

Union Calendar No. 512

118TH CONGRESS
2^D SESSION

H. R. 4116

[Report No. 118-614]

To amend the Federal Deposit Insurance Act to require reports on the use of the systemic risk authority applicable to winding up a failed insured depository institution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2023

Mr. GREEN of Texas (for himself, Mr. SHERMAN, and Mrs. BEATTY) introduced the following bill; which was referred to the Committee on Financial Services

JULY 30, 2024

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 14, 2023]

A BILL

To amend the Federal Deposit Insurance Act to require reports on the use of the systemic risk authority applicable to winding up a failed insured depository institution, 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 “Systemic Risk Authority*
5 *Transparency Act”.*

6 **SEC. 2. BANK FAILURE TRANSPARENCY RELATED TO SYS-**
7 **TEMIC RISK EXCEPTION.**

8 *(a) GAO REVIEW.—Section 13(c)(4)(G)(iv) of the Fed-*
9 *eral Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(iv))*
10 *is amended to read as follows:*

11 *“(iv) GAO REVIEW.—*

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

20 *“(aa) the basis for the deter-*
21 *mination;*

22 *“(bb) the purpose for which*
23 *any action was taken pursuant to*
24 *such clause;*

1 “(cc) the likely effect of the
2 determination and such action on
3 the incentives and conduct of in-
4 sured depository institutions and
5 uninsured depositors;

6 “(dd) any mismanagement
7 by the executives and board of the
8 insured depository institution
9 that contributed to the failure of
10 the insured depository institution;

11 “(ee) a review of the com-
12 pensation practices of the insured
13 depository institution;

14 “(ff) any supervisory or reg-
15 ulatory shortcomings with respect
16 to the appropriate Federal bank-
17 ing agency of the insured deposi-
18 tory institution;

19 “(gg) any actions taken by
20 the Federal banking regulators,
21 Financial Stability Oversight
22 Council, Treasury Department,
23 and other relevant financial regu-
24 lators in relation to the failure of

1 *the insured depository institution;*
2 *and*

3 *“(hh) any additional rel-*
4 *evant entities or activities that*
5 *may have contributed to the fail-*
6 *ure of the insured depository in-*
7 *stitution, including with respect*
8 *to auditing, accounting, credit*
9 *rating agencies, investment bank*
10 *underwriters, and emergency li-*
11 *quidity options such as loans*
12 *from the Federal reserve banks or*
13 *advances through the Federal*
14 *Home Loan Bank system.*

15 *“(II) RULE OF CONSTRUCTION.—*
16 *Nothing in this clause or a report*
17 *issued pursuant to this clause may be*
18 *construed to limit the authority of a*
19 *Federal agency to enforce violations of*
20 *Federal statutes, rules, or orders.”.*

21 *(b) APPROPRIATE FEDERAL BANKING AGENCY RE-*
22 *PORT.—Section 13(c) of the Federal Deposit Insurance Act*
23 *(12 U.S.C. 1823(c)) is amended by adding at the end the*
24 *following:*

1 “(12) *APPROPRIATE FEDERAL BANKING AGENCY*
2 *REPORT.*—

3 “(A) *IN GENERAL.*—*The appropriate Fed-*
4 *eral banking agency of an insured depository in-*
5 *stitution about which a determination is made*
6 *under paragraph (4)(G)(i) shall, not later than*
7 *90 days after the date of such determination,*
8 *and again 210 days thereafter, submit a report*
9 *to the Congress that discloses the following:*

10 “(i) *Subject to such redactions as the*
11 *appropriate Federal banking agency deter-*
12 *mines appropriate of personally identifiable*
13 *information about customers and other fi-*
14 *nancial institutions (as such term is defined*
15 *under section 11(e)(9)(D)), all—*

16 “(I) *reports of examination and*
17 *inspection that relate to the failed in-*
18 *sured depository institution in the pre-*
19 *vious 3-year period;*

20 “(II) *formal communications of a*
21 *material supervisory determination*
22 *conveyed to the failed insured deposi-*
23 *tory institution in the previous 3-year*
24 *period; and*

1 “(III) any additional exam re-
2 ports and correspondence that the ap-
3 propriate Federal banking agency de-
4 termines may be relevant to the failure
5 of the insured depository institution.

6 “(ii) An examination of any mis-
7 management by the executives and board of
8 the insured depository institution that con-
9 tributed to the failure of the insured deposi-
10 tory institution.

11 “(iii) Any supervisory or regulatory
12 shortcomings by such appropriate Federal
13 banking agency with respect to the insured
14 depository institution.

15 “(iv) Any dynamics that the appro-
16 priate Federal banking agency determines
17 may have contributed to the failure of the
18 insured depository institution.

19 “(v) Any supervisory, regulatory, and
20 legislative recommendations such appro-
21 priate Federal banking agency may have to
22 improve the safety and soundness of simi-
23 larly situated insured depository institu-
24 tions, the banking system, and financial
25 stability.

1 “(B) *PROTECTION OF SENSITIVE INFORMA-*
2 *TION.—*

3 “(i) *EFFECT ON PRIVILEGE.—The pro-*
4 *vision of any information by a Federal*
5 *banking agency under this paragraph may*
6 *not be construed as—*

7 “(I) *waiving, destroying, or other-*
8 *wise affecting any privilege applicable*
9 *to the information; or*

10 “(II) *waiving any exemption ap-*
11 *plicable to the information under sec-*
12 *tion 552 of title 5 United States Code*
13 *(commonly known as the ‘Freedom of*
14 *Information Act’).*

15 “(ii) *TRANSPARENCY.—*

16 “(I) *IN GENERAL.—A Federal*
17 *banking agency shall publish materials*
18 *contained in a report required under*
19 *subparagraph (A) to the fullest extent*
20 *possible to promote transparency.*

21 “(II) *CONSULTATION ON OMITTING*
22 *MATERIALS.—If a Federal banking*
23 *agency determines particular materials*
24 *described under subclause (I) should*
25 *not be published, the Federal banking*

1 *agency shall consult with the chair and*
2 *ranking member of the Committee on*
3 *Financial Services of the House of*
4 *Representatives and the chair and*
5 *ranking member of the Committee on*
6 *Banking, Housing, and Urban Affairs*
7 *of the Senate.*

8 *“(III) OMITTING MATERIALS.—If,*
9 *after the consultation required under*
10 *subclause (II), the Federal banking*
11 *agency determines there is a substan-*
12 *tial public interest in not publishing*
13 *such materials, the Federal banking*
14 *agency shall provide those materials to*
15 *the Committee on Financial Services of*
16 *the House of Representatives and the*
17 *Committee on Banking, Housing, and*
18 *Urban Affairs of the Senate with a*
19 *written explanation describing the rea-*
20 *sons for not publishing those materials.*

21 *“(iii) PRIVILEGE.—For purposes of*
22 *this subparagraph, the term ‘privilege’ in-*
23 *cludes any work-product, attorney-client, or*
24 *other privilege recognized under Federal or*
25 *State law.*

1 “(C) *REPORT EXTENSION.*—A Federal
2 *banking agency may extend a deadline described*
3 *under subparagraph (A) for an additional 60*
4 *days, if the Federal banking agency—*

5 “(i) *faces ongoing circumstances that*
6 *require the Federal banking agency to*
7 *prioritize activities to promote stability of*
8 *the U.S. banking system; and*

9 “(ii) *notifies the Congress of such ex-*
10 *tension and the reasons for such extension.*

11 “(D) *CONSOLIDATED REPORTS.*—A Federal
12 *banking agency may consolidate multiple reports*
13 *required under this paragraph so long as the in-*
14 *dividual reports being consolidated all meet the*
15 *timing requirements under this paragraph.*

16 “(E) *RULE OF CONSTRUCTION.*—*Nothing in*
17 *this paragraph or reports or materials provided*
18 *pursuant to this paragraph may be construed to*
19 *limit the authority of a Federal agency to en-*
20 *force violations of Federal statutes, rules, or or-*
21 *ders.”.*

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