

AMENDMENT TO H.R. 940
OFFERED BY MR. CAMPBELL OF CALIFORNIA

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Page 10, strike line 5 and all that follows through page 19, line 13, and insert the following:

1 **SEC. 3. REGULATORY OVERSIGHT AND STANDARDS FOR**
2 **COVERED BOND PROGRAMS ESTABLISHED.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of the enactment of this Act, by joint
6 rule, the covered bond regulators shall establish a
7 covered bond regulatory oversight and standards-set-
8 ting program that provides for—

9 (A) covered bond programs to be evaluated
10 according to reasonable and objective standards
11 in order to be approved under paragraph (3),
12 including any additional eligibility standards for
13 eligible assets and any other criteria determined
14 appropriate by the covered bond regulators to
15 further the purposes of this Act;

16 (B) covered bond programs to be main-
17 tained in a manner that is consistent with this
18 Act and safe and sound asset-liability manage-
19 ment and other financial practices; and

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

6 (2) MINIMUM REQUIREMENTS.—Rules promul-
7 gated in accordance with paragraph (1) shall in-
8 clude—

9 (A) covered bond program limits;

10 (B) eligibility standards for covered bond
11 issuers;

12 (C) eligibility standards for eligible asset
13 classes, eligible assets, and substitute assets
14 and ancillary assets, including any limitations
15 with respect to the amount or type of substitute
16 assets or ancillary assets to be included in the
17 cover pools;

18 (D) issuance standards, including dislo-
19 sure obligations of eligible issuers and with re-
20 spect to the cover pools;

21 (E) structural and cover pool related re-
22 quirements, including items to be incorporated
23 in the covered bond documentation;

24 (F) collateral asset-coverage tests;

1 (G) maximum over-collateralization
2 amounts for the cover pool;

3 (H) limits on substitution of assets in a
4 cover pool;

5 (I) procedures for designating new eligible
6 assets and asset classes;

7 (J) data required for the registry estab-
8 lished in paragraph (4); and

9 (K) any other requirements that the cov-
10 ered bond regulators deem appropriate.

11 (3) APPROVAL OF EACH COVERED BOND PRO-
12 GRAM.—

13 (A) IN GENERAL.—A covered bond shall
14 qualify for coverage under this Act only if the
15 covered bond is issued by an eligible issuer
16 under a covered bond program that is approved
17 by the applicable covered bond regulator.

18 (B) APPROVAL PROCESS.—Each covered
19 bond regulator shall apply the standards estab-
20 lished pursuant to paragraph (1) to evaluate a
21 covered bond program that has been submitted
22 by an eligible issuer for approval. Each covered
23 bond regulator also shall take into account rel-
24 evant supervisory factors, including safety and
25 soundness considerations, in evaluating a cov-

1 ered bond program that has been submitted for
2 approval.

3 (C) REQUIREMENT TO CONSIDER RISK OF
4 LOSS TO THE DEPOSIT INSURANCE FUND.—The
5 covered bond regulator may not approve a cov-
6 ered bond program unless it determines, with
7 the concurrence of the Corporation, that it will
8 not increase the risk of losses or actual losses
9 to the Deposit Insurance Fund or the receiver-
10 ship of any insured depository institution.

11 (D) MULTIPLE COVERED BOND PROGRAMS
12 PERMITTED.—An eligible issuer may have more
13 than 1 covered bond program, if approved by
14 the covered bond regulator.

15 (E) CEASE AND DESIST AUTHORITY.—The
16 applicable covered bond regulator may direct an
17 eligible issuer to cease issuing covered bonds
18 under an approved covered bond program if the
19 covered bond program is not maintained in a
20 manner that is consistent with this Act and the
21 oversight program if, after notice that is rea-
22 sonable under the circumstances, the issuer
23 does not remedy all deficiencies identified by
24 the applicable covered bond regulator.

25 (F) UPDATING THE REGISTRY.—

1 (i) Each covered bond regulator,
2 promptly after approving a covered bond
3 program, shall provide the Financial Insti-
4 tutions Examination Council with the
5 name of the covered bond program, the
6 name of the eligible issuer, and all other
7 information necessary to update the reg-
8 istry under paragraph (4)(A).

9 (ii) Each eligible issuer, promptly
10 after issuing a covered bond under an ap-
11 proved covered bond program, shall provide
12 the Financial Institutions Examination
13 Council with all information necessary to
14 update the registry under paragraph
15 (4)(B).

16 (4) REGISTRY.—Under the oversight program,
17 the Financial Institutions Examination Council shall
18 maintain a registry that is published on a Web site
19 available to the public and that, for each covered
20 bond program approved by a covered bond regulator,
21 contains—

22 (A) the name of the covered bond program,
23 the name of the eligible issuer, and all other in-
24 formation required by the covered bond over-

1 sight program, to adequately identify the cov-
2 ered bond program and the eligible issuer; and

3 (B) all information required by the covered
4 bond oversight program to adequately identify
5 all outstanding covered bonds issued under each
6 covered bond program, including information on
7 assets in, and over-collateralization require-
8 ments for, the cover pools (and including the
9 reports described in paragraphs (3) and (4) of
10 subsection (b)).

11 (5) DISCLOSURE.—The covered bond regulators
12 shall jointly establish standards of disclosure, includ-
13 ing disclosure of asset-level performance and related
14 information, as appropriate, for each type of eligible
15 issuer and approved covered bond program.

16 (6) FEES.—Each covered bond regulator may
17 levy, on the issuers of covered bonds under the pri-
18 mary supervision of such covered bond regulator,
19 reasonably apportioned fees that such covered bond
20 regulator considers necessary, in the aggregate, to
21 defray the costs of such covered bond regulator car-
22 rying out the provisions of this Act. Such funds shall
23 not be construed to be Government funds or appro-
24 priated monies and shall not be subject to apportion-

1 ment for purposes of chapter 15 of title 31, United
2 States Code, or any other provision of law.

3 (b) OVER-COLLATERALIZATION REQUIREMENTS.—

4 (1) REQUIREMENTS ESTABLISHED.—The cov-
5 ered bond regulators, by joint rule, shall establish
6 minimum over-collateralization requirements and a
7 maximum over-collateralization limit for covered
8 bonds backed by each of the eligible asset classes.
9 The minimum over-collateralization requirements
10 shall be designed to ensure that sufficient eligible as-
11 sets and substitute assets are maintained in the
12 cover pool to satisfy all principal and interest pay-
13 ments on the covered bonds when due through matu-
14 rity and shall be based on the credit, collection, and
15 interest rate risks (excluding the liquidity risks) as-
16 sociated with the eligible asset class.

17 (2) ASSET COVERAGE TEST.—

18 (A) The eligible assets and the substitute
19 assets in any cover pool securing covered bonds
20 shall be required, in the aggregate, to meet at
21 all times the applicable minimum over-
22 collateralization requirements established under
23 paragraph (1).

24 (B) The covered bond regulator shall speci-
25 fy the frequency of asset coverage tests and re-

1 porting requirements based on the credit and
2 other risks of such assets to the cover pool and,
3 if appropriate, the creditworthiness of the eligi-
4 ble issuer.

5 (3) MONTHLY REPORTING.—On a monthly
6 basis, each issuer of covered bonds shall submit a re-
7 port on whether the cover pool that secures the cov-
8 ered bonds meets the applicable minimum over-
9 collateralization requirements and remains under the
10 maximum over-collateralization limit to—

11 (A) the applicable covered bond regulator;

12 (B) the applicable indenture trustee;

13 (C) the applicable covered bondholders;

14 and

15 (D) the applicable independent asset mon-
16 itor.

17 (4) INDEPENDENT ASSET MONITOR.—

18 (A) APPOINTMENT.—Each eligible issuer
19 of covered bonds shall appoint an indenture
20 trustee for each series of covered bonds and an
21 unaffiliated entity (which may be the trustee),
22 as an independent asset monitor for the appli-
23 cable cover pool.

24 (B) DUTIES.—An independent asset mon-
25 itor appointed under subparagraph (A) shall, on

1 an annual or other more frequent periodic
2 basis, as jointly determined by the covered bond
3 regulators under the oversight program—

4 (i) verify whether the cover pool meets
5 the applicable minimum over-
6 collateralization requirements; and

7 (ii) report to the applicable covered
8 bond regulator, the applicable indenture
9 trustee, and the applicable covered bond-
10 holders on whether the cover pool meets
11 the applicable minimum over-
12 collateralization requirements.

13 (5) NO LOSS OF STATUS.—Covered bonds shall
14 remain subject to this Act regardless of whether the
15 applicable cover pool ceases to meet the applicable
16 minimum over-collateralization requirements.

17 (6) FAILURE TO MEET REQUIREMENTS.—

18 (A) IN GENERAL.—If a cover pool fails to
19 meet the applicable minimum over-
20 collateralization requirements established under
21 paragraph (1), and if the failure is not cured
22 within the longer of the time specified in appli-
23 cable regulations or in the related transaction
24 documents, the failure shall be an uncured de-
25 fault for purposes of section 4.

1 (B) NOTICE REQUIRED.—An issuer of cov-
2 ered bonds shall promptly give the applicable
3 covered bond regulator written notice upon the
4 occurrence of the following: the cover pool se-
5 curing the covered bonds fails to meet the ap-
6 plicable minimum over-collateralization require-
7 ments, the failure is cured within the time spec-
8 ified in applicable regulations or in the related
9 transaction documents, or if the failure is not
10 so cured.

11 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

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

15 (2) SECURITIES.—A security shall not qualify
16 as an eligible asset for so long as the security does
17 not meet any credit-quality requirement under this
18 Act.

19 (3) ORIGINATION.—An asset shall not qualify
20 as an eligible asset if the asset was not originated
21 in compliance with any rule or supervisory guidance
22 of a Federal agency applicable to the asset at the
23 time of origination.

24 (4) 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 or
2 other prior perfected lien that has been granted in
3 an unrelated transaction. Nothing in this Act shall
4 affect such a prior perfected security interest or
5 other prior perfected lien.

6 (5) INELIGIBLE ASSETS.—Any ineligible asset
7 must be replaced by an eligible asset or a substitute
8 asset, provided the cover pool does not exceed the
9 substitute asset limit.

10 (d) OTHER REQUIREMENTS.—

11 (1) BOOKS AND RECORDS OF ISSUER.—Each
12 issuer of covered bonds shall clearly mark its books
13 and records to identify the eligible ancillary and sub-
14 stitute assets that comprise the cover pool securing
15 the covered bonds.

16 (2) SCHEDULE OF ELIGIBLE, ANCILLARY, AND
17 SUBSTITUTE ASSETS.—Each eligible issuer of cov-
18 ered bonds shall deliver to the applicable indenture
19 trustee and the applicable independent asset mon-
20 itor, at least monthly, a schedule that identifies all
21 eligible, ancillary, and substitute assets in the cover
22 pool securing the covered bonds.

23 (3) SINGLE ELIGIBLE ASSET CLASS.—No cover
24 pool described in section 2(3)(A) or 2(3)(B) may in-

- 1 elude eligible assets from more than 1 eligible asset
- 2 class.

