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(Original Signature of Member)

111TH CONGRESS  
2D SESSION

**H. R.**

To establish a covered bond regulatory oversight program, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. GARRETT of New Jersey (for himself, Mr. KANJORSKI, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on

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**A BILL**

To establish a covered bond regulatory oversight program,  
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 “United States Covered  
5 Bond Act of 2010”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act, the following definitions  
8 shall apply:

1           (1) ANCILLARY ASSET.—The term “ancillary  
2     asset” means—

3           (A) any interest rate or currency swap as-  
4     sociated with an eligible asset, substitute asset,  
5     or other asset in a cover pool;

6           (B) any credit enhancement or liquidity ar-  
7     rangement associated with an eligible asset,  
8     substitute asset, or other asset in a cover pool;

9           (C) any guarantee, letter-of-credit right, or  
10    other secondary obligation that supports any  
11    payment or performance on an eligible asset,  
12    substitute asset, or other asset in a cover pool;  
13    and

14          (D) any proceeds of, or other property in-  
15    cident to, an eligible asset, substitute asset, or  
16    other asset in a cover pool.

17          (2) CORPORATION.—The term “Corporation”  
18    means the Federal Deposit Insurance Corporation.

19          (3) COVER POOL.—The term “cover pool”  
20    means a dynamic pool of assets that is comprised  
21    of—

22          (A) eligible assets from a single eligible  
23    asset class; and

24          (B) any substitute assets or ancillary as-  
25    sets.

1           (4) COVERED BOND.—The term “covered  
2           bond” means any senior recourse debt obligation of  
3           an eligible issuer that—

4                   (A) has an original term to maturity of not  
5           less than 1 year;

6                   (B) is secured by a perfected security in-  
7           terest in a cover pool that is owned directly or  
8           indirectly by the issuer of the obligation;

9                   (C) is issued under a covered bond pro-  
10          gram that has been approved by the covered  
11          bond regulator and is identified in a register of  
12          covered bonds maintained by the covered bond  
13          regulator; and

14                   (D) is not a deposit.

15           (5) COVERED BOND PROGRAM.—The term  
16          “covered bond program” means any program of an  
17          eligible issuer under which 1 or more series or  
18          tranches of covered bonds may be issued.

19           (6) COVERED BOND REGULATOR.—The term  
20          “covered bond regulator” means the Comptroller of  
21          the Currency.

22           (7) ELIGIBLE ASSET.—The term “eligible  
23          asset” means—

24                   (A) in the case of the residential mortgage  
25          asset class—

1 (i) any first-lien mortgage loan that is  
2 secured by 1-to-4 family residential prop-  
3 erty and that is in compliance with any  
4 rule or supervisory guidance of a Federal  
5 agency that is applicable to the loan at the  
6 time of loan origination;

7 (ii) any mortgage loan insured under  
8 the National Housing Act (12 U.S.C. 1701  
9 et seq.), or any loan guaranteed, insured,  
10 or made under chapter 37 of title 38,  
11 United States Code; and

12 (iii) rural housing loans;

13 (B) in the case of the home equity asset  
14 class, any home equity loan that is secured by  
15 1-to-4 family residential property and that is in  
16 compliance with any rule or supervisory guid-  
17 ance of a Federal agency that is applicable to  
18 the loan at the time of loan origination;

19 (C) in the case of the commercial mortgage  
20 asset class, any commercial mortgage loan (in-  
21 cluding any multifamily mortgage loan) that is  
22 in compliance with any rule or supervisory guid-  
23 ance of a Federal agency that is applicable to  
24 the loan at the time of loan origination;

1 (D) in the case of the public sector asset  
2 class—

3 (i) any security issued by a State or  
4 municipality;

5 (ii) any loan made to a State or mu-  
6 nicipality; and

7 (iii) any loan, security, or other obli-  
8 gation that is insured or guaranteed, in  
9 full or substantially in full, by the full faith  
10 and credit of the United States Govern-  
11 ment (whether or not such loan, security,  
12 or other obligation is also part of another  
13 eligible asset class);

14 (E) in the case of the auto asset class, any  
15 auto loan or lease that is in compliance with  
16 any rule or supervisory guidance of a Federal  
17 agency that is applicable to the loan or lease at  
18 the time of loan or lease origination;

19 (F) in the case of the student loan asset  
20 class, any student loan (whether guaranteed or  
21 nonguaranteed) that is in compliance with any  
22 rule or supervisory guidance of a Federal agen-  
23 cy that is applicable to the loan at the time of  
24 loan origination;

1 (G) in the case of the credit or charge card  
2 asset class, any extension of credit to a person  
3 under an open-end credit plan that is in compli-  
4 ance with any rule or supervisory guidance of a  
5 Federal agency that is applicable to the exten-  
6 sion of credit at the time the extension is made;

7 (H) in the case of the small business asset  
8 class, any loan made or guaranteed under a  
9 program of the Small Business Administration;  
10 and

11 (I) in the case of any other eligible asset  
12 class, any asset designated by the covered bond  
13 regulator, by rule and in consultation with the  
14 applicable primary financial regulatory agen-  
15 cies, as an eligible asset for purposes of such  
16 class.

17 (8) ELIGIBLE ASSET CLASS.—The term “eligi-  
18 ble asset class” means—

19 (A) a residential mortgage asset class;

20 (B) a commercial mortgage asset class;

21 (C) a public sector asset class;

22 (D) a small business asset class; or

23 (E) any other eligible asset class, as deter-  
24 mined by the covered bond regulator by rule

1           and in consultation with the applicable primary  
2           financial regulatory agencies.

3           (9) ELIGIBLE ISSUER.—The term “eligible  
4           issuer” means—

5                   (A) any insured depository institution and  
6                   any subsidiary of such institution;

7                   (B) any bank holding company and any  
8                   savings and loan holding company;

9                   (C) any nonbank financial company that is  
10                   approved as an eligible issuer by the primary fi-  
11                   nancial regulatory agency for the nonbank fi-  
12                   nancial company and the covered bond regu-  
13                   lator; and

14                   (D) any issuer that is sponsored by 1 or  
15                   more eligible issuers for the sole purpose of  
16                   issuing covered bonds on a pooled basis.

17           (10) NONBANK FINANCIAL COMPANY.—The  
18           term “nonbank financial company” has the meaning  
19           given such term under section 102(a)(4) of the  
20           Dodd-Frank Wall Street Reform and Consumer Pro-  
21           tection Act.

22           (11) OVERSIGHT PROGRAM.—The term “over-  
23           sight program” means the covered bond regulatory  
24           oversight program established under section 3(a).

1           (12) PRIMARY FINANCIAL REGULATORY AGEN-  
2           CY.—The term “primary financial regulatory agen-  
3           cy” has the meaning give such term under section  
4           2(12) of the Dodd-Frank Wall Street Reform and  
5           Consumer Protection Act.

6           (13) SUBSTITUTE ASSET.—The term “sub-  
7           stitute asset” means—

8                   (A) cash;

9                   (B) any direct obligation of the United  
10           States Government, and any security or other  
11           obligation, the full principal and interest of  
12           which are insured or guaranteed by the full  
13           faith and credit of the United States Govern-  
14           ment;

15                   (C) any direct obligation of a United  
16           States Government corporation or Government-  
17           sponsored enterprise of the highest credit qual-  
18           ity, and any other security or other obligation  
19           of the highest credit quality whose full principal  
20           and interest are insured or guaranteed by any  
21           such corporation or enterprise, except that the  
22           outstanding principal amount of these obliga-  
23           tions in any cover pool may not exceed an  
24           amount equal to 20 percent of the outstanding  
25           principal amount of all assets in the cover pool

1 without the approval of the covered bond regu-  
2 lator;

3 (D) any overnight investment in Federal  
4 funds;

5 (E) any other substitute asset, as deter-  
6 mined by the covered bond regulator by rule  
7 and in consultation with the applicable primary  
8 financial regulatory agencies; and

9 (F) any deposit account or securities ac-  
10 count into which only an asset described in sub-  
11 paragraphs (A), (B), (C), (D), or (E) may be  
12 deposited or credited.

13 **SEC. 3. REGULATORY OVERSIGHT OF COVERED BOND PRO-**  
14 **GRAMS ESTABLISHED.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—Not later than 180 days  
17 after the date of th enactment of this Act, the cov-  
18 ered bond regulator shall, by rule and in consulta-  
19 tion with the applicable primary financial regulatory  
20 agencies, establish a covered bond regulatory over-  
21 sight program that provides for—

22 (A) covered bond programs to be evaluated  
23 according to reasonable and objective standards  
24 in order to be approved under paragraph (2),  
25 including eligibility standards for eligible assets;

1 (B) covered bond programs to be main-  
2 tained in a manner consistent with this Act and  
3 safe and sound financial practices; and

4 (C) any estate created under section 4 to  
5 be administered in a manner that is consistent  
6 with maximizing the value and the proceeds of  
7 the related cover pool in a resolution under this  
8 Act.

9 (2) APPROVAL OF EACH COVERED BOND PRO-  
10 GRAM.—

11 (A) IN GENERAL.—A covered bond shall be  
12 subject to this Act only if the covered bond is  
13 issued by an eligible issuer under a covered  
14 bond program that is approved by the covered  
15 bond regulator.

16 (B) EXISTING COVERED BOND PRO-  
17 GRAMS.—The covered bond regulator may ap-  
18 prove a covered bond program that is in exist-  
19 ence on the date of enactment of this Act. Upon  
20 such approval, each covered bond under the  
21 covered bond program shall be subject to this  
22 Act, regardless of when the covered bonds were  
23 issued.

24 (C) CONSULTATION WITH ANY PRIMARY  
25 REGULATOR.—Before approving any covered

1 bond program of any eligible issuer, the covered  
2 bond regulator shall consult with the primary  
3 financial regulatory agency, if any, of the eligi-  
4 ble issuer and shall confirm with such agency,  
5 if any, that the covered bond program is con-  
6 sistent with safe and sound financial practices.

7 (D) MULTIPLE COVERED BOND PROGRAMS  
8 PERMITTED.—An eligible issuer may have more  
9 than 1 covered bond program.

10 (3) REGISTRY.—Under the oversight program,  
11 the covered bond regulator shall maintain a registry  
12 on a Web site available to the public that contains—

13 (A) the name of each approved covered  
14 bond program; and

15 (B) information on all outstanding covered  
16 bonds issued under each approved covered bond  
17 program, (including the reports described under  
18 paragraphs (3) and (4) of subsection (b)).

19 (4) FEES.—The covered bond regulator may  
20 levy fees on the issuers of covered bonds in an  
21 amount the covered bond regulator determines is  
22 necessary or appropriate to defray, in the aggregate,  
23 the costs of the covered bond regulator in carrying  
24 out the provisions of this Act.

1 (b) MINIMUM OVER-COLLATERALIZATION REQUIRE-  
2 MENTS.—

3 (1) REQUIREMENTS ESTABLISHED.—

4 (A) IN GENERAL.—The covered bond regu-  
5 lator, from time to time, shall establish min-  
6 imum over-collateralization requirements for  
7 covered bonds backed by each of the eligible  
8 asset classes, which are designed to ensure that  
9 sufficient assets exist in the cover pool to sat-  
10 isfy all principal and interest due on the cov-  
11 ered bonds and which are based on the credit,  
12 collection, and interest rate risks (excluding the  
13 liquidity risks) associated with the eligible asset  
14 class.

15 (B) RELIANCE ON OTHER OVER-  
16 COLLATERALIZATION STANDARDS.—In estab-  
17 lishing requirements under subparagraph (A),  
18 the covered bond regulator may rely on over-  
19 collateralization levels required for the same or  
20 similar asset classes by—

21 (i) any Federal reserve bank when ex-  
22 tending credit to depository institutions  
23 under the Federal Reserve Act (12 U.S.C.  
24 221 et seq.);

- 1 (ii) any Federal home loan bank when  
2 extending credit to member institutions  
3 under the Federal Home Loan Bank Act  
4 (12 U.S.C. 1421 et seq.); or  
5 (iii) any other comparable lenders in  
6 substantially similar transactions.

7 (2) ASSET COVERAGE TEST.—The eligible as-  
8 sets and the substitute assets in each cover pool that  
9 secures covered bonds shall, in the aggregate, at all  
10 times, meet the applicable minimum over-  
11 collateralization requirements established under  
12 paragraph (1).

13 (3) MONTHLY REPORTING.—Every month, each  
14 issuer of covered bonds shall submit a report on  
15 whether the cover pool that secures the covered  
16 bonds meets the applicable minimum over-  
17 collateralization requirements established under  
18 paragraph (1) to—

19 (A) the primary financial regulatory agen-  
20 cy of the issuer, if any;

21 (B) the covered bond regulator; and

22 (C) the applicable covered bondholders.

23 (4) INDEPENDENT ASSET MONITOR.—

24 (A) APPOINTMENT OF INDEPENDENT  
25 ASSET MONITOR.—Each issuer of covered bonds

1 shall appoint the indenture trustee for the cov-  
2 ered bonds, or another unaffiliated entity, as an  
3 independent asset monitor for the applicable  
4 cover pool.

5 (B) DUTIES.—The independent asset mon-  
6 itor appointed under subparagraph (A) shall, on  
7 a semiannual or other more frequent periodic  
8 basis determined by the covered bond regu-  
9 lator—

10 (i) verify whether the cover pool that  
11 secures the covered bonds meets the appli-  
12 cable minimum over-collateralization re-  
13 quirements established under paragraph  
14 (1); and

15 (ii) disclose to the primary financial  
16 regulatory agency of the issuer, if any, the  
17 covered bond regulator, and the applicable  
18 covered bond holders whether the cover  
19 pool that secures the covered bonds meets  
20 the applicable minimum over-  
21 collateralization requirements established  
22 under paragraph (1).

23 (5) NO LOSS OF STATUS.—Covered bonds shall  
24 remain subject to this Act regardless of whether the  
25 applicable cover pool ceases to meet the applicable

1 minimum over-collateralization requirements estab-  
2 lished under paragraph (1) at any time after the  
3 covered bonds are issued.

4 (6) FAILURE TO MEET REQUIREMENTS.—If a  
5 cover pool securing covered bonds fails to meet the  
6 applicable minimum over-collateralization require-  
7 ments established under paragraph (1), and if such  
8 failure is not cured within the time specified in the  
9 transaction documents related to the covered  
10 bonds—

11 (A) such failure shall be deemed to be an  
12 uncured default for purposes of section 4(a);  
13 and

14 (B) the issuer shall notify the covered bond  
15 regulator of such failure.

16 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

17 (1) LOANS.—A loan shall not qualify as an eli-  
18 gible asset for so long as the loan is delinquent for  
19 more than 60 consecutive days.

20 (2) SECURITIES.—A security shall not qualify  
21 as an eligible asset for so long as the security does  
22 not meet any credit-quality requirement under this  
23 Act.

24 (3) NO DOUBLE PLEDGE.—An asset shall not  
25 qualify as an eligible asset for so long as the asset

1 is subject to a prior perfected security interest that  
2 has been granted in an unrelated transaction. Noth-  
3 ing in this Act shall affect such a prior perfected se-  
4 curity interest.

5 (4) SINGLE ELIGIBLE ASSET CLASS.—No cover  
6 pool may include eligible assets from more than 1 el-  
7 igible asset class.

8 (d) OTHER REQUIREMENTS.—

9 (1) BOOKS AND RECORDS OF ISSUER.—Each  
10 issuer of covered bonds shall clearly mark its books  
11 and records to identify the assets that comprise the  
12 cover pool that secures the covered bonds.

13 (2) SCHEDULE OF ELIGIBLE ASSETS AND SUB-  
14 STITUTE ASSETS.—Each issuer of covered bonds  
15 shall deliver to the indenture trustee for the covered  
16 bonds, on at least a monthly basis, a schedule of all  
17 eligible assets and substitute assets in the cover pool  
18 that secures the covered bonds.

19 **SEC. 4. RESOLUTION UPON DEFAULT OR INSOLVENCY.**

20 (a) UNCURED DEFAULT.—In this section, the term  
21 “uncured default”, when used with respect to a covered  
22 bond, means a default on the covered bond that has not  
23 been cured within the time, if any, required by the trans-  
24 action documents related to the covered bond.

1 (b) DEFAULT ON COVERED BONDS PRIOR TO CON-  
2 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-  
3 RUPTCY.—

4 (1) CREATION OF SEPARATE ESTATE.—If an  
5 uncured default occurs with respect to a covered  
6 bond before the issuer of such covered bond enters  
7 conservatorship, receivership, liquidation, or bank-  
8 ruptcy, an estate shall be automatically created by  
9 operation of law and shall exist and be administered  
10 separate and apart from the issuer or any subse-  
11 quent conservatorship, receivership, liquidating agen-  
12 cy, or estate in bankruptcy for the issuer or any  
13 other assets of the issuer. A separate estate shall be  
14 created for each affected covered bond program.

15 (2) ASSETS AND LIABILITIES OF ESTATE.—Any  
16 estate created under paragraph (1) shall be com-  
17 prised of the cover pool that secures the covered  
18 bond, which shall be automatically released to and  
19 held by the estate free and clear of any right, title,  
20 interest, or claim of the issuer or any conservator,  
21 receiver, liquidating agent, or trustee in bankruptcy  
22 for the issuer or any other assets of the issuer. The  
23 estate created under paragraph (1) shall be fully lia-  
24 ble on the covered bond and all other covered bonds  
25 and related obligations of the issuer (including obli-

1 gations under related derivative transactions) that  
2 are secured by the cover pool. The estate shall not  
3 be liable on any obligation of the issuer that is not  
4 secured by the cover pool.

5 (3) RETENTION OF CLAIMS.—Any holder of a  
6 covered bond or related obligation secured by a cover  
7 pool for which an estate has been created under  
8 paragraph (1) shall retain a claim against the issuer  
9 for any deficiency with respect to the covered bond  
10 or related obligation.

11 (4) RESIDUAL INTEREST.—

12 (A) ISSUANCE OF RESIDUAL INTEREST.—  
13 Upon the creation of an estate under paragraph  
14 (1), a residual interest in the estate shall be  
15 automatically issued by operation of law to the  
16 issuer.

17 (B) NATURE OF RESIDUAL INTEREST.—  
18 The residual interest under subparagraph (A)  
19 shall—

20 (i) be an exempted security as de-  
21 scribed in section 5;

22 (ii) represent the right to any surplus  
23 from the cover pool after the covered bonds  
24 and all other liabilities of the estate have  
25 been paid in full; and

1 (iii) be evidenced by a certificate exe-  
2 cuted by the trustee of the estate.

3 (5) OBLIGATION OF ISSUER.—After the cre-  
4 ation of an estate under paragraph (1), the issuer  
5 shall—

6 (A) transfer to the covered bond regulator,  
7 or a designee of the covered bond regulator, all  
8 tangible or electronic books, records, files, and  
9 other documents or materials relating to the as-  
10 sets and liabilities of the estate; and

11 (B) at the election of the covered bond reg-  
12 ulator, continue servicing the cover pool for 120  
13 days after the creation of the estate in return  
14 for a fair-market-value fee, as determined by  
15 the covered bond regulator, that shall be pay-  
16 able from the estate as an administrative ex-  
17 pense.

18 (c) DEFAULT ON COVERED BONDS UPON CON-  
19 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-  
20 RUPTCY.—

21 (1) CORPORATION CONSERVATORSHIP OR RE-  
22 CEIVERSHIP.—

23 (A) IN GENERAL.—If the Corporation is  
24 appointed as conservator or receiver for an  
25 issuer of covered bonds before an uncured de-

1           fault results in the creation of an estate under  
2           subsection (b), the Corporation as conservator  
3           or receiver shall have an exclusive right, during  
4           the 180-day period beginning on the date of the  
5           appointment, to transfer any cover pool owned  
6           by the issuer in its entirety, together with all  
7           covered bonds and related obligations secured  
8           by the cover pool, to another eligible issuer that  
9           meets all conditions and requirements specified  
10          in the transaction documents related to the cov-  
11          ered bonds.

12                   (B) OBLIGATIONS DURING 180-DAY PE-  
13                   RIOD.—During the 180-day period described in  
14                   subparagraph (A), the Corporation as conser-  
15                   vator or receiver shall satisfy all monetary and  
16                   nonmonetary obligations of the issuer under the  
17                   covered bonds and the related transaction docu-  
18                   ments until the earlier of—

19                           (i) the transfer of the covered bond  
20                           program to another eligible issuer;

21                           (ii) the repudiation of further per-  
22                           formance by the Corporation as conser-  
23                           vator or receiver under the covered bond  
24                           program; or

1 (iii) the failure of the Corporation as  
2 conservator or receiver to timely cure a de-  
3 fault (other than the issuer's conservator-  
4 ship or receivership) under the covered  
5 bond program.

6 (C) ASSUMPTION BY TRANSFEREE.—If the  
7 Corporation as conservator or receiver effects a  
8 transfer described in subparagraph (A) within  
9 the 180-day period described in subparagraph  
10 (A), the transferee shall take ownership of the  
11 cover pool and shall become fully liable on all  
12 covered bonds and related obligations of the  
13 issuer that are secured by the cover pool.

14 (2) OTHER CIRCUMSTANCES.—An estate shall  
15 be automatically created by operation of law and  
16 shall exist and be administered separate and apart  
17 from an issuer of covered bonds and the conservator-  
18 ship, receivership, liquidating agency, or estate in  
19 bankruptcy for the issuer or any other assets of the  
20 issuer, if—

21 (A) a conservator, receiver, liquidating  
22 agent, or trustee in bankruptcy, other than the  
23 Corporation, is appointed for the issuer before  
24 an uncured default results in the creation of an  
25 estate under subsection (b); or

1 (B) in the case of the appointment of the  
2 Corporation as conservator or receiver as de-  
3 scribed in paragraph (1) (A), the Corporation  
4 as conservator or receiver—

5 (i) does not complete the transfer of  
6 the related covered bond program to an-  
7 other eligible issuer within the 180-period  
8 described in paragraph (1) (A);

9 (ii) repudiates the Corporation's fur-  
10 ther performance under the related covered  
11 bond program; or

12 (iii) fails to timely cure a default  
13 (other than the issuer's conservatorship or  
14 receivership) under the related covered  
15 bond program.

16 A separate estate shall be created for each af-  
17 fected covered bond program.

18 (3) ASSETS AND LIABILITIES OF ESTATE.—Any  
19 estate created under paragraph (2) shall be com-  
20 prised of the cover pool that secures the covered  
21 bonds, which shall be automatically released to and  
22 held by the estate free and clear of any right, title,  
23 interest, or claim of the issuer or any conservator,  
24 receiver, liquidating agent, or trustee in bankruptcy  
25 for the issuer or any other assets of the issuer. The

1 estate created under paragraph (2) shall be fully lia-  
2 ble on the covered bonds and all other covered bonds  
3 and related obligations of the issuer (including obli-  
4 gations under related derivative transactions) that  
5 are secured by the cover pool. The estate shall not  
6 be liable on any obligation of the issuer that is not  
7 secured by the cover pool.

8 (4) CONTINGENT CLAIM.—Any contingent claim  
9 for a deficiency with respect to a covered bond or re-  
10 lated obligation for which an estate has been created  
11 under paragraph (2) shall be estimated by the con-  
12 servator, receiver, liquidating agent, or bankruptcy  
13 court for purposes of allowing the claim as a prov-  
14 able claim if awaiting the fixing of that contingent  
15 claim would unduly delay the resolution of the con-  
16 servatorship, receivership, liquidating agency, or  
17 bankruptcy case.

18 (5) RESIDUAL INTEREST.—

19 (A) ISSUANCE OF RESIDUAL INTEREST.—  
20 Upon the creation of an estate under paragraph  
21 (2), and regardless of whether any contingent  
22 claim described in paragraph (4) becomes fixed  
23 or is estimated, a residual interest in the estate  
24 shall be automatically issued by operation of

1 law to the conservator, receiver, liquidating  
2 agent, or trustee in bankruptcy for the issuer.

3 (B) NATURE OF RESIDUAL INTEREST.—

4 The residual interest under subparagraph (A)  
5 shall—

6 (i) be an exempted security as de-  
7 scribed in section 5;

8 (ii) represent the right to any surplus  
9 from the cover pool after the covered bonds  
10 and all other liabilities of the estate have  
11 been paid in full; and

12 (iii) be evidenced by a certificate exe-  
13 cuted by the trustee of the estate.

14 (6) OBLIGATION OF ISSUER.—After the cre-  
15 ation of an estate under paragraph (2), the issuer  
16 and its conservator, receiver, liquidating agent, or  
17 trustee in bankruptcy shall—

18 (A) transfer to the covered bond regulator,  
19 or a designee of the covered bond regulator, all  
20 tangible or electronic books, records, files, and  
21 other documents or materials relating to the as-  
22 sets and liabilities of the estate; and

23 (B) at the election of the covered bond reg-  
24 ulator (but subject to and notwithstanding any  
25 right of repudiation or rejection held by the

1 conservator, receiver, liquidating agent, or  
2 trustee in bankruptcy), continue servicing the  
3 cover pool for 120 days after the creation of the  
4 estate in return for a fair-market-value fee, as  
5 determined by the covered bond regulator, that  
6 shall be payable from the estate as an adminis-  
7 trative expense.

8 (d) ADMINISTRATION AND RESOLUTION OF ES-  
9 TATES.—

10 (1) TRUSTEE, SERVICER, AND ADMINIS-  
11 TRATOR.—

12 (A) IN GENERAL.—The covered bond regu-  
13 lator shall—

14 (i) act as or appoint the trustee of  
15 any estate created under subsection (b)(1)  
16 or (c)(2); and

17 (ii) appoint 1 or more servicers or ad-  
18 ministrators for the cover pool held by the  
19 estate.

20 (B) POWERS AND DUTIES OF SERVICER OR  
21 ADMINISTRATOR.—Any servicer or adminis-  
22 trator appointed for an estate—

23 (i) shall—

24 (I) collect, realize on (by liquida-  
25 tion or other means), and otherwise

1 manage the cover pool held by the es-  
2 tate; and

3 (II) invest and use the proceeds  
4 and funds received to make all re-  
5 maining interest and principal pay-  
6 ments on the applicable covered bonds  
7 according to their terms (or, if an ac-  
8 celeration or similar event occurs  
9 under the related transaction docu-  
10 ments, at the times specified in the  
11 transaction documents) and to satisfy  
12 any other liabilities of the estate; and

13 (ii) may borrow or otherwise procure  
14 funds for the benefit of the estate on a se-  
15 cured or unsecured basis and on a priority,  
16 pari passu, or subordinated basis.

17 (C) SUPERVISION OF SERVICER OR ADMIN-  
18 ISTRATOR BY THE COVERED BOND REGU-  
19 LATOR.—

20 (i) IN GENERAL.—The covered bond  
21 regulator shall supervise any servicer or  
22 administrator that is appointed for an es-  
23 tate created under subsection (b)(1) or  
24 (c)(2).

1 (ii) REMOVAL AND REPLACEMENT.—

2 If the covered bond regulator determines  
3 that it is in the best interests of an estate,  
4 the covered bond regulator may remove or  
5 replace any servicer or administrator for  
6 the estate.

7 (iii) REPORTS.—Each servicer or ad-  
8 ministrator for an estate shall, at such  
9 times and in such manner as the covered  
10 bond regulator shall require, submit to the  
11 covered bond regulator, the owner of the  
12 residual interest, and any other person  
13 designated by the covered bond regulator,  
14 reports that describe the activities of the  
15 servicer or administrator on behalf of the  
16 estate and the performance of the cover  
17 pool held by the estate.

18 (iv) FEES AND EXPENSES.—All fees  
19 and expenses of a servicer or administrator  
20 for an estate shall be approved by the cov-  
21 ered bond regulator and shall be paid from  
22 the estate as an administrative expense.

23 (D) JUDICIAL OR ADMINISTRATIVE AC-  
24 TIONS.—Any servicer or administrator ap-  
25 pointed for an estate may commence or con-

1           tinue judicial or administrative actions, in its  
2           own name on behalf of the estate, for the pur-  
3           pose of collecting, realizing on, or otherwise  
4           managing the cover pool held by the estate or  
5           exercising its other powers or duties on behalf  
6           of the estate. No covered bondholder, indenture  
7           trustee, or other person to whom an estate is or  
8           is alleged to be liable may commence or con-  
9           tinue any judicial or administrative action  
10          against the estate, the trustee, or any servicer  
11          or administrator, except for an action to compel  
12          the release of funds that are available to the es-  
13          tate, that are permitted to be distributed under  
14          this Act and regulations promulgated by the  
15          covered bond regulator, and that are permitted  
16          and required to be distributed under the related  
17          transaction documents and any contracts exe-  
18          cuted by or on behalf of the estate after its cre-  
19          ation under this Act. No court may issue an at-  
20          tachment or execution on the assets of an es-  
21          tate. Except at the request of the covered bond  
22          regulator or as otherwise provided in this sub-  
23          paragraph, no court may take any action to re-  
24          strain or affect the resolution of an estate  
25          under this Act. The covered bond regulator

1           shall be entitled to sovereign immunity in car-  
2           rying out the provisions of this Act.

3           (E) CLOSING OF ESTATE.—After an estate  
4           has been fully administered, the covered bond  
5           regulator shall close the estate and, to the ex-  
6           tent determined appropriate by the covered  
7           bond regulator, may retain or destroy records of  
8           the estate.

9           (2) STUDY ON LIQUIDITY ADVANCES.—The  
10          Board of Governors shall conduct a study on wheth-  
11          er Federal reserve banks should be empowered to  
12          make advances to an estate created under subsection  
13          (b)(1) or (c)(2) solely for the purpose of providing  
14          liquidity in the case of timing mismatches among the  
15          assets and the liabilities of the estate. The Board of  
16          Governors shall submit a report to the Committee on  
17          Banking, Housing, and Urban Affairs of the Senate  
18          and the Committee on Financial Services of the  
19          House of Representatives on the results of such  
20          study not later than 180 days after the date of en-  
21          actment of this Act.

22   **SEC. 5. SECURITIES LAW PROVISIONS.**

23          (a) COVERED BONDS ISSUED OR GUARANTEED BY  
24          BANKS.—Any covered bond issued or guaranteed by a  
25          bank is a security issued or guaranteed by a bank under

1 Section 3(a)(2) of the Securities Act of 1933, Section  
2 3(c)(3) of the Investment Company Act of 1940, and Sec-  
3 tion 304(a)(4)(A) of the Trust Indenture Act of 1939. No  
4 covered bond issued or guaranteed by a bank is an asset-  
5 backed security, as defined in section 3 of the Securities  
6 and Exchange Act of 1934 (15 U.S.C. 78c).

7 (b) EXEMPTIONS FOR ESTATES AND RESIDUAL IN-  
8 TERESTS.—Any estate that is or may be created under  
9 subsection (b) or (c) of section 4 shall be exempt from  
10 all securities laws but shall be subject to the reporting re-  
11 quirements established by the covered bond regulator  
12 under subsection (d)(1)(C)(iii) of section 4 and shall suc-  
13 ceed to any requirement of the issuer to file such periodic  
14 information, documents, and reports in respect of the cov-  
15 ered bonds as specified in section 13(a) of the Securities  
16 Exchange Act of 1934 (15 U.S.C. 78m(a)) and any other  
17 rule established by Federal Government banking agencies.  
18 Any residual interest in an estate that is or may be created  
19 under subsection (b) or (c) of section 4 shall be exempt  
20 from all securities laws.

21 **SEC. 6. MISCELLANEOUS PROVISIONS.**

22 (a) DOMESTIC SECURITIES.—Section 106(a)(1) of  
23 the Secondary Mortgage Market Enhancement Act of  
24 1984 (15 U.S.C. 77r–1(a)(1)) is amended—

1           (1) in subparagraph (C), by striking “or” at  
2           the end;

3           (2) in subparagraph (D), by adding “or” at the  
4           end; and

5           (3) by inserting after subparagraph (D) the fol-  
6           lowing:

7                   “(E) covered bonds (as defined under sec-  
8                   tion 2(3) of the United States Covered Bond  
9                   Act of 2010),”.

10          (b) NO CONFLICT.—The provisions of this Act shall  
11          apply, notwithstanding any provision of the Federal De-  
12          posit Insurance Act (12 U.S.C. 1811 et seq.), title 11,  
13          United States Code, or any other provision of Federal law  
14          with respect to conservatorship, receivership, liquidation,  
15          or bankruptcy. No provision of the Federal Deposit Insur-  
16          ance Act (12 U.S.C. 1811 et seq.), title 11, United States  
17          Code, or any other provision of Federal law with respect  
18          to conservatorship, receivership, liquidation, or bank-  
19          ruptcy may be construed or applied in a manner that de-  
20          feats or interferes with the purpose or operation of this  
21          Act.