

AMENDMENT TO THE HOUSE PROPOSED
AMENDMENT TO TITLE I
OFFERED BY MR. GARRETT OF NEW JERSEY

Add at the end the following new instruction:

Page 128, after line 2, insert the following new subtitle:

Subtitle D—Covered Bonds

SEC. 180. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) ANCILLARY ASSET.—The term “ancillary asset” means—

(A) any interest rate or currency swap associated with an eligible asset, substitute asset, or other asset in a cover pool;

(B) any credit enhancement or liquidity arrangement associated with an eligible asset, substitute asset, or other asset in a cover pool;

(C) any guarantee, letter-of-credit right, or other secondary obligation that supports any payment or performance on an eligible asset, substitute asset, or other asset in a cover pool; and

(D) any proceeds of, or other property incident to, an eligible asset, substitute asset, or other asset in a cover pool.

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

(A) eligible assets from a single eligible asset class; and

(B) any substitute assets or ancillary assets.

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

3 (A) has an original term to maturity of not less than 1 year;

4 (B) is secured by a perfected security interest in a cover pool that is
5 owned directly or indirectly by the issuer of the obligation;

6 (C) is issued under a covered bond program that has been approved by
7 the Secretary and is identified in a register of covered bonds maintained by the
8 Secretary; and

9 (D) is not a deposit.

10 (4) COVERED BOND PROGRAM.—The term “covered bond program” means
11 any program of an eligible issuer under which, on the security of a single cover
12 pool, 1 or more series or tranches of covered bonds may be issued.

13 (5) ELIGIBLE ASSET.—The term “eligible asset” means—

14 (A) in the case of the residential mortgage asset class—

15 (i) any first-lien mortgage loan that is secured by 1-to-4 family
16 residential property and that is in compliance with any supervisory
17 guidance of a Federal agency that is applicable to the loan at the time of
18 loan origination; and

19 (ii) any mortgage loan insured under the National Housing Act (12
20 U.S.C. 1701 et seq.), or any loan guaranteed, insured, or made under
21 chapter 37 of title 38, United States Code;

22 (B) in the case of the home equity asset class, any home equity loan
23 that is secured by 1-to-4 family residential property and that is in compliance
24 with any supervisory guidance of a Federal agency that is applicable to the
25 loan at the time of loan origination;

26 (C) in the case of the commercial mortgage asset class, any
27 commercial mortgage loan (including any multifamily mortgage loan) that is

1 in compliance with any supervisory guidance of a Federal agency that is
2 applicable to the loan at the time of loan origination;

3 (D) in the case of the public sector asset class—

4 (i) any security issued by a State or municipality;

5 (ii) any loan made to a State or municipality; and

6 (iii) any loan, security, or other obligation that is insured or
7 guaranteed, in full or substantially in full, by the full faith and credit of the
8 United States Government (whether or not such loan, security, or other
9 obligation is also part of another eligible asset class);

10 (E) in the case of the auto asset class, any auto loan or lease that is in
11 compliance with any supervisory guidance of a Federal agency that is
12 applicable to the loan or lease at the time of loan or lease origination;

13 (F) in the case of the student loan asset class, any student loan
14 (whether guaranteed or nonguaranteed) that is in compliance with any
15 supervisory guidance of a Federal agency that is applicable to the loan at the
16 time of loan origination;

17 (G) in the case of the credit or charge card asset class, any extension
18 of credit to a person under an open-end credit plan that is in compliance with
19 any supervisory guidance of a Federal agency that is applicable to the
20 extension of credit at the time the extension is made;

21 (H) in the case of the small business asset class, any loan made or
22 guaranteed under a program of the Small Business Administration; and

23 (I) in the case of any other eligible asset class designated by the
24 Secretary, any asset designated by the Secretary as an eligible asset for
25 purposes of such class.

26 (6) ELIGIBLE ASSET CLASS.—The term “eligible asset class” means—

27 (A) a residential mortgage asset class;

- (B) a home equity asset class;
- (C) a commercial mortgage asset class;
- (D) a public sector asset class;
- (E) an auto asset class;
- (F) a student loan asset class;
- (G) a credit or charge card asset class;
- (H) a small business asset class; or
- (I) any other eligible asset class, as determined by the Secretary.

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

- (A) any insured depository institution and any subsidiary of such institution;
- (B) any bank holding company and any savings and loan holding company;
- (C) any financial institution that is approved as an eligible issuer by the primary financial regulatory agency for the financial institution and the Secretary; and
- (D) any issuer that is sponsored by 1 or more eligible issuers for the sole purpose of issuing covered bonds on a pooled basis.

(8) OVERSIGHT PROGRAM.—The term “oversight program” means the covered bond regulatory oversight program established under section 181(a).

(9) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(10) SUBSTITUTE ASSET.—The term “substitute asset” means—

- (A) cash;
- (B) any direct obligation of the United States Government, and any security or other obligation, the full principal and interest of which are insured or guaranteed by the full faith and credit of the United States Government;

(C) any direct obligation of a United States Government corporation or Government-sponsored enterprise of the highest credit quality, and any other security or other obligation of the highest credit quality whose full principal and interest are insured or guaranteed by any such corporation or enterprise;

(D) any overnight investment in Federal funds;

(E) any other asset designated by the Secretary as a substitute asset; and

(F) any deposit account or securities account into which only an asset described in subparagraphs (A), (B), (C), (D), or (E) may be deposited or credited.

SEC. 181. REGULATORY OVERSIGHT OF COVERED BOND PROGRAMS ESTABLISHED.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall, by rule, establish a covered bond regulatory oversight program that provides for—

(A) covered bond programs to be maintained in a manner consistent with this subtitle and safe and sound financial practices; and

(B) any estate created under section 182 to be administered in a manner that is consistent with maximizing the value and the proceeds of the related cover pool in a resolution under this subtitle.

(2) APPROVAL OF EACH COVERED BOND PROGRAM.—

(A) IN GENERAL.—A covered bond shall be subject to this subtitle only if the covered bond is issued by an eligible issuer under a covered bond program that is approved by the Secretary.

(B) EXISTING COVERED BOND PROGRAMS.—The Secretary may approve a covered bond program that is in existence on the date of enactment

1 of this Act. Upon such approval, each covered bond under the covered bond
2 program shall be subject to this subtitle, regardless of when the covered bonds
3 were issued.

4 (C) CONSULTATION WITH ANY PRIMARY REGULATOR.—Before
5 approving any covered bond program of any eligible issuer, the Secretary
6 shall consult with the primary financial regulatory agency, if any, of the
7 eligible issuer.

8 (D) MULTIPLE COVERED BOND PROGRAMS PERMITTED.—An eligible
9 issuer may have more than 1 covered bond program.

10 (3) REGISTRY.—Under the oversight program, the Secretary shall
11 maintain a registry on a Web site available to the public that contains—

12 (A) the name of each approved covered bond program; and

13 (B) information on all outstanding covered bonds issued under each
14 approved covered bond program (including the reports described in
15 paragraphs (b)(3) and (b)(4)).

16 (4) FEES.—The Secretary may levy fees on the issuers of covered bonds
17 in an amount not to exceed, in the aggregate, the costs of the Secretary in carrying
18 out the provisions of this subtitle.

19 (b) MINIMUM OVER-COLLATERALIZATION REQUIREMENTS.—

20 (1) REQUIREMENTS ESTABLISHED.—

21 (A) IN GENERAL.—The Secretary, from time to time, shall establish
22 minimum over-collateralization requirements for covered bonds backed by
23 each of the eligible asset classes, which are designed to ensure that sufficient
24 assets exist in the cover pool to satisfy all principal and interest due on the
25 covered bonds and which are based on the credit, collection, and interest-rate
26 risks (excluding the liquidity risks) associated with the eligible asset class.

(B) RELIANCE ON STANDARDS ESTABLISHED BY FEDERAL RESERVE BANKS.—In establishing requirements under subparagraph (A), the Secretary may rely on over-collateralization levels required for the same or similar asset classes by any Federal reserve bank when extending credit to depository institutions under the Federal Reserve Act (12 U.S.C. 221 et seq.).

(2) ASSET COVERAGE TEST.—The eligible assets and the substitute assets in each cover pool that secures covered bonds shall, in the aggregate, at all times, meet the applicable minimum over-collateralization requirements established under paragraph (1).

(3) MONTHLY REPORTING.—Every month, each issuer of covered bonds shall submit a report on whether the cover pool that secures the covered bonds meets the applicable minimum over-collateralization requirements established under paragraph (1) to—

(A) the primary financial regulatory agency of the issuer, if any;

(B) the Secretary; and

(C) the applicable covered bondholders.

(4) INDEPENDENT ASSET MONITOR.—

(A) APPOINTMENT OF INDEPENDENT ASSET MONITOR.—Each issuer of covered bonds shall appoint the indenture trustee for the covered bonds, or another unaffiliated entity, as an independent asset monitor for the applicable cover pool.

(B) DUTIES.—The independent asset monitor appointed under subparagraph (A) shall, on an annual or other periodic basis determined by the Secretary—

(i) verify whether the cover pool that secures the covered bonds meets the applicable minimum over-collateralization requirements established under paragraph (1); and

1 (ii) disclose to the primary financial regulatory agency of the
2 issuer, if any, the Secretary, and the applicable covered bond holders
3 whether the cover pool that secures the covered bonds meets the
4 applicable minimum over-collateralization requirements established under
5 paragraph (1).

6 (5) NO LOSS OF STATUS.—Covered bonds shall remain subject to this
7 subtitle regardless of whether the applicable cover pool ceases to meet the
8 applicable minimum over-collateralization requirements established under
9 paragraph (1) at any time after the covered bonds are issued.

10 (6) FAILURE TO MEET REQUIREMENTS.—If a cover pool securing covered
11 bonds fails to meet the applicable minimum over-collateralization requirements
12 established under paragraph (1), and if such failure is not cured within the time
13 specified in the transaction documents related to the covered bonds, such failure
14 shall be deemed to be an uncured default for purposes of section 182(a).

15 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

16 (1) LOANS.—A loan shall not qualify as an eligible asset for so long as the
17 loan is delinquent for more than 60 consecutive days.

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

21 (3) SINGLE ELIGIBLE ASSET CLASS.—No cover pool may include eligible
22 assets from more than 1 eligible asset class.

(d) OTHER REQUIREMENTS.—

(1) BOOKS AND RECORDS OF ISSUER.—Each issuer of covered bonds shall clearly mark its books and records to identify the assets that comprise the cover pool that secures the covered bonds.

(2) SCHEDULE OF ELIGIBLE ASSETS AND SUBSTITUTE ASSETS.—Each issuer of covered bonds shall deliver to the indenture trustee for the covered bonds, on at least a monthly basis, a schedule of all eligible assets and substitute assets in the cover pool that secures the covered bonds.

SEC. 182. RESOLUTION UPON DEFAULT OR INSOLVENCY.

(a) UNCURED DEFAULT.—In this section, the term “uncured default”, when used with respect to a covered bond, means a default on the covered bond that has not been cured within the time, if any, required by the transaction documents related to the covered bond.

(b) DEFAULT ON COVERED BONDS PRIOR TO CONSERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANKRUPTCY.—

(1) CREATION OF SEPARATE ESTATE.—If an uncured default occurs with respect to a covered bond before the issuer of such covered bond enters conservatorship, receivership, liquidation, or bankruptcy, an estate shall be automatically created by operation of law and shall exist and be administered separate and apart from the issuer or any subsequent conservatorship, receivership, liquidating agency, or estate in bankruptcy for the issuer or any other assets of the issuer.

(2) ASSETS AND LIABILITIES OF ESTATE.—Any estate created under paragraph (1) shall be comprised of the cover pool that secures the covered bond, which shall be automatically released to and held by the estate free and clear of any right, title, interest, or claim of the issuer or any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the

1 issuer. The estate created under paragraph (1) shall be fully liable on the covered
2 bond and all other covered bonds and related obligations of the issuer (including
3 obligations under related derivative transactions) that are secured by the cover
4 pool. The estate shall not be liable on any obligation of the issuer that is not
5 secured by the cover pool.

6 (3) RETENTION OF CLAIMS.—Any holder of a covered bond or related
7 obligation secured by a cover pool for which an estate has been created under
8 paragraph (1) shall retain a claim against the issuer for any deficiency with
9 respect to the covered bond or related obligation.

10 (4) RESIDUAL INTEREST.—

11 (A) ISSUANCE OF RESIDUAL INTEREST.—Upon the creation of an estate
12 under paragraph (1), a residual interest in the estate shall be automatically
13 issued by operation of law to the issuer.

14 (B) NATURE OF RESIDUAL INTEREST.—The residual interest under
15 subparagraph (A) shall—

16 (i) be an exempted security as described in section 183;

17 (ii) represent the right to any surplus from the cover pool after the
18 covered bonds and all other liabilities of the estate have been paid in full;
19 and

20 (iii) be evidenced by a certificate executed by the Secretary as
21 trustee of the estate.

22 (5) OBLIGATION OF ISSUER.—After the creation of an estate under
23 paragraph (1), the issuer shall—

24 (A) transfer to the Secretary, or a designee of the Secretary, all
25 tangible or electronic books, records, files, and other documents or materials
26 relating to the assets and liabilities of the estate; and

1 (B) at the election of the Secretary, continue servicing the cover pool
2 for 120 days after the creation of the estate in return for a fair-market-value
3 fee, as determined by the Secretary, that shall be payable from the estate as an
4 administrative expense.

5 (c) DEFAULT ON COVERED BONDS UPON CONSERVATORSHIP, RECEIVERSHIP,
6 LIQUIDATION, OR BANKRUPTCY.—

7 (1) CORPORATION CONSERVATORSHIP OR RECEIVERSHIP.—

8 (A) IN GENERAL.—If the Corporation is appointed as conservator or
9 receiver for an issuer of covered bonds before an uncured default results in the
10 creation of an estate under subsection (b), the Corporation as conservator or
11 receiver shall have an exclusive right, during the 180-day period beginning on
12 the date of the appointment, to transfer any cover pool owned by the issuer in
13 its entirety, together with all covered bonds and related obligations secured by
14 the cover pool, to another eligible issuer that meets all conditions and
15 requirements specified in the transaction documents related to the covered
16 bonds.

17 (B) OBLIGATIONS DURING 180-DAY PERIOD.—During the 180-day
18 period described in subparagraph (A), the Corporation as conservator or
19 receiver shall satisfy all monetary and nonmonetary obligations of the issuer
20 under the covered bonds and the related transaction documents until the
21 earliest of—

22 (i) the transfer of the covered bond program to another eligible
23 issuer;

24 (ii) the repudiation of the covered bond program by the
25 Corporation; or

(iii) the failure of the Corporation to timely cure a default (other than the issuer's conservatorship or receivership) under the covered bond program.

(C) ASSUMPTION BY TRANSFEREE.—If the Corporation as conservator or receiver effects a transfer described in subparagraph (A) within the 180-day period described in subparagraph (A), the transferee shall take ownership of the cover pool and shall become fully liable on all covered bonds and related obligations of the issuer that are secured by the cover pool.

(2) OTHER CIRCUMSTANCES.—An estate shall be automatically created by operation of law and shall exist and be administered separate and apart from an issuer of covered bonds and the conservatorship, receivership, liquidating agency, or estate in bankruptcy for the issuer or any other assets of the issuer, if—

(A) a conservator, receiver, liquidating agent, or trustee in bankruptcy, other than the Corporation, is appointed for the issuer before an uncured default results in the creation of an estate under subsection (b); or

(B) in the case of the appointment of the Corporation as conservator or receiver as described in paragraph (1)(A), the Corporation as conservator or receiver—

(i) does not complete the transfer of the related covered bond program to another eligible issuer within the 180-day period described in paragraph (1)(A);

(ii) repudiates the related covered bond program; or

(iii) fails to timely cure a default (other than the issuer's conservatorship or receivership) under the related covered bond program.

(3) ASSETS AND LIABILITIES OF ESTATE.—Any estate created under paragraph (2) shall be comprised of the cover pool that secures the covered bonds, which shall be automatically released to and held by the estate free and clear of

any right, title, interest, or claim of the issuer or any conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer or any other assets of the issuer. The estate created under paragraph (2) shall be fully liable on the covered bonds and all other covered bonds and related obligations of the issuer (including obligations under related derivative transactions) that are secured by the cover pool. The estate shall not be liable on any obligation of the issuer that is not secured by the cover pool.

(4) CONTINGENT CLAIM.—Any contingent claim for a deficiency with respect to a covered bond or related obligation for which an estate has been created under paragraph (2) shall be estimated by the conservator, receiver, liquidating agent, or bankruptcy court for purposes of allowing the claim as a provable claim if awaiting the fixing of that contingent claim would unduly delay the resolution of the conservatorship, receivership, liquidating agency, or bankruptcy case.

(5) RESIDUAL INTEREST.—

(A) ISSUANCE OF RESIDUAL INTEREST.—Upon the creation of an estate under paragraph (2), and regardless of whether any contingent claim described in paragraph (4) becomes fixed or is estimated, a residual interest in the estate shall be automatically issued by operation of law to the conservator, receiver, liquidating agent, or trustee in bankruptcy for the issuer.

(B) NATURE OF RESIDUAL INTEREST.—The residual interest under subparagraph (A) shall—

(i) be an exempted security as described in section 183;

(ii) represent the right to any surplus from the cover pool after the covered bonds and all other liabilities of the estate have been paid in full; and

(iii) be evidenced by a certificate executed by the Secretary as trustee of the estate.

(6) OBLIGATION OF ISSUER.—After the creation of an estate under paragraph (2), the issuer and its conservator, receiver, liquidating agent, or trustee in bankruptcy shall—

(A) transfer to the Secretary, or a designee of the Secretary, all tangible or electronic books, records, files, and other documents or materials relating to the assets and liabilities of the estate; and

(B) at the election of the Secretary (but subject to any right of repudiation or rejection held by the conservator, receiver, liquidating agent, or trustee in bankruptcy), continue servicing the cover pool for 120 days after the creation of the estate in return for a fair-market-value fee, as determined by the Secretary, that shall be payable from the estate as an administrative expense.

(d) ADMINISTRATION AND RESOLUTION OF ESTATES.—

(1) TRUSTEE, SERVICER, AND ADMINISTRATOR.—

(A) IN GENERAL.—The Secretary shall—

(i) act as the trustee of any estate created under subsection (b)(1) or (c)(2); and

(ii) appoint 1 or more servicers or administrators for the cover pool held by the estate.

(B) POWERS AND DUTIES OF SERVICER OR ADMINISTRATOR.—Any servicer or administrator appointed for an estate—

(i) shall—

(I) collect, realize on (by liquidation or other means), and otherwise manage the cover pool held by the estate; and

1 (II) invest and use the proceeds and funds received to make all
2 remaining interest and principal payments on the applicable covered
3 bonds according to their terms (or, if an acceleration or similar event
4 occurs under the related transaction documents, at the times specified
5 in the transaction documents) and to satisfy any other liabilities of the
6 estate; and

7 (ii) may borrow or otherwise procure funds for the benefit of the
8 estate on a secured or unsecured basis and on a priority, *pari passu*, or
9 subordinated basis.

10 (C) SUPERVISION OF SERVICER OR ADMINISTRATOR BY THE SECRETARY
11 AS TRUSTEE.—

12 (i) IN GENERAL.—The Secretary shall supervise any servicer or
13 administrator that is appointed for an estate created under subsection
14 (b)(1) or (c)(2).

15 (ii) REMOVAL AND REPLACEMENT.—If the Secretary determines
16 that it is in the best interests of an estate, the Secretary may remove or
17 replace any servicer or administrator for the estate.

18 (iii) REPORTS.—Each servicer or administrator for an estate shall,
19 at such times and in such manner as the Secretary shall require, submit to
20 the Secretary, the owner of the residual interest, and any other person
21 designated by the Secretary, reports that describe the activities of the
22 servicer or administrator on behalf of the estate and the performance of the
23 cover pool held by the estate.

24 (iv) FEES AND EXPENSES.—All fees and expenses of a servicer or
25 administrator for an estate shall be approved by the Secretary and shall be
26 paid from the estate as an administrative expense.

1 (D) JUDICIAL OR ADMINISTRATIVE ACTIONS.—Any servicer or
2 administrator appointed for an estate may commence or continue judicial or
3 administrative actions, in its own name on behalf of the estate, for the purpose
4 of collecting, realizing on, or otherwise managing the cover pool held by the
5 estate or exercising its other powers or duties on behalf of the estate. No
6 covered bondholder, indenture trustee, or other person to whom an estate is or
7 is alleged to be liable may commence or continue any judicial or
8 administrative action against the estate, the trustee, or any servicer or
9 administrator, except for an action to compel the release of funds that are
10 available to the estate, that are permitted to be distributed under this subtitle
11 and regulations promulgated by the Secretary, and that are permitted and
12 required to be distributed under the related transaction documents and any
13 contracts executed by or on behalf of the estate after its creation under this
14 subtitle. No court may issue an attachment or execution on the assets of an
15 estate. Except at the request of the Secretary or as otherwise provided in this
16 subparagraph, no court may take any action to restrain or affect the resolution
17 of an estate under this subtitle. The Secretary shall be entitled to sovereign
18 immunity in carrying out the provisions of this subtitle.

19 (E) CLOSING OF ESTATE.—After an estate has been fully administered,
20 the Secretary shall close the estate and, to the extent determined appropriate
21 by the Secretary, may retain or destroy records of the estate.

(2) STUDY ON LIQUIDITY ADVANCES.—The Board of Governors shall conduct a study on whether Federal reserve banks should be empowered to make advances to an estate created under subsection (b)(1) or (c)(2) solely for the purpose of providing liquidity in the case of timing mismatches among the assets and the liabilities of the estate. The Board of Governors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study not later than 6 months after the date of enactment of this Act.

SEC. 183. SECURITIES LAW PROVISIONS.

(a) COVERED BONDS ISSUED OR GUARANTEED BY BANKS.—Any covered bond issued or guaranteed by a bank is a security issued or guaranteed by a bank under Section 3(a)(2) of the Securities Act of 1933, Section 3(c)(3) of the Investment Company Act of 1940, and Section 304(a)(4)(A) of the Trust Indenture Act of 1939. No covered bond issued or guaranteed by a bank is an asset-backed security.

(b) EXEMPTIONS FOR ESTATES AND RESIDUAL INTERESTS.—Any estate that is or may be created under subsection (b) or (c) of section 182 shall be exempt from all securities laws but shall be subject to the reporting requirements established by the Secretary under subsection (d)(1)(C)(iii) of section 182 and shall succeed to any requirement of the issuer to file such periodic information, documents, and reports in respect of the covered bonds as specified in Section 13(a) of the Securities Exchange Act of 1934. Any residual interest in an estate that is or may be created under subsection (b) or (c) of section 182 shall be exempt from all securities laws.

SEC. 184. MISCELLANEOUS PROVISIONS.

(a) DOMESTIC SECURITIES.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(a)(1)) is amended—

1 (1) in subparagraph (C), by striking “or” at the end;

2 (2) in subparagraph (D), by adding “or” at the end; and

3 (3) by inserting after subparagraph (D) the following:

4 “(E) covered bonds (as defined under section 180(3) of the Restoring
5 American Financial Stability Act of 2010),”.

6 (b) REAL ESTATE MORTGAGE INVESTMENT CONDUITS.—Section 860G(a)(3)
7 of the Internal Revenue Code of 1986 is amended—

8 (1) in subparagraph (B), by striking “and” at the end;

9 (2) in subparagraph (C), by striking the period and inserting “, and”; and

10 (3) by inserting after subparagraph (C) the following:

11 “(D) covered bonds secured by eligible assets from the residential
12 mortgage asset class, the home equity asset class, or the commercial mortgage
13 asset class, as such terms are defined in section 180 of the Restoring American
14 Financial Stability Act of 2010.”.

15 (c) REAL ESTATE INVESTMENT TRUSTS.—To the extent provided by
16 regulations that may be promulgated by the Secretary, a covered bond described
17 in section 860G(a)(3)(D) of the Internal Revenue Code of 1986, as amended by
18 this section, shall be treated as a real estate asset in the same manner as a regular
19 interest in a REMIC for purposes of section 856(c)(5)(E) of the Internal Revenue
20 Code of 1986.

21 (d) TAX TREATMENT OF ESTATE.—Any estate created under subsection (b) or
22 (c) of section 944 shall not be treated as an entity subject to taxation separate from
23 the owner of the related residual interest for purposes of the Internal Revenue
24 Code of 1986, including by reason of the taxable mortgage pool provisions of
25 section 7701(i) of the Internal Revenue Code of 1986, but instead shall be treated
26 as a disregarded entity that is owned by the owner of the related residual interest

1 for such purposes as described in applicable regulations of the Secretary, as in
2 effect on the date of enactment of this Act.

3 (e) TAX TREATMENT OF INVESTORS.—No transfer or assumption of any asset
4 or liability to or by an estate or an eligible issuer under subsection (b) or (c) of
5 section 944 shall cause or constitute an event in which gain or loss shall be
6 recognized under section 1001 of the Internal Revenue Code of 1986.

7 (f) INVESTMENT TREATMENT FOR TAX PURPOSES.—The acquisition of any
8 covered bond shall be treated as an acquisition of an investment security, and not
9 as an acquisition of interest in a loan or otherwise as a lending transaction, for
10 purposes of determining the character of any related trade or business activity of
11 the acquirer or any asset held by such acquirer under the Internal Revenue Code
12 of 1986.

13 (g) STATE AND LOCAL TAXES.—The Secretary may promulgate regulations
14 similar to the provisions of section 346 of title 11, United States Code, that
15 provide that—

16 (1) if an estate created under subsection (b) or (c) of section 944 is not
17 treated as an entity subject to taxation separate from the owner of the related
18 residual interest for purposes of the Internal Revenue Code of 1986, no separate
19 taxable entity shall be created with respect to the estate for purposes of any State
20 or local law imposing a tax on or measured by income; and

21 (2) if a transfer or assumption of an asset or liability to or by an estate or
22 an eligible issuer under subsection (b) or (c) of section 944 does not cause or
23 constitute an event in which gain or loss is recognized under section 1001 of the
24 Internal Revenue Code of 1986, the transfer or assumption shall not cause or
25 constitute a disposition for purposes of any provision assigning tax consequences
26 to a disposition for purposes of any State or local law imposing a tax on or
27 measured by income.

1 (h) PREEMPTION.—The provisions of this subtitle shall apply,
2 notwithstanding any provision of the Federal Deposit Insurance Act (12 U.S.C.
3 1811 et seq.), title 11, United States Code, or any other provision of Federal law
4 with respect to conservatorship, receivership, liquidation, or bankruptcy. No
5 provision of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11,
6 United States Code, or any other provision of Federal law with respect to
7 conservatorship, receivership, liquidation, or bankruptcy may be construed or
8 applied in a manner that defeats or interferes with the purpose or operation of this
9 subtitle.