

**AMENDMENT TO THE COMMITTEE PRINT OF THE
BUDGET RECONCILIATION LEGISLATIVE REC-
COMMENDATIONS OF THE COMMITTEE ON FI-
NANCIAL SERVICES**

OFFERED BY *Mr. Frank*
~~MLC GUTIERREZ~~

Page 6, after line 17, insert the following (and conform the table of contents accordingly):

1 **SEC. 312. SPECIAL ASSESSMENT.**

2 (a) **SPECIAL ASSESSMENT.**—The Council shall im-
3 pose, and the Corporation shall collect on behalf of the
4 Council, one or more special assessments on the financial
5 companies identified in subsections (e) and (f) to collect,
6 in the aggregate, \$30,000,000,000.

7 (b) **TIMING OF PAYMENTS.**—The special assessments
8 described under subsection (a) shall be collected on an an-
9 nual basis, with the first payment of \$3,000,000,000, in
10 the aggregate, due no later than September 30, 2013, and
11 subsequent payments of \$3,000,000,000, in the aggregate,
12 each due not later than September 30 of each subsequent
13 year until the amount specified under subsection (a) has
14 been collected.

15 (c) **ASSESSMENTS PLACED IN THE TAXPAYER PRO-**
16 **TECTION AND FINANCIAL STABILITY FUND.**—Special as-

1 assessments collected pursuant to this section shall be depos-
2 ited into the Taxpayer Protection and Financial Stability
3 Fund established under section 313.

4 (d) RULEMAKING REQUIREMENT.—The Secretary of
5 the Treasury shall prescribe regulations to carry out this
6 section.

7 (e) COMPANIES SUBJECT TO ASSESSMENT.—The
8 Council shall impose risk-based assessments on and the
9 Corporation shall collect such assessments from financial
10 companies in such amount and manner and subject to
11 such terms and conditions that the Secretary determines
12 are necessary in order to satisfy the requirements of sub-
13 sections (a), (f), (g) and (h).

14 (f) MINIMUM ASSESSMENT THRESHOLD.—

15 (1) IN GENERAL.—The Council shall not assess
16 financial companies with less than \$50,000,000,000,
17 adjusted for inflation, in assets on a consolidated
18 basis and shall assess financial companies with
19 \$50,000,000,000, adjusted for inflation, or more in
20 assets in accordance with subsections (g) and (h).

21 (2) HEDGE FUNDS.—Notwithstanding para-
22 graph (1), the Council shall not assess financial
23 companies that manage hedge funds (as defined by
24 the Council, in consultation with the Securities and
25 Exchange Commission, for purposes of this section)

1 with less than \$10,000,000,000, adjusted for infla-
2 tion, of assets under management on a consolidated
3 basis, and shall assess any financial companies that
4 manage hedge funds with \$10,000,000,000 or more
5 of assets under management in accordance with sub-
6 sections (g) and (h).

7 (g) FACTORS.—The Secretary of the Treasury, in co-
8 ordination with the Council, shall establish a risk matrix
9 to be used in establishing the special assessment that
10 takes into account—

11 (1) the need to satisfy the requirement of sub-
12 section (a);

13 (2) any assessments imposed on a financial
14 company or an affiliate of a financial company
15 that—

16 (A) is an insured depository institution, as-
17 sessed pursuant to section 7 or 13(c)(4)(G) of
18 the Federal Deposit Insurance Act;

19 (B) is a member of the Securities Investor
20 Protection Corporation, assessed pursuant to
21 section 4 of the Securities Investor Protection
22 Act of 1970 (15 U.S.C. 78ddd);

23 (C) is an insured credit union, assessed
24 pursuant to section 202(c)(1)(A)(i) of the Fed-

1 eral Credit Union Act (12 U.S.C.
2 1782(c)(1)(A)(i)); or

3 (D) is an insurance company, assessed
4 pursuant to applicable State law to cover (or re-
5 imburse payments made to cover) the costs of
6 the rehabilitation, liquidation, or other State in-
7 solvency proceeding with respect to 1 or more
8 insurance companies;

9 (3) the extent of the company's leverage;

10 (4) the extent and nature of the company's off
11 balance sheet exposures;

12 (5) the extent and nature of the company's
13 transactions and relationships with other financial
14 companies;

15 (6) the company's importance as a source of
16 credit for households, businesses, and State and
17 local governments and as a source of liquidity for
18 the financial system;

19 (7) the company's importance as a source of
20 credit for low-income, minority, or underserved com-
21 munities and the impact the failure of such company
22 would have on the availability of credit in such com-
23 munities;

24 (8) the extent to which assets are simply man-
25 aged and not owned by the financial company and

1 the extent to which ownership of assets under man-
2 agement is diffuse;

3 (9) the nature, scope, and mix of the company's
4 activities;

5 (10) the degree to which the company is already
6 regulated by one or more Federal financial regu-
7 latory agencies or, in the case of a foreign financial
8 parent, the extent to which such foreign parent is
9 subject to prudential standards on a consolidated
10 basis in the home country of such financial parent
11 that are administered and enforced by a comparable
12 foreign supervisory authority;

13 (11) the amount and nature of the company's
14 financial assets;

15 (12) the amount and nature of the company's
16 liabilities, including the degree of reliance on short
17 term funding; and

18 (13) such other risk-related factors as the
19 Council may determine to be appropriate.

20 (h) REQUIREMENT FOR EQUITABLE TREATMENT IN
21 ASSESSMENTS.—In establishing the special assessment
22 system under this section, the Council shall consider dif-
23 ferences among financial companies based on complexity
24 of operations or organization, interconnectedness, size, di-
25 rect or indirect activities, and any other risk-related fac-

1 tors the Council may deem appropriate to ensure that the
2 assessments charged take into account the risk posed to
3 the financial system by particular classes of financial com-
4 panies.

5 (i) INFORMATION GATHERING AND VERIFICATION;
6 PAYMENTS.—

7 (1) IN GENERAL.—The Council may require
8 each financial company to make available such infor-
9 mation as the Council may require—

10 (A) for purposes of—

11 (i) determining the financial com-
12 pany's assessments under this section; and

13 (ii) verifying the accuracy of informa-
14 tion; and

15 (B) for such other purposes as may be ap-
16 propriate and necessary to determine appro-
17 priate risk-based assessments in accordance
18 with this section.

19 (2) USE OF EXISTING REPORTS.—The Council
20 shall, to the fullest extent possible, accept—

21 (A) reports that a financial company has
22 provided or been required to provide to other
23 Federal or State supervisors or to appropriate
24 self-regulatory organizations;

1 (B) information that is otherwise required
2 to be reported publicly; and

3 (C) externally audited financial statements.

4 (3) AUTHORITY FOR ON-SITE INSPECTION.—

5 The appropriate Federal supervisory agency (or the
6 Board of Governors in the absence of any such agen-
7 cy) may make on-site inspections of a financial com-
8 pany's books and records as necessary to carry out
9 the purposes of this subsection.

10 (4) RULEMAKING.—The Chairperson of the
11 Council, in consultation with the Corporation, may
12 promulgate such regulations as are necessary or ap-
13 propriate to implement this subsection.

14 (5) PAYMENTS OF ASSESSMENTS REQUIRED.—

15 Any financial company subject to an assessment
16 under this section shall pay to the Corporation such
17 assessment.

18 (6) PENALTY FOR FAILURE TO TIMELY PAY AS-
19 SEMENTS.—Any financial company that fails or
20 refuses to pay any assessment under this section
21 shall be subject to a penalty under section 18(h) of
22 the Federal Deposit Insurance Act, as if that finan-
23 cial company were an insured depository institution.

24 (j) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 (1) COUNCIL.—The term “Council” means the
2 Financial Stability Oversight Council established
3 under section 111 of the Dodd-Frank Wall Street
4 Reform and Consumer Protection Act.

5 (2) FINANCIAL COMPANY.—The term “financial
6 company” means any company that—

7 (A) is incorporated or organized under
8 Federal law or the laws of any State;

9 (B) is—

10 (i) any bank holding company as de-
11 fined in section 2(a) of the Bank Holding
12 Company Act of 1956 (12 U.S.C.
13 1841(a));

14 (ii) any savings and loan holding com-
15 pany as defined in section 10(a)(1)(D) of
16 the Home Owners’ Loan Act (12 U.S.C.
17 1467a(a)(1)(D));

18 (iii) any nonbank financial company
19 supervised by the Board of Governors of
20 the Federal Reserve System, as defined in
21 section 113 of the Dodd-Frank Wall Street
22 Reform and Consumer Protection Act;

23 (iv) any insurance company;

24 (v) any company predominantly en-
25 gaged in activities that are financial in na-

1 ture or incidental thereto for purposes of
2 section 4(k) of the Bank Holding Company
3 Act of 1956 (12 U.S.C. 1843(k)) or activi-
4 ties that the Council identified as war-
5 ranting new or heightened prudential
6 standards under section 120 of the Dodd-
7 Frank Wall Street Reform and Consumer
8 Protection Act; or

9 (vi) any subsidiary of companies de-
10 scribed in clause (i), (ii), (iii), (iv), or (v)
11 (other than an insured depository institu-
12 tion or any broker or dealer registered with
13 the Securities and Exchange Commission
14 under section 15(b) of the Securities Ex-
15 change Act of 1934 (15 U.S.C. 78o(b))
16 that is a member of the Securities Investor
17 Protection Corporation);

18 (C) that is not a Farm Credit System in-
19 stitution chartered under and subject to the
20 provisions of the Farm Credit Act of 1971 (12
21 U.S.C. 2001 et seq.);

22 (D) that is not a Federal home loan bank,
23 the Federal National Mortgage Association, or
24 the Federal Home Loan Mortgage Corporation;

1 (E) that is not an investment company
2 registered with the Securities and Exchange
3 Commission under the Investment Company
4 Act of 1940;

5 (F) that is not a common trust fund de-
6 scribed under section 3(e)(3) of the Investment
7 Company Act of 1940;

8 (G) that is not a collective investment fund
9 described under section 3(e)(3) of the Invest-
10 ment Company Act of 1940; and

11 (H) is not an insured depository institution
12 (as defined in section 3(e) of the Federal De-
13 posit Insurance Act), a Federal credit union or
14 a State-chartered credit union (as such terms
15 are defined in section 101 of the Federal Credit
16 Union Act), or a government-sponsored enter-
17 prise (as such term is defined in section 1004(f)
18 of the Financial Institutions Reform, Recovery
19 and Enforcement Act of 1989 (12 U.S.C. 1811
20 note)).

21 **SEC. 313. TAXPAYER PROTECTION AND FINANCIAL STA-**
22 **BILITY FUND.**

23 (a) ESTABLISHMENT AND PURPOSE.—There is es-
24 tablished in the Treasury of the United States a separate
25 fund to be known as the Taxpayer Protection and Finan-

1 cial Stability Fund (hereafter in this section referred to
2 as the “Fund”) to protect taxpayers by requiring the ini-
3 tial costs of dissolving a failed financial company or com-
4 panies that pose a systemic threat to the financial markets
5 or economy to be paid for by assessments on certain finan-
6 cial companies in an amount up to \$30,000,000,000.

7 (b) SEPARATE HOLDING.—Assessments deposited
8 into the Fund—

9 (1) shall be assets of the Fund only; and

10 (2) may not be consolidated with any other
11 funds within the Treasury of the United States.

12 (c) SOURCE OF FUNDS.—The Fund shall be funded
13 from assessments in accordance with section 312. Such
14 assessments shall only be imposed and collected from fi-
15 nancial companies as described in such section.

16 (d) INVESTMENT OF FUNDS.—Funds held in the
17 Fund shall be invested in obligations of the United States
18 issued directly to the Fund having suitable maturities and
19 paying suitable interest rates, as determined by the Sec-
20 retary.

21 (e) RECORDKEEPING.—The Secretary of the Treas-
22 ury shall establish books and records reflecting the assets
23 attributable to the Fund, which shall include all earnings
24 from investments and which shall be updated as appro-
25 priate.

1 (f) USE OF FUNDS.—

2 (1) IN GENERAL.—The Fund shall be adminis-
3 tered by the Secretary of the Treasury, who shall
4 have exclusive authority to provide transfers of
5 funds in such amounts as may be necessary to the
6 Corporation to cover the initial costs to the Corpora-
7 tion, including as receiver, in facilitating the dissolu-
8 tion of a failed financial company or companies that
9 pose a systemic threat to the financial markets or
10 the economy.

11 (2) NO BENEFIT TO OFFICERS OR DIREC-
12 TORS.—The Fund shall not be used in any manner
13 to benefit any officer or director of such company re-
14 moved by the Corporation acting as receiver.

