

AMENDMENT TO RULES COMMITTEE PRINT 119–**8****OFFERED BY MR. GREEN OF TEXAS**

At the end of subtitle B of title XVII, insert the following:

1 **SEC. 17____. BANK FAILURE TRANSPARENCY RELATED TO**
2 **SYSTEMIC RISK EXCEPTION.**

3 (a) GAO REVIEW.—Section 13(c)(4)(G)(iv) of the
4 Federal Deposit Insurance Act (12 U.S.C.
5 1823(c)(4)(G)(iv)) is amended to read as follows:

6 “(iv) GAO REVIEW.—

7 “(I) IN GENERAL.—The Comptroller General of the United States
8 shall, not later than later than 60
9 days after a determination is made
10 under clause (i), and again 180 days
11 thereafter, review and report to the
12 Congress on the determination under
13 clause (i), including—

14 “(aa) the basis for the deter-
15 mination;
16

1 “(bb) the purpose for which
2 any action was taken pursuant to
3 such clause;

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

9 “(dd) any mismanagement
10 by the executives and board of
11 the insured depository institution
12 that contributed to the failure of
13 the insured depository institu-
14 tion;

15 “(ee) a review of the com-
16 pensation practices of the insured
17 depository institution;

18 “(ff) any supervisory or reg-
19 ulatory shortcomings with respect
20 to the appropriate Federal bank-
21 ing agency of the insured deposi-
22 tory institution;

23 “(gg) any actions taken by
24 the Federal banking regulators,
25 Financial Stability Oversight

1 Council, Treasury Department,
2 and other relevant financial regu-
3 lators in relation to the failure of
4 the insured depository institu-
5 tion; and

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

18 “(II) RULE OF CONSTRUC-
19 TION.—Nothing in this clause or a re-
20 port issued pursuant to this clause
21 may be construed to limit the author-
22 ity of a Federal agency to enforce vio-
23 lations of Federal statutes, rules, or
24 orders.”.

1 (b) APPROPRIATE FEDERAL BANKING AGENCY RE-
2 PORT.—Section 13(c) of the Federal Deposit Insurance
3 Act (12 U.S.C. 1823(c)) is amended by adding at the end
4 the following:

5 “(12) APPROPRIATE FEDERAL BANKING AGEN-
6 CY REPORT.—

7 “(A) IN GENERAL.—The appropriate Fed-
8 eral banking agency of an insured depository
9 institution about which a determination is made
10 under paragraph (4)(G)(i) shall, not later than
11 90 days after the date of such determination,
12 and again 210 days thereafter, submit a report
13 to the Congress that discloses the following:

14 “(i) Subject to such redactions as the
15 appropriate Federal banking agency deter-
16 mines appropriate of personally identifiable
17 information about customers and other fi-
18 nancial institutions (as such term is de-
19 fined under section 11(e)(9)(D)), all—

20 “(I) reports of examination and
21 inspection that relate to the failed in-
22 sured depository institution in the
23 previous 3-year period;

24 “(II) formal communications of a
25 material supervisory determination

1 conveyed to the failed insured deposi-
2 tory institution in the previous 3-year
3 period; and

4 “(III) any additional exam re-
5 ports and correspondence that the ap-
6 propriate Federal banking agency de-
7 termines may be relevant to the fail-
8 ure of the insured depository institu-
9 tion.

10 “(ii) An examination of any mis-
11 management by the executives and board
12 of the insured depository institution that
13 contributed to the failure of the insured
14 depository institution.

15 “(iii) Any supervisory or regulatory
16 shortcomings by such appropriate Federal
17 banking agency with respect to the insured
18 depository institution.

19 “(iv) Any dynamics that the appro-
20 priate Federal banking agency determines
21 may have contributed to the failure of the
22 insured depository institution.

23 “(v) Any supervisory, regulatory, and
24 legislative recommendations such appro-
25 priate Federal banking agency may have to

1 improve the safety and soundness of simi-
2 larly situated insured depository institu-
3 tions, the banking system, and financial
4 stability.

5 “(B) PROTECTION OF SENSITIVE INFOR-
6 MATION.—

7 “(i) EFFECT ON PRIVILEGE.—The
8 provision of any information by a Federal
9 banking agency under this paragraph may
10 not be construed as—

11 “(I) waiving, destroying, or oth-
12 erwise affecting any privilege applica-
13 ble to the information; or

14 “(II) waiving any exemption ap-
15 plicable to the information under sec-
16 tion 552 of title 5 United States Code
17 (commonly known as the ‘Freedom of
18 Information Act’).

19 “(ii) TRANSPARENCY.—

20 “(I) IN GENERAL.—A Federal
21 banking agency shall publish mate-
22 rials contained in a report required
23 under subparagraph (A) to the fullest
24 extent possible to promote trans-
25 parency.

1 “(II) CONSULTATION ON OMIT-
2 TING MATERIALS.—If a Federal bank-
3 ing agency determines particular ma-
4 terials described under subclause (I)
5 should not be published, the Federal
6 banking agency shall consult with the
7 chair and ranking member of the
8 Committee on Financial Services of
9 the House of Representatives and the
10 chair and ranking member of the
11 Committee on Banking, Housing, and
12 Urban Affairs of the Senate.

13 “(III) OMITTING MATERIALS.—
14 If, after the consultation required
15 under subclause (II), the Federal
16 banking agency determines there is a
17 substantial public interest in not pub-
18 lishing such materials, the Federal
19 banking agency shall provide those
20 materials to the Committee on Finan-
21 cial Services of the House of Rep-
22 resentatives and the Committee on
23 Banking, Housing, and Urban Affairs
24 of the Senate with a written expla-

1 nation describing the reasons for not
2 publishing those materials.

3 “(iii) PRIVILEGE.—For purposes of
4 this subparagraph, the term ‘privilege’ in-
5 cludes any work-product, attorney-client,
6 or other privilege recognized under Federal
7 or State law.

8 “(C) REPORT EXTENSION.—A Federal
9 banking agency may extend a deadline de-
10 scribed under subparagraph (A) for an addi-
11 tional 60 days, if the Federal banking agency—

12 “(i) faces ongoing circumstances that
13 require the Federal banking agency to
14 prioritize activities to promote stability of
15 the U.S. banking system; and

16 “(ii) notifies the Congress of such ex-
17 tension and the reasons for such extension.

18 “(D) CONSOLIDATED REPORTS.—A Fed-
19 eral banking agency may consolidate multiple
20 reports required under this paragraph so long
21 as the individual reports being consolidated all
22 meet the timing requirements under this para-
23 graph.

24 “(E) RULE OF CONSTRUCTION.—Nothing
25 in this paragraph or reports or materials pro-

1 vided pursuant to this paragraph may be con-
2 strued to limit the authority of a Federal agen-
3 cy to enforce violations of Federal statutes,
4 rules, or orders.”.

