

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Federal Deposit Insurance Act to clarify that the Federal Deposit Insurance Corporation and appropriate Federal regulators have the authority to claw back certain compensation paid to executives, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Ms. WARREN (for herself, Mr. HAWLEY, Ms. CORTEZ MASTO, Mrs. BRITT, Mr. GALLEGO, Mr. WARNER, Mr. VAN HOLLEN, Ms. SMITH, Mr. KIM, Mr. WARNOCK, Mr. FETTERMAN, Ms. BLUNT ROCHESTER, and Ms. ALSOBROOKS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Federal Deposit Insurance Act to clarify that the Federal Deposit Insurance Corporation and appropriate Federal regulators have the authority to claw back certain compensation paid to executives, 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 “Failed Bank Execu-  
5       tives Clawback Act”.

1 **SEC. 2. CLAWBACK.**

2 Section 8(b) of the Federal Deposit Insurance Act  
3 (12 U.S.C. 1818(b)) is amended by inserting after para-  
4 graph (8) the following:

5 “(9) CLAWBACK.—

6 “(A) DEFINITIONS.—In this paragraph:

7 “(i) COVERED COMPENSATION.—The  
8 term ‘covered compensation’ means—

9 “(I) salary;

10 “(II) bonuses;

11 “(III) any compensation that is  
12 granted, earned, or vested based whol-  
13 ly or in part upon the attainment of  
14 any financial reporting measure or  
15 other performance metric;

16 “(IV) equity-based compensation;

17 “(V) time- or service-based  
18 awards;

19 “(VI) awards based on non-  
20 financial metrics; and

21 “(VII) any profits realized from  
22 the buying or selling of securities.

23 “(ii) COVERED PARTY.—

24 “(I) IN GENERAL.—The term  
25 ‘covered party’ means an entity de-  
26 scribed in subclause (II) with respect

1 to an insured depository institution  
2 that caused more than a minimal fi-  
3 nancial loss to, or a significant ad-  
4 verse effect on, the insured depository  
5 institution.

6 “(II) ENTITIES DESCRIBED.—An  
7 entity described in this subclause is  
8 any of the following:

9 “(aa) Any director, officer,  
10 or controlling stockholder (other  
11 than a bank holding company or  
12 savings and loan holding com-  
13 pany) of an insured depository  
14 institution.

15 “(bb) Any other person who  
16 has filed or is required to file a  
17 change-in-control notice with the  
18 appropriate Federal banking  
19 agency under section 7(j).

20 “(cc) Any shareholder (other  
21 than a bank holding company or  
22 savings and loan holding com-  
23 pany), joint venture partner, and  
24 any other person as determined  
25 by the appropriate Federal bank-

1 ing agency (by regulation or  
2 case-by-case) who—

3 “(AA) participates in  
4 the conduct of the affairs of  
5 an insured depository insti-  
6 tution; and

7 “(BB) was found by  
8 the appropriate Federal  
9 banking agency to be pri-  
10 marily responsible for the  
11 failed condition of the in-  
12 sured depository institution.

13 “(B) CLAWBACK.—

14 “(i) LIABILITY OF COVERED PARTY.—  
15 A covered party with respect to an insured  
16 depository institution with total assets  
17 more than \$10,000,000,000 is liable to the  
18 Corporation for any covered compensation  
19 clawed back under clause (ii).

20 “(ii) REQUIRED CLAWBACKS.—In the  
21 case of insolvency, resolution, or the ap-  
22 pointment of the Corporation as receiver of  
23 any insured depository institution with  
24 total assets more than \$10,000,000,000,  
25 the Corporation shall claw back all or part

1 of the covered compensation received by  
2 any covered party with respect to the in-  
3 sured depository institution during the pre-  
4 ceding 3 years.

5 “(iii) DEPOSIT.—Any covered com-  
6 pensation clawed back under this subpara-  
7 graph shall be deposited into the Deposit  
8 Insurance Fund.”.

9 **SEC. 3. ORDERLY LIQUIDATION OF COVERED FINANCIAL**  
10 **COMPANIES.**

11 Section 204(a)(3) of the Dodd-Frank Wall Street Re-  
12 form and Consumer Protection Act (12 U.S.C.  
13 5384(a)(3)) is amended by striking “the financial com-  
14 pany” and inserting “of a financial company for which the  
15 Corporation is appointed receiver, regardless of the proc-  
16 ess by which the Corporation is appointed,”.