

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

Page 1, lines 3 through 4, strike “Increasing Financial Regulatory Accountability and Transparency Act” and insert “Increasing Bank Executive Accountability and Financial Regulatory Transparency Act”.

Page 2, line 1, insert “**BANK EXECUTIVE ACCOUNTABILITY AND**” after “**ENHANCING**”.

After section 101, insert the following:

1 SEC. 102. SENSE OF CONGRESS.

2 It is the sense of the Congress that—

3 (1) financial regulators and law enforcement
4 agencies should fully exercise the maximum extent of
5 their authorities to investigate and use available en-
6 forcement tools to hold executive officers and board
7 members at Silicon Valley Bank, Signature Bank,
8 First Republic Bank, and any other bank that fails
9 fully accountable for any misconduct in which they
10 are found to have engaged; and

11 (2) the Board of Governors of the Federal Re-
12 serve System, the Office of the Comptroller of the

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

10 **SEC. 103. CLAWBACK AUTHORITY.**

11 (a) IN GENERAL.—Section 8 of the Federal Deposit
12 Insurance Act (12 U.S.C. 1818) is amended by adding at
13 the end the following:

14 “(x) RECOUPMENT OF COMPENSATION FROM EXEC-
15 UTIVE OFFICERS AND DIRECTORS.—

16 “(1) IN GENERAL.—During any period in which
17 the Corporation is acting as conservator or receiver
18 for an insured depository institution, the Corpora-
19 tion may recover, from any current or former execu-
20 tive officer or director of such insured depository in-
21 stitution whose negligence caused substantial losses
22 to such insured depository institution, any com-
23 pensation received during the 2-year period pre-
24 ceding the date on which the Corporation was ap-
25 pointed as the conservator or receiver of the insured

1 depository institution, except that, in the case of
2 fraud, no time limit shall apply.

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

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

15 “(1) IN GENERAL.—The Corporation, as re-
16 ceiver of a covered financial company, may recover
17 from any current or former executive officer or di-
18 rector whose negligence caused substantial losses to
19 the covered financial company any compensation re-
20 ceived during the 2-year period preceding the date
21 on which the Corporation was appointed as the re-
22 ceiver of the covered financial company, except that,
23 in the case of fraud, no time limit shall apply.”.

1 **SEC. 104. REMOVAL AND PROHIBITION AUTHORITY IN THE**
2 **CASE OF INSTITUTION FAILURE.**

3 (a) IN GENERAL.—Section 8(e) of the Federal De-
4 posit Insurance Act (12 U.S.C. 1818(e)) is amended—

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

8 (2) by inserting after paragraph (2) the fol-
9 lowing:

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

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

25 (1) in section 8—

26 (A) in subsection (e)—

1 (i) in paragraph (3), by striking
2 “under paragraph (1) or (2)” each place it
3 occurs and inserting “under paragraphs
4 (1), (2), or (3)”; and

5 (ii) in paragraph (7), as so redesign-
6 nated, by striking “paragraph (7)(A)” and
7 inserting “paragraph (8)(A)”;

8 (B) in subsection (f), by striking “sub-
9 section (e)(3)” and inserting “subsection
10 (e)(4)”;

11 (C) in subsection (g)(1)(D)(ii), by striking
12 “paragraph (1), (2), or (3) of subsection (e)”
13 and inserting “paragraph (1), (2), or (4) of
14 subsection (e)”;

15 (D) in subsection (j), by striking “sub-
16 section (e)(6)” and inserting “subsection
17 (e)(7)”;

18 (2) in section 10(k)(6)—

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

1 (B) in subparagraph (B), by striking
2 “paragraphs (6) and (7) of section 8(e)” and
3 inserting “paragraphs (7) and (8) of section
4 8(e)”.

5 **SEC. 105. FINES FOR FAILED BANK EXECUTIVES .**

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

9 (1) redesignating subparagraphs (D), (E), (F),
10 (G), (H), (I), (J), and (K) as paragraphs (E), (F),
11 (G), (H), (I), (J), (K), and (L), respectively; and:

12 (2) by inserting after subparagraph (C), the fol-
13 lowing:

14 “(D) FINES FOR CONTRIBUTING TO INSTI-
15 TUTION FAILURE.—

16 “(i) FIRST TIER.—Notwithstanding
17 subparagraphs (A), (B), and (C), any exec-
18 utive officer or director who has neg-
19 ligently caused financial loss to any in-
20 sured depository institution that has failed
21 shall forfeit and pay a civil penalty of not
22 more than \$25,000 for each day during
23 which such conduct occurred.

24 “(ii) SECOND TIER.—Notwithstanding
25 subparagraphs (A), (B), and (C), any exec-

1 utive officer or director who knowingly or
2 recklessly caused financial loss to any in-
3 sured depository institution that has failed
4 shall forfeit and pay a civil penalty in an
5 amount not to exceed the applicable max-
6 imum amount determined under subpara-
7 graph (E) for each day during which such
8 conduct occurred.”.

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

12 (1) in subparagraph (E), by striking “to sub-
13 paragraph (C)” and inserting “to subparagraph (C)
14 or (D)”;

15 (2) in subparagraph (F)—

16 (A) by striking “under subparagraph (A),
17 (B), or (C)” and inserting “under subpara-
18 graph (A), (B), (C), or (D)”;

19 (B) by striking “subparagraph (H)” and
20 inserting “subparagraph (I)”;

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

1 (4) in subparagraph (H), by striking “under
2 subparagraph (A), (B), or (C)” and inserting “under
3 subparagraph (A), (B), (C), or (D)”.

4 **SEC. 106. RULE OF CONSTRUCTION.**

5 This title and the amendments made by this title may
6 not be construed to limit the enforcement authorities that
7 financial regulators and law enforcement agencies, had
8 prior to the date of enactment of this Act, to hold execu-
9 tive officers and board members of banks accountable for
10 any misconduct in which they are found to have engaged.

