

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 6955  
OFFERED BY MS. WATERS OF CALIFORNIA**

Add at the end the following:

1 **TITLE IX—EMPLOYEE PAY-**  
2 **CHECK AND SMALL BUSINESS**  
3 **PROTECTION**

4 **SEC. 901. SHORT TITLE.**

5 This title may be cited as the “Employee Paycheck  
6 and Small Business Protection Act”.

7 **SEC. 902. EXPANDED INSURANCE COVERAGE FOR BUSI-**  
8 **NESS PAYMENT ACCOUNTS.**

9 (a) INSURED DEPOSITORY INSTITUTIONS.—

10 (1) IN GENERAL.—Section 11(a) of the Federal  
11 Deposit Insurance Act (12 U.S.C. 1821(a)) is  
12 amended—

13 (A) in paragraph (1)(B), by striking “The  
14 net amount” and inserting “Except as provided  
15 in paragraph (6), the net amount”; and

16 (B) by adding at the end the following:

17 “(6) EXPANDED INSURANCE COVERAGE FOR  
18 BUSINESS PAYMENT ACCOUNTS.—

1           “(A) INSURANCE REQUIRED.—Notwith-  
2 standing paragraph (1), the Corporation shall  
3 establish a program under which the Corpora-  
4 tion shall fully insure the deposits that any de-  
5 positor at an insured depository institution  
6 maintains in a covered transaction account in  
7 accordance with subparagraph (B).

8           “(B) AMOUNT.—The Corporation may  
9 only provide insurance for deposits under sub-  
10 paragraph (A) in an amount of net deposits up  
11 to \$10,000,000 per depositor per depository in-  
12 stitution.

13           “(C) EXCLUSION FROM NET AMOUNT OF  
14 INSURED DEPOSITS.—Any amount of deposits  
15 insured under this paragraph shall not be taken  
16 into account when computing the net amount  
17 due to such depositor under paragraph (1)(B).

18           “(D) COVERED TRANSACTION ACCOUNT  
19 DEFINED.—In this paragraph, the term ‘cov-  
20 ered transaction account’ means a deposit or  
21 account maintained at an insured depository in-  
22 stitution—

23                   “(i) by a business, non-profit, munici-  
24 pality, or similar organization;

1           “(ii) used predominantly for trans-  
2           actions, including payroll payments, vendor  
3           payments, and any other regular payments  
4           made to support the work or mission of the  
5           account holder; and

6           “(iii) that is non-interest bearing or  
7           that pays interest materially below pre-  
8           vailing market rates, as determined by the  
9           Corporation.”.

10           (2) APPLICABILITY.—The amendments made  
11           by this subsection shall apply with respect to a cov-  
12           ered transaction account (as defined in paragraph  
13           (6)(D) of section 11(a) of the Federal Deposit In-  
14           surance Act, as added by this section) on the date  
15           of the issuance of a final rule described in subsection  
16           (d).

17           (b) CREDIT UNIONS.—

18           (1) IN GENERAL.—Section 207(k) of the Fed-  
19           eral Credit Union Act (12 U.S.C. 1787(k)) is  
20           amended—

21           (A) in paragraph (1)(A), by inserting “and  
22           except as provided in paragraph (7)” after  
23           “paragraph (2)”; and

24           (B) by adding at the end the following:

1           “(7) EXPANDED INSURANCE COVERAGE FOR  
2 BUSINESS PAYMENT ACCOUNTS.—

3           “(A) INSURANCE REQUIRED.—Notwith-  
4 standing paragraph (1), the Board shall estab-  
5 lish a program under which the Board shall  
6 fully insure the deposits or shares in members  
7 accounts of an insured credit union that are  
8 covered transaction accounts in accordance with  
9 subparagraph (B).

10           “(B) AMOUNT.—The Board may only pro-  
11 vide insurance under subparagraph (A) in an  
12 amount of the net deposits or shares up to  
13 \$10,000,000 per member per insured credit  
14 union.

15           “(C) EXCLUSION FROM NET AMOUNT OF  
16 INSURED DEPOSITS OR SHARES.—Any amount  
17 of deposits or shares insured under this para-  
18 graph shall not be taken into account when  
19 computing the net amount due under paragraph  
20 (1)(A).

21           “(D) COVERED TRANSACTION ACCOUNT  
22 DEFINED.—In this paragraph, the term ‘cov-  
23 ered transaction account’ means a deposit,  
24 share, or account maintained at an insured  
25 credit union—

1 “(i) by a business, non-profit, munici-  
2 pality, or similar organization;

3 “(ii) used predominantly for trans-  
4 actions, including payroll payments, vendor  
5 payments, and any other regular payments  
6 made to support the work or mission of the  
7 account holder; and

8 “(iii) that is non-interest bearing or  
9 that pays interest materially below pre-  
10 vailing market rates, as determined by the  
11 Board.”.

12 (2) APPLICABILITY.—The amendments made  
13 by this subsection shall apply with respect to a cov-  
14 ered transaction account (as defined in section  
15 207(k)(7)(D) of the Federal Credit Union Act, as  
16 added by this section) on the date of the issuance of  
17 a final rule described in subsection (d).

18 (c) DATA COLLECTION AND ANALYSIS.—

19 (1) IN GENERAL.—

20 (A) FDIC.—Not later than 90 days after  
21 the date of the enactment of this Act, the Fed-  
22 eral Deposit Insurance Corporation shall begin  
23 collecting and analyzing data from insured de-  
24 pository institutions to establish requirements  
25 for the program established under paragraph

1 (6) of section 11(a) of the Federal Deposit In-  
2 surance Act, as added by this Act, including to  
3 determine the eligibility of covered transaction  
4 accounts and the amount of deposits to be in-  
5 sured under such program, as appropriate.

6 (B) NCUA.—Not later than 90 days after  
7 the date of the enactment of this Act, the Na-  
8 tional Credit Union Administration Board shall  
9 begin collecting and analyzing data from in-  
10 sured credit unions to establish requirements  
11 for the program established under paragraph  
12 (7) of section 207(k) of the Federal Credit  
13 Union Act, as added by this Act, including to  
14 determine the eligibility of covered transaction  
15 accounts and the amount of deposits or shares  
16 to be insured under such program, as appro-  
17 priate.

18 (2) ELEMENTS.—In establishing the eligibility  
19 of covered transaction accounts and the amount of  
20 deposits or shares to be insured as described in  
21 paragraph (1), the Federal Deposit Insurance Cor-  
22 poration and the National Credit Union Administra-  
23 tion Board, respectively, shall consider the following:

24 (A) The eligibility of covered transaction  
25 accounts and the maximum insurance amount

1 for such deposits or shares to promote safety  
2 and soundness of insured depository institutions  
3 and insured credit unions, as applicable.

4 (B) The eligibility of covered transaction  
5 accounts and the maximum insurance amount  
6 for such deposits or shares to promote stability  
7 of the financial system of the United States.

8 (C) The eligibility of covered transaction  
9 accounts and the maximum insurance amount  
10 for such deposits or shares to promote a com-  
11 petitive depository market structure that, as ap-  
12 plicable, includes—

13 (i) minority depository institutions (as  
14 defined in section 308 of the Financial In-  
15 stitutions Reform, Recovery, and Enforce-  
16 ment Act of 1989) and minority insured  
17 credit unions;

18 (ii) rural depository institutions and  
19 rural insured credit unions;

20 (iii) depository institutions and credit  
21 unions that are community development fi-  
22 nancial institutions (as defined in section  
23 103(5) of the Riegle Community Develop-  
24 ment and Regulatory Improvement Act of  
25 1994); and

1 (iv) other large, small, and medium-  
2 sized insured depository institutions and  
3 insured credit unions.

4 (D) The eligibility of covered transaction  
5 accounts and the maximum insurance amount  
6 for such deposits or shares to ensure holders of  
7 covered transaction accounts would be able to  
8 meet payment obligations in a timely fashion,  
9 including payroll and vendor payment obliga-  
10 tions.

11 (E) The expected effect of assessment or  
12 premium adjustments on insured depository in-  
13 stitutions and insured credit unions, as applica-  
14 ble.

15 (3) PUBLICATION.—Not later than 18 months  
16 after the date of the enactment of this Act, the Fed-  
17 eral Deposit Insurance Corporation and the National  
18 Credit Union Administration Board shall—

19 (A) make publicly available a report with  
20 detailed analyses conducted under this sub-  
21 section, including aggregated data; and

22 (B) make available to the Committee on  
23 Financial Services of the House of Representa-  
24 tives and Committee on Banking, Housing, and

1           Urban Affairs of the Senate the data collected  
2           under this subsection.

3           (d) RULEMAKING.—

4           (1) PROPOSED RULEMAKING.—

5                   (A) IN GENERAL.—Not later than 18  
6           months after the date of the enactment of this  
7           Act, the Federal Deposit Insurance Corporation  
8           and the National Credit Union Administration  
9           Board shall each issue a proposed rule to carry  
10          out the requirements of this section and the  
11          amendments made by this section.

12                   (B) ADDITIONAL REQUIREMENTS.—The  
13          Federal Deposit Insurance Corporation and the  
14          National Credit Union Administration Board  
15          shall consult with the Board of Governors of  
16          the Federal Reserve System and the Comp-  
17          troller of the Currency before issuing a pro-  
18          posed rule required under subparagraph (A).

19                   (C) TESTIMONY.—The Chairperson of the  
20          Federal Deposit Insurance Corporation and the  
21          Chairman of the National Credit Union Admin-  
22          istration Board shall testify before the Finan-  
23          cial Services Committee of the House of Rep-  
24          resentatives and Committee on Banking, Hous-  
25          ing, and Urban Affairs of the Senate, at a time

1           determined by the Chairs of those Committees  
2           that is after the date on which the proposed  
3           rule described in subparagraph (A) is issued.

4           (2) FINAL RULEMAKING.—

5                 (A) IN GENERAL.—Not later than 30  
6           months after the date of the enactment of this  
7           Act, the Federal Deposit Insurance Corporation  
8           and the National Credit Union Administration  
9           Board shall each issue a final rule to carry out  
10          the requirements of this section and the amend-  
11          ments made by this section.

12                 (B) JOINT DETERMINATIONS REQUIRED.—  
13          Each rule described under subparagraph (A)  
14          shall contain the following, which shall be joint-  
15          ly determined by the Federal Deposit Insurance  
16          Corporation and the National Credit Union Ad-  
17          ministration Board:

18                         (i) A definition of the term “deposits”  
19                         and “deposits or shares” that applies to  
20                         both programs.

21                         (ii) A maximum insurance amount for  
22                         deposits or shares held in a covered trans-  
23                         action account that applies to both pro-  
24                         grams.

1           (3) FAILURE TO ISSUE A FINAL RULE.—If the  
2 Federal Deposit Insurance Corporation or the Na-  
3 tional Credit Union Administration Board do not  
4 issue a final rule required under paragraph (2) be-  
5 fore the deadline described in that paragraph—

6           (Λ) the Chair of each agency failing to  
7 issue a final rule shall—

8           (i) testify before the Committee on Fi-  
9 nancial Services of the House of Rep-  
10 resentatives and Committee on Banking,  
11 Housing, and Urban Affairs of the Senate  
12 regarding the reasons why the agency has  
13 not yet issued a final rule; and

14           (ii) submit a report to such Commit-  
15 tees that includes—

16           (I) an assessment of the benefits  
17 and challenges posed by expanding de-  
18 posit or share insurance as required,  
19 as applicable, under the program es-  
20 tablished under paragraph (6) of sec-  
21 tion 11(a) of the Federal Deposit In-  
22 surance Act (as added by this Act)  
23 and the program established under  
24 paragraph (7) of section 207(k) of the

1 Federal Credit Union Act (as added  
2 by this Act); and

3 (II) any recommendations for ad-  
4 ministrative or legislative modifica-  
5 tions; and

6 (B) the Comptroller General of the United  
7 State shall conduct a review of the reports re-  
8 quired under subsection (c), along with any  
9 other relevant data, and submit to Congress a  
10 report on—

11 (i) the benefits and challenges posed  
12 by—

13 (I) the program established  
14 under paragraph (6) of section 11(a)  
15 of the Federal Deposit Insurance Act,  
16 as added by this Act; and

17 (II) the program established  
18 under paragraph (7) of section 207(k)  
19 of the Federal Credit Union Act, as  
20 added by this Act; and

21 (ii) any recommendations for legisla-  
22 tive or regulatory actions.

23 (e) EXTENSION OF DEPOSIT INSURANCE FUND AND  
24 NATIONAL CREDIT UNION SHARE INSURANCE FUND  
25 RESTORATION PLANS.—A Deposit Insurance Fund res-

1 toration plan (as defined under section 7(b)(3)(E) of the  
2 Federal Deposit Insurance Act (12 U.S.C.  
3 1817(b)(3)(E))) or a restoration plan for the National  
4 Credit Union Share Insurance Fund (as described in sec-  
5 tion 202(c)(2)(D) of the Federal Credit Union Act (12  
6 U.S.C. 1782(c)(2)(D))) in effect on the date of the enact-  
7 ment of this Act shall be extended for a period of 8 years  
8 beginning on the effective date of a final rule issued by  
9 the applicable agency pursuant to subsection (d).

10 **SEC. 903. TEMPORARY TRANSACTION ACCOUNT GUAR-**  
11 **ANTEE PROGRAM.**

12 (a) **INSURED DEPOSITORY INSTITUTIONS.**—Section  
13 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823)  
14 is amended by adding at the end the following:

15 “(l) **INSURANCE OF CERTAIN UNINSURED DEPOSITS**  
16 **TO PRESERVE FINANCIAL STABILITY.**—

17 “(1) **ESTABLISHMENT OF PROGRAM FRAME-**  
18 **WORK.**—The Corporation shall, by rule, establish a  
19 framework for a Temporary Transaction Account  
20 Guarantee Program (the ‘Program’) under which  
21 the Corporation fully insures the net amount any de-  
22 positor at an insured depository institution main-  
23 tains in a covered transaction account for a single  
24 period not to exceed 180 days.

1           “(2) IMPLEMENTATION.—The Corporation may  
2           implement the Program only if, upon the written  
3           recommendation of the Board of Directors (upon a  
4           vote of not less than two-thirds of the members of  
5           the Board of Directors) and the Board of Governors  
6           of the Federal Reserve System (upon a vote of not  
7           less than two-thirds of the members of such Board),  
8           the Secretary of the Treasury (in consultation with  
9           the President) determines that the failure to imple-  
10          ment the program would have serious adverse effects  
11          on financial stability or economic conditions in the  
12          United States.

13           “(3) ELIGIBILITY.—An insolvent insured deposi-  
14          tory institution is not eligible to be enrolled in the  
15          Program.

16           “(4) FUNDING.—In implementing the Program,  
17          the Corporation may—

18                   “(A) establish assessments on insured de-  
19                   pository institutions that participate in the Pro-  
20                   gram; and

21                   “(B) use amounts available in the Deposit  
22                   Insurance Fund.

23           “(5) EXTENSION.—The Corporation may ex-  
24          tend the period described in paragraph (2) for an  
25          additional 90 days if—

1           “(A) the Board of Directors (upon a vote  
2           of not less than two-thirds of the members of  
3           the Board of Directors), the Board of Gov-  
4           ernors of the Federal Reserve System (upon a  
5           vote of not less than two-thirds of the members  
6           of such Board), and the Secretary (in consulta-  
7           tion with the President) determines that the  
8           failure to extend such program would have seri-  
9           ous adverse effects on financial stability or eco-  
10          nomic conditions in the United States; and

11           “(B) the Secretary of the Treasury sub-  
12          mits to Congress a report containing data and  
13          analysis, including data and analysis from the  
14          Board of Directors and the Board of Governors  
15          of the Federal Reserve System, justifying such  
16          extension.

17          “(6) TESTIMONY.—Not later than 45 days after  
18          any implementation of the Program, the Chairperson  
19          of the Board of Directors, the Chairman of the  
20          Board of Governors of the Federal Reserve System,  
21          and the Secretary of the Treasury shall provide tes-  
22          timony to the Committee on Financial Services Com-  
23          mittee of the House of Representatives and the  
24          Committee on Banking, Housing, and Urban Affairs

1 of the Senate describing the data, analysis, and justification for implementing the Program.

2  
3 “(7) GAO REPORT.—Not later than 90 days  
4 after any implementation of the Program, the Comptroller General of the United States shall submit to  
5 Congress a report describing the implementation of  
6 the Program.

7  
8 “(8) COVERED TRANSACTION ACCOUNT DEFINED.—In this subsection, the term ‘covered transaction account’ means a transaction account that is  
9 non-interest bearing or that pays interest materially  
10 below prevailing market rates, as determined by the  
11 Corporation.

12  
13 “(9) TERMINATION.—

14  
15 “(A) IN GENERAL.—Any implementation  
16 of the Program shall terminate not later than  
17 270 days after the date of implementation unless the Board of Directors (upon a vote of not  
18 less than two-thirds of the members of the  
19 Board of Directors) and the Board of Governors of the Federal Reserve System (upon a  
20 vote of not less than two-thirds of the members  
21 of such Board) submits to the Secretary of the  
22 Treasury a written recommendation to not terminate the program, and—  
23  
24  
25

1 “(i) the Secretary of the Treasury—  
2 “(I) submits to Congress a report  
3 containing data and analysis to justify  
4 not terminating the Program that in-  
5 cludes data and analysis from the  
6 Board of Directors and the Board of  
7 Governors of the Federal Reserve Sys-  
8 tem; and  
9 “(II) requests approval from  
10 Congress to extend the Program for a  
11 specified period of time; and  
12 “(ii) a joint resolution of approval is  
13 enacted to extend the Program.

14 “(B) PROCEDURES FOR JOINT RESOLU-  
15 TION OF APPROVAL.—The procedures provided  
16 for congressional consideration of a joint resolu-  
17 tion under section 1105(d) of the Dodd-Frank  
18 Wall Street Reform and Consumer Protection  
19 Act shall apply to a joint resolution of approval  
20 described under subparagraph (A)(ii).”

21 (b) INSURED CREDIT UNIONS.—Section 207 of the  
22 Federal Credit Union Act (12 U.S.C. 1787) is amended  
23 by adding at the end the following:

24 “(s) INSURANCE OF CERTAIN UNINSURED DEPOSITS  
25 TO PRESERVE FINANCIAL STABILITY.—

1           “(1) IN GENERAL.—The National Credit Union  
2 Administration Board may establish a program  
3 under which the Board fully insures the net amount  
4 in member accounts of an insured credit union that  
5 are covered transaction accounts for a single period  
6 not to exceed 180 days if, upon the written rec-  
7 ommendation of such Board (upon a vote of not less  
8 than two-thirds of the members of such Board) and  
9 the Board of Governors of the Federal Reserve Sys-  
10 tem (upon a vote of not less than two-thirds of the  
11 members of such Board), the Secretary of the Treas-  
12 ury (in consultation with the President) determines  
13 that the failure to establish such program would  
14 have serious adverse effects on financial stability or  
15 economic conditions in the United States.

16           “(2) ELIGIBILITY.—An insolvent insured credit  
17 union is not eligible to be enrolled in a program es-  
18 tablished under this subsection.

19           “(3) FUNDING.—To carry out a program under  
20 this subsection, the Board may—

21                   “(A) establish assessments on insured  
22 credit unions that participate in such a pro-  
23 gram; and

24                   “(B) use amounts available in the Fund.

1           “(4) EXTENSION.—The National Credit Union  
2 Administration Board may extend the period de-  
3 scribed in paragraph (1) for an additional 90 days  
4 if—

5           “(A) the National Credit Union Adminis-  
6 tration Board (upon a vote of not less than  
7 two-thirds of the members of such Board), the  
8 Board of Governors of the Federal Reserve Sys-  
9 tem (upon a vote of not less than two-thirds of  
10 the members of such Board), and the Secretary  
11 of the Treasury (in consultation with the Presi-  
12 dent) determines that the failure to extend such  
13 program would have serious adverse effects on  
14 financial stability or economic conditions in the  
15 United States; and

16           “(B) the Secretary of the Treasury sub-  
17 mits to Congress a report containing data and  
18 analysis, including data and analysis from the  
19 Board of Directors and the Board of Governors  
20 of the Federal Reserve System, justifying such  
21 extension.

22           “(5) TESTIMONY.—Not later than 45 days after  
23 the establishment of a program under this sub-  
24 section, the Chairman, the Chairman of the Board  
25 of Governors of the Federal Reserve System, and the

1 Secretary of the Treasury shall provide testimony to  
2 the Committee on Financial Services of the House of  
3 Representatives and the Committee on Banking,  
4 Housing, and Urban Affairs of the Senate describing  
5 the data, analysis, and justification for establishing  
6 the program under this subsection.

7 “(6) GAO REPORT.—Not later than 90 days  
8 after the establishment of a program under this sub-  
9 section, the Comptroller General of the United  
10 States shall submit to Congress a report describing  
11 the establishment of such program.

12 “(7) COVERED TRANSACTION ACCOUNT DE-  
13 FINED.—In this subsection, the term ‘covered trans-  
14 action account’ means a transaction account that is  
15 non-interest bearing or that pays interest materially  
16 below prevailing market rates, as determined by the  
17 National Credit Union Administration Board.

18 “(8) TERMINATION.—

19 “(A) IN GENERAL.—A program established  
20 under this subsection shall terminate not later  
21 than 270 days after the date of establishment  
22 unless the Board (upon a vote of not less than  
23 two-thirds of the members of such Board) and  
24 the Board of Governors of the Federal Reserve  
25 System (upon a vote of not less than two-thirds

1 of the members of such Board) submits to the  
2 Secretary of the Treasury a written rec-  
3 ommendation to not terminate the program,  
4 and—

5 “(i) the Secretary of the Treasury—

6 “(I) submits to Congress a report  
7 containing data and analysis to justify  
8 not terminating the program that in-  
9 cludes data and analysis from the  
10 Board and the Board of Governors of  
11 the Federal Reserve System; and

12 “(II) requests approval from  
13 Congress to extend the program for a  
14 specified period of time; and

15 “(ii) a joint resolution of approval is  
16 enacted to extend the program.

17 “(B) PROCEDURES FOR JOINT RESOLU-  
18 TION OF APPROVAL.—The procedures provided  
19 for congressional consideration of a joint resolu-  
20 tion under section 1105(d) of the Dodd-Frank  
21 Wall Street Reform and Consumer Protection  
22 Act shall apply to a joint resolution of approval  
23 described under subparagraph (A)(ii).”.

24 (c) MODIFICATION TO EXPEDITED PROCEDURES.—  
25 Section 1105(d) of the Dodd-Frank Wall Street Reform

1 and Consumer Protection Act (12 U.S.C. 5612(d)) is  
2 amended—

3 (1) by redesignating paragraph (4) as para-  
4 graph (5); and

5 (2) by inserting after paragraph (3) the fol-  
6 lowing:

7 “(4) CONSIDERATION IN THE HOUSE OF REP-  
8 RESENTATIVES.—Upon receipt of a request under  
9 subsection (c), a joint resolution introduced in the  
10 House of Representatives in connection with such re-  
11 quest shall be privileged.”.

12 **TITLE X—FAILED BANK EXECU-**  
13 **TIVES ACCOUNTABILITY AND**  
14 **CONSEQUENCES**

15 **SEC. 1001. SHORT TITLE.**

16 This title may be cited as the “Failed Bank Execu-  
17 tives Accountability and Consequences Act”.

18 **SEC. 1002. SENSE OF CONGRESS.**

19 It is the sense of the Congress that—

20 (1) financial regulators and law enforcement  
21 agencies should fully exercise the maximum extent of  
22 their authorities to investigate and use available en-  
23 forcement tools to hold executive officers and board  
24 members at Silicon Valley Bank, Signature Bank,  
25 First Republic Bank, and any other bank that fails

1 fully accountable for any misconduct in which they  
2 are found to have engaged; and

3 (2) the Board of Governors of the Federal Re-  
4 serve System, the Office of the Comptroller of the  
5 Currency, the Board of Directors of the Federal De-  
6 posit Insurance Corporation, the National Credit  
7 Union Administration Board, the Securities and Ex-  
8 change Commission, the Federal Housing Finance  
9 Agency should jointly finalize the regulations or  
10 guidelines required under section 956 of the “Inves-  
11 tor Protection and Securities Reform Act of 2010”,  
12 and those regulations or guidelines should include  
13 robust clawback requirements.

14 **SEC. 1003. CLAWBACK AUTHORITY.**

15 (a) IN GENERAL.—Section 8 of the Federal Deposit  
16 Insurance Act (12 U.S.C. 1818), as amended by this Act,  
17 is further amended by adding at the end the following:

18 “(y) RECOUPMENT OF COMPENSATION FROM EXEC-  
19 UTIVE OFFICERS AND DIRECTORS.—

20 “(1) IN GENERAL.—During any period in which  
21 the Corporation is acting as conservator or receiver  
22 for an insured depository institution, the Corpora-  
23 tion may recover, from any current or former execu-  
24 tive officer or director of such insured depository in-  
25 stitution whose negligence caused financial loss to

1 such insured depository institution, any compensa-  
2 tion received during the 2-year period preceding the  
3 date on which the Corporation was appointed as the  
4 conservator or receiver of the insured depository in-  
5 stitution, except that, in the case of fraud, no time  
6 limit shall apply.

7 “(2) RULEMAKING.—The Corporation shall pro-  
8 mulgate regulations to implement the requirements  
9 of this subsection, including defining the term ‘com-  
10 pensation’ to mean any financial remuneration, in-  
11 cluding salary, bonuses, incentives, benefits, sever-  
12 ance, deferred compensation, or golden parachute  
13 benefits, and any profits realized from the sale of  
14 the securities of the insured depository institution  
15 (or the securities of an affiliate of the insured depos-  
16 itory institution).”

17 (b) CLAWBACK AUTHORITY RELATING TO ORDERLY  
18 LIQUIDATION AUTHORITY.—Section 210(s)(1) of the  
19 Dodd-Frank Wall Street Reform and Consumer Protec-  
20 tion Act is amended as follows:

21 “(1) IN GENERAL.—The Corporation, as re-  
22 ceiver of a covered financial company, may recover  
23 from any current or former executive officer or di-  
24 rector whose negligence caused financial loss to the  
25 covered financial company any compensation re-

1 received during the 2-year period preceding the date  
2 on which the Corporation was appointed as the re-  
3 ceiver of the covered financial company, except that,  
4 in the case of fraud, no time limit shall apply.”.

5 **SEC. 1004. REMOVAL AND PROHIBITION AUTHORITY IN THE**  
6 **CASE OF INSTITUTION FAILURE.**

7 (a) IN GENERAL.—Section 8(e) of the Federal De-  
8 posit Insurance Act (12 U.S.C. 1818(e)), as amended by  
9 this Act, is further amended—

10 (1) by redesignating paragraphs (3), (4), (5),  
11 (6), (7), and (8) as paragraphs (4), (5), (6), (7),  
12 (8), and (9) respectively; and

13 (2) by inserting after paragraph (2) the fol-  
14 lowing:

15 “(3) SUSPENSION, REMOVAL, AND PROHIBITION  
16 FROM PARTICIPATION ORDERS IN THE CASE OF IN-  
17 STITUTION FAILURE.—Whenever the appropriate  
18 Federal banking agency determines that an institu-  
19 tion-affiliated party has negligently caused financial  
20 loss to any insured depository institution that has  
21 failed, the appropriate Federal banking agency for  
22 the depository institution may serve upon such party  
23 a written notice of the agency’s intention to prohibit  
24 any further participation by such party, in any man-

1       ner, in the conduct of the affairs of any insured de-  
2       pository institution.”.

3       (b) CONFORMING AMENDMENT.—The Federal De-  
4       posit Insurance Act (12 U.S.C. 1811 et seq.) is amend-  
5       ed—

6             (1) in section 8, as amended by this Act—

7                 (A) in subsection (e)—

8                     (i) in paragraph (3), by striking  
9                     “under paragraph (1) or (2)” each place it  
10                     occurs and inserting “under paragraphs  
11                     (1), (2), or (3)”; and

12                     (ii) in paragraph (7), as so redesign-  
13                     ated, by striking “paragraph (7)(A)” and  
14                     inserting “paragraph (8)(A)”; and

15                     (B) in subsection (f), by striking “sub-  
16                     section (e)(3)” and inserting “subsection  
17                     (e)(4)”; and

18                     (C) in subsection (g)(1)(D)(ii), by striking  
19                     “paragraph (1), (2), or (3) of subsection (e)”  
20                     and inserting “paragraph (1), (2), or (4) of  
21                     subsection (e)”; and

22                     (D) in subsection (j), by striking “sub-  
23                     section (e)(6)” and inserting “subsection  
24                     (e)(7)”; and

25             (2) in section 10(k)(6)—

1 (A) in subparagraph (A)(i), by striking  
2 “section 8(e)(4) for written notices or orders  
3 under paragraph (1) or (2) of section 8(e)” and  
4 inserting “section 8(e)(5) for written notices or  
5 orders under paragraph (1), (2), or (3) of sec-  
6 tion 8(e)”; and

7 (B) in subparagraph (B), by striking  
8 “paragraphs (6) and (7) of section 8(e)” and  
9 inserting “paragraphs (7) and (8) of section  
10 8(e)”.

11 **SEC. 1005. FINES FOR FAILED BANK EXECUTIVES.**

12 (a) IN GENERAL.—Section 8(i)(2) of the Federal De-  
13 posit Insurance Act (12 U.S.C. 1818(i)(2)) is amended  
14 by—

15 (1) redesignating subparagraphs (D), (E), (F),  
16 (G), (H), (I), (J), and (K) as paragraphs (E), (F),  
17 (G), (H), (I), (J), (K), and (L), respectively; and:

18 (2) by inserting after subparagraph (C), the fol-  
19 lowing:

20 “(D) FINES FOR CONTRIBUTING TO INSTI-  
21 TUTION FAILURE.—

22 “(i) FIRST TIER.—Notwithstanding  
23 subparagraphs (A), (B), and (C), any exec-  
24 utive officer or director who has neg-  
25 ligently caused financial loss to any in-

1           sured depository institution that has failed  
2           shall forfeit and pay a civil penalty of not  
3           more than \$25,000 for each day during  
4           which such conduct occurred.

5           “(ii) SECOND TIER.—Notwithstanding  
6           subparagraphs (A), (B), and (C), any execu-  
7           tive officer or director who knowingly or  
8           recklessly caused financial loss to any in-  
9           sured depository institution that has failed  
10          shall forfeit and pay a civil penalty in an  
11          amount not to exceed the applicable max-  
12          imum amount determined under subpara-  
13          graph (E) for each day during which such  
14          conduct occurred.”.

15          (b) CONFORMING AMENDMENTS.—Section 8(i)(2) of  
16 the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)),  
17 as amended by subsection (a) is further amended—

18           (1) in subparagraph (E), by striking “to sub-  
19           paragraph (C)” and inserting “to subparagraph (C)  
20           or (D)”;

21           (2) in subparagraph (F)—

22           (A) by striking “under subparagraph (A),  
23           (B), or (C)” and inserting “under subpara-  
24           graph (A), (B), (C), or (D)”;

1 (B) by striking “subparagraph (H)” and  
2 inserting “subparagraph (I)”;

3 (3) in subparagraph (G), by striking “under  
4 subparagraph (A), (B), or (C)” and inserting “under  
5 subparagraph (A), (B), (C), or (D)”;

6 (4) in subparagraph (H), by striking “under  
7 subparagraph (A), (B), or (C)” and inserting “under  
8 subparagraph (A), (B), (C), or (D)”.

9 **SEC. 1006. RULE OF CONSTRUCTION.**

10 This title and the amendments made by this title may  
11 not be construed to limit the enforcement authorities that  
12 financial regulators and law enforcement agencies had,  
13 prior to the date of enactment of this Act, to hold execu-  
14 tive officers and board members of insured depository in-  
15 stitutions and covered financial companies accountable for  
16 any misconduct in which they are found to have engaged.



