

**Statement of the Honorable John Conyers, Jr. for the Hearing on
H.R. 1667, the “Financial Institution Bankruptcy Act of 2017,”
Before the Subcommittee on Regulatory Reform, Commercial and
Antitrust Law**

**Thursday, March 23, 2017, at 9:00 a.m.
2141 Rayburn House Office Building**

Mr. Chairman, I am pleased to be an original cosponsor of your bill, H.R. 1667, the “Financial Institution Bankruptcy Act of 2017,” for several reasons.

To begin with, the bill addresses a real need – recognized by regulatory agencies, bankruptcy experts, and the private sector – that the bankruptcy law must be amended so that it can expeditiously restore trust in the financial marketplace as soon as possible after the collapse of a systemically significant financial institution.

As many recall, the failure of Lehman Brothers and subsequent bankruptcy in 2008 caused a worldwide freeze on the availability of credit that not only affected Wall Street, but Main Street as well.

The near collapse of our Nation's economy because of Lehman's failure clearly revealed that current bankruptcy law is ill-equipped to deal with complex financial institutions in economic distress.

The Financial Institution Bankruptcy Act would establish a specialized form of bankruptcy relief designed to facilitate the expeditious resolution of a large, systemically significant financial institution.

Under new Subchapter V of Chapter 11 of the Bankruptcy Code, the debtor's operating subsidiaries would continue to function outside of bankruptcy, while the debtor's principal assets, such as its secured property, financial contracts, and the stock of its subsidiaries, would be transferred to a temporary "bridge company."

The bridge company, under the guidance of a trustee, in turn, would then liquidate these assets to pay the claims of the debtor's creditors. The legislation would also impose a temporary stay to prevent parties from exercising their rights in certain qualified financial contracts.

Each critical step of this process would be subject to the supervision of a bankruptcy judge and be subject to appeal.

Another reason why I support this bill is that it appropriately recognizes the important role the Dodd-Frank Act has in the regulation of large financial institutions.

Without doubt, the Great Recession was a direct result of the regulatory equivalent of the Wild West.

In the absence of any meaningful regulation of the mortgage industry, lenders developed high risk subprime mortgages and used predatory marketing tactics targeting the most vulnerable.

These doomed-to-fail mortgages were then securitized and sold to unsuspecting investors, including pension funds and school districts.

The ensuing 2008 crash froze credit and trapped millions of Americans in mortgages they could no longer afford, causing vast waves of foreclosures, massive unemployment, and international economic upheaval.

The Dodd-Frank Act goes a long way toward reinvigorating a regulatory system that makes the financial marketplace more accountable and, hopefully, more resilient.

In particular, Title II of the Dodd-Frank Act establishes a mandatory resolution process to wind down large financial institutions, which is a critical enforcement tool for bank regulators to ensure compliance with the Act's heightened regulatory requirements.

Nevertheless, the Dodd-Frank Act clearly recognizes that bankruptcy should be a *first resort* and that Title II's orderly resolution process should be a *last resort*.

This is because bankruptcy law has for more than 100 years enabled some of the Nation's largest companies to regain their financial footing, including General Motors and Chrysler.

But, to be a truly viable alternative to the Dodd-Frank Act's resolution process, the bankruptcy law must be amended to facilitate the rapid administration of a debtor's assets in an orderly fashion that maximizes value and minimizes disruption to the financial marketplace.

Finally, I am pleased to note that this legislation is the product of a very collaborative, inclusive, and deliberative process, which should be the norm, not the exception when it comes to drafting legislation.

While an excellent measure, the bill unfortunately does not include any provision allowing the federal government to be a lender of last resort, which nearly every expert recognizes is a necessary element to ensure financial stability.

I recognize, however, that this is an issue not within the jurisdiction of the Judiciary Committee.

I thank the witnesses for their participation here today and I yield back the balance of my time.