

[DISCUSSION DRAFT]

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Federal Deposit Insurance Act to provide an exception to the least-cost resolution requirement, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To amend the Federal Deposit Insurance Act to provide an exception to the least-cost resolution requirement, 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 “Least Cost Exception  
5       Act”.

1 **SEC. 2. LEAST COST EXCEPTION.**

2 (a) IN GENERAL.—Section 13(c)(4) of the Federal  
3 Deposit Insurance Act (12 U.S.C. 1823(c)(4)) is amend-  
4 ed—

5 (1) in subparagraph (A)(ii), by inserting “ex-  
6 cept as provided in subparagraph (I),” before “the  
7 total amount”; and

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

9 “(I) LEAST COST EXCEPTION.—

10 “(i) IN GENERAL.—With respect to an  
11 exercise of authority by the Corporation  
12 described in subparagraph (A), the Cor-  
13 poration may, at the discretion of the Cor-  
14 poration, select an alternative that is not  
15 the least costly to the Deposit Insurance  
16 Fund, if the Corporation determines  
17 that—

18 “(I) the selected alternative is  
19 the least costly to the Deposit Insur-  
20 ance Fund of all alternatives that—

21 “(aa) do not involve a trans-  
22 action with a global systemically  
23 important banking organization;  
24 and

1 “(bb) do not exceed the cost  
2 of liquidating the insured deposi-  
3 tory institution;

4 “(II) the cost to the Deposit In-  
5 surance Fund of the selected alter-  
6 native is no greater than **[120]** per-  
7 cent of the cost of the alternative that  
8 is the least costly to the Deposit In-  
9 surance Fund of the alternatives that  
10 involve a sale of all or substantially all  
11 assets of the insured depository insti-  
12 tution to, and assumption of all or  
13 substantially all liabilities of the in-  
14 sured depository institution by, a  
15 global systemically important banking  
16 organization;

17 “(III) the additional cost to the  
18 Deposit Insurance Fund of the se-  
19 lected alternative is mitigated by lim-  
20 iting further concentration of the  
21 United States banking system in glob-  
22 al systemically important banking or-  
23 ganizations; and

24 “(IV) in the case of a selected al-  
25 ternative that involves another person

1 purchasing assets of the insured de-  
2 pository institution or assuming liabil-  
3 ities of the insured depository institu-  
4 tion, such person agrees to pay an as-  
5 sessment to the Deposit Insurance  
6 Fund in an amount equal to the cost  
7 to the Deposit Insurance Fund of the  
8 selected alternative, minus the cost to  
9 the Deposit Insurance Fund of the  
10 least costly alternative that would  
11 have been selected absent the applica-  
12 tion of this subparagraph, where such  
13 amount is calculated by the Corpora-  
14 tion on a present-value basis, using a  
15 realistic discount rate, and the timing  
16 for the payment of such amount is de-  
17 termined by the Corporation.

18 “(ii) REPORT TO CONGRESS.—Not  
19 later than 30 days after selecting an alter-  
20 native described in clause (i), the Corpora-  
21 tion shall issue a report to the Committee  
22 on Financial Services of the House of Rep-  
23 resentatives and the Committee on Bank-  
24 ing, Housing, and Urban Affairs of the  
25 Senate containing an analysis of the eco-

1           nomic difference between the cost to the  
2           Deposit Insurance Fund of the selected al-  
3           ternative and the cost to the Deposit In-  
4           surance Fund of the least costly alternative  
5           that would have been selected absent the  
6           application of this subparagraph.

7                   “(iii) GLOBAL SYSTEMICALLY IMPOR-  
8           TANT    BANKING    ORGANIZATION    DE-  
9           FINED.—In this subparagraph, the term  
10          ‘global systemically important banking or-  
11          ganization’ means—

12                   “(I) a global systemically impor-  
13           tant BHC, as such term is defined in  
14           section 217.402 of title 12, Code of  
15           Federal Regulations, or any successor  
16           thereto; and

17                   “(II) any affiliate thereof.”.

18          (b) RULE OF CONSTRUCTION.—Section 13(c)(4)(H)  
19          of the Federal Deposit Insurance Act (12 U.S.C.  
20          1823(c)(4)(H)) does not apply to the amendments made  
21          by subsection (a).