagraph (A) as if such financial holding company subject to stricter standards were a bank</p>	<p>SEC. 170. SAFE HARBOR.</p> <p><i>(a) Regulations- The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision by the Board of Governors.</i></p> <p><i>(b) Considerations- In developing the criteria under subsection (a), the Board of Governors shall take into account the factors for consideration described in subsections (a) and (b) of section 113 in determining whether a U.S. nonbank financial company or foreign nonbank financial company shall be supervised by the Board of Governors.</i></p> <p><i>(c) Rule of Construction- Nothing in this section shall be construed to require supervision by the Board of Governors of a U.S. nonbank financial company or foreign nonbank financial company, if such company does not meet the criteria for exemption established under subsection (a).</i></p> <p><i>(d) Update- The Board of Governors shall, in consultation with the Council, review the regulations promulgated under subsection (a), not less frequently than every 5 years, and based upon the review, the Board of Governors may revise such regulations on behalf of, and in consultation with, the Council to update as necessary the criteria set forth in such regulations.</i></p> <p><i>(e) Transition Period- No revisions under subsection (d) shall take effect before the end of the 2-year period after the date of publication of such revisions in final form.</i></p> <p><i>(f) Report- The Chairperson of the Board of Governors and the Chairperson of the Council shall submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the</i></p>	

<p>holding company that has elected to be a financial holding company (as such terms are defined in the Bank Holding Company Act of 1956), its subsidiaries were subsidiaries of a bank holding company, and the Board was its appropriate Federal banking agency (as such term is defined under the Federal Deposit Insurance Act).</p>	<p><i>Senate and the Committee on Financial Services of the House of Representatives not later than 30 days after the date of the issuance in final form of the regulations under subsection (a), or any subsequent revision to such regulations under subsection (d), as applicable. Such report shall include, at a minimum, the rationale for exemption and empirical evidence to support the criteria for exemption.</i></p>	
<p>(2) APPLICATION OF ACTIVITY RESTRICTIONS AND SECTION 6 HOLDING COMPANY REQUIREMENTS- (A) IN GENERAL- Except as provided in subparagraphs (B) and (C)-- (i) a financial holding company subject to stricter standards that conducts activities that do not comply with section 4 of the Bank Holding Company Act shall be required to establish or designate a section 6 holding company in accordance with section 6 of the Bank Holding Company Act of 1956 through which it conducts activities of the company that are determined to be financial in nature or incidental thereto under section 4(k) of the such Act; and (ii) such section 6 holding company shall be the financial holding company subject to stricter standards for purposes of this title. (B) EXCEPTIONS FROM SECTION 6 HOLDING COMPANY REQUIREMENTS- (i) GENERAL REQUIREMENT FOR BOARD TO CONSIDER EXCEPTIONS- Before such time as a financial holding company subject to stricter standards is required to establish or designate a section 6 holding company under section 6 of the Bank Holding Company Act, and in consultation with the financial holding company subject to stricter standards and any appropriate Federal or State financial regulators (and, in the case of a financial holding company subject to</p>		

stricter standards that is an insurance company, the Federal Insurance Office)-

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(I) the Board shall consider whether to grant any of the exemptions from the requirements applicable to section 6 holding companies under section 6(a)(6)(A) of the Bank Holding Company Act of 1956, in accordance with that provision; and

(II) the Board, at the request of a financial holding company subject to stricter standards that is predominantly engaged in activities that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act, shall consider whether to exempt the financial holding company subject to stricter standards from the requirement to establish a section 6 holding company, taking into consideration paragraph (2)(D), and the extent to which the exemption would: facilitate the extension of credit to individuals, households and businesses; improve efficiency or customer service or result in other public benefits; potentially threaten the safety and soundness of the financial holding company or any of its subsidiaries; potentially increase systemic risk or threaten the stability of the overall financial system; potentially result in unfair competition; and potentially have anticompetitive effects

that would not be outweighed by public benefits.

(ii) BOARD DETERMINATION NOT TO EXEMPT-

(I) IN GENERAL- If the Board determines not to exempt the financial holding company subject to stricter standards from the requirement to establish a section 6 holding company, the financial holding company subject to stricter standards shall establish a section 6 holding company within 90 days after the Board's determination.

(II) EXTENSION OF PERIOD- The Board may extend the time by which the financial holding company subject to stricter standards is required to establish a section 6 holding company for an additional reasonable period of time, not to exceed 180 days.

(iii) BOARD DETERMINATION TO EXEMPT-

(I) IN GENERAL- If the Board grants the requested exemption from the requirement to establish a section 6 holding company, the financial holding company subject to stricter standards shall at all times remain predominantly engaged in activities that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, and shall be the financial holding company subject to stricter standards for purposes of this title.

<p>(II) SUBSEQUENT LOSS OF EXEMPTION- Upon a determination by the Board, in consultation with any relevant Federal or State regulators of the financial holding company subject to stricter standards, and, in the case of a financial holding company subject to stricter standards that is an insurance company, the Federal Insurance Office, that the financial holding company subject to stricter standards fails to comply with this subsection, the financial holding company subject to stricter standards shall lose the exemption from the section 6 holding company requirement and shall establish a section 6 holding company within the time periods described in clause (ii)(I).</p>		
<p>(C) ACTIVITIES CONDUCTED ABROAD- Section 4 of the Bank Holding Company Act of 1956 shall not apply to any activities that a foreign financial holding company subject to stricter standards conducts solely outside the United States if such activities are conducted solely by a company or other entity that is located outside the United States.</p> <p>(D) FLEXIBLE APPLICATION- In applying the activity restrictions and ownership limitations of section 4 of the Bank Holding Company Act of 1956 to financial holding companies subject to stricter standards described in paragraph (1)(A), the Board shall flexibly adapt such requirements taking into account the usual and customary practices in the business sector of the financial company subject to stricter standards so as to avoid unnecessary burden and expense.</p>		
<p>(3) LEVERAGE LIMITATION- The Board shall require each financial holding company subject to stricter standards to maintain a debt to equity ratio of no more than 15 to 1, and the Board shall</p>	<p><i>SEC. 171. LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.</i></p>	

issue regulations containing procedures and timelines for how a financial holding company subject to stricter standards with a debt to equity ratio of more than 15 to 1 at the time such company becomes a financial holding company subject to stricter standards shall reduce such ratio.

(a) Definitions-

(1) GENERALLY APPLICABLE LEVERAGE

CAPITAL REQUIREMENTS- The term `generally applicable leverage capital requirements' means--

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED

CAPITAL REQUIREMENTS- The term `generally applicable risk-based capital requirements' means--

(A) the risk-based capital requirements as established by the appropriate Federal banking agencies to apply to insured depository institutions under the agency's Prompt Corrective Action regulations that implement section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(b) Minimum Capital Requirements-

(1) MINIMUM LEVERAGE CAPITAL

REQUIREMENTS- The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS- The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies identified under section 113. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM-

(A) IN GENERAL- Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to all institutions covered by this section that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

*(B) CONTENT- Such rules shall address, at a minimum, the risks arising from--
(i) significant volumes of activity in*

	<p>(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and</p> <p>(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.</p>	
<p>SEC. 1104. STRICTER PRUDENTIAL STANDARDS FOR CERTAIN FINANCIAL HOLDING COMPANIES FOR FINANCIAL STABILITY PURPOSES.</p> <p>(a) Stricter Prudential Standards-</p> <p>(1) IN GENERAL- To mitigate risks to financial stability and the economy posed by a financial holding company that has been subjected to stricter prudential standards in accordance with section 1103, the Board, as agent of the Council, shall impose stricter prudential standards on such company. Such standards shall be designed to maximize financial stability taking costs to long-term financial and economic growth into account, be heightened when compared to the standards that otherwise would apply to financial holding companies that are not subjected to stricter prudential standards pursuant to this subtitle (including by addressing additional or different types of risks than otherwise applicable standards), and reflect the potential risk posed to financial stability by the financial holding company subject to stricter standards.</p> <p>(2) STANDARDS-</p> <p>(A) REQUIRED STANDARDS- The stricter standards imposed by the Board under this section shall include--</p> <p>(i) risk-based capital requirements and leverage limits, unless the Board</p>	<p>SEC. 115.</p> <p>(b) Development of Prudential Standards-</p> <p>(1) IN GENERAL- The recommendations of the Council under subsection (a) may include--</p> <p>(A) risk-based capital requirements;</p> <p>(B) leverage limits;</p> <p>(C) liquidity requirements;</p> <p>(D) resolution plan and credit exposure report requirements;</p> <p>(E) concentration limits;</p> <p>(F) a contingent capital requirement;</p> <p>(G) enhanced public disclosures; and</p> <p>(H) overall risk management requirements.</p> <p>SEC. 165</p> <p>(b) Development of Prudential Standards-</p> <p>(1) IN GENERAL-</p> <p>(A) REQUIRED STANDARDS- The Board of Governors shall, by regulation or order, establish prudential standards for nonbank financial companies supervised by the</p>	

determines that such requirements are not appropriate for a financial holding company subject to stricter standards because of such company's activities (such as investment company activities or assets under management) or structure, in which case the Board shall apply other standards that result in appropriately stringent controls.

- (ii) liquidity requirements;
- (iii) concentration requirements (as specified in subsection (c));
- (iv) prompt corrective action requirements (as specified in subsection (e));
- (v) resolution plan requirements (as specified in subsection (f)); and
- (vi) overall risk management requirements.

- (i) risk-based capital requirements;
- (ii) leverage limits;
- (iii) liquidity requirements;
- (iv) resolution plan and credit exposure report requirements; and
- (v) concentration limits.

(B) ADDITIONAL STANDARDS

AUTHORIZED- The Board of Governors may, by regulation or order, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that include--

- (i) a contingent capital requirement;
- (ii) enhanced public disclosures; and
- (iii) overall risk management requirements.

(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES- *In applying the standards set forth in paragraph (1) to foreign nonbank financial companies supervised by the Board of Governors and to foreign-based bank holding companies, the Board of Governors shall give due regard to the principle of national treatment and competitive equity.*

(3) CONSIDERATIONS- *In prescribing prudential standards under paragraph (1), the Board of Governors shall--*

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on--

- (i) the factors described in subsections (a) and (b) of section 113;
- (ii) whether the company owns an insured depository institution;
- (iii) nonfinancial activities and

	<p style="text-align: center;">(iv) any other factors that the Board of Governors determines appropriate;</p> <p style="text-align: center;">(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1) of this subsection; and</p> <p style="text-align: center;">(C) take into account any recommendations of the Council under section 115.</p> <p>(4) <i>REPORT</i>- The Board of Governors shall submit an annual report to Congress regarding the implementation of the prudential standards required pursuant to paragraph (1), including the use of such standards to mitigate risks to the financial stability of the United States.</p>	
<p>(B) ADDITIONAL STANDARDS- The heightened standards imposed by the Board under this section also may include short-term debt limits prescribed in accordance with subsection (d) and any other prudential standards that the Board deems advisable, including taking actions to mitigate systemic risk.</p>		
<p>(C) CONSULTATION WITH FEDERAL FINANCIAL REGULATORY AGENCIES AND THE FEDERAL INSURANCE OFFICE- The Board, in developing stricter prudential standards under this subsection, shall consult with other Federal financial regulatory agencies with respect to any standard that is likely to have a significant impact on a functionally regulated subsidiary, or a subsidiary depository institution, of a financial holding company that is subject to stricter prudential standards under this title. With respect to a financial holding company subject to stricter standards that is an insurance company or any insurance company subsidiary of such a financial holding company subject to stricter standards, the Board shall also consult with the Federal Insurance Office.</p>		
<p>(3) APPLICATION OF REQUIRED STANDARDS- In imposing prudential standards under this section, the Board--</p> <p style="padding-left: 40px;">(A) may differentiate among financial holding</p>	<p>SEC. 115.</p> <p style="text-align: center;">(3) <i>CONSIDERATIONS</i>- In making recommendations concerning prudential standards</p>	

<p>companies subject to stricter standards on an individual basis or by category, taking into consideration their capital structure, risk, complexity, financial activities, the financial activities of their subsidiaries, and any other factors that the Board deems appropriate; and</p> <p>(B) shall take into consideration whether and to what extent a financial holding company subject to stricter standards that is not a bank holding company or treated as a bank holding company owns or controls a depository institution and shall adapt the prudential standards applied to such company as appropriate in light of any predominant line of business of such company, including assets under management or other activities for which capital requirements are not appropriate.</p>	<p><i>(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on--</i></p> <p><i>(i) the factors described in subsections (a) and (b) of section 113;</i></p> <p><i>(ii) whether the company owns an insured depository institution;</i></p> <p><i>(iii) nonfinancial activities and affiliations of the company; and</i></p> <p><i>(iv) any other factors that the Council determines appropriate; and</i></p> <p><i>(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1).</i></p>	
<p>(4) WELL CAPITALIZED AND WELL MANAGED- A financial holding company subject to stricter standards shall at all times after it is subject to such standards be well capitalized and well managed as defined by the Board.</p>		<p>Note: See Section 171 of H.R. 4173 as passed by the Senate (S. 3217 as amended) above.</p>
<p>(5) APPLICATION TO FOREIGN FINANCIAL COMPANIES- The Board shall prescribe regulations regarding the application of stricter prudential standards to a foreign financial parent and to a Federal or State branch, subsidiary, or operating entity that is owned or controlled by a foreign financial parent, giving due regard to principles of national treatment and equality of competitive opportunity and taking into account the extent to which the foreign financial parent is subject on a consolidated basis to home country standards comparable to those applied to financial holding companies in the United States.</p>	<p>SEC. 115.</p> <p><i>(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES- In making recommendations concerning the standards set forth in paragraph (1) that would apply to foreign nonbank financial companies supervised by the Board of Governors or foreign-based bank holding companies, the Council shall give due regard to the principle of national treatment and competitive equity.</i></p>	
<p>(6) INCLUSION OF OFF BALANCE SHEET ACTIVITIES IN COMPUTING CAPITAL REQUIREMENTS-</p> <p>(A) IN GENERAL- In the case of any financial holding company subject to stricter standards, the computation of capital requirements shall take</p>		

<p>into account off balance sheet activities for such a company.</p> <p>(B) EXEMPTION- If the Board determines that an exemption from the requirements under subparagraph (A) is appropriate, the Board may exempt a financial holding company subject to stricter standards from the requirements under subparagraph (A) or any transaction or transactions engaged in by such a company.</p> <p>(C) OFF BALANCE SHEET ACTIVITIES DEFINED- For purposes of this paragraph, the term 'off balance sheet activities' means a liability that is not currently a balance sheet liability but may become one upon the happening of some future event, including the following transactions, to the extent they may create a liability:</p> <ul style="list-style-type: none"> (i) Direct credit substitutes in which a bank substitutes its own credit for a third party, including standby letters of credit. (ii) Irrevocable letters of credit that guarantee repayment of commercial paper or tax-exempt securities. (iii) Risk participation in bankers' acceptances. (iv) Sale and repurchase agreements. (v) Asset sales with recourse against the seller. (vi) Interest rate swaps. (vii) Credit swaps. (viii) Commodity contracts. (ix) Forward contracts. (x) Securities contracts. (xi) Such other activities or transactions as the Board may, by rule, define. 		
<p>(b) Prudential Standards at Functionally Regulated Subsidiaries and Subsidiary Depository Institutions-</p> <p>(1) BOARD AUTHORITY TO RECOMMEND STANDARDS- With respect to a functionally regulated subsidiary (as such term is defined in section 5 of the Bank Holding Company Act) or a subsidiary depository institution of a financial holding company subject to stricter standards, the Board may recommend that the relevant Federal financial regulatory agency for such functionally regulated subsidiary or subsidiary depository</p>		

<p>institution prescribe stricter prudential standards on such functionally regulated subsidiary or subsidiary depository institution. Any standards recommended by the Board under this section shall be of the same type as those described in subsection (a)(2) that the Board is required or authorized to impose directly on the financial holding company subject to stricter standards.</p> <p>(2) AGENCY AUTHORITY TO IMPLEMENT HEIGHTENED STANDARDS AND SAFEGUARDS- Each Federal financial regulatory agency that receives a Board recommendation under paragraph (1) is authorized to impose, require reports regarding, examine for compliance with, and enforce standards under this subsection with respect to the entities such agency regulates as described in section 1006(b)(6). This authority is in addition to and does not limit any other authority of the Federal financial regulatory agencies. Compliance by an entity with actions taken by a Federal financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective agency's jurisdiction over the entity as if the agency action were taken under those statutes.</p> <p>(3) IMPOSITION OF STANDARDS- Standards imposed by a Federal financial regulatory agency under this subsection shall be the standards recommended by the Board in accordance with paragraph (1) or any other similar standards that the Board deems acceptable after consultation between the Board and the primary financial regulatory agency and, with respect to an insurance company, the Federal Insurance Office.</p> <p>(4) FEDERAL FINANCIAL REGULATORY AGENCY RESPONSE; NOTICE TO COUNCIL AND BOARD- A Federal financial regulatory agency shall notify the Council and the Board in writing on whether and to what extent the agency has imposed the stricter prudential standards described in paragraph (3) within 60 days of the Board's recommendation under paragraph (1). A Federal financial regulatory agency that fails to impose such standards shall provide specific justification for such failure to act in the written notice from the agency to the Council and Board.</p>		
<p>(c) Concentration Limits for Financial Holding Companies Subject to Stricter Standards-</p>	<p><i>SEC. 115.</i></p>	

(1) **STANDARDS-** In order to limit the risks that the failure of any company could pose to a financial holding company subject to stricter standards and to the stability of the United States financial system, the Board, by regulation, shall prescribe standards that limit the risks posed by the exposure of a financial holding company subject to stricter standards to any other company.

(e) Concentration Limits- In order to limit the risks that the failure of any individual company could pose to nonbank financial companies supervised by the Board of Governors or bank holding companies described in subsection (a), the Council may make recommendations to the Board of Governors to prescribe standards to limit such risks, as set forth in section 165.

SEC. 165

(e) Concentration Limits-

(1) STANDARDS- In order to limit the risks that the failure of any individual company could pose to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors, by regulation, shall prescribe standards that limit such risks.

(2) LIMITATION ON CREDIT EXPOSURE- The regulations prescribed by the Board of Governors under paragraph (1) shall prohibit each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) from having credit exposure to any unaffiliated company that exceeds 25 percent of the capital stock and surplus (or such lower amount as the Board of Governors may determine by regulation to be necessary to mitigate risks to the financial stability of the United States) of the company.

(3) CREDIT EXPOSURE- For purposes of paragraph (2), 'credit exposure' to a company means--

(A) all extensions of credit to the company, including loans, deposits, and lines of credit;

(B) all repurchase agreements and reverse repurchase agreements with the company;

(C) all securities borrowing and lending transactions with the company, to the extent that such transactions create credit exposure for the nonbank financial company supervised by the Board of Governors or a bank holding company described in

(D) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company;

(E) all purchases of or investment in securities issued by the company;

(F) counterparty credit exposure to the company in connection with a derivative transaction between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the company; and

(G) any other similar transactions that the Board of Governors, by regulation, determines to be a credit exposure for purposes of this section.

(4) ATTRIBUTION RULE- For purposes of this subsection, any transaction by a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) with any person is a transaction with a company, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.

(5) RULEMAKING- The Board of Governors may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out this subsection.

(6) EXEMPTIONS- The Board of Governors may, by regulation or order, exempt transactions, in whole or in part, from the definition of 'credit exposure' for purposes of this subsection, if the Board of Governors finds that the exemption is in the public interest and is consistent with the purpose of this subsection.

(7) TRANSITION PERIOD-

(A) IN GENERAL- This subsection and any regulations and orders of the Board of Governors under this subsection shall not be effective until 3 years after the date of enactment of this Act.

(B) EXTENSION AUTHORIZED- The Board of Governors may extend the period specified in subparagraph (A) for not longer than an additional 2 years.

SEC. 620. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

SEC. 13. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

(a) Definitions- In this section--

(1) the term 'Council' means the Financial Stability Oversight Council;

(2) the term 'financial company' means--

(A) an insured depository institution;

(B) a bank holding company;

(C) a savings and loan holding company;

(D) a company that controls an insured depository institution;

(E) a nonbank financial company supervised by the Board under title I of the Restoring American Financial Stability Act of 2010; and

(F) a foreign bank or company that is treated as a bank holding company for purposes of this Act; and

(3) the term 'liabilities' means--

(A) with respect to a United States financial company--

(i) the total risk-weighted assets of the financial company, as determined under the risk-based capital rules applicable to bank holding companies, as adjusted to reflect exposures that are deducted from regulatory capital; less

(ii) the total regulatory capital of the financial company under the

`(B) with respect to a foreign-based financial company--

`(i) the total risk-weighted assets of the United States operations of the financial company, as determined under the applicable risk-based capital rules, as adjusted to reflect exposures that are deducted from regulatory capital; less

`(ii) the total regulatory capital of the United States operations of the financial company, as determined under the applicable risk-based capital rules; and

`(C) with respect to an insurance company or other nonbank financial company supervised by the Board, such assets of the company as the Board shall specify by rule, in order to provide for consistent and equitable treatment of such companies.

`(b) Concentration Limit- Subject to the recommendations by the Council under subsection (e), a financial company may not merge or consolidate with, acquire all or substantially all of the assets of, or otherwise acquire control of, another company, if the total consolidated liabilities of the acquiring financial company upon consummation of the transaction would exceed 10 percent of the aggregate consolidated liabilities of all financial companies at the end of the calendar year preceding the transaction.

`(c) Exception to Concentration Limit- With the prior written consent of the Board, the concentration limit under subsection (b) shall not apply to an acquisition--

`(1) of a bank in default or in danger of default;

`(2) with respect to which assistance is provided by the Federal Deposit Insurance Corporation under section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)); or

`(3) that would result only in a de minimis increase in the liabilities of the financial company.

`(d) Rulemaking and Guidance- The Board shall issue regulations implementing this section in accordance with the recommendations of the Council under subsection (e),

`(e) Council Study and Rulemaking-
`(1) STUDY AND RECOMMENDATIONS- Not later than 6 months after the date of enactment of this section, the Council shall--
`(A) complete a study of the extent to which the concentration limit under this section would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of United States financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the United States; and
`(B) make recommendations regarding any modifications to the concentration limit that the Council determines would more effectively implement this section.
`(2) RULEMAKING- Not later than 9 months after the date of completion of the study under paragraph (1), and notwithstanding subsections (b) and (d), the Board shall issue final regulations implementing this section, which shall reflect any recommendations by the Council under paragraph (1)(B).'

(2) LIMITATION ON CREDIT EXPOSURE- The regulations prescribed by the Board shall prohibit each financial holding company subject to stricter standards from having credit exposure to any unaffiliated company that exceeds 25 percent of capital stock and surplus of the financial holding company subject to stricter standards, or such lower amount as the Board may determine by regulation to be necessary to mitigate risks to financial stability.

SEC. 115.

(d)
(2) CREDIT EXPOSURE REPORT- The Council may make recommendations to the Board of Governors concerning the advisability of requiring each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) to report periodically to the Council, the Board of Governors, and the Corporation on--
(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and
(B) the nature and extent to which other

<p>(3) CREDIT EXPOSURE- For purposes of this subsection and with respect to a financial holding company subject to stricter standards, the term `credit exposure' to a company means--</p> <ul style="list-style-type: none"> (A) all extensions of credit to the company, including loans, deposits, and lines of credit; (B) all repurchase agreements and reverse repurchase agreement with the company; (C) all securities borrowing and lending transactions with the company to the extent that such transactions create credit exposure of the financial holding company subject to stricter standards to the company; (D) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company; (E) all purchases of or investment in securities issued by the company; (F) counterparty credit exposure to the company in connection with a derivative transaction between the financial holding company subject to stricter standards and the company; and (G) any other similar transactions that the Board by regulation determines to be a credit exposure for purposes of this section. 		
<p>(4) ATTRIBUTION RULE- For purposes of this subsection, any transaction by a financial holding company subject to stricter standards with any person is deemed a transaction with a company to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.</p>		
<p>(5) RULEMAKING- The Board may issue such regulations and orders, including definitions consistent with this subsection, as may be necessary to administer and carry out the purpose of this subsection.</p>		
<p>(6) EXEMPTIONS-</p> <ul style="list-style-type: none"> (A) IN GENERAL- <ul style="list-style-type: none"> (i) FEDERAL HOME LOAN BANKS- 		

<p>This subsection shall not apply to any Federal home loan bank, but Federal home loan banks are not exempt from any other provision of this title except as specifically provided in this title.</p> <p>(ii) APPLICABILITY TO OTHER ENTITIES- The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are not exempt from any provision of this title except as specifically provided in this title.</p> <p>(B) REGULATIONS- The Board may, by regulation or order, exempt transactions, in whole or in part, from the definition of credit exposure if it finds that the exemption is in the public interest and consistent with the purpose of this subsection.</p>		
<p>(7) TRANSITION PERIOD- This subsection and any regulations and orders of the Board under the authority of this subsection shall not take effect until the date that is 3 years from the date of the enactment of this subsection. The Board may extend the effective date for up to 2 additional years to promote financial stability.</p>		
<p>(d) Short-term Debt Limits for Certain Financial Holding Companies-</p> <p>(1) IN GENERAL- In order to limit the risks that an overaccumulation of short-term debt could pose to financial holding companies and to the stability of the United States financial system, the Board may by regulation prescribe a limit on the amount of short-term debt, including off-balance sheet exposures, that may be accumulated by any financial holding company subject to stricter standards for purposes of this title.</p> <p>(2) BASIS OF LIMIT- Any limit prescribed under paragraph (1) shall be based on a financial holding company's short-term debt as a percentage of its capital stock and surplus or on such other measure as the Board considers appropriate.</p> <p>(3) SHORT-TERM DEBT DEFINED- For purposes of this subsection, the term `short-term debt' means such liabilities with short-dated maturity that the Board identifies by regulation, except that such term does not include insured deposits.</p> <p>(4) RULEMAKING AUTHORITY- In addition to prescribing regulations under paragraphs (1) and (3), the</p>		

<p>Board may prescribe such regulations, including definitions consistent with this subsection, and issue such orders as may be necessary to carry out this subsection.</p> <p>(5) AUTHORITY TO ISSUE EXEMPTIONS AND ADJUSTMENTS- Notwithstanding the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), the Board may, if it determines such action is necessary to ensure appropriate heightened prudential supervision, with respect to a financial holding company that does not control an insured depository institution, issue to such company an exemption from or adjustment to the limit prescribed under paragraph (1).</p>		
<p>(e) Prompt Corrective Action for Financial Holding Companies Subject to Stricter Standards-</p> <p>(1) PROMPT CORRECTIVE ACTION REQUIRED- The Board shall take prompt corrective action to resolve the problems of financial holding companies subject to stricter standards. Except as specifically provided otherwise, this subsection shall apply only to financial holding companies that are incorporated or organized under United States laws.</p>		
	<p><i>SEC. 166. EARLY REMEDIATION REQUIREMENTS.</i></p> <p><i>(a) In General- The Board of Governors, in consultation with the Council and the Corporation, shall prescribe regulations establishing requirements to provide for the early remediation of financial distress of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a), except that nothing in this subsection authorizes the provision of financial assistance from the Federal Government.</i></p> <p><i>(b) Purpose of the Early Remediation Requirements- The purpose of the early remediation requirements under subsection (a) shall be to establish a series of specific remedial actions to be taken by a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) that is experiencing increasing financial distress, in order to minimize the probability that the company will become insolvent and the potential harm of such insolvency to the financial stability of the United States.</i></p> <p><i>(c) Remediation Requirements- The regulations prescribed by</i></p>	

	<p>(1) define measures of the financial condition of the company, including regulatory capital, liquidity measures, and other forward-looking indicators; and</p> <p>(2) establish requirements that increase in stringency as the financial condition of the company declines, including--</p> <p>(A) requirements in the initial stages of financial decline, including limits on capital distributions, acquisitions, and asset growth; and</p> <p>(B) requirements at later stages of financial decline, including a capital restoration plan and capital-raising requirements, limits on transactions with affiliates, management changes, and asset sales.</p>	
	<p>SEC. 166</p> <p>(c) Remediation Requirements- The regulations prescribed by the Board of Governors under subsection (a) shall--</p> <p>(1) define measures of the financial condition of the company, including regulatory capital, liquidity measures, and other forward-looking indicators; and</p> <p>(2) establish requirements that increase in stringency as the financial condition of the company declines, including--</p> <p>(A) requirements in the initial stages of financial decline, including limits on capital distributions, acquisitions, and asset growth; and</p> <p>(B) requirements at later stages of financial decline, including a capital restoration plan and capital-raising requirements, limits on transactions with affiliates, management changes, and asset sales.</p>	<p>Note: See Section 171 of H.R. 4173 as passed by the Senate (S. 3217 as amended) above.</p>
<p>(2) DEFINITIONS- For purposes of this section--</p> <p>(A) CAPITAL CATEGORIES-</p> <p>(i) WELL CAPITALIZED- A financial holding company subject to stricter standards is 'well capitalized' if it exceeds the required minimum level for each relevant capital measure.</p> <p>(ii) UNDERCAPITALIZED- A financial</p>		

holding company subject to stricter standards is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

(iii) SIGNIFICANTLY UNDERCAPITALIZED- A financial holding company subject to stricter standards is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure. The Board shall define by rule or regulation the term 'significantly undercapitalized' at a threshold the Board determines to be prudent for the effective monitoring, management and oversight of the financial system.

(iv) CRITICALLY UNDERCAPITALIZED- A financial holding company subject to stricter standards is 'critically undercapitalized' if it fails to meet any level specified in paragraph (4)(C)(i).

(3) OTHER DEFINITIONS-

(A) AVERAGE- The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

(B) CAPITAL DISTRIBUTION- The term 'capital distribution' means--

(i) a distribution of cash or other property by a financial holding company subject to stricter standards to its owners made on account of that ownership, but not including any dividend consisting only of shares of the financial holding company subject to stricter standards or rights to purchase such shares;

(ii) a payment by a financial holding company subject to stricter standards to repurchase, redeem, retire, or otherwise acquire any of its shares or other

<p>ownership interests, including any extension of credit to finance any person's acquisition of those shares or interests; and</p> <p>(iii) a transaction that the Board determines, by order or regulation, to be in substance a distribution of capital to the owners of the financial holding company subject to stricter standards.</p> <p>(C) CAPITAL RESTORATION PLAN- The term `capital restoration plan' means a plan submitted under paragraph (6)(B).</p> <p>(D) COMPENSATION- The term `compensation' includes any payment of money or provision of any other thing of value in consideration of employment.</p> <p>(E) RELEVANT CAPITAL MEASURE- The term `relevant capital measure' means the measures described in paragraph (4).</p> <p>(F) REQUIRED MINIMUM LEVEL- The term `required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the Board by regulation.</p> <p>(G) SENIOR EXECUTIVE OFFICER- The term `senior executive officer' has the same meaning as the term `executive officer' in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).</p>		
<p>(4) CAPITAL STANDARDS-</p> <p>(A) RELEVANT CAPITAL MEASURES-</p> <p>(i) IN GENERAL- Except as provided in clause (ii)(II), the capital standards prescribed by the Board under section 1104(a)(2) shall include--</p> <p>(I) a leverage limit; and</p> <p>(II) a risk-based capital requirement.</p> <p>(ii) OTHER CAPITAL MEASURES- The Board may by regulation--</p> <p>(I) establish any additional relevant capital measures to carry out this section; or</p> <p>(II) rescind any relevant capital</p>		

<p>measure required under clause (i) upon determining that the measure is no longer an appropriate means for carrying out this section.</p> <p>(B) CAPITAL CATEGORIES GENERALLY- The Board shall, by regulation, specify for each relevant capital measure the levels at which a financial holding company subject to stricter standards is well capitalized, undercapitalized, and significantly undercapitalized.</p> <p>(C) CRITICAL CAPITAL-</p> <p>(i) BOARD TO SPECIFY LEVEL-</p> <p>(I) LEVERAGE LIMIT- The Board shall, by regulation, specify the ratio of tangible equity to total assets at which a financial holding company subject to stricter standards is critically undercapitalized.</p> <p>(II) OTHER RELEVANT CAPITAL MEASURES- The Board may, by regulation, specify for 1 or more other relevant capital measures, the level at which a financial holding company subject to stricter standards is critically undercapitalized.</p>		
<p>(ii) LEVERAGE LIMIT RANGE- The level specified under clause (i)(I) shall require tangible equity in an amount--</p> <p>(I) not less than 2 percent of total assets; and</p> <p>(II) except as provided in subclause (I), not more than 65 percent of the required minimum level of capital under the leverage limit.</p>		
<p>(5) CAPITAL DISTRIBUTIONS RESTRICTED-</p> <p>(A) IN GENERAL- A financial holding company subject to stricter standards shall make no capital</p>		

<p>distribution if, after making the distribution, the financial holding company subject to stricter standards would be undercapitalized.</p> <p>(B) EXCEPTION- Notwithstanding subparagraph (A), the Board may permit a financial holding company subject to stricter standards to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition--</p> <ul style="list-style-type: none"> (i) is made in connection with the issuance of additional shares or obligations of the financial holding company subject to stricter standards in at least an equivalent amount; and (ii) will reduce the financial obligations of the financial holding company subject to stricter standards or otherwise improve the financial condition of the financial holding company subject to stricter standards. 		
<p>(6) PROVISIONS APPLICABLE TO UNDERCAPITALIZED FINANCIAL HOLDING COMPANY SUBJECT TO STRICTER STANDARDS-</p> <p>(A) MONITORING REQUIRED- The Board shall--</p> <ul style="list-style-type: none"> (i) closely monitor the condition of any undercapitalized financial holding company subject to stricter standards; (ii) closely monitor compliance by any undercapitalized financial holding company subject to stricter standards with capital restoration plans, restrictions, and requirements imposed under this section; and (iii) periodically review the plan, restrictions, and requirements applicable to any undercapitalized financial holding company subject to stricter standards to determine whether the plan, restrictions, and requirements are effective. <p>(B) CAPITAL RESTORATION PLAN REQUIRED-</p> <ul style="list-style-type: none"> (i) IN GENERAL- Any undercapitalized 		

<p>financial holding company subject to stricter standards shall submit an acceptable capital restoration plan to the Board within the time allowed by the Board under clause (iv).</p> <p>(ii) CONTENTS OF PLAN- The capital restoration plan shall--</p> <p style="padding-left: 40px;">(I) specify--</p> <p>(aa) the steps the financial holding company subject to stricter standards will take to become well capitalized;</p> <p>(bb) the levels of capital to be attained by the financial holding company subject to stricter standards during each year in which the plan will be in effect;</p> <p>(cc) how the financial holding company subject to stricter standards will comply with the restrictions or requirements then in effect under this section; and</p> <p>(dd) the types and levels of activities in which the financial holding company subject to stricter standards will engage; and</p> <p style="padding-left: 40px;">(II) contain such other information that the Board may require.</p> <p>(iii) CRITERIA FOR ACCEPTING PLAN- The Board shall not accept a capital restoration plan unless it determines that the plan--</p> <p style="padding-left: 40px;">(I) complies with clause (ii);</p> <p style="padding-left: 40px;">(II) is based on realistic assumptions, and is likely to succeed in restoring the capital of the financial holding company subject to stricter standards; and</p> <p style="padding-left: 40px;">(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the financial holding company subject to stricter</p>		
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standards is exposed.
(iv) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS- The Board shall, by regulation, establish deadlines that--

- (I) provide financial holding companies subject to stricter standards with reasonable time to submit capital restoration plans, and generally require a financial holding company subject to stricter standards to submit a plan not later than 45 days after it becomes undercapitalized; and
- (II) require the Board to act on capital restoration plans expeditiously, and generally not later than 60 days after the plan is submitted.

(C) ASSET GROWTH RESTRICTED- An undercapitalized financial holding company subject to stricter standards shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless--

- (i) the Board has accepted the capital restoration plan of the financial holding company subject to stricter standards;
- (ii) any increase in total assets is consistent with the plan; and
- (iii) the ratio of tangible equity to total assets of the financial holding company subject to stricter standards increases during the calendar quarter at a rate sufficient to enable it to become well capitalized within a reasonable time.

(D) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS AND NEW LINES OF BUSINESS- An undercapitalized financial holding company subject to stricter standards shall not, directly or indirectly, acquire any interest in any company or insured depository institution, or engage in any new line of business,

<p>unless--</p> <ul style="list-style-type: none"> (i) the Board has accepted the capital restoration plan of the financial holding company subject to stricter standards, the financial holding company subject to stricter standards is implementing the plan, and the Board determines that the proposed action is consistent with and will further the achievement of the plan; (ii) the Board determines that the specific proposed action is appropriate; or (iii) the Board has exempted the financial holding company subject to stricter standards from the requirements of this paragraph with respect to the class of acquisitions that includes the proposed action. <p>(E) DISCRETIONARY SAFEGUARDS- The Board may, with respect to any undercapitalized financial holding company subject to stricter standards, take actions described in any clause of paragraph (7)(B) if the Board determines that those actions are necessary. The Board, in determining whether to impose any requirement under this subparagraph that is likely to have a significant effect on a functionally regulated subsidiary, subsidiary depository institution, or insurance company subsidiary of a financial holding company subject to stricter standards, shall consult with the primary financial regulatory agency for such subsidiary. In the case of an insurance company subsidiary of a financial holding company subject to stricter standards, the Board shall consult with the Federal Insurance Office.</p>		
<p>(7) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED FINANCIAL HOLDING COMPANIES SUBJECT TO STRICTER STANDARDS AND UNDERCAPITALIZED FINANCIAL HOLDING COMPANIES SUBJECT TO STRICTER STANDARDS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS-</p>		

<p>(A) IN GENERAL- This paragraph shall apply with respect to any financial holding company subject to stricter standards that--</p> <ul style="list-style-type: none"> (i) is significantly undercapitalized; or (ii) is undercapitalized and-- <ul style="list-style-type: none"> (I) fails to submit an acceptable capital restoration plan within the time allowed by the Board under paragraph (6)(B)(iv); or (II) fails in any material respect to implement a capital restoration plan accepted by the Board. <p>(B) SPECIFIC ACTIONS AUTHORIZED- The Board shall carry out this paragraph by taking 1 or more of the following actions--</p> <ul style="list-style-type: none"> (i) REQUIRING RECAPITALIZATION- Doing one or more of the following: <ul style="list-style-type: none"> (I) Requiring the financial holding company subject to stricter standards to sell enough shares or obligations of the financial holding company subject to stricter standards so that the financial holding company subject to stricter standards will be well capitalized after the sale. (II) Further requiring that instruments sold under subclause (I) be voting shares. 		
<ul style="list-style-type: none"> (III) Requiring the financial holding company subject to stricter standards to be acquired by or combine with another company. 	<p><i>SEC. 163. ACQUISITIONS.</i></p> <p><i>(a) Acquisitions of Banks; Treatment as a Bank Holding Company- For purposes of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), a nonbank financial company supervised by the Board of Governors shall be deemed to be, and shall be treated as, a bank holding company.</i></p> <p><i>(b) Acquisition of Nonbank Companies-</i></p> <p><i>(1) PRIOR NOTICE FOR LARGE ACQUISITIONS-</i> <i>Notwithstanding section 4(k)(6)(B) of the Bank</i></p>	

	<p><i>(2) EXEMPTIONS- The prior notice requirement in paragraph (1) shall not apply with regard to the acquisition of shares that would qualify for the exemptions in section 4(c) or section 4(k)(4)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c) and (k)(4)(E)).</i></p> <p><i>(3) NOTICE PROCEDURES- The notice procedures set forth in section 4(j)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(1)), without regard to section 4(j)(3) of that Act, shall apply to an acquisition of any company (other than an insured depository institution) by a bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 or a nonbank financial company supervised by the Board of Governors, as described in paragraph (1), including any such company engaged in activities described in section 4(k) of that Act.</i></p> <p><i>(4) STANDARDS FOR REVIEW- In addition to the standards provided in section 4(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)), the Board of Governors shall consider the extent to which the proposed acquisition would result in greater or more concentrated risks to global or United States financial stability or the United States economy.</i></p>	
<p>(ii) RESTRICTING TRANSACTIONS WITH AFFILIATES-</p> <p>(I) Requiring the financial holding company subject to</p>		

stricter standards to comply with section 23A of the Federal Reserve Act (12 U.S.C. 371c), as if it were a member bank.

(II) Further restricting the transactions of the financial holding company subject to stricter standards with affiliates and insiders.

(iii) **RESTRICTING ASSET GROWTH-** Restricting the asset growth of the financial holding company subject to stricter standards more stringently than paragraph (6)(C), or requiring the financial holding company subject to stricter standards to reduce its total assets.

(iv) **RESTRICTING ACTIVITIES-** Requiring the financial holding company subject to stricter standards or any of its subsidiaries to alter, reduce, or terminate any activity that the Board determines poses excessive risk to the financial holding company subject to stricter standards.

(v) **IMPROVING MANAGEMENT-** Doing one or more of the following:

(I) **NEW ELECTION OF DIRECTORS-** Ordering a new election for the board of directors of the financial holding company subject to stricter standards.

(II) **DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS-** Requiring the financial holding company subject to stricter standards to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the financial holding company

subject to stricter standards became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

(III) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS-

Requiring the financial holding company subject to stricter standards to employ qualified senior executive officers (who, if the Board so specifies, shall be subject to approval by the Board).

(vi) REQUIRING DIVESTITURE-

Requiring the financial holding company subject to stricter standards to divest itself of or liquidate any subsidiary if the Board determines that the subsidiary is in danger of becoming insolvent, poses a significant risk to the financial holding company subject to stricter standards, or is likely to cause a significant dissipation of the assets or earnings of the financial holding company subject to stricter standards.

(vii) REQUIRING OTHER ACTION-

Requiring the financial holding company subject to stricter standards to take any other action that the Board determines will better carry out the purpose of this section than any of the actions described in this subparagraph.

(C) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS- In complying with subparagraph (B), the Board shall take the following actions, unless the Board determines that the actions would not be appropriate:

- (i) The action described in subclause (I) or (III) of subparagraph (B)(i) (relating to requiring the sale of shares or

obligations, or requiring the financial holding company subject to stricter standards to be acquired by or combine with another company).

(ii) The action described in subparagraph (B)(ii) (relating to restricting transactions with affiliates).

(D) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED-

(i) IN GENERAL- The financial holding company subject to stricter standards shall not do any of the following without the prior written approval of the Board:

(I) Pay any bonus to any senior executive officer.

(II) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the financial holding company subject to stricter standards became undercapitalized.

(ii) FAILING TO SUBMIT PLAN- The Board shall not grant any approval under clause (i) with respect to a financial holding company subject to stricter standards that has failed to submit an acceptable capital restoration plan.

(E) CONSULTATION WITH OTHER REGULATORS- Before the Board makes a determination under subparagraph (B)(vi) with respect to a subsidiary that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall consult with the Securities and Exchange Commission and, in the case of any other subsidiary which is subject to any financial responsibility or capital requirement, any other appropriate regulator of

<p>such subsidiary with respect to the proposed determination of the Board and actions pursuant to such determination.</p>		
<p>(8) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA- (A) IN GENERAL- If the Board determines (after notice and an opportunity for hearing) that a financial holding company subject to stricter standards is in an unsafe or unsound condition or, pursuant to section 8(b)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(8)), deems the financial holding company subject to stricter standards to be engaging in an unsafe or unsound practice, the Board may-- (i) if the financial holding company subject to stricter standards is well capitalized, require the financial holding company subject to stricter standards to comply with one or more provisions of paragraphs (6) and (7), as if the institution were undercapitalized; or (ii) if the financial holding company subject to stricter standards is undercapitalized, take any one or more actions authorized under paragraph (7)(B) as if the financial holding company subject to stricter standards were significantly undercapitalized, after consultation with the primary financial regulatory agency for any functionally regulated subsidiary, subsidiary depository institution, or insurance company subsidiary that is likely to be significantly affected by such actions. In the case of an insurance company subsidiary of a financial holding company subject to stricter standards, the Board shall consult with the Federal Insurance Office. (B) CONTENTS OF PLAN- A plan that may be required pursuant to subparagraph (A)(i) shall specify the steps that the financial holding company subject to stricter standards will take to</p>		

<p>correct the unsafe or unsound condition or practice.</p>		
<p>(9) IMPLEMENTATION- The Board shall prescribe such regulations, issue such orders, and take such other actions the Board determines to be necessary to carry out this subsection.</p> <p>(10) OTHER AUTHORITY NOT AFFECTED- This section does not limit any authority of the Board, any other Federal regulatory agency, or a State to take action in addition to (but not in derogation of) that required under this section.</p> <p>(11) CONSULTATION- The Board and the Secretary of the Treasury shall consult with their foreign counterparts and through appropriate multilateral organizations to reach agreement to extend comprehensive and robust prudential supervision and regulation to all highly leveraged and substantially interconnected financial companies.</p>		
<p>(12) ADMINISTRATIVE REVIEW OF DISMISSAL ORDERS-</p> <p>(A) TIMELY PETITION REQUIRED- A director or senior executive officer dismissed pursuant to an order under paragraph (7)(B)(v)(II) may obtain review of that order by filing a written petition for reinstatement with the Board not later than 10 days after receiving notice of the dismissal.</p> <p>(B) PROCEDURE-</p> <p>(i) HEARING REQUIRED- The Board shall give the petitioner an opportunity to--</p> <p style="padding-left: 40px;">(I) submit written materials in support of the petition; and</p> <p style="padding-left: 40px;">(II) appear, personally or through counsel, before 1 or more members of the Board or designated employees of the Board.</p> <p>(ii) DEADLINE FOR HEARING- The Board shall--</p> <p style="padding-left: 40px;">(I) schedule the hearing referred to in clause (i)(II) promptly after the petition is filed; and</p> <p style="padding-left: 40px;">(II) hold the hearing not later</p>		

than 30 days after the petition is filed, unless the petitioner requests that the hearing be held at a later time.

(iii) DEADLINE FOR DECISION- Not later than 60 days after the date of the hearing, the Board shall--

- (I) by order, grant or deny the petition;
- (II) if the order is adverse to the petitioner, set forth the basis for the order; and
- (III) notify the petitioner of the order.

(C) STANDARD FOR REVIEW OF DISMISSAL ORDERS- The petitioner shall bear the burden of proving that the petitioner's continued employment would materially strengthen the ability of the financial holding company subject to stricter standards--

- (i) to become well capitalized, to the extent that the order is based on the capital level of the financial holding company subject to stricter standards or such company's failure to submit or implement a capital restoration plan; and
- (ii) to correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the order is based on paragraph (8)(A).

(13) ENFORCEMENT AUTHORITY FOR FOREIGN FINANCIAL HOLDING COMPANY SUBJECT TO STRICTER STANDARDS-

(A) TERMINATION AUTHORITY- If the Board believes that a condition, practice, or activity of a foreign financial holding company subject to stricter standards does not comply with this title or the rules or orders prescribed by the Board under this title or otherwise poses a threat to financial stability, the Board may, after notice and opportunity for a hearing, take such actions as necessary to mitigate such risk, including ordering a foreign financial holding company subject to stricter standards in the United States to

<p>terminate the activities of such branch, agency, or subsidiary. (B) DISCRETION TO DENY HEARING- The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.</p>		
<p>(f) Reports Regarding Rapid and Orderly Resolution and Credit Exposure- (1) IN GENERAL- The Board shall require each financial holding company subject to stricter standards incorporated or organized in the United States to report periodically to the Board on-- (A) its plan for rapid and orderly resolution in the event of severe financial distress; (B) the nature and extent to which the financial holding company subject to stricter standards has credit exposure to other significant financial companies; and (C) the nature and extent to which other significant financial companies have credit exposure to the financial holding company subject to stricter standards. (2) NO LIMITING EFFECT- A rapid resolution plan submitted in accordance with this subsection shall not be binding on a receiver appointed under subtitle G, a bankruptcy court, or any other authority that is authorized or required to resolve the financial holding company subject to stricter standards or any of its subsidiaries or affiliates. (3) REPORTING TRIGGERED BY STRESS TEST RESULTS- (A) FINANCIAL HOLDING COMPANIES SUBJECT TO STRICTER STANDARDS- Each time the results of a quarterly stress test under baseline or adverse conditions conducted by a financial holding company subject to stricter standards under section 1114(a) or the results of a stress test of that financial holding company subject to stricter standards conducted by the Board under subsection (g) indicate that the financial holding company subject to stricter standards is, in the determination of the Board,</p>	<p>SEC. 165</p> <p>(d) Resolution Plan and Credit Exposure Reports- (1) RESOLUTION PLAN- <i>The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.</i> (2) CREDIT EXPOSURE REPORT- <i>The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation on--</i> (A) <i>the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and</i> (B) <i>the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to that company.</i> (3) REVIEW- <i>The Board of Governors and the Corporation shall review the information provided in accordance with this section by each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a).</i> (4) NOTICE OF DEFICIENCIES- <i>If the Board of Governors and the Corporation jointly determine, based on their review under paragraph (3), that the resolution plan of a nonbank financial company</i></p>	<p>Note: See Section 115 d) 1 of H.R. 4173 as passed by the Senate (S. 3217 as amended) below</p>

significantly or critically undercapitalized, that financial holding company subject to stricter standards shall submit a rapid resolution plan in accordance with this subsection that has been revised to address the causes of those results.

(B) FINANCIAL COMPANIES THAT ARE NOT FINANCIAL HOLDING COMPANIES SUBJECT TO STRICTER STANDARDS- Each time the results of a semiannual stress test under baseline or adverse conditions conducted by a financial company under section 1114(b) indicate that the financial company is, in the determination of the Board, significantly or critically undercapitalized, that financial company shall be required to report under this subsection. The Board shall prescribe regulations establishing expedited procedures for such reporting.

(C) TRANSPARENCY- Any rapid resolution plan submitted pursuant to this paragraph shall be subject to any restrictions regarding the disclosure of any other rapid resolution plan submitted pursuant to this subsection.

(A) the Board of Governors and the Corporation shall notify the company, as applicable, of the deficiencies in the resolution plan; and

(B) the company shall resubmit the resolution plan within a time frame determined by the Board of Governors and the Corporation, with revisions demonstrating that the plan is credible and would result in an orderly resolution under title 11, United States Code, including any proposed changes in business operations and corporate structure to facilitate implementation of the plan.

(5) FAILURE TO RESUBMIT CREDIBLE PLAN-

(A) IN GENERAL- If a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) fails to timely resubmit the resolution plan as required under paragraph (4), with such revisions as are required under subparagraph (B), the Board of Governors and the Corporation may jointly impose more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the company, or any subsidiary thereof, until such time as the company resubmits a plan that remedies the deficiencies.

(B) DIVESTITURE- The Board of Governors and the Corporation, in consultation with the Council, may direct a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), by order, to divest certain assets or operations identified by the Board of Governors and the Corporation, to facilitate an orderly resolution of such company under title 11,

	<p>(i) the Board of Governors and the Corporation have jointly imposed more stringent requirements on the company pursuant to subparagraph (A); and</p> <p>(ii) the company has failed, within the 2-year period beginning on the date of the imposition of such requirements under subparagraph (A), to resubmit the resolution plan with such revisions as were required under paragraph (4)(B).</p> <p>(6) RULES- Not later than 18 months after the date of enactment of this Act, the Board of Governors and the Corporation shall jointly issue final rules implementing this subsection.</p>	
<p>(g) Stress Tests-</p> <p>(1) The Board, in coordination with the appropriate primary financial regulatory agency, shall conduct annual stress tests of each financial holding company subject to stricter standards. The Board may, as the Board determines appropriate, conduct stress tests of financial companies that are not financial holding companies subject to stricter standards. The Board shall publish a summary of the results of such stress tests.</p> <p>(2) The Board shall issue regulations to define the term 'stress test' for purposes of this subsection. Such a definition shall provide for not less than 3 different sets of conditions under which a stress test should be conducted: baseline, adverse, and severely adverse scenarios.</p>	<p>SEC. 165</p> <p>(h) Stress Tests- The Board of Governors shall conduct analyses in which nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) are subject to evaluation of whether the companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions. The Board of Governors may develop and apply such other analytic techniques as are necessary to identify, measure, and monitor risks to the financial stability of the United States.</p>	
<p>(h) Avoiding Duplication- The Board shall take any action the Board deems appropriate to avoid imposing duplicative requirements under this subtitle for financial holding companies subject to stricter standards that are also bank holding companies.</p>	<p>SEC. 169. AVOIDING DUPLICATION.</p> <p>The Board of Governors shall take any action that the Board of Governors deems appropriate to avoid imposing requirements under this subtitle that are duplicative of requirements applicable to bank holding companies and nonbank financial companies under other provisions of law.</p>	

(i) Resolution Plans Required-

(1) IN GENERAL- The Corporation and the Board, after consultation with the Council, shall jointly issue regulations requiring financial holding companies subject to stricter standards to develop plans designed to assist in the rapid and orderly resolution of the company.

(2) STANDARDS FOR RESOLUTION PLANS- The regulations required by paragraph (1) shall--

(A) define the scope of financial holding companies subject to stricter standards covered by these requirements and may exempt financial holding companies subject to stricter standards from the requirements of this subsection if the Corporation and the Board jointly determine that exemption is consistent with the purposes of this title;

(B) require each plan to demonstrate that any insured depository institution affiliated with a financial holding company subject to stricter standards is adequately insulated from the activities of any non-bank subsidiary of the institution or financial holding companies subject to stricter standards;

(C) require that each plan include information detailing--

(i) the nature and extent to which the financial holding company subject to stricter standards has credit exposure to other significant financial companies;

(ii) the nature and extent to which other significant financial companies have credit exposure to the financial holding company subject to stricter standards;

(iii) full descriptions of the financial holding company subject to stricter standards' ownership structure, assets, liabilities, and contractual obligations; and

(iv) the cross-guarantees tied to different securities, a list of major counterparties, and a process for determining where the financial holding company subject to stricter standards' collateral is pledged; and

SEC. 115.

(d) Resolution Plan and Credit Exposure Reports-

(1) RESOLUTION PLAN- The Council may make recommendations to the Board of Governors concerning the requirement that each nonbank financial company supervised by the Board of Governors and each bank holding company described in subsection (a) report periodically to the Council, the Board of Governors, and the Corporation, the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(D) establish such other standards as the Corporation and the Board may jointly deem necessary to carry out this subsection.

(3) REVIEW OF PLANS-

(A) SUBMISSION OF PLANS- Each financial holding company subject to stricter standards that is subject to the requirement under paragraph (1) shall submit its plan to the Corporation and the Board.

(B) REVIEW- Upon the submission of a plan pursuant to subparagraph (A), and not less often than annually thereafter, the Corporation and the Board, after consultation with any Federal financial regulatory agencies with jurisdiction over the financial holding company subject to stricter standards (and, if the financial holding company subject to stricter standards is an insurance company, the Federal Insurance Office), shall jointly review such plan and may require a financial holding company subject to stricter standards to revise its plan consistent with the standards established pursuant to paragraph (2).

(4) ENFORCEMENT-

(A) IN GENERAL- The Corporation, after consultation with the Board, shall have the authority to take any enforcement action in section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) against any financial holding company subject to stricter standards that fails to comply with the requirements of this section or any regulations issued pursuant to this section.

(B) NO LIMITATION ON BOARD

AUTHORITY- Nothing under this subsection shall be construed as limiting any enforcement authority available to the Board under any other provision of law.

(5) NO LIMITING EFFECT ON RECEIVER- A rapid resolution plan submitted under this section shall not be binding on a receiver appointed under subtitle G, a bankruptcy court, or any other authority that is authorized or required to resolve the financial holding company subject to stricter standards or any of its subsidiaries or affiliates.

<p>(6) NO PRIVATE RIGHT OF ACTION- No private right of action may be based on any resolution plan submitted under this section.</p>		
<p>(j) Rule of Construction Regarding Consumer Protection Standards- The prudential standards imposed or recommended by the Board or the Council under this section shall not be construed as superseding--</p> <ul style="list-style-type: none"> (1) any consumer protection standards promulgated under a State or Federal consumer protection law, including the Consumer Financial Protection Agency Act and the Federal Trade Commission Act; or (2) any investor protection standard that protects consumers (including public reporting requirements) imposed under State or Federal securities laws, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1944, and the Investment Advisors Act of 1944. <p>(k) Rulemaking Authority- The Board may prescribe such regulations and issue such orders as the Board, in consultation with the Council, determines to be necessary to carry out the provisions of this subtitle.</p>		
<p>SEC. 1105. MITIGATION OF SYSTEMIC RISK.</p> <p>(a) Council Authority to Restrict Operations and Activities- If the Council determines, after notice and an opportunity for hearing, that despite the higher prudential standards imposed pursuant to section 1104(a)(2), the size of a financial holding company subject to stricter standards or the scope, nature, scale, concentration, interconnectedness, or mix of activities directly or indirectly conducted by a financial holding company subject to stricter standards poses a grave threat to the financial stability or economy of the United States, the Council shall require the company to undertake 1 or more mitigatory actions described in subsection (d).</p> <p>(b) Consultation With Federal Financial Regulatory Agencies- The Council, in determining whether to impose any requirement under this section that is likely to have a significant impact on a functionally regulated subsidiary, or a subsidiary depository institution, of a financial holding company subject to stricter standards under this title, shall consult with the Federal financial regulatory agency for any such subsidiary. With respect to any requirements under this section that is likely to have a significant effect on an insurance company, the Council shall consult with the</p>		<p>Note: See Section 121 d) of H.R. 4173 as passed by the Senate (S. 3217 as amended) above</p>

Federal Insurance Office.

(c) Factors for Consideration- In reaching a determination described in subsection (a), the Council shall take into consideration the following factors, as appropriate--

- (1) the amount and nature of the company's financial assets;
- (2) the amount and nature of the company's liabilities, including the degree of reliance on short-term funding;
- (3) the extent and nature of the company's off-balance sheet exposures;
- (4) the company's reliance on leverage;
- (5) the extent and nature of the company's transactions, relationships, and interconnectedness with other financial and non-financial companies;
- (6) the company's importance as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the financial system;
- (7) the scope, nature, size, scale, concentration, interconnectedness and mix of the company's activities;
- (8) the extent to which prudential regulations mitigate the risk posed; and
- (9) any other factors identified that the Council determines appropriate.

(d) Mitigatory Actions-

- (1) IN GENERAL- Mitigatory action may include--
 - (A) modifying the stricter prudential standards imposed pursuant to section 1104(a);
 - (B) terminating 1 or more activities;
 - (C) imposing conditions on the manner in which a financial holding company subject to stricter standards conducts 1 or more activities;
 - (D) limiting the ability to merge with, acquire, consolidate with, or otherwise become affiliated with another company;
 - (E) restricting the ability to offer a financial product or products; and
 - (F) in the event the Council deems subparagraphs (A) through (E) inadequate as a means to address the identified risks, selling, divesting, or otherwise transferring business units, branches, assets, or off-balance sheet items to unaffiliated companies.

(2) INTERNATIONAL COMPETITIVENESS
CONSIDERATIONS- In making any decision pursuant to

paragraph (1), the Council shall consider--

(A) the need to maintain the international competitiveness of the United States financial services industry; and

(B) the extent to which other countries with a significant financial services industry have established corresponding regimes to mitigate threats to financial stability or the economy posed by financial companies.

(e) Due Process--

(1) NOTICE AND HEARING- The Council shall give notice to a financial holding company subject to stricter standards, and opportunity for hearing if requested, that the financial holding company subject to stricter standards is being considered for mitigatory action pursuant to subsection (a). The hearing shall occur no later than 30 days after the financial company receives notice of the proposed action from the Council.

(2) NOTICE- The Council shall notify the financial holding company subject to stricter standards of the Council's determination, and, if the Council determines that mitigatory action is appropriate, require the company to submit a plan to the Council to implement the required mitigatory action.

(3) SUBMISSION OF PLAN- The financial holding company subject to stricter standards shall submit its proposed plan to implement the required mitigatory action or actions to the Council within 60 days from the date it receives notice under paragraph (2) or such shorter timeframe as the Council may require, if the Council determines an emergency situation merits expeditious implementation.

(4) APPROVAL OR AMENDMENT OF THE PLAN- The Council shall review the plan submitted pursuant to paragraph (3) and determine whether the plan achieves the goal of mitigating a grave threat to the financial stability or the economy of the United States. The Council may approve or disapprove the plan with or without amendment.

(5) EFFECT OF PLAN APPROVAL- The Council shall--

(A) notify a financial holding company subject to stricter standards by order, which shall be public, that the Council has approved the plan with or without amendment; and

<p>(B) direct the Board to require a financial holding company subject to stricter standards to comply with the plan to implement mitigatory action or actions within a reasonable timeframe after the Council's approval and in accordance with such deadlines established in the plan.</p> <p>(f) Treasury Secretary Concurrence- Mitigatory action imposed by the Council involving the sale, divestiture, or transfer of more than \$10,000,000,000 in total assets by a financial holding company subject to stricter standards shall require the Secretary of the Treasury's concurrence before the issuance of the notice in subsection (e)(5)(A). If the sale, divestiture, or transfer of total assets by a financial holding company subject to stricter standards exceeds \$100,000,000,000, the Secretary of the Treasury shall consult with the President before concurrence. The aforementioned amounts shall be indexed to inflation.</p> <p>(g) Failure to Implement the Plan- If a financial holding company subject to stricter standards fails to implement a plan for mitigatory action imposed pursuant to this section within a reasonable timeframe, the Council shall direct the Board to take such actions as necessary to ensure compliance with the plan.</p> <p>(h) Judicial Review- For any plan required under this section, a financial holding company subject to stricter standards may, not later than 30 days after receipt of the Council's notice under subsection (e)(2), bring an action in the United States district court for the judicial district in which the home office of such company is located, or in the United States District Court for the District of Columbia, for an order requiring that the requirement for a mitigatory action be rescinded. Judicial review under this section shall be limited to the imposition of a mitigatory action pursuant to subsection (e)(5). In reviewing the Council's imposition of a mitigatory action, the court shall rescind or dismiss only those mitigatory actions it finds to be imposed in an arbitrary and capricious manner.</p> <p>(i) Rule of Construction- Nothing in subsection (h) shall be construed as limiting the authority of a Federal financial regulatory agency to take action with respect to a financial company subject to the jurisdiction of such agency pursuant to applicable law other than this section.</p>		
<p>SEC. 1106. SUBJECTING ACTIVITIES OR PRACTICES TO STRICTER PRUDENTIAL STANDARDS FOR FINANCIAL STABILITY PURPOSES.</p>	<p><i>SEC. 120. ADDITIONAL STANDARDS APPLICABLE TO ACTIVITIES OR PRACTICES FOR FINANCIAL STABILITY PURPOSES.</i></p>	

(a) In General- The Council may subject a financial activity or practice to stricter prudential standards under this subtitle if the Council determines that the conduct, scope, nature, size, scale, concentration, or interconnectedness of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among financial institutions or markets and local, minority, or underserved communities, and thereby threaten the stability of the financial system or economy.

(b) Periodic Review of Activity Identifications-

(1) SUBMISSION OF ASSESSMENT- The Board shall periodically submit a report to the Council containing an assessment of whether each activity or practice subjected to stricter prudential standards should continue to be subject to such standards.

(2) REVIEW AND RECISION- The Council shall--

(A) review the assessment submitted pursuant to paragraph (1) and any information or recommendation submitted by members of the Council regarding whether a financial activity subjected to stricter prudential standards continues to merit stricter prudential standards; and

(B) rescind the action subjecting an activity to heightened prudential supervision if the Council determines that the activity no longer meets the criteria in subsection (a).

(c) Procedure for Subjecting or Ceasing to Subject an Activity or Practice to Stricter Prudential Standards-

(1) COUNCIL AND BOARD COORDINATION- The Council shall inform the Board if the Council is considering whether to subject or cease to subject an activity to stricter prudential standards in accordance with this section.

(2) NOTICE AND OPPORTUNITY FOR CONSIDERATION OF WRITTEN MATERIALS-

(A) IN GENERAL- The Board shall, in an executive capacity on behalf of the Council, provide notice to financial companies that the Council is considering whether to subject an activity or practice to heightened prudential regulation, and shall provide a financial company engaged in such activity or practice 30 days to submit written materials to inform the Council's decision. The Council shall decide, and the Board

(a) In General- The Council may issue recommendations to the primary financial regulatory agencies to apply new or heightened standards and safeguards, including standards enumerated in section 115, for a financial activity or practice conducted by bank holding companies or nonbank financial companies under their respective jurisdictions, if the Council determines that the conduct of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies or the financial markets of the United States.

(b) Procedure for Recommendations to Regulators-

(1) NOTICE AND OPPORTUNITY FOR COMMENT- The Council shall consult with the primary financial regulatory agencies and provide notice to the public and opportunity for comment for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice.

(2) CRITERIA- The new or heightened standards and safeguards for a financial activity or practice recommended under paragraph (1)--

(A) shall take costs to long-term economic growth into account; and

(B) may include prescribing the conduct of the activity or practice in specific ways (such as by limiting its scope, or applying particular capital or risk management requirements to the conduct of the activity) or prohibiting the activity or practice.

(c) Implementation of Recommended Standards-

(1) ROLE OF PRIMARY FINANCIAL REGULATORY AGENCY-

(A) IN GENERAL- Each primary financial regulatory agency may impose, require reports regarding, examine for compliance with, and enforce standards in accordance with this section with respect to those entities for which it is the primary financial regulatory agency.

(B) RULE OF CONSTRUCTION- The authority under this paragraph is in addition to, and does not limit, any other

shall provide notice of the Council's decision, within 60 days of the due date for such written materials.

(B) EMERGENCY EXCEPTION- The Council may waive or modify the requirements of subparagraph (A) if the Council determines that such waiver or modification is necessary or appropriate to prevent or mitigate threats posed by an activity to financial stability. The Board shall, in an executive capacity on behalf of the Council, provide notice of such waiver or modification to financial companies as soon as practicable, which shall be no later than 24 hours after the waiver or modification.

(3) FORM OF DECISION- The Board shall provide all notices required under this subsection by posting a notice on the Board's web site and publishing a notice in the Federal Register.

(2) IMPOSITION OF STANDARDS- The primary financial regulatory agency shall impose the standards recommended by the Council in accordance with subsection (a), or similar standards that the Council deems acceptable, or shall explain in writing to the Council, not later than 90 days after the date on which the Council issues the recommendation, why the agency has determined not to follow the recommendation of the Council.

(d) Report to Congress- The Council shall report to Congress on--

(1) any recommendations issued by the Council under this section;

(2) the implementation of, or failure to implement such recommendation on the part of a primary financial regulatory agency; and

(3) in any case in which no primary financial regulatory agency exists for the nonbank financial company conducting financial activities or practices referred to in subsection (a), recommendations for legislation that would prevent such activities or practices from threatening the stability of the financial system of the United States.

(e) Effect of Rescission of Identification-

(1) NOTICE- The Council may recommend to the relevant primary financial regulatory agency that a financial activity or practice no longer requires any standards or safeguards implemented under this section.

(2) DETERMINATION OF PRIMARY FINANCIAL REGULATORY AGENCY TO CONTINUE-

(A) IN GENERAL- Upon receipt of a recommendation under paragraph (1), a primary financial regulatory agency that

	<p><i>(B) APPEAL PROCESS- Each primary financial regulatory agency that has imposed standards under this section shall promulgate regulations to establish a procedure under which entities under its jurisdiction may appeal a determination by such agency under this paragraph that standards imposed under this section should remain in effect.</i></p>	
<p>SEC. 1107. STRICTER REGULATION OF ACTIVITIES AND PRACTICES FOR FINANCIAL STABILITY PURPOSES.</p> <p>(a) Prudential Standards-</p> <p>(1) BOARD AUTHORITY TO RECOMMEND-</p> <p>(A) IN GENERAL- To mitigate the risks to United States financial stability and the United States economy posed by financial activities and practices that the Council identifies for stricter prudential standards under section 1106 the Board, as agent of the Council, shall recommend prudential standards to the appropriate primary financial regulatory agencies to apply to such identified activities and practices.</p> <p>(B) CONSULTATION WITH PRIMARY FINANCIAL REGULATORY AGENCIES- The Board, in developing recommendations under this subsection, shall consult with the relevant primary financial regulatory agencies with respect to any standard that is likely to have a significant effect on entities described in section 1000(b)(6). With respect to any standard that is likely to have a significant effect on insurance companies, the Board also shall consult with the Federal Insurance Office.</p> <p>(2) CRITERIA- The actions recommended under paragraph (1)--</p> <p>(A) shall be designed to maximize financial stability, taking costs to long-term financial and economic growth into account; and</p>		<p>Note: See Section 121 d) of H.R. 4173 as passed by the Senate (S. 3217 as amended) above</p>

(B) may include prescribing the conduct of the activity or practice in specific ways (such as by limiting its scope, nature, size, scale, concentration, or interconnectedness, or applying particular capital or risk-management requirements to the conduct of the activity) or prohibiting the activity or practice altogether.

(3) EXCEPTION- The standards recommended by the Board and adopted by a primary financial regulatory agency pursuant to this section shall not apply to activities that a foreign financial parent conducts solely outside the United States if such activities are conducted solely by a company or other operating entity that is located outside the United States.

(b) Implementation of Recommended Standards-

(1) ROLE OF PRIMARY FINANCIAL REGULATORY AGENCY- Each primary financial regulatory agency is authorized to impose, require reports regarding, examine for compliance with, and enforce standards in accordance with this section with respect to those entities described in section 1000(b)(6) for which it is the primary financial regulatory agency. This authority is in addition to and does not limit any other authority of the primary financial regulatory agencies. Compliance by an entity with actions taken by a primary financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective primary financial regulatory agency's jurisdiction over the entity as if the agency action were taken under those statutes.

(2) IMPOSITION OF STANDARDS- Standards imposed under this subsection shall be the standards recommended by the Board in accordance with subsection (a) or any other similar standards that the Board deems acceptable after consultation between the Board and the primary financial regulatory agency.

(3) PRIMARY FINANCIAL REGULATORY AGENCY RESPONSE- A primary financial regulatory agency shall notify the Council and the Board in writing on whether and to what extent the agency has imposed the stricter prudential standards described in paragraph (2) within 60 days of the Board's recommendation. A primary financial regulatory agency that fails to impose such standards shall provide specific justification for such failure to act in the written notice from the agency to the Council and Board.

<p>SEC. 1108. EFFECT OF RESCISSION OF IDENTIFICATION.</p> <p>(a) Notice- When the Council determines that a company or activity or practice no longer is subject to heightened prudential scrutiny, the Board shall inform the relevant primary financial regulatory agency or agencies (if different from the Board) of that finding.</p> <p>(b) Determination of Primary Financial Regulatory Agency to Continue- A primary financial regulatory agency that has imposed stricter prudential standards for financial stability purposes under this subtitle shall determine whether standards that it has imposed under this subtitle should remain in effect.</p>	<p>SEC. 1154. LIQUIDITY EVENT DETERMINATION.</p> <p>(a) <i>Determination and Written Recommendation-</i></p> <p>(1) <i>DETERMINATION REQUEST- The Secretary may request the Corporation and the Board of Governors to determine whether a liquidity event exists that warrants use of the guarantee program authorized under section 1155.</i></p> <p>(2) <i>REQUIREMENTS OF DETERMINATION- Any determination pursuant to paragraph (1) shall--</i></p> <p>(A) <i>be written; and</i></p> <p>(B) <i>contain an evaluation of the evidence that--</i></p> <p>(i) <i>a liquidity event exists;</i></p> <p>(ii) <i>failure to take action would have serious adverse effects on financial stability or economic conditions in the United States; and</i></p> <p>(iii) <i>actions authorized under section 1155 are needed to avoid or mitigate potential adverse effects on the United States financial system or economic conditions.</i></p>	
	<p>(b) <i>Procedures- Notwithstanding any other provision of Federal or State law, upon the determination of both the Corporation (upon a vote of not fewer than 2/3 of the members of the Corporation then serving) and the Board of Governors (upon a vote of not fewer than 2/3 of the members of the Board of Governors then serving) under subsection (a) that a liquidity event exists that warrants use of the guarantee program authorized under section 1155, and with the written consent of the Secretary--</i></p> <p>(1) <i>the Corporation shall take action in accordance with section 1155(a); and</i></p> <p>(2) <i>the Secretary (in consultation with the President) shall take action in accordance with section 1155(c).</i></p> <p>(c) <i>Documentation and Review-</i></p> <p>(1) <i>DOCUMENTATION- The Secretary shall--</i></p> <p>(A) <i>maintain the written documentation of each determination of the Corporation and the Board of Governors under this section; and</i></p>	

	<p>(B) provide the documentation for review under paragraph (2).</p> <p>(2) GAO REVIEW- The Comptroller General of the United States shall review and report to Congress on any determination of the Corporation and the Board of Governors under subsection (a), including--</p> <p>(A) the basis for the determination; and</p> <p>(B) the likely effect of the actions taken.</p> <p>(d) Report to Congress- On the earlier of the date of a submission made to Congress under section 1155(c), or within 30 days of the date of a determination under subsection (a), the Secretary shall provide written notice of the determination of the Corporation and the Board of Governors to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, including a description of the basis for the determination.</p>	
<p>SEC. 1109. EMERGENCY FINANCIAL STABILIZATION.</p> <p>(a) In General- Upon the written determination of the Council that a liquidity event exists that could destabilize the financial system (which determination shall be made upon a vote of not less than two-thirds of the members of the Council then serving) and with the written consent of the Secretary of the Treasury (after certification by the President that an emergency exists), the Corporation may create a widely-available program designed to avoid or mitigate adverse effects on systemic economic conditions or financial stability by guaranteeing obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof), if necessary to prevent systemic financial instability during times of severe economic distress, except that a guarantee of obligations under this section may not include provision of equity in any form.</p>	<p>SEC. 1155. EMERGENCY FINANCIAL STABILIZATION.</p> <p>(a) In General- Upon the written determination of the Corporation and the Board of Governors under section 1154, the Corporation shall create a widely available program to guarantee obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof) during times of severe economic distress, except that a guarantee of obligations under this section may not include the provision of equity in any form.</p>	
<p>(b) Policies and Procedures- Prior to exercising any authority under this section, the Corporation shall establish policies and procedures governing the issuance of guarantees. The terms and conditions of any guarantees issued shall be established by the Corporation with the approval of the Secretary of the Treasury and the Financial Stability Oversight Council. Such terms and conditions may include the Corporation requiring collateral as a condition of any such guarantee.</p>	<p>(b) Rulemaking and Terms and Conditions-</p> <p>(1) POLICIES AND PROCEDURES- As soon as is practicable after the date of enactment of this Act, the Corporation shall establish, by regulation, and in consultation with the Secretary, policies and procedures governing the issuance of guarantees authorized by this section. Such policies and procedures may include a requirement of collateral</p>	

	<p>(2) <i>TERMS AND CONDITIONS- The terms and conditions of any guarantee program shall be established by the Corporation, with the concurrence of the Secretary.</i></p>	
<p>(c) Cap for Guaranteed Amount-</p> <p>(1) <i>IN GENERAL-</i> In connection with any program established pursuant to subsection (a) and subject to paragraph (2), the Corporation may not have guaranteed debt outstanding at any time of more than \$500,000,000,000 (as indexed to reflect growth in assets of insured depository institutions and depository institution holding companies as determined by the Corporation).</p> <p>(2) <i>ADDITIONAL DEBT GUARANTEE AUTHORITY-</i> If the Corporation, with the concurrence of the Council and the Secretary (in consultation with the President), determines that the Corporation must guarantee debt in excess of \$500,000,000,000 (as indexed pursuant to paragraph (1)) to prevent systemic financial instability, the Corporation may transmit to the Congress a request for authority to guarantee debt in excess of \$500,000,000,000 (as indexed pursuant to paragraph (1)). Such request shall be considered granted by Congress upon adoption of a joint resolution approving such request. Such joint resolution shall be considered in the Senate under expedited procedures.</p>	<p>(c) <i>Determination of Guaranteed Amount-</i></p> <p>(1) <i>IN GENERAL-</i> In connection with any program established pursuant to subsection (a) and subject to paragraph (2) of this subsection, the Secretary (in consultation with the President) shall determine the maximum amount of debt outstanding that the Corporation may guarantee under this section, and the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to that maximum amount and a request for approval of such plan. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.</p> <p>(2) <i>ADDITIONAL DEBT GUARANTEE AUTHORITY-</i> If the Secretary (in consultation with the President) determines, after a submission to Congress under paragraph (1), that the maximum guarantee amount should be raised, and the Council concurs with that determination, the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to the increased maximum debt guarantee amount. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.</p>	
	<p>(d) <i>Resolution of Approval-</i></p> <p>(1) <i>ADDITIONAL DEBT GUARANTEE AUTHORITY-</i> A request by the President under this section shall be considered granted by Congress upon adoption of a joint resolution approving such</p>	

(2) FAST TRACK CONSIDERATION IN SENATE-

(A) RECONVENING- Upon receipt of a request under subsection (c), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(B) PLACEMENT ON CALENDAR- Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(C) FLOOR CONSIDERATION-

(i) IN GENERAL- Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a request under subsection (c), and ending on the 7th day after that date (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed

(ii) DEBATE- Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(iii) VOTE ON PASSAGE- The vote on passage shall occur immediately following the conclusion of the debate on the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(iv) RULINGS OF THE CHAIR ON PROCEDURE- Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(3) RULES-

(A) COORDINATION WITH ACTION BY HOUSE OF REPRESENTATIVES- *If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives a joint resolution, from the House of Representatives, then the following procedures shall apply:*

(i) The joint resolution of the House of Representatives shall not be referred to a committee.

(ii) With respect to a joint

*(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the other House; but
(II) the vote on passage shall be on the joint resolution of the House of Representatives.*

(B) TREATMENT OF JOINT RESOLUTION OF HOUSE OF REPRESENTATIVES- If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House of Representatives shall be entitled to expedited floor procedures under this subsection.

(C) TREATMENT OF COMPANION MEASURES- If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) RULES OF THE SENATE- This subsection is enacted by Congress--

(i) as an exercise of the rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules, only to the extent that it is inconsistent with such rules; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(4) DEFINITION- As used in this subsection, the term 'joint resolution' means only a joint resolution--

	<p>(A) that is introduced not later than 3 calendar days after the date on which the request referred to in subsection (c) is received by Congress;</p> <p>(B) that does not have a preamble;</p> <p>(C) the title of which is as follows: `Joint resolution relating to the approval of a plan to guarantee obligations under section 1155 of the Restoring American Financial Stability Act of 2010'; and</p> <p>(D) the matter after the resolving clause of which is as follows: `That Congress approves the obligation of any amount described in section 1155(c) of the Restoring American Financial Stability Act of 2010.'.</p>	
<p>(d) Funding-</p> <p>(1) ADMINISTRATIVE EXPENSES AND COST OF GUARANTEES- A program established pursuant to this section shall require funding only for the purposes of paying administrative expenses and for paying a guarantee in the event that a guaranteed loan defaults.</p>		
<p>(2) FEES AND OTHER CHARGES- The Corporation shall charge fees or other charges to all participants in such program established pursuant to this section to offset projected losses and administrative expenses. To the extent that a program established pursuant to this section has expenses or losses, the program will be funded entirely through fees or other charges assessed on participants in such program.</p>	<p>(e) Funding-</p> <p>(1) FEES AND OTHER CHARGES- The Corporation shall charge fees and other assessments to all participants in the program established pursuant to this section, in such amounts as are necessary to offset projected losses and administrative expenses, including amounts borrowed pursuant to paragraph (3), and such amounts shall be available to the Corporation.</p>	
<p>(3) EXCESS FUNDS- If at the conclusion of such program there are any excess funds collected from the fees associated with such program, the funds will be deposited into the Systemic Dissolution Fund established pursuant to section 1609(n).</p>	<p>(2) EXCESS FUNDS- If, at the conclusion of the program established under this section, there are any excess funds collected from the fees associated with such program, the funds shall be deposited in the General Fund of the Treasury.</p>	
<p>(4) AUTHORITY OF CORPORATION- For purposes of conducting a program established pursuant to this section, the Corporation--</p> <p>(A) may borrow funds from the Secretary of the</p>	<p>(3) AUTHORITY OF CORPORATION- The Corporation--</p> <p>(A) may borrow funds from the Secretary of the Treasury and issue obligations of the</p>	

<p>Treasury, which shall be repaid in full with interest through fees and charges paid by participants in accordance with paragraph (2), and there shall be available to the Corporation amounts in the Treasury not otherwise appropriated, including for the payment of reasonable administrative expenses; (B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act; and (C) may not borrow funds from the Systemic Dissolution Fund established pursuant to section 1609(n).</p>	<p><i>(B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act.</i></p>	
<p>(5) BACK-UP SPECIAL ASSESSMENT- To the extent that the funds collected pursuant to paragraph (2) are insufficient to cover any losses or expenses (including monies borrowed pursuant to paragraph (4)) arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program.</p>	<p><i>(4) BACKUP SPECIAL ASSESSMENTS- To the extent that the funds collected pursuant to paragraph (1) are insufficient to cover any losses or expenses, including amounts borrowed pursuant to paragraph (3), arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program, in amounts necessary to address such insufficiency, and which shall be available to the Corporation to cover such losses or expenses.</i></p>	
	<p><i>(5) AUTHORITY OF THE SECRETARY- The Secretary may purchase any obligations issued under paragraph (3)(A). For such purpose, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter 31 are extended to include such purchases, and the amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(3)(B).</i></p>	
<p>(e) Plan for Maintenance or Increase of Lending- In connection with any application or request to participate in such program authorized pursuant to this section, a solvent entity seeking to participate in such program shall be required to submit to the Corporation a plan detailing how the use of such guaranteed funds will facilitate the increase or maintenance of such solvent company's level of lending to consumers or small businesses.</p>	<p><i>(f) Rule of Construction- For purposes of this section, a guarantee of deposits held by insured depository institutions shall not be treated as a debt guarantee program.</i></p>	

<p>(f) Sunset of Corporation's Authority- The Corporation's authority under subsections (a) and (d) and the authority to borrow funds from the Treasury under section 1609(o) shall expire on December 31, 2013.</p>		
<p>(g) Rule of Construction- For purposes of this section, a guarantee of deposits held by insured depository institutions shall not be treated as a debt guarantee program.</p>		
<p>(h) Definitions- For purposes of this section, the following definitions apply:</p> <p>(1) CORPORATION- The term `Corporation' means the Federal Deposit Insurance Corporation.</p> <p>(2) DEPOSITORY INSTITUTION HOLDING COMPANY- The term `depository institution holding company' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).</p> <p>(3) INSURED DEPOSITORY INSTITUTION- The term `insured depository institution' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).</p> <p>(4) SOLVENT- The term `solvent' means assets are more than the obligations to creditors.</p>	<p><i>(g) Definitions- For purposes of this section, the following definitions shall apply:</i></p> <p><i>(1) COMPANY- The term `company' means any entity other than a natural person that is incorporated or organized under Federal law or the laws of any State.</i></p> <p><i>(2) DEPOSITORY INSTITUTION HOLDING COMPANY- The term `depository institution holding company' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).</i></p> <p><i>(3) LIQUIDITY EVENT- The term `liquidity event' means--</i></p> <p><i>(A) an exceptional and broad reduction in the general ability of financial market participants--</i></p> <p><i>(i) to sell financial assets without an unusual and significant discount; or</i></p> <p><i>(ii) to borrow using financial assets as collateral without an unusual and significant increase in margin; or</i></p> <p><i>(B) an unusual and significant reduction in the ability of financial market participants to obtain unsecured credit.</i></p> <p><i>(4) SOLVENT- The term `solvent' means that the value of the assets of an entity exceed its obligations to creditors.</i></p>	
<p>SEC. 1110. ADDITIONAL RELATED AMENDMENTS.</p> <p>(a) Federal Deposit Insurance Act Related Amendments-</p> <p>(1) SUSPENSION OF PARALLEL FEDERAL DEPOSIT INSURANCE ACT AUTHORITY- Effective upon the date of the enactment of this section through December 31, 2013, the Corporation may not exercise its authority under section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) to establish any widely-</p>	<p>SEC. 1156. ADDITIONAL RELATED AMENDMENTS.</p> <p><i>(a) Suspension of Parallel Federal Deposit Insurance Act Authority- Effective upon the date of enactment of this section, the Corporation may not exercise its authority under section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) to establish any widely available debt guarantee program for which section 1155 would provide authority.</i></p>	

<p>available debt guarantee program for which section 1109 would provide authority.</p> <p>(2) FEDERAL DEPOSIT INSURANCE ACT AUTHORITY PRESERVED- Effective December 31, 2013, the Corporation shall have the same authority pursuant to section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act as the Corporation had prior to the date of enactment of this Act.</p>		
	<p><i>(b) Federal Deposit Insurance Act- Section 13(c)(4)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)) is amended--</i></p> <p><i>(1) in clause (i)--</i></p> <p><i>(A) in subclause (I), by inserting `for which the Corporation has been appointed receiver' before `would have serious'; and</i></p> <p><i>(B) in the undesignated matter following subclause (II), by inserting `for the purpose of winding up the insured depository institution for which the Corporation has been appointed receiver' after `provide assistance under this section'; and</i></p> <p><i>(2) in clause (v)(I), by striking `The' and inserting `Not later than 3 days after making a determination under clause (i), the'.</i></p>	
<p>(b) Effect of Default on an FDIC Guarantee- If an insured depository institution or depository institution holding company participating in a program under section 1109 or any participant in a debt guarantee program established pursuant to section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act defaults on any obligation guaranteed by the Corporation after the date of enactment of this Act, the Corporation may--</p> <p>(1) appoint itself as receiver for the insured depository institution that defaults;</p> <p>(2) with respect to any other participating company that is not an insured depository institution that defaults--</p> <p>(A) require consideration of whether a determination shall be made as provided in section 1603 to resolve the company under subtitle G; and</p> <p>(B) if the Corporation is not appointed receiver pursuant to subtitle G within 30 days of the date of default, require the company to file a petition for bankruptcy under section 301 of title 11,</p>	<p><i>(c) Effect of Default on an FDIC Guarantee- If an insured depository institution or depository institution holding company (as those terms are defined in section 3 of the Federal Deposit Insurance Act) participating in a program under section 1155, or any participant in a debt guarantee program established pursuant to section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act defaults on any obligation guaranteed by the Corporation after the date of enactment of this Act, the Corporation shall--</i></p> <p><i>(1) appoint itself as receiver for the insured depository institution that defaults; and</i></p> <p><i>(2) with respect to any other participating company that is not an insured depository institution that defaults--</i></p> <p><i>(A) require--</i></p> <p><i>(i) consideration of whether a determination shall be made, as provided in section 202 to resolve the company under section 203;</i></p>	

<p>United States Code, or file a petition for bankruptcy against the company under section 303 of title 11, United States Code.</p>	<p><i>(ii) the company to file a petition for bankruptcy under section 301 of title 11, United States Code, if the Corporation is not appointed receiver pursuant to section 203 within 30 days of the date of default; or</i> <i>(B) file a petition for involuntary bankruptcy on behalf of the company under section 303 of title 11, United States Code.</i></p>	
<p>(c) Authority to File Involuntary Petition for Bankruptcy- Section 303 of title 11, United States Code, is amended by adding at the end the following: `m) Notwithstanding subsections (a) and (b), an involuntary case may be commenced by the Federal Deposit Insurance Corporation against a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or other company participating in a guarantee program established by the Corporation on the ground that the company has defaulted on a debt or obligation guaranteed by the Corporation.' (d) Bankruptcy Priority for Defaults on Debt Guaranteed Pursuant to Section 1109- Section 507(a)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: `and allowed unsecured claims based upon any debt to the Federal Deposit Insurance Corporation that arose prior to the commencement of the case under this title, as a result of the debtor's default on a guarantee provided by the Corporation pursuant to section 1109 of the Financial Stability Improvement Act of 2009 or the Federal Deposit Insurance Act, under a program established by the Corporation after the date of enactment of the Financial Stability Improvement Act of 2009'.</p>		
<p>SEC. 1111. CORPORATION MAY RECEIVE WARRANTS WHEN PAYING OR RISKING TAXPAYER FUNDS.</p> <p>(a) In General- In connection with any payment, credit extension, or guarantee or any commitment under section 1109 or 1604, the Corporation may obtain from the insured depository institution, depository institution holding company (including any affiliates thereof), or covered financial company, as the case may be-- (1) in the case of an insured depository institution, depository institution holding company (including any affiliates thereof), or covered financial company, the</p>		

securities of which are traded on a national securities exchange, a warrant giving the right to the Corporation to receive nonvoting common stock or preferred stock in such financial institution, or voting stock with respect to which, the Corporation agrees not to exercise voting power, as the Corporation determines appropriate; or (2) in the case of any insured depository institution, depository institution holding company (including any affiliates thereof), or covered financial company other than one described in paragraph (1), a warrant for common or preferred stock, or a senior debt instrument from such financial institution, as described in subsection (b)(3).

(b) Terms and Conditions- The terms and conditions of any warrant or senior debt instrument required under subsection (a) shall meet the following requirements:

(1) PURPOSES- Such terms and conditions shall, at a minimum, be designed--

- (A) to provide for reasonable participation by the Corporation, for the benefit of taxpayers, in equity appreciation in the case of a warrant or other equity security, or a reasonable interest rate premium, in the case of a debt instrument; and
- (B) to provide additional protection for the taxpayer against losses from such payment, extension of credit, or guarantee by the Corporation under this title.

(2) AUTHORITY TO SELL, EXERCISE, OR SURRENDER- The Corporation may sell, exercise, or surrender a warrant or any senior debt instrument received under this subsection, based on the conditions established under paragraph (1).

(3) CONVERSION- The warrant shall provide that if, after the warrant is received by the Corporation under this subsection, the financial company that issued the warrant is no longer listed or traded on a national securities exchange or securities association, as described in subsection (a)(1), such warrants shall convert to senior debt, or contain appropriate protections for the Corporation to ensure that the Corporation is appropriately compensated for the value of the warrant, in an amount determined by the Corporation.

(4) PROTECTIONS- Any warrant representing securities to be received by the Corporation under this subsection shall contain anti-dilution provisions of the type employed

<p>in capital market transactions, as determined by the Corporation. Such provisions shall protect the value of the securities from market transactions such as stock splits, stock distributions, dividends, and other distributions, mergers, and other forms of reorganization or recapitalization.</p> <p>(5) EXERCISE PRICE- The exercise price for any warrant issued pursuant to this subsection shall be set by the Corporation, in the interest of the taxpayers.</p> <p>(6) SUFFICIENCY- The financial company shall guarantee to the Corporation that it has authorized shares of nonvoting stock available to fulfill its obligations under this subsection. Should the financial company not have sufficient authorized shares, including preferred shares that may carry dividend rights equal to a multiple number of common shares, the Corporation may, to the extent necessary, accept a senior debt note in an amount, and on such terms as will compensate the Corporation with equivalent value, in the event that a sufficient shareholder vote to authorize the necessary additional shares cannot be obtained.</p> <p>(c) Exceptions-</p> <p>(1) The Corporation shall establish an exception to the requirements of this section and appropriate alternative requirements for any participating financial company that is legally prohibited from issuing securities and debt instruments, so as not to allow circumvention of the requirements of this section.</p> <p>(2) If the Corporation is providing a payment, extension of credit, or guarantee with regard to its authority under section 1604 and the Corporation determines that it is certain that at the conclusion of the Resolution Process the shareholders of all classes shall lose their entire investment and receive nothing therefor, then the requirements of this section shall not apply.</p>		
<p>SEC. 1112. EXAMINATIONS AND ENFORCEMENT ACTIONS FOR INSURANCE AND RESOLUTIONS PURPOSES.</p> <p>(a) Examinations for Insurance and Resolutions Purposes- Section 10(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(3)) is amended by striking `whenever the Board of Directors determines' and all that follows through the period and inserting `or financial holding company subject to stricter standards</p>		

<p>(as defined in section 1000(b)(5) of the Financial Stability Improvement Act of 2009) whenever the Board of Directors determines a special examination of any such depository institution is necessary to determine the condition of such depository institution for insurance or such financial holding company subject to stricter standards for resolution purposes.'</p> <p>(b) Enforcement Authority- Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended--</p> <p>(1) in paragraph (2)--</p> <p>(A) at the end of subparagraph (B), by striking `or';</p> <p>(B) at the end of subparagraph (C), by striking the period and inserting `; or'; and</p> <p>(C) by inserting at the end the following new subparagraph:</p> <p>`(D) the conduct or threatened conduct (including any acts or omissions) of the depository institution holding company poses a risk to the Deposit Insurance Fund.'; and</p> <p>(2) by adding at the end the following new paragraph:</p> <p>`(6) For purposes of this subsection:</p> <p>`(A) The Corporation shall have the same powers with respect to a depository institution holding company and its affiliates as the appropriate Federal banking agency has with respect to the holding company and its affiliates; and</p> <p>`(B) the holding company and its affiliates shall have the same duties and obligations with respect to the Corporation as the holding company and its affiliates have with respect to the appropriate Federal banking agency.'</p>		
<p>SEC. 1113. STUDY OF THE EFFECTS OF SIZE AND COMPLEXITY OF FINANCIAL INSTITUTIONS ON CAPITAL MARKET EFFICIENCY AND ECONOMIC GROWTH.</p> <p>(a) Study Required- The Chairman of the Council shall carry out a study of the economic impact of possible financial services regulatory limitations intended to reduce systemic risk. Such study shall estimate the effect on the efficiency of capital markets, costs imposed on the financial sector, and on national economic growth, of--</p> <p>(1) explicit or implicit limits on the maximum size of banks, bank holding companies, and other large financial</p>		

<p>institutions;</p> <p>(2) limits on the organizational complexity and diversification of large financial institutions;</p> <p>(3) requirements for operational separation between business units of large financial institutions in order to expedite resolution in case of failure;</p> <p>(4) limits on risk transfer between business units of large financial institutions;</p> <p>(5) requirements to carry contingent capital or similar mechanisms;</p> <p>(6) limits on commingling of commercial and financial activities by large financial institutions;</p> <p>(7) segregation requirements between traditional financial activities and trading or other high-risk operations in large financial institutions; and</p> <p>(8) other limitations on the activities or structure of large financial institutions that may be useful to limit systemic risk.</p> <p>The study shall include recommendations for the optimal structure of any limits considered in paragraphs (1) through (5) in order to maximize their effectiveness and minimize their economic impact.</p> <p>(b) Report- Not later than the end of the 180-day period beginning on the date of the enactment of this title, the Chairman shall issue a report to the Congress containing any findings and determinations made in carrying out the study required under subsection (a).</p>		
<p>SEC. 1114. EXERCISE OF FEDERAL RESERVE AUTHORITY.</p> <p>(a) No Decisions by Federal Reserve Bank Presidents- No provision of this title relating to the authority of the Board shall be construed as conferring any decision-making authority on presidents of Federal reserve banks.</p> <p>(b) Voting Decisions by Board- The Board of Governors of the Federal Reserve System shall not delegate the authority to make any voting decision that the Board is authorized or required to make under this title in contravention of section 11(k) of the Federal Reserve Act.</p>		
<p>SEC. 1115. STRESS TESTS.</p> <p>(a) A financial holding company subject to stricter standards shall--</p> <p>(1) conduct quarterly stress tests; and</p> <p>(2) submit a report on its quarterly stress test to the head of</p>		

<p>the primary financial regulatory agency and to the Board at such time, in such form, and containing such information as the head of the primary financial regulatory agency may require.</p> <p>(b) A financial company that has more than \$10,000,000,000 in total assets and is not a financial holding company subject to stricter standards shall--</p> <ol style="list-style-type: none"> (1) conduct semiannual stress tests; and (2) submit a report on its semiannual stress test to the head of the primary financial regulatory agency and to the Board at such time, in such form, and containing such information as the head of the primary financial regulatory agency may require. <p>(c) A stress test under this section shall provide for testing under each of the following sets of conditions:</p> <ol style="list-style-type: none"> (1) Baseline. (2) Adverse. (3) Severely adverse. <p>(d) The head of each primary financial regulatory agency, in coordination with the Board, shall issue regulations to define the term 'stress test' for purposes of this section.</p>		
<p>SEC. 1116. CONTINGENT CAPITAL.</p> <p>(a) In General- The Board, in coordination with the appropriate primary financial regulatory agency, may, after notice and opportunity for comment, promulgate regulations that require a financial holding company subject to stricter standards to maintain a minimum amount of long-term hybrid debt that is convertible to equity when--</p> <ol style="list-style-type: none"> (1) the Board determines that a specified financial company fails to meet prudential standards established by the Board; or (2) the Board has determined that threats to United States financial system stability make such a conversion necessary. <p>(b) Factors to Consider- In establishing regulations under this section, the Board shall consider--</p> <ol style="list-style-type: none"> (1) an appropriate transition period for implementation of a conversion under this section; (2) capital requirements applicable to the specified financial company and its subsidiaries; and (3) any other factor that the Board deems appropriate. 	<p>SEC. 165</p> <p><i>(c) Contingent Capital-</i></p> <p><i>(1) IN GENERAL- Subsequent to submission by the Council of a report to Congress under section 115(c), the Board of Governors may promulgate regulations that require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.</i></p> <p><i>(2) FACTORS TO CONSIDER- In establishing regulations under this subsection, the Board of Governors shall consider--</i></p> <ol style="list-style-type: none"> <i>(A) the results of the study undertaken by the Council, and any recommendations of the Council, under section 115(c);</i> <i>(B) an appropriate transition period for implementation of a conversion under this subsection;</i> <i>(C) the factors described in subsection</i> 	

	<p>(D) capital requirements applicable to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; and</p> <p>(E) any other factor that the Board of Governors deems appropriate.</p>	
<p>(c) Study Required- The Chairman of the Council shall carry out a study to determine an optimal implementation of contingent capital requirements to maximize financial stability, minimize the probability of drawing on the Systemic Resolution Fund established under section 1609(n) in a financial crisis, and minimize costs for financial holding companies subject to stricter standards. To the extent practicable, the study shall take place with input from industry participants and international financial regulators. Such study shall include--</p> <ol style="list-style-type: none"> (1) an evaluation of the characteristics and amounts of convertible debt that should be required, including possible tranche structure; (2) an analysis of possible trigger mechanisms for debt conversion, including violation of regulatory capital requirements, failure of stress tests, declaration of systemic emergency by regulators, market-based triggers and other trigger mechanisms; (3) an estimate of the costs of carrying contingent capital; (4) an estimate of the effectiveness of contingent capital requirements in reducing losses to the systemic resolution fund in cases of single-firm or systemic failure; and (5) recommendations for implementing legislation. <p>(d) Report- Not later than the end of the 180-day period beginning on the date of the enactment of this title, the Chairman of Council shall issue a report to the Congress containing any findings and determinations made in carrying out the study required under subsection (c).</p>	<p>SEC. 115.</p> <p>(c) <i>Contingent Capital-</i></p> <p>(1) <i>STUDY REQUIRED-</i> The Council shall conduct a study of the feasibility, benefits, costs, and structure of a contingent capital requirement for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), which study shall include--</p> <ol style="list-style-type: none"> (A) an evaluation of the degree to which such requirement would enhance the safety and soundness of companies subject to the requirement, promote the financial stability of the United States, and reduce risks to United States taxpayers; (B) an evaluation of the characteristics and amounts of convertible debt that should be required; (C) an analysis of potential prudential standards that should be used to determine whether the contingent capital of a company would be converted to equity in times of financial stress; (D) an evaluation of the costs to companies, the effects on the structure and operation of credit and other financial markets, and other economic effects of requiring contingent capital; (E) an evaluation of the effects of such requirement on the international competitiveness of companies subject to the requirement and the prospects for international coordination in establishing 	

	<p>(F) recommendations for implementing regulations.</p> <p>(2) <i>REPORT</i>- The Council shall submit a report to Congress regarding the study required by paragraph (1) not later than 2 years after the date of enactment of this Act.</p> <p>(3) <i>RECOMMENDATIONS</i>-</p> <p>(A) <i>IN GENERAL</i>- Subsequent to submitting a report to Congress under paragraph (2), the Council may make recommendations to the Board of Governors to require any nonbank financial company supervised by the Board of Governors and any bank holding company described in subsection (a) to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.</p> <p>(B) <i>FACTORS TO CONSIDER</i>- In making recommendations under this subsection, the Council shall consider--</p> <ul style="list-style-type: none"> (i) an appropriate transition period for implementation of a conversion under this subsection; (ii) the factors described in subsection (b)(3); (iii) capital requirements applicable to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; (iv) results of the study required by paragraph (1); and (v) any other factor that the Council deems appropriate. 	
<p>SEC. 1117. RESTRICTION ON PROPRIETARY TRADING BY DESIGNATED FINANCIAL HOLDING COMPANIES.</p> <p>(a) In General- If the Board determines that propriety trading by a financial holding company subject to stricter standards poses an existing or foreseeable threat to the safety and soundness of such</p>	<p>SEC. 619. RESTRICTIONS ON CAPITAL MARKET ACTIVITY BY BANKS AND BANK HOLDING COMPANIES.</p> <p>(b) <i>Prohibition on Proprietary Trading</i>-</p>	

company or to the financial stability of the United States, the Board may prohibit such company from engaging in propriety trading.

(1) IN GENERAL- Subject to the recommendations and modifications of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS-

(A) IN GENERAL- The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in--

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS- The appropriate Federal banking agencies may impose conditions on the conduct of investments described in

	<p style="text-align: center;"><i>(C) RULE OF CONSTRUCTION- Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.</i></p> <p><i>(3) FOREIGN ACTIVITIES- An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.</i></p>	
	<p><i>(c) Prohibition on Sponsoring and Investing in Hedge Funds and Private Equity Funds-</i></p> <p><i>(1) IN GENERAL- Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.</i></p> <p><i>(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS- An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the</i></p>	

	<i>United States or of a State.</i>	
<p>(b) Exceptions Permitted- The Board may exempt from the prohibition of subsection (a) proprietary trading that the Board determines to be ancillary to other operations of such company and not to pose a threat to the safety and soundness of such company or to the financial stability of the United States, including--</p> <ul style="list-style-type: none"> (1) making a market in securities issued by such company; (2) hedging or managing risk; (3) determining the market value of assets of such company; and (4) propriety trading for such other purposes allowed by the Board by rule. 	<p><i>(g) Council Study and Rulemaking-</i></p> <p><i>(1) STUDY AND RECOMMENDATIONS- Not later than 6 months after the date of enactment of this Act, the Council--</i></p> <p><i>(A) shall complete a study of the definitions under subsection (a) and the other provisions under subsections (b) through (f), to assess the extent to which the definitions under subsection (a) and the implementation of subsections (a) through (f) would--</i></p> <ul style="list-style-type: none"> <i>(i) promote and enhance the safety and soundness of depository institutions and the affiliates of depository institutions;</i> <i>(ii) protect taxpayers and enhance financial stability by minimizing the risk that depository institutions and the affiliates of depository institutions will engage in unsafe and unsound activities;</i> <i>(iii) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;</i> <i>(iv) reduce inappropriate conflicts of interest between the self-interest of depository institutions, affiliates of depository institutions, and financial companies supervised by the Board, and the interests of the customers of such institutions and</i> 	

(v) raise the cost of credit or other financial services, reduce the availability of credit or other financial services, or impose other costs on households and businesses in the United States;

(vi) limit activities that have caused undue risk or loss in depository institutions, affiliates of depository institutions, and financial companies supervised by the Board of Governors, or that might reasonably be expected to create undue risk or loss in such institutions, affiliates, and companies; and

(vii) appropriately accommodates the business of insurance within an insurance company subject to regulation in accordance with State insurance company investment laws;

(B) shall make recommendations regarding the definitions under subsection (a) and the implementation of other provisions under subsections (b) through (f), including any modifications to the definitions, prohibitions, requirements, and limitations contained therein that the Council determines would more effectively implement the purposes of this section; and

(C) may make recommendations for prohibiting the conduct of the activities described in subsections (b) and (c) above a specific threshold amount and imposing additional capital requirements on activities conducted below such threshold amount.

	<p><i>(2) RULEMAKING- Not earlier than the date of completion of the study required under paragraph (1), and not later than 9 months after the date of completion of such study--</i></p> <p><i>(A) the appropriate Federal banking agencies shall jointly issue final regulations implementing subsections (b) through (e), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B); and</i></p> <p><i>(B) the Board of Governors shall issue final regulations implementing subsection (f), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B).</i></p>	
<p>(c) Rulemaking Authority- The primary financial regulatory agencies of banks and bank holding companies shall jointly issue regulations to carry out this section.</p>		
<p>(d) Effective Date- The provisions of this section shall take effect after the end of the 180-day period beginning on the date of the enactment of this title.</p>		
	<p><i>(h) Transition-</i></p> <p><i>(1) IN GENERAL- The final regulations issued by the appropriate Federal banking agencies and the Board of Governors under subsection (g)(2) shall provide that, effective 2 years after the date on which such final regulations are issued, no insured depository institution, company that controls, directly or indirectly, an insured depository institution, company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or subsidiary of such institution or company, may retain any investment or relationship prohibited under such regulations.</i></p> <p><i>(2) EXTENSION-</i></p> <p><i>(A) IN GENERAL- The appropriate Federal</i></p>	

	<p><i>(B) TIME PERIOD FOR EXTENSION- An extension granted under subparagraph (A) may not exceed--</i></p> <p><i>(i) 1 year for each determination made by the appropriate Federal banking agency under subparagraph (A); and</i></p> <p><i>(ii) a total of 3 years with respect to any 1 company.</i></p>	
<p><i>(e) Proprietary Trading Defined- For purposes of this section and with respect to a company, the term `proprietary trading' means the trading of stocks, bonds, options, commodities, derivatives, or other financial instruments with the company's own money and for the company's own account.</i></p>	<p><i>(a) Definitions- In this section--</i></p> <p><i>(1) the terms `hedge fund' and `private equity fund' mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(1) or 80a-3(c)(7)), or a similar fund, as jointly determined by the appropriate Federal banking agencies;</i></p> <p><i>(2) the term `proprietary trading'--</i></p> <p><i>(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank</i></p>	

	<p><i>(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and</i></p> <p><i>(3) the term `sponsoring', when used with respect to a hedge fund or private equity fund, means--</i></p> <p><i>(A) serving as a general partner, managing member, or trustee of the fund;</i></p> <p><i>(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or</i></p> <p><i>(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.</i></p>	
	<p><i>(d) Investments in Small Business Investment Companies and Investments Designed To Promote the Public Welfare-</i></p> <p><i>(1) IN GENERAL- A prohibition imposed by the appropriate Federal banking agencies under</i></p>	

(A) an investment in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(B) designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(2) RULE OF CONSTRUCTION- Nothing in paragraph (1) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(e) Limitations on Relationships With Hedge Funds and Private Equity Funds-

(1) COVERED TRANSACTIONS- An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may not enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with such hedge fund or private equity fund.

(2) AFFILIATION- An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of

(f) Capital and Quantitative Limitations for Certain Nonbank Financial Companies-

(1) IN GENERAL- Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the Board of Governors shall adopt rules imposing additional capital requirements and specifying additional quantitative limits for nonbank financial companies supervised by the Board of Governors under section 113 that engage in proprietary trading or sponsoring and investing in hedge funds and private equity funds.

(2) EXCEPTIONS- The rules under this subsection shall not apply with respect to the trading of an investment that is otherwise authorized by Federal law--

(A) in obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(B) in obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities;

(C) in obligations of any State or any political subdivision of a State;

(D) in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15

	<p><i>(E) that is designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).</i></p>	
<p>SEC. 1118. RULE OF CONSTRUCTION.</p> <p>(a) Construction- The authorities granted to agencies under this subtitle are in addition to any rulemaking, report-related, examination, enforcement, or other authority that such agencies may have under other law and in no way shall be construed to limit such other authority, except that any standards imposed for financial stability purposes under this subtitle shall supersede any conflicting less stringent requirements of the primary financial regulatory agency but only the extent of the conflict.</p> <p>(b) Agent Responsibilities- For purposes of this subtitle, the term `agent' means the Board acting under section 1103(c) and coordinating with the Council in exercising authority under sections 1104 and 1107.</p>		
<p>SEC. 1119. ANTITRUST SAVINGS CLAUSE.</p> <p>Nothing in this subtitle shall be construed to modify, impair, or supercede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term `antitrust laws' has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.</p>		
	<p><i>Sec. 112</i></p> <p><i>(b)</i></p> <p><i>(4) BACK-UP EXAMINATION BY THE BOARD OF GOVERNORS- If the Council is unable to determine whether the financial activities of a nonbank financial company pose a threat to the financial stability of the United States, based on information or reports obtained under paragraph (3), discussions with management, and publicly available information, the Council may request the Board of</i></p>	

SEC. 113

(c) Anti-evasion-

(1) DETERMINATIONS- In order to avoid evasion of this Act, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than 2/3 of the members then serving, including an affirmative vote by the Chairperson, that--

(A) material financial distress related to financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States based on consideration of the factors in subsection (b)(2);

(B) the company is organized or operates in such a manner as to evade the application of this title;

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title consistent with paragraph (2); and

(D) upon making a determination under subsection (c)(1), the Council shall submit a report to the appropriate committees of Congress detailing the reasons for making such determination under this subsection.

(2) Consolidated supervision of only financial activities; Establishment of an intermediate holding company.

(A) ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY- Upon a determination under paragraph (1), the company may establish an intermediate holding company in which the financial activities of such company and its subsidiaries will be conducted (other than the activities described in section 167(b)(2) in compliance with any regulations or guidance provided by the Board of Governors). Such intermediate holding company shall be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(B) ACTION OF THE BOARD OF GOVERNORS- To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company is a nonbank financial company supervised by the Board of Governors.

(4) COVERED FINANCIAL ACTIVITIES- For purposes of this subsection, the term 'financial activities' means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) and include the ownership or control of one or more insured depository institutions and shall not include internal financial activities conducted for the company or any affiliates thereof including internal treasury, investment, and employee benefit functions.

(5) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION- Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of

	<p><i>this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).</i></p>	
	<p>SEC. 114. REGISTRATION OF NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.</p> <p><i>Not later than 180 days after the date of a final Council determination under section 113 that a nonbank financial company is to be supervised by the Board of Governors, such company shall register with the Board of Governors, on forms prescribed by the Board of Governors, which shall include such information as the Board of Governors, in consultation with the Council, may deem necessary or appropriate to carry out this title.</i></p>	
	<p>SEC. 115.</p> <p>(a)</p> <p>(2) LIMITATION ON BANK HOLDING COMPANIES- <i>Any standards recommended under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than \$50,000,000,000. The Council may recommend an asset threshold greater than \$50,000,000,000 for the applicability of any particular standard under those subsections.</i></p>	
	<p><i>(f) Enhanced Public Disclosures- The Council may make recommendations to the Board of Governors to require periodic public disclosures by bank holding companies described in subsection (a) and by nonbank financial companies supervised by the Board of Governors, in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.</i></p>	
	<p>SEC. 165</p> <p><i>(f) Enhanced Public Disclosures- The Board of Governors may prescribe, by regulation, periodic public disclosures by</i></p>	

	<p>SEC. 116. REPORTS.</p> <p><i>(a) In General- Subject to subsection (b), the Council, acting through the Office of Financial Research, may require a bank holding company with total consolidated assets of \$50,000,000,000 or greater or a nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit certified reports to keep the Council informed as to--</i></p> <ul style="list-style-type: none"> <i>(1) the financial condition of the company;</i> <i>(2) systems for monitoring and controlling financial, operating, and other risks;</i> <i>(3) transactions with any subsidiary that is a depository institution; and</i> <i>(4) the extent to which the activities and operations of the company and any subsidiary thereof, could, under adverse circumstances, have the potential to disrupt financial markets or affect the overall financial stability of the United States.</i> <p><i>(b) Use of Existing Reports-</i></p> <ul style="list-style-type: none"> <i>(1) IN GENERAL- For purposes of compliance with subsection (a), the Council, acting through the Office of Financial Research, shall, to the fullest extent possible, use--</i> <ul style="list-style-type: none"> <i>(A) reports that a bank holding company, nonbank financial company supervised by the Board of Governors, or any functionally regulated subsidiary of such company has been required to provide to other Federal or State regulatory agencies;</i> <i>(B) information that is otherwise required to be reported publicly; and</i> <i>(C) externally audited financial statements.</i> <i>(2) AVAILABILITY- Each bank holding company described in subsection (a) and nonbank financial company supervised by the Board of Governors, and</i> 	

	<p>(3) <i>CONFIDENTIALITY- The Council shall maintain the confidentiality of the reports obtained under subsection (a) and paragraph (1)(A) of this subsection.</i></p>	
	<p>SEC. 164. PROHIBITION AGAINST MANAGEMENT INTERLOCKS BETWEEN CERTAIN FINANCIAL COMPANIES.</p> <p><i>A nonbank financial company supervised by the Board of Governors shall be treated as a bank holding company for purposes of the Depository Institutions Management Interlocks Act (12 U.S.C. 3201 et seq.), except that the Board of Governors shall not exercise the authority provided in section 7 of that Act (12 U.S.C. 3207) to permit service by a management official of a nonbank financial company supervised by the Board of Governors as a management official of any bank holding company with total consolidated assets equal to or greater than \$50,000,000,000, or other nonaffiliated nonbank financial company supervised by the Board of Governors (other than to provide a temporary exemption for interlocks resulting from a merger, acquisition, or consolidation).</i></p>	
	<p>Sec. 112</p> <p>(b)</p> <p>(4) BACK-UP EXAMINATION BY THE BOARD OF GOVERNORS- <i>If the Council is unable to determine whether the financial activities of a nonbank financial company pose a threat to the financial stability of the United States, based on information or reports obtained under paragraph (3), discussions with management, and publicly available information, the Council may request the Board of Governors, and the Board of Governors is authorized, to conduct an examination of the nonbank financial company for the sole purpose of determining whether the nonbank financial company should be supervised by the Board of Governors for purposes of this title.</i></p>	

SEC. 117. TREATMENT OF CERTAIN COMPANIES THAT CEASE TO BE BANK HOLDING COMPANIES.

(a) Applicability- This section shall apply to any entity or a successor entity that--

(1) was a bank holding company having total consolidated assets equal to or greater than \$50,000,000,000 as of January 1, 2010; and

(2) received financial assistance under or participated in the Capital Purchase Program established under the Troubled Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008.

(b) Treatment- If an entity described in subsection (a) ceases to be a bank holding company at any time after January 1, 2010, then 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.

(c) Appeal-

(1) REQUEST FOR HEARING- An entity may request, in writing, an opportunity for a written or oral hearing before the Council to appeal its treatment as a nonbank financial company supervised by the Board of Governors in accordance with this section. Upon receipt of the request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such entity may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(2) DECISION-

(A) PROPOSED DECISION- Not later than 60 days after the date of a hearing under paragraph (1), the Council shall submit a report to, and may testify before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the proposed decision of the Council regarding an appeal under paragraph (1), which report shall include a

	<p><i>(B) NOTICE OF FINAL DECISION- The Council shall notify the subject entity of the final decision of the Council regarding an appeal under paragraph (1), which notice shall contain a statement of the basis for the final decision of the Council, not later than 60 days after the later of--</i></p> <p><i>(i) the date of the submission of the report under subparagraph (A); or</i></p> <p><i>(ii) if the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives holds one or more hearings regarding such report, the date of the last such hearing.</i></p> <p><i>(C) CONSIDERATIONS- In making a decision regarding an appeal under paragraph (1), the Council shall consider whether the company meets the standards under section 113(a) or 113(b), as applicable, and the definition of the term 'nonbank financial company' under section 102. The decision of the Council shall be final, subject to the review under paragraph (3).</i></p> <p><i>(3) REVIEW- If the Council denies an appeal under this subsection, the Council shall, not less frequently than annually, review and reevaluate the decision.</i></p>	
	<p>SEC. 162. ENFORCEMENT.</p> <p><i>(a) In General- Except as provided in subsection (b), a nonbank financial company supervised by the Board of Governors and any subsidiaries of such company (other than any depository institution subsidiary) shall be subject to the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the same manner and to the same extent as if the company were a bank holding company, as provided in section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)).</i></p> <p><i>(b) Enforcement Authority for Functionally Regulated</i></p>	

(1) REFERRAL- If the Board of Governors determines that a condition, practice, or activity of a depository institution subsidiary or functionally regulated subsidiary of a nonbank financial company supervised by the Board of Governors does not comply with the regulations or orders prescribed by the Board of Governors under this Act, or otherwise poses a threat to the financial stability of the United States, the Board of Governors may recommend, in writing, to the primary financial regulatory agency for the subsidiary that such agency initiate a supervisory action or enforcement proceeding. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(2) BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS- If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation under paragraph (1), the primary financial regulatory agency does not take supervisory or enforcement action against a subsidiary that is acceptable to the Board of Governors, the Board of Governors (upon a vote of its members) may take the recommended supervisory or enforcement action, as if the subsidiary were a bank holding company subject to supervision by the Board of Governors.

SEC. 165

(g) Risk Committee-
(1) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS- The Board of Governors shall require each nonbank financial company supervised by the Board of Governors that is a publicly traded company to establish a risk committee, as set forth in paragraph (3), not later than 1 year after the date of receipt of a notice of final determination under section 113(d)(3) with respect to such nonbank financial company supervised by the Board of Governors.
(2) CERTAIN BANK HOLDING COMPANIES-
(A) MANDATORY REGULATIONS- The Board of Governors shall issue regulations

	<p><i>(B) PERMISSIVE REGULATIONS- The Board of Governors may require each bank holding company that is a publicly traded company and that has total consolidated assets of less than \$10,000,000,000 to establish a risk committee, as set forth in paragraph (3), as determined necessary or appropriate by the Board of Governors to promote sound risk management practices.</i></p> <p><i>(3) RISK COMMITTEE- A risk committee required by this subsection shall--</i></p> <p><i>(A) be responsible for the oversight of the enterprise-wide risk management practices of the nonbank financial company supervised by the Board of Governors or bank holding company described in subsection (a), as applicable;</i></p> <p><i>(B) include such number of independent directors as the Board of Governors may determine appropriate, based on the nature of operations, size of assets, and other appropriate criteria related to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), as applicable; and</i></p> <p><i>(C) include at least 1 risk management expert having experience in identifying, assessing, and managing risk exposures of large, complex firms.</i></p> <p><i>(4) RULEMAKING- The Board of Governors shall issue final rules to carry out this subsection, not later than 1 year after the transfer date, to take effect not later than 15 months after the transfer date.</i></p>	
	<p>SEC. 167. AFFILIATIONS.</p> <p><i>(a) Affiliations- Nothing in this subtitle shall be construed to require a nonbank financial company supervised by the Board</i></p>	

(b) Requirement-

(1) IN GENERAL- If a nonbank financial company supervised by the Board of Governors conducts activities other than those that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, the Board of Governors may require such company to establish and conduct such activities that are determined to be financial in nature or incidental thereto in an intermediate holding company established pursuant to regulation of the Board of Governors, not later than 90 days after the date on which the nonbank financial company supervised by the Board of Governors was notified of the determination under section 113(a).

(2) INTERNAL FINANCIAL ACTIVITIES- For purposes of this subsection, activities that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, as described in paragraph (1), shall not include internal financial activities conducted for a nonbank financial company supervised by the Board of Governors or any affiliate, including internal treasury, investment, and employee benefit functions. With respect to any internal financial activity of such company during the year prior to the date of enactment of this Act, such company may continue to engage in such activity as long as at least 2/3 of the assets or 2/3 of the revenues generated from the activity are from or attributable to such company, subject to review by the Board of Governors, to determine whether engaging in such activity presents undue risk to such company or to the financial stability of the United States.

(c) Regulations- The Board of Governors--

(1) shall promulgate regulations to establish the criteria for determining whether to require a nonbank financial company supervised by the Board of Governors to establish an intermediate holding

	<p><i>(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a nonbank financial company supervised by the Board of Governors and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between such company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of such company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.</i></p>	
	<p>SEC. 168. REGULATIONS.</p> <p><i>Except as otherwise specified in this subtitle, not later than 18 months after the transfer date, the Board of Governors shall issue final regulations to implement this subtitle and the amendments made by this subtitle.</i></p>	