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(Original Signature of Member)

110TH CONGRESS
2D SESSION

H. R. _____

To amend the Federal Deposit Insurance Act to provide the same treatment for covered bonds as for other qualified financial contracts to which a depository institution is a party when such institution is in receivership or conservatorship, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARRETT of New Jersey introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Deposit Insurance Act to provide the same treatment for covered bonds as for other qualified financial contracts to which a depository institution is a party when such institution is in receivership or conservatorship, 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 “Equal Treatment of
5 Covered Bonds Act of 2008”.

1 **SEC. 2. COVERED BONDS TREATMENT.**

2 (a) IN GENERAL.—Section 11(e)(8)(D)(i) of the Fed-
3 eral Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i))
4 is amended by inserting “covered bond,” after “forward
5 contract,”.

6 (b) DEFINITIONS.—Section 11(e)(8)(D) of the Fed-
7 eral Deposit Insurance Act (12 (U.S.C. 1821(e)(8)(D))
8 is amended—

9 (1) by redesignating clauses (vii), (viii), and (ix)
10 as clauses (viii), (ix), and (x), respectively; and

11 (2) by inserting after clause (vi) the end the fol-
12 lowing new clause:

13 “(vii) COVERED BOND.—The term
14 ‘covered bond’ means a nondeposit re-
15 course debt obligation of an insured depos-
16 itory institution, with a term to maturity
17 of at least 1 year, which is secured by spe-
18 cifically identified assets which are per-
19 forming in accordance with the terms of
20 the contracts which created the assets.”.

21 (c) TECHNICAL AND CONFORMING AMENDMENT.—
22 Section 8(e)(3)(C) of the Federal Deposit Insurance Act
23 (U.S.C. 1818(e)(3)(C)) is amended—

24 (1) by striking “and” at the end of clause (i);

25 (2) by striking the period at the end of clause

26 (ii) and inserting “; and”; and

1 (3) by adding at the end the following new
2 clause:

3 “(iii) with respect to a covered bond,
4 actual direct compensatory damages deter-
5 mined as of the date of the appointment of
6 the conservator or receiver equal to the
7 sum of—

8 “(I) the outstanding principal
9 amount of the covered bond on that
10 date;

11 “(II) all interest that had ac-
12 crued on the covered bond through
13 that date but that had not been paid;

14 “(III) the cost on that date of a
15 guaranteed investment contract, de-
16 posit agreement, or other instrument
17 that would provide for scheduled pay-
18 ments to be made on the covered bond
19 until its originally scheduled maturity
20 date; and

21 “(IV) the costs (including reason-
22 able fees of attorneys) incurred
23 through that date that arise from or
24 relate to the exercise of any right,
25 power, or remedy under the covered

1 bond or a related transaction docu-
2 ment.”.

3 (d) REGULATIONS.—No regulation of any Federal
4 banking agency (as defined in section 3 of the Federal
5 Deposit Insurance Act) shall be applicable with respect to
6 any covered bond (as defined in the amendment made by
7 subsection (b)(2)) unless the regulation or the application
8 of such regulation to such bond, as the case may be, is
9 prescribed jointly by the Secretary of the Treasury, the
10 Board of Governors of the Federal Reserve System, the
11 Comptroller of the Currency, the Director of the Office
12 of Thrift Supervision, and the Board of Directors of the
13 Federal Deposit Insurance Corporation.