

**AMENDMENT TO THE COMMITTEE PRINT OF
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OFFERED BY MR. GARRETT OF NEW JERSEY**

Add at the end the following new subtitle (and conform the table of contents accordingly):

1 **Subtitle I—Covered Bonds**

2 **SEC. 1801. DEFINITIONS.**

3 For purposes of this subtitle, the following definitions
4 shall apply—

5 (1) **ANCILLARY ASSET.**—The term “ancillary
6 asset” means, with respect to any cover pool—

7 (A) any interest rate or currency swap as-
8 sociated with any eligible asset, substitute asset,
9 or other ancillary asset in the cover pool;

10 (B) any credit enhancement or liquidity ar-
11 rangement associated with any eligible asset,
12 substitute asset, or other ancillary asset in the
13 cover pool;;

14 (C) any guarantee, letter-of-credit right, or
15 other secondary obligation that supports any
16 payment or performance on an eligible asset,
17 substitute asset, or other ancillary asset in the
18 cover pool; and

1 (D) any proceeds of, or other property in-
2 cident to, any eligible asset, substitute asset, or
3 other ancillary asset in the cover pool.

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

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

9 (A) has a term not less than 1 year;

10 (B) is secured directly or indirectly by a
11 perfected security interest in a cover pool which
12 is owned directly or indirectly by the issuer of
13 the obligation;

14 (C) is identified in a register of covered
15 bonds maintained by the covered bond regu-
16 lator; and

17 (D) is not a deposit (as defined in section
18 3 of the Federal Deposit Insurance Act).

19 (4) COVERED BOND REGULATOR.—The term
20 “covered bond regulator” means the Secretary of the
21 Treasury or any officer of the Department of the
22 Treasury designated by the Secretary for purposes
23 of this title.

1 (5) COVER POOL.—The term “cover pool”
2 means a dynamic pool of assets that is comprised of
3 —

4 (A) 1 or more eligible assets from a single
5 eligible asset class;

6 (B) substitute assets, without limitation;

7 and

8 (C) ancillary assets, without limitation.

9 (6) ELIGIBLE ASSET CLASS.—The term “eligi-
10 ble asset class” means the following classes of as-
11 sets:

12 (A) Residential mortgage asset class.

13 (B) Home equity asset class.

14 (C) Commercial mortgage asset class.

15 (D) Public sector asset class.

16 (E) Auto asset class.

17 (F) Student loan asset class.

18 (G) Credit or charge card asset class.

19 (H) Small business asset class.

20 (I) Such other eligible asset class as may
21 be designated by the covered bond regulator.

22 (7) ELIGIBLE ASSET.—The term “eligible
23 asset” means any of the following assets within a
24 particular eligible asset class:

1 (A) In the case of the residential mortgage
2 asset class—

3 (i) any first-lien mortgage loan se-
4 cured by 1-to-4 family residential property
5 that is in compliance with supervisory
6 guidance applicable at the time of loan
7 origination;

8 (ii) any mortgage insured under the
9 National Housing Act or any loan guaran-
10 teed, insured, or made under chapter 37 of
11 title 38, United States Code; and

12 (iii) any AAA-rated residential mort-
13 gage-backed security that represents an in-
14 terest in a pool consisting of first-lien
15 mortgage loans (including any residential
16 mortgage-backed security that is sponsored
17 or issued by, or backed by first-lien mort-
18 gage loans originated or acquired by, the
19 issuer of the covered bonds or any affiliate
20 of such issuer), to the extent such assets
21 do not exceed an amount equal to 20 per-
22 cent of the value of the assets in a cover
23 pool.

24 (B) In the case of the home equity asset
25 class—

1 (i) any home equity loan secured by 1-
2 to-4 family residential property that is in
3 compliance with supervisory guidance ap-
4 plicable at the time of loan origination; and

5 (ii) any AAA-rated asset-backed secu-
6 rity that represents an interest in a pool
7 consisting of home equity loans (including
8 any asset-backed security that is sponsored
9 or issued by, or backed by home equity
10 loans originated or acquired by, the issuer
11 of the covered bonds or any affiliate of
12 such issuer), to the extent such assets do
13 not exceed an amount equal to 20 percent
14 of the value of the assets in a cover pool.

15 (C) In the case of the commercial mort-
16 gage asset class—

17 (i) any commercial mortgage loan that
18 is in compliance with supervisory guidance
19 applicable at the time of loan origination;
20 and

21 (ii) any AAA-rated commercial mort-
22 gage-backed security that represents an in-
23 terest in a pool consisting of commercial
24 mortgage loans (including any commercial
25 mortgage-backed security that is sponsored

1 or issued by, or backed by commercial
2 mortgage loans originated or acquired by,
3 the issuer of the covered bonds or any af-
4 filiate of such issuer), to the extent such
5 assets do not exceed an amount equal to
6 20 percent of the value of the assets in a
7 cover pool.

8 (D) In the case of the public sector asset
9 class—

10 (i) Investment-grade securities issued
11 by 1 or more States or municipalities;

12 (ii) loans (excluding securities) made
13 to 1 or more States or municipalities; and

14 (iii) loans or other obligations that are
15 insured or guaranteed, in full or substan-
16 tially in full, by the full faith and credit of
17 the United States (whether or not those
18 loans or other obligations are also part of
19 another eligible asset class).

20 (E) In the case of the auto asset class—

21 (i) any auto loan or lease that is in
22 compliance with supervisory guidance ap-
23 plicable at the time of loan or lease origi-
24 nation; and

1 (ii) any AAA-rated asset-backed secu-
2 rity backed by auto loans or leases (includ-
3 ing any asset-backed security sponsored or
4 issued by, or backed by loans originated or
5 acquired by, the issuer of the covered
6 bonds or any affiliate of such issuer), to
7 the extent such assets do not exceed an
8 amount equal to 20 percent of the value of
9 the assets in a cover pool.

10 (F) In the case of the student loan asset
11 class—

12 (i) any student loan (whether guaran-
13 teed or nonguaranteed); and

14 (ii) any AAA-rated asset-backed secu-
15 rity backed by student loans (including any
16 asset-backed security sponsored or issued
17 by, or backed by loans originated or ac-
18 quired by, the issuer of the covered bonds
19 or any affiliate of such issuer), to the ex-
20 tent such assets do not exceed an amount
21 equal to 20 percent of the value of the as-
22 sets in a cover pool.

23 (G) In the case of the credit or charge
24 card asset class—

1 (i) A credit or charge card loan that
2 is in compliance with supervisory guidance
3 applicable at the time of loan origination;
4 and

5 (ii) any AAA-rated asset-backed secu-
6 rity backed by credit or charge card loans
7 (including any asset-backed security spon-
8 sored or issued by, or backed by loans
9 originated or acquired by, the issuer of the
10 covered bonds or any affiliate of such
11 issuer), to the extent such assets do not
12 exceed an amount equal to 20 percent of
13 the value of the assets in a cover pool.

14 (H) In the case of the small business asset
15 class—

16 (i) any loan made or guaranteed by
17 the Small Business Administration; and

18 (ii) any AAA-rated asset-backed secu-
19 rity backed by loans made or guaranteed
20 by the Small Business Administration (in-
21 cluding any asset-backed security spon-
22 sored or issued by, or backed by loans
23 originated or acquired by, the issuer of the
24 covered bonds or any affiliate of such
25 issuer), to the extent such assets do not

1 exceed an amount equal to 20 percent of
2 the value of the assets in a cover pool.

3 (I) In the case of any other eligible asset
4 class designated by the covered bond regulator,
5 the assets designated by such regulator for such
6 class.

7 (8) ELIGIBLE ISSUER.—The term “eligible
8 issuer” means—

9 (A) any insured depository institution (as
10 defined in section 3 of the Federal Deposit In-
11 surance Act) and any subsidiary of any such in-
12 stitution;

13 (B) any bank holding company (as defined
14 in section 2 of the Bank Holding Company Act
15 of 1956;

16 (C) any regulated financial institution in-
17 stitutions that is approved, and determined to
18 be systemically important, by the covered bond
19 regulator; and

20 (D) any issuing entity that is sponsored by
21 1 or more eligible issuers for the sole purpose
22 of issuing covered bonds on a pooled basis.

23 (9) OVERSIGHT PROGRAM.—The term “over-
24 sight program” means the covered bonds regulatory

1 oversight program established under section
2 1801(a).

3 (10) SUBSTITUTE ASSET.—The term “sub-
4 stitute asset” means—

5 (A) cash;

6 (B) direct obligations of the United States
7 Government, and securities and other obliga-
8 tions whose full principal and interest are in-
9 sured or guaranteed by the full faith and credit
10 of the United States Government;

11 (C) any AAA-rated direct obligations of a
12 United States Government corporation or a
13 Government-sponsored enterprise, and any
14 other security or other obligation whose full
15 principal and interest are insured or guaranteed
16 by any such corporation or enterprise (including
17 mortgage-backed securities issued by any such
18 corporation or enterprise);

19 (D) any overnight investments in Federal
20 funds; and

21 (E) any deposit accounts or securities ac-
22 count into which only substitute assets may be
23 deposited or credited.

1 **SEC. 1802. REGULATORY OVERSIGHT OF COVERED BOND**
2 **PROGRAMS ESTABLISHED.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—The covered bond regulator
5 shall establish a covered bond regulatory oversight
6 program that meets the requirements of this section.

7 (2) APPROVAL OF PROGRAM FOR EACH COV-
8 ERED BOND ISSUER.—

9 (A) APPROVAL BY COVERED BOND REGU-
10 LATOR.—The oversight program shall require
11 the approval of the oversight regulator of the
12 covered bond program of any covered bond
13 issuer before any such bonds may be issued by
14 such issuer.

15 (B) CONSULTATION WITH ANY FEDERAL
16 PRIMARY REGULATOR.—Before approving any
17 covered bond program of any issuer, the cov-
18 ered bond regulator shall consult with the pri-
19 mary Federal regulator, if any, of such issuer.

20 (3) REGISTRY.—Under the oversight program,
21 the covered bond regulator shall maintain a registry
22 on a website available to the public containing the
23 name of each approved covered bond issuer and in-
24 formation on all outstanding covered bonds
25 issuances under the approved covered bond program
26 of such issuer.

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

3 (1) ESTABLISHMENT REQUIRED.—The covered
4 bond regulator from time to time shall define min-
5 imum over-collateralization requirements for covered
6 bonds backed by the different eligible asset classes
7 based on credit and collection risks and interest-rate
8 risks, but not liquidity risk.

9 (2) RELIANCE ON FRB STANDARDS.—In re-
10 quirements under paragraph (1), the covered bond
11 regulator may rely on over-collateralization levels re-
12 quired for the same or similar asset classes when
13 used for pledging with a Federal reserve bank.

14 (3) TESTING.—Over-collateralization levels es-
15 tablished under paragraph (1) shall be tested peri-
16 odically as described in [section 7(b)].

17 **SEC. 1803. DEFAULT AND INSOLVENCY.**

18 (a) DEFAULT ON COVERED BONDS PRIOR TO CON-
19 SERVATORSHIP, RECEIVERSHIP, OR BANKRUPTCY.—

20 (1) CREATION OF SEPARATE ESTATE.—If an
21 uncured default occurs with respect to a covered
22 bond issuer's obligation for a covered bond or cover
23 pool before any conservator, receiver, liquidating
24 agent, or trustee in bankruptcy is appointed for such
25 issuer, an estate shall be created [by operation of

1 law] with respect to the covered bond or covered
2 bond pool that is separate from the issuer or any
3 subsequent conservatorship, receivership, liquidating
4 agency, or estate in bankruptcy for such issuer.

5 (2) ASSUMPTION OF LIABILITIES BY ESTATE.—
6 Any estate established under paragraph (1) shall be
7 fully liable for on the covered bonds and all other
8 covered bonds secured by the same cover pool, and
9 the estate shall be comprised of that related cover
10 pool and all other related rights and obligations of
11 the issuer.

12 (3) RETENTION OF CLAIMS.—Any investor in a
13 covered bond in a cover pool for which an estate has
14 been established under paragraph (1) shall retain
15 any claim against the issuer for any deficiency with
16 respect to such bond.

17 (4) RELEASE OF COVER POOL.— The release of
18 the cover pool to the estate shall result in the cre-
19 ation of a residual interest that—

20 (A) is in the form of an exempted security
21 (in the manner provided in [section 6]); and

22 (B) represents the right to any surplus
23 from the cover pool after all obligations on the
24 covered bonds and all other liabilities of the es-
25 tate have been paid in full.

1 (5) DOCUMENTATION OF RESIDUAL INTER-
2 EST.—Any residual interest created by operation of
3 paragraph (4) shall be—

4 (A) documented by the covered bond regu-
5 lator; and

6 (B) initially retained by the issuer.

7 (6) OBLIGATION OF ISSUER.—After the estab-
8 lishment of an estate under paragraph (1), the
9 issuer shall be obligated to cooperate in effecting the
10 release of the cover pool to the estate and, at the
11 election of the covered bond regulator, to continue
12 servicing the cover pool for 120 days after such re-
13 lease in return for a fair-market-value fee.

14 (7) TRUSTEE AND ADMINISTRATOR.—

15 (A) IN GENERAL.—The covered bond regu-
16 lator shall—

17 (i) act as the trustee of any estate es-
18 tablishes under paragraph (1); and

19 (ii) appoint a servicer and adminis-
20 trator for the cover pool released to such
21 estate.

22 (B) DUTIES OF SERVICER AND ADMINIS-
23 TRATOR.—Any servicer or administrator ap-
24 pointed for any estate established under this
25 subsection may collect, realize on (by collection,

1 liquidation, or other means), and procure funds
2 using the cover pool to make all remaining in-
3 terest and principal payments according to the
4 terms of the assumed covered bonds through
5 their maturity or, if an acceleration event oc-
6 curs under the related transaction documents,
7 at the times specified in those transaction docu-
8 ments.

9 (8) AVAILABILITY OF FUNDING.—

10 (A) IN GENERAL.—Any estate established
11 under paragraph (1) shall have access to a bor-
12 rowing facility with the Federal Financing
13 Bank to the extent necessary to make required
14 payments on the covered bonds in a cover pool
15 released to such estate,.

16 (B) COLLATERAL.—The assets in any
17 cover pool referred to in subparagraph (A) be
18 eligible to be posted as collateral for those bor-
19 rowings on terms that are no less favorable
20 than those afforded to discount window bor-
21 rowings from the Federal Reserve Bank of New
22 York.

23 (C) AUTHORITY TO ISSUE INSTRUMENT.—
24 Any estate that borrows from the Federal Fi-
25 nancing Bank under this subsection shall issue

1 such instrument as the Secretary of the Treas-
2 ury may require for such purposes and shall be
3 treated as any agency of the United States for
4 purposes of such Act.

5 (b) DEFAULT ON COVERED BONDS UPON CON-
6 SERVATORSHIP, RECEIVERSHIP, OR BANKRUPTCY.—

7 (1) FDIC CONSERVATORSHIP OR RECEIVER-
8 SHIP.—

9 (A) IN GENERAL.—If the Corporation is
10 appointed as conservator or receiver for an
11 issuer of covered bonds before an uncured de-
12 fault occurs that results in the related cover
13 pool and other related rights and obligations
14 being transferred to a separate estate, the Cor-
15 poration shall have an exclusive right, for 15
16 days from the date of such appointment, to
17 transfer the cover pool in its entirety together
18 with all related covered bonds and all other re-
19 lated rights and obligations of the issuer to an-
20 other eligible issuer that meets all conditions
21 and requirements specified in the related trans-
22 action documents.

23 (B) OBLIGATIONS DURING 15-DAY PE-
24 RIOD.—During the 15-day period referred to in
25 subparagraph (A) with respect to any issuer of

1 covered bonds, the Corporation shall satisfy all
2 monetary and non-monetary obligations of the
3 issuer under the covered bonds and the related
4 transaction documents **【**until a transfer under
5 subparagraph (C) is completed**】**.

6 (C) ASSUMPTION BY TRANSFEREE.—If the
7 Corporation effects a transfer under subpara-
8 graph (A) within the 15-day period referred to
9 in such subparagraph, the transferee shall take
10 over the related covered bond program on the
11 same terms as specified in the covered bonds
12 and the related transaction documents.

13 (2) OTHER CIRCUMSTANCES.—If—

14 (A) a conservator, receiver, liquidating
15 agent, or trustee in bankruptcy is appointed,
16 other than the Corporation, is appointed as con-
17 servator or receiver for an issuer of covered
18 bonds before an uncured default occurs that re-
19 sults in the related cover pool and other related
20 rights and obligations being transferred to a
21 separate estate; or

22 (B) in the case any issuer for which the
23 Corporation is appointed as conservator or re-
24 ceiver under paragraph (1)(A), no transfer by

1 the Corporation is completed within the 15-day
2 period referred to in such paragraph,
3 a separate estate shall be created [by operation of
4 law] with respect to the covered bond or covered
5 bond pool that is separate from the issuer or the
6 conservatorship, receivership, liquidating agency, or
7 estate in bankruptcy for such issuer.

8 (3) ASSUMPTION OF LIABILITIES BY ESTATE.—
9 Any estate established under paragraph (2) shall be
10 fully liable for on the covered bonds and all other
11 covered bonds secured by the same cover pool, and
12 the estate shall be comprised of such related cover
13 pool and all other related rights and obligations of
14 the issuer.

15 (4) CONTINGENT CLAIM.—Any contingent claim
16 of any investor with respect to any covered bond
17 that is part of an estate under paragraph (2) shall
18 be estimated by the Corporation, liquidating agent,
19 receiver, conservator or trustee in bankruptcy for
20 purposes of any allowance of such claim as a prov-
21 able claim if awaiting the fixing of that contingent
22 claim would unduly delay the resolution of the con-
23 servatorship, receivership, liquidating agency, or
24 bankruptcy case.

1 (5) RELEASE OF COVER POOL.—Regardless of
2 whether any contingent claim described in paragraph
3 (4) becomes fixed or is estimated, the release of the
4 cover pool to the estate shall result in the creation
5 of a residual interest that—

6 (A) is in the form of an exempted security
7 (in the manner provided in **section 6**); and

8 (B) represents the right to any surplus
9 from the cover pool after all obligations on the
10 covered bonds and all other liabilities of the es-
11 tate have been paid in full.

12 a separate estate shall be created [by operation of
13 law] with respect to the covered bond or covered
14 bond pool that is separate from the issuer or any
15 subsequent conservatorship, receivership, liquidating
16 agency, or estate in bankruptcy for such issue.

17 (c) DOCUMENTATION OF RESIDUAL INTEREST.—Any
18 residual interest created by operation of paragraph (4)
19 shall be—

20 (1) documented by the covered bond regulator;

21 and

22 (2) initially retained by—

23 (A) the issuer, in the case of a residual es-
24 tate under subsection (a)(1); and

1 (B) the conservator, receiver, liquidating
2 agent, or estate in bankruptcy estate for ulti-
3 mate distribution to creditors, in the case of a
4 residual estate under subsection (b)(2).

5 (d) OBLIGATION OF ISSUER.—After the establish-
6 ment of an estate under subsection (a)(1) or (b)(2), the
7 issuer shall be obligated to cooperate in effecting the re-
8 lease of the cover pool to the estate and, at the election
9 of the covered bond regulator, to continue servicing the
10 cover pool for 120 days after such release in return for
11 a fair-market-value fee.

12 (e) TRUSTEE AND ADMINISTRATOR.—

13 (1) IN GENERAL.—The covered bond regulator
14 shall—

15 (A) act as the trustee of any estate estab-
16 lished under subsection (a)(1) or (b)(2); and

17 (B) appoint a servicer and administrator
18 for the cover pool released to such estate.

19 (2) DUTIES OF SERVICER AND ADMINIS-
20 TRATOR.—Any servicer or administrator appointed
21 for any estate established under this section may
22 collect, realize on (by collection, liquidation, or other
23 means), and procure funds using the cover pool to
24 make all remaining interest and principal payments
25 according to the terms of the assumed covered bonds

1 through their maturity or, if an acceleration event
2 occurs under the related transaction documents, at
3 the times specified in those transaction documents.

4 (f) AVAILABILITY OF FUNDING.—

5 (1) IN GENERAL.—Any estate established under
6 subsection (a)(1) or (b)(2) shall have access to a
7 borrowing facility with the Federal Financing Bank
8 to the extent necessary to make required payments
9 on the covered bonds in a cover pool released to such
10 estate,.

11 (2) COLLATERAL.—The assets in any cover pool
12 referred to in subparagraph (A) be eligible to be
13 posted as collateral for those borrowings on terms
14 that are no less favorable than those afforded to dis-
15 count window borrowings from the Federal Reserve
16 Bank of New York.

17 (3) AUTHORITY TO ISSUE INSTRUMENT.—Any
18 estate that borrows from the Federal Financing
19 Bank under this subsection shall issue such
20 instrument as the Secretary of the Treasury may
21 require for such purposes and shall be treated as
22 any agency of the United States for purposes of the
23 Federal Financing Bank Act of 1973.

24 **SEC. 1804. SECURITIES LAW PROVISIONS.**

25 (a) REGISTRATION.—

1 (1) APPLICABILITY TO BANK ISSUERS.—Cov-
2 ered bonds that are offered and sold to the public
3 by a bank (or an operating subsidiary of a bank)
4 shall be—

5 (A) subject to—

6 (i) securities regulations issued by the
7 primary Federal regulatory agency with re-
8 spect to such bank; and

9 (ii) applicable anti-fraud rules; and

10 (B) exempt from all other Federal securi-
11 ties laws.

12 (2) APPLICABILITY TO ISSUERS SPONSORED BY
13 A 1 OR MORE BANKS WITH SAME REGULATOR.—Cov-
14 ered bonds that are offered and sold to the public
15 by an issuing entity that is sponsored only by 1 or
16 more banks with the same primary Federal regu-
17 latory agency shall be—

18 (A) subject to—

19 (i) securities regulations issued by the
20 primary Federal regulatory agency with re-
21 spect to such bank; and

22 (ii) applicable anti-fraud rules; and

23 (B) exempt from all other Federal securi-
24 ties laws.

1 (3) OTHER ISSUERS.—For covered bonds that
2 are offered and sold to the public by any other eligi-
3 ble issuer and that are not otherwise exempted secu-
4 rities, the Securities and Exchange Commission shall
5 develop a streamlined registration scheme.

6 (4) EXTENSION OF EXEMPTIONS TO SEPARATE
7 ESTATES.—Each exemption established under para-
8 graph (1)(B) or (2)(B) shall continue to apply to
9 any separate estate established by operation of law
10 pursuant to section 1803(b)(2) and to any residual
11 interest in such estate.

12 (b) DISCLOSURE AND REPORTING.—

13 (1) APPLICABILITY TO BANK ISSUERS.—At a
14 reasonable time before the initial sale of a covered
15 bond by a bank or operating subsidiary of a bank,
16 the bank subsidiary shall make available to investors
17 the information required by the securities regula-
18 tions issued by the bank's primary Federal regulator
19 and applicable anti-fraud rules.

20 (2) APPLICABILITY TO ISSUERS SPONSORED BY
21 A 1 OR MORE BANKS WITH SAME REGULATOR.—At
22 a reasonable time before the initial sale of a covered
23 bond by an issuing entity that is sponsored only by
24 1 or more banks with the same primary Federal reg-
25 ulatory agency, the issuing entity shall make avail-

1 able to investors the information required by the se-
2 curities regulations issued by such primary Federal
3 regulator and applicable anti-fraud rules.

4 (3) OTHER ISSUERS.— At a reasonable time be-
5 fore the initial sale of a covered bond that is not an
6 exempted security by any other eligible issuer, the
7 eligible issuer shall make available to investors the
8 information required under the streamlined ap-
9 proach established by the Securities and Exchange
10 Commission under section (a)(3) and applicable
11 anti-fraud rules.

12 (4) STANDARDS.—In each case, the content and
13 frequency of reports to investors shall be determined
14 according to the same standards that govern the ini-
15 tial information delivery requirement.

