

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4116
OFFERED BY MR. GREEN OF TEXAS**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

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

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

6 (a) GAO REVIEW.—Section 13(c)(4)(G)(iv) of the
7 Federal Deposit Insurance Act (12 U.S.C.
8 1823(c)(4)(G)(iv)) is amended to read as follows:

9 “(iv) GAO REVIEW.—

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

1 “(aa) the basis for the deter-
2 mination;

3 “(bb) the purpose for which
4 any action was taken pursuant to
5 such clause;

6 “(cc) the likely effect of the
7 determination and such action on
8 the incentives and conduct of in-
9 sured depository institutions and
10 uninsured depositors;

11 “(dd) any mismanagement
12 by the executives and board of
13 the insured depository institution
14 that contributed to the failure of
15 the insured depository institu-
16 tion;

17 “(ee) a review of the com-
18 pensation practices of the insured
19 depository institution;

20 “(ff) any supervisory or reg-
21 ulatory shortcomings with respect
22 to the appropriate Federal bank-
23 ing agency of the insured deposi-
24 tory institution;

1 “(gg) any actions taken by
2 the Federal banking regulators,
3 Financial Stability Oversight
4 Council, Treasury Department,
5 and other relevant financial regu-
6 lators in relation to the bank’s
7 failure; and

8 “(hh) any additional rel-
9 evant entities or activities that
10 may have contributed to the fail-
11 ure of the insured depository in-
12 stitution, including with respect
13 to auditing, accounting, credit
14 rating agencies, investment bank
15 underwriters, and emergency li-
16 quidity options such as loans
17 from the Federal Reserve or ad-
18 vances through the Federal
19 Home Loan Bank system.

20 “(II) RULE OF CONSTRUC-
21 TION.—Nothing in this clause or a re-
22 port issued pursuant to this clause
23 may be construed to limit the author-
24 ity of a Federal agency to enforce vio-

1 lations of Federal statutes, rules, or
2 orders.

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

7 “(12) APPROPRIATE FEDERAL BANKING AGEN-
8 CY REPORT.—

9 “(A) IN GENERAL.—The appropriate Fed-
10 eral banking agency of an insured depository
11 institution about which a determination is made
12 under paragraph (4)(G)(i) shall, not later than
13 90 days after the date of such determination,
14 and again 210 days thereafter, submit a report
15 to the Congress that discloses the following:

16 “(i) Subject to such redactions as the
17 appropriate Federal banking agency deter-
18 mines appropriate of personally identifiable
19 information about customers and other fi-
20 nancial institutions (as such term is de-
21 fined under section 11(e)(9)(D)), all—

22 “(I) reports of examination and
23 inspection that relate to the failed in-
24 sured depository institution in the
25 previous 3-year period;

1 “(II) formal communications of a
2 material supervisory determination
3 conveyed to the failed insured deposi-
4 tory institution in the previous 3-year
5 period; and

6 “(III) any additional exam re-
7 ports and correspondence that the ap-
8 propriate Federal banking agency de-
9 termines may be relevant to the fail-
10 ure of the insured depository institu-
11 tion.

12 “(ii) An examination of any mis-
13 management by the executives and board
14 of the insured depository institution that
15 contributed to the failure of the insured
16 depository institution.

17 “(iii) Any supervisory or regulatory
18 shortcomings by such appropriate Federal
19 banking agency with respect to the insured
20 depository institution.

21 “(iv) Any dynamics that the appro-
22 priate Federal banking agency determines
23 may have contributed to the failure of the
24 insured depository institution.

1 “(v) Any supervisory, regulatory, and
2 legislative recommendations such appro-
3 priate Federal banking agency may have to
4 improve the safety and soundness of simi-
5 larly situated insured depository institu-
6 tions, the banking system, and financial
7 stability.

8 “(B) PROTECTION OF SENSITIVE INFOR-
9 MATION.—

10 “(i) EFFECT ON PRIVILEGE.—Except
11 as provided under clause (ii), the provision
12 of any information by a Federal banking
13 agency under this paragraph may not be
14 construed as—

15 “(I) waiving, destroying, or oth-
16 erwise affecting any privilege applica-
17 ble to the information; or

18 “(II) waiving any exemption ap-
19 plicable to the information under sec-
20 tion 552 of title 5 United States Code
21 (commonly known as the ‘Freedom of
22 Information Act’).

23 “(ii) TRANSPARENCY.—

24 “(I) IN GENERAL.—A Federal
25 banking agency shall publish mate-

1 rials contained in a report required
2 under subparagraph (A) to the fullest
3 extent possible to promote trans-
4 parency.

5 “(II) CONSULTATION ON OMIT-
6 TING MATERIALS.—If a Federal bank-
7 ing agency determines particular ma-
8 terials described under subclause (I)
9 should not be published, the Federal
10 banking agency shall consult with the
11 chair and ranking member of the
12 Committee on Financial Services of
13 the House of Representatives and the
14 chair and ranking member of the
15 Committee on Banking, Housing, and
16 Urban Affairs of the Senate.

17 “(III) OMITTING MATERIALS.—
18 If, after the consultation required
19 under subclause (II), the Federal
20 banking agency determines there is a
21 substantial public interest in not pub-
22 lishing such materials, the Federal
23 banking agency shall provide those
24 materials to the Committee on Finan-
25 cial Services of the House of Rep-

1 representatives and the Committee on
2 Banking, Housing, and Urban Affairs
3 of the Senate with a written expla-
4 nation describing the reasons for not
5 publishing those materials.

6 “(iii) PRIVILEGE.—For purposes of
7 this subparagraph, the term ‘privilege’ in-
8 cludes any work-product, attorney-client,
9 or other privilege recognized under Federal
10 or State law.

11 “(C) REPORT EXTENSION.—A Federal
12 banking agency may extend a deadline de-
13 scribed under subparagraph (A) for an addi-
14 tional 60 days, if the Federal banking agency—

15 “(i) faces ongoing circumstances that
16 require the Federal banking agency to
17 prioritize activities to promote stability of
18 the U.S. banking system; and

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

21 “(D) CONSOLIDATED REPORTS.—A Fed-
22 eral banking agency may consolidate multiple
23 reports required under this paragraph so long
24 as the individual reports being consolidated all

1 meet the timing requirements under this para-
2 graph.

3 “(E) RULE OF CONSTRUCTION.—Nothing
4 in this paragraph or reports or materials pro-
5 vided pursuant to this paragraph may be con-
6 strued to limit the authority of a Federal agen-
7 cy to enforce violations of Federal statutes,
8 rules, or orders.”.

