

[118H4116RH]

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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Deposit Insurance Act to require reports on the use of the systemic risk authority applicable to winding up a failed insured depository institution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Deposit Insurance Act to require reports on the use of the systemic risk authority applicable to winding up a failed insured depository institution, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Systemic Risk Author-
5 ity Transparency Act”.

1 **SEC. 2. BANK FAILURE TRANSPARENCY RELATED TO SYS-**
2 **TEMIC RISK EXCEPTION.**

3 (a) GAO REVIEW.—Section 13(c)(4)(G)(iv) of the
4 Federal Deposit Insurance Act (12 U.S.C.
5 1823(c)(4)(G)(iv)) is amended to read as follows:

6 “(iv) GAO REVIEW.—

7 “(I) IN GENERAL.—The Comp-
8 troller General of the United States
9 shall, not later than later than 60
10 days after a determination is made
11 under clause (i), and again 180 days
12 thereafter, review and report to the
13 Congress on the determination under
14 clause (i), including—

15 “(aa) the basis for the deter-
16 mination;

17 “(bb) the purpose for which
18 any action was taken pursuant to
19 such clause;

20 “(cc) the likely effect of the
21 determination and such action on
22 the incentives and conduct of in-
23 sured depository institutions and
24 uninsured depositors;

25 “(dd) any mismanagement
26 by the executives and board of

1 the insured depository institution
2 that contributed to the failure of
3 the insured depository institu-
4 tion;

5 “(ee) a review of the com-
6 pensation practices of the insured
7 depository institution;

8 “(ff) any supervisory or reg-
9 ulatory shortcomings with respect
10 to the appropriate Federal bank-
11 ing agency of the insured deposi-
12 tory institution;

13 “(gg) any actions taken by
14 the Federal banking regulators,
15 Financial Stability Oversight
16 Council, Treasury Department,
17 and other relevant financial regu-
18 lators in relation to the failure of
19 the insured depository institu-
20 tion; and

21 “(hh) any additional rel-
22 evant entities or activities that
23 may have contributed to the fail-
24 ure of the insured depository in-
25 stitution, including with respect

1 to auditing, accounting, credit
2 rating agencies, investment bank
3 underwriters, and emergency li-
4 quidity options such as loans
5 from the Federal reserve banks
6 or advances through the Federal
7 Home Loan Bank system.

8 “(II) RULE OF CONSTRU-
9 TION.—Nothing in this clause or a re-
10 port issued pursuant to this clause
11 may be construed to limit the author-
12 ity of a Federal agency to enforce vio-
13 lations of Federal statutes, rules, or
14 orders.”.

15 (b) APPROPRIATE FEDERAL BANKING AGENCY RE-
16 PORT.—Section 13(c) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1823(c)) is amended by adding at the end
18 the following:

19 “(12) APPROPRIATE FEDERAL BANKING AGEN-
20 CY REPORT.—

21 “(A) IN GENERAL.—The appropriate Fed-
22 eral banking agency of an insured depository
23 institution about which a determination is made
24 under paragraph (4)(G)(i) shall, not later than
25 90 days after the date of such determination,

1 and again 210 days thereafter, submit a report
2 to the Congress that discloses the following:

3 “(i) Subject to such redactions as the
4 appropriate Federal banking agency deter-
5 mines appropriate of personally identifiable
6 information about customers and other fi-
7 nancial institutions (as such term is de-
8 fined under section 11(e)(9)(D)), all—

9 “(I) reports of examination and
10 inspection that relate to the failed in-
11 sured depository institution in the
12 previous 3-year period;

13 “(II) formal communications of a
14 material supervisory determination
15 conveyed to the failed insured deposi-
16 tory institution in the previous 3-year
17 period; and

18 “(III) any additional exam re-
19 ports and correspondence that the ap-
20 propriate Federal banking agency de-
21 termines may be relevant to the fail-
22 ure of the insured depository institu-
23 tion.

24 “(ii) An examination of any mis-
25 management by the executives and board

1 of the insured depository institution that
2 contributed to the failure of the insured
3 depository institution.

4 “(iii) Any supervisory or regulatory
5 shortcomings by such appropriate Federal
6 banking agency with respect to the insured
7 depository institution.

8 “(iv) Any dynamics that the appro-
9 priate Federal banking agency determines
10 may have contributed to the failure of the
11 insured depository institution.

12 “(v) Any supervisory, regulatory, and
13 legislative recommendations such appro-
14 priate Federal banking agency may have to
15 improve the safety and soundness of simi-
16 larly situated insured depository institu-
17 tions, the banking system, and financial
18 stability.

19 “(B) PROTECTION OF SENSITIVE INFOR-
20 MATION.—

21 “(i) EFFECT ON PRIVILEGE.—The
22 provision of any information by a Federal
23 banking agency under this paragraph may
24 not be construed as—

1 “(I) waiving, destroying, or oth-
2 erwise affecting any privilege applica-
3 ble to the information; or

4 “(II) waiving any exemption ap-
5 plicable to the information under sec-
6 tion 552 of title 5 United States Code
7 (commonly known as the ‘Freedom of
8 Information Act’).

9 “(ii) TRANSPARENCY.—

10 “(I) IN GENERAL.—A Federal
11 banking agency shall publish mate-
12 rials contained in a report required
13 under subparagraph (A) to the fullest
14 extent possible to promote trans-
15 parency.

16 “(II) CONSULTATION ON OMIT-
17 TING MATERIALS.—If a Federal bank-
18 ing agency determines particular ma-
19 terials described under subclause (I)
20 should not be published, the Federal
21 banking agency shall consult with the
22 chair and ranking member of the
23 Committee on Financial Services of
24 the House of Representatives and the
25 chair and ranking member of the

1 Committee on Banking, Housing, and
2 Urban Affairs of the Senate.

3 “(III) OMITTING MATERIALS.—

4 If, after the consultation required
5 under subclause (II), the Federal
6 banking agency determines there is a
7 substantial public interest in not pub-
8 lishing such materials, the Federal
9 banking agency shall provide those
10 materials to the Committee on Finan-
11 cial Services of the House of Rep-
12 resentatives and the Committee on
13 Banking, Housing, and Urban Affairs
14 of the Senate with a written expla-
15 nation describing the reasons for not
16 publishing those materials.

17 “(iii) PRIVILEGE.—For purposes of
18 this subparagraph, the term ‘privilege’ in-
19 cludes any work-product, attorney-client,
20 or other privilege recognized under Federal
21 or State law.

22 “(C) REPORT EXTENSION.—A Federal
23 banking agency may extend a deadline de-
24 scribed under subparagraph (A) for an addi-
25 tional 60 days, if the Federal banking agency—

1 “(i) faces ongoing circumstances that
2 require the Federal banking agency to
3 prioritize activities to promote stability of
4 the U.S. banking system; and

5 “(ii) notifies the Congress of such ex-
6 tension and the reasons for such extension.

7 “(D) CONSOLIDATED REPORTS.—A Fed-
8 eral banking agency may consolidate multiple
9 reports required under this paragraph so long
10 as the individual reports being consolidated all
11 meet the timing requirements under this para-
12 graph.

13 “(E) RULE OF CONSTRUCTION.—Nothing
14 in this paragraph or reports or materials pro-
15 vided pursuant to this paragraph may be con-
16 strued to limit the authority of a Federal agen-
17 cy to enforce violations of Federal statutes,
18 rules, or orders.”.