

111TH CONGRESS
1ST SESSION

H. R. 4337

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mr. RANGEL (for himself, Mr. NEAL of Massachusetts, Mr. CROWLEY, and Ms. SCHWARTZ) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, 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, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Regulated Investment Company Modernization Act of
6 2009”.

7 (b) REFERENCE.—Except as otherwise expressly pro-
8 vided, whenever in this Act an amendment or repeal is
9 expressed in terms of an amendment to, or repeal of, a

1 section or other provision, the reference shall be consid-
 2 ered to be made to a section or other provision of the In-
 3 ternal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED
 INVESTMENT COMPANIES

Sec. 101. Capital loss carryovers of regulated investment companies.

TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS
 OF REGULATED INVESTMENT COMPANIES

Sec. 201. Income from commodities counted toward gross income test of regu-
 lated investment companies.

Sec. 202. Savings provisions for failures of regulated investment companies to
 satisfy gross income and asset tests.

TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS
 AND OTHER DISTRIBUTIONS

Sec. 301. Modification of dividend designation requirements and allocation rules
 for regulated investment companies.

Sec. 302. Earnings and profits of regulated investment companies.

Sec. 303. Pass-thru of exempt-interest dividends and foreign tax credits in fund
 of funds structure.

Sec. 304. Modification of rules for spillover dividends of regulated investment
 companies.

Sec. 305. Return of capital distributions of regulated investment companies.

Sec. 306. Distributions in redemption of stock of a regulated investment com-
 pany.

Sec. 307. Repeal of preferential dividend rule for publicly offered regulated in-
 vestment companies.

Sec. 308. Elective deferral of certain late-year losses of regulated investment
 companies.

TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX
 APPLICABLE TO REGULATED INVESTMENT COMPANIES

Sec. 401. Excise tax exemption for certain regulated investment companies
 owned by tax exempt entities.

Sec. 402. Deferral of certain gains and losses of regulated investment compa-
 nies for excise tax purposes.

Sec. 403. Distributed amount for excise tax purposes determined on basis of
 taxes paid by regulated investment company.

TITLE V—OTHER PROVISIONS

Sec. 501. Repeal of assessable penalty with respect to liability for tax of regu-
 lated investment companies.

Sec. 502. Modification of sales load basis deferral rule for regulated investment companies.

1 **TITLE I—CAPITAL LOSS**
 2 **CARRYOVERS OF REGULATED**
 3 **INVESTMENT COMPANIES**

4 **SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED IN-**
 5 **VESTMENT COMPANIES.**

6 (a) IN GENERAL.—Subsection (a) of section 1212 is
 7 amended by redesignating paragraph (3) as paragraph (4)
 8 and by inserting after paragraph (2) the following new
 9 paragraph:

10 “(3) REGULATED INVESTMENT COMPANIES.—

11 “(A) IN GENERAL.—If a regulated invest-
 12 ment company has a net capital loss for any
 13 taxable year—

14 “(i) paragraph (1) shall not apply to
 15 such loss,

16 “(ii) the excess of the net short-term
 17 capital loss over the net long-term capital
 18 gain for such year shall be a short-term
 19 capital loss arising on the first day of the
 20 next taxable year, and

21 “(iii) the excess of the net long-term
 22 capital loss over the net short-term capital
 23 gain for such year shall be a long-term

1 capital loss arising on the first day of the
2 next taxable year.

3 “(B) COORDINATION WITH GENERAL
4 RULE.—If a net capital loss to which paragraph
5 (1) applies is carried over to a taxable year of
6 a regulated investment company—

7 “(i) LOSSES TO WHICH THIS PARA-
8 GRAPH APPLIES.—Clauses (ii) and (iii) of
9 subparagraph (A) shall be applied without
10 regard to any amount treated as a short-
11 term capital loss under paragraph (1).

12 “(ii) LOSSES TO WHICH GENERAL
13 RULE APPLIES.—Paragraph (1) shall be
14 applied by substituting ‘net capital loss for
15 the loss year or any taxable year thereafter
16 (other than a net capital loss to which
17 paragraph (3)(A) applies)’ for ‘net capital
18 loss for the loss year or any taxable year
19 thereafter’.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (C) of section 1212(a)(1) is
22 amended to read as follows:

23 “(C) a capital loss carryover to each of the
24 10 taxable years succeeding the loss year, but

1 only to the extent such loss is attributable to a
2 foreign expropriation loss,”.

3 (2) Paragraph (10) of section 1222 is amended
4 by striking “section 1212” and inserting “section
5 1212(a)(1)”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply to net capital losses for taxable years be-
10 ginning after the date of the enactment of this Act.

11 (2) COORDINATION RULES.—Subparagraph (B)
12 of section 1212(a)(3) of the Internal Revenue Code
13 of 1986, as added by this section, shall apply to tax-
14 able years beginning after the date of the enactment
15 of this Act.

16 **TITLE II—MODIFICATION OF**
17 **GROSS INCOME AND ASSET**
18 **TESTS OF REGULATED IN-**
19 **VESTMENT COMPANIES**

20 **SEC. 201. INCOME FROM COMMODITIES COUNTED TOWARD**
21 **GROSS INCOME TEST OF REGULATED IN-**
22 **VESTMENT COMPANIES.**

23 (a) GROSS INCOME TEST.—Subparagraph (A) of sec-
24 tion 851(b)(2) is amended—

1 (1) by striking “foreign currencies” and insert-
2 ing “commodities”, and

3 (2) by striking “or currencies” and inserting
4 “or commodities”.

5 (b) REPEAL OF REGULATORY AUTHORITY TO EX-
6 CLUDE CERTAIN FOREIGN CURRENCY GAINS FROM
7 QUALIFYING INCOME.—Paragraph (3) of section 851(b)
8 is amended by striking “For purposes of paragraph (2),
9 the Secretary may by regulation exclude from qualifying
10 income foreign currency gains which are not directly re-
11 lated to the company’s principal business of investing in
12 stock or securities (or options and futures with respect to
13 stock or securities).”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 the date of the enactment of this Act.

17 **SEC. 202. SAVINGS PROVISIONS FOR FAILURES OF REGU-**
18 **LATED INVESTMENT COMPANIES TO SATISFY**
19 **GROSS INCOME AND ASSET TESTS.**

20 (a) ASSET TEST.—Subsection (d) of section 851 is
21 amended—

22 (1) by striking “A corporation which meets”
23 and inserting the following:

24 “(1) IN GENERAL.—A corporation which
25 meets”, and

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

3 “(2) SPECIAL RULES REGARDING FAILURE TO
4 SATISFY REQUIREMENTS.—

5 “(A) IN GENERAL.—A corporation that
6 fails to meet the requirements of subsection
7 (b)(3) (other than a failure described in sub-
8 paragraph (B)(i)) for a particular quarter shall
9 nevertheless be considered to have satisfied the
10 requirements of such subsection for such quar-
11 ter if—

12 “(i) following the corporation’s identi-
13 fication of the failure to satisfy the re-
14 quirements of such subsection for a par-
15 ticular quarter, a description of each asset
16 that causes the corporation to fail to sat-
17 isfy the requirements of such subsection at
18 the close of such quarter of any taxable
19 year is set forth in a schedule for such
20 quarter filed in the manner provided by
21 the Secretary,

22 “(ii) the failure to meet the require-
23 ments of such subsection for a particular
24 quarter is due to reasonable cause and not
25 due to willful neglect, and

1 “(iii)(I) the corporation disposes of
2 the assets set forth on the schedule speci-
3 fied in clause (i) within 6 months after the
4 last day of the quarter in which the cor-
5 poration’s identification of the failure to
6 satisfy the requirements of such subsection
7 occurred or such other time period pre-
8 scribed by the Secretary and in the manner
9 prescribed by the Secretary, or

10 “(II) the requirements of such sub-
11 section are otherwise met within the time
12 period specified in subclause (I).

13 “(B) RULE FOR CERTAIN DE MINIMIS
14 FAILURES.—A corporation that fails to meet
15 the requirements of subsection (b)(3) for a par-
16 ticular quarter shall nevertheless be considered
17 to have satisfied the requirements of such sub-
18 section for such quarter if—

19 “(i) such failure is due to the owner-
20 ship of assets the total value of which does
21 not exceed the lesser of—

22 “(I) 1 percent of the total value
23 of the corporation’s assets at the end
24 of the quarter for which such meas-
25 urement is done, and

1 “(II) \$10,000,000, and

2 “(ii)(I) the corporation, following the
3 identification of such failure, disposes of
4 assets in order to meet the requirements of
5 such subsection within 6 months after the
6 last day of the quarter in which the cor-
7 poration’s identification of the failure to
8 satisfy the requirements of such subsection
9 occurred or such other time period pre-
10 scribed by the Secretary and in the manner
11 prescribed by the Secretary, or

12 “(II) the requirements of such sub-
13 section are otherwise met within the time
14 period specified in subclause (I).

15 “(C) TAX.—

16 “(i) TAX IMPOSED.—If subparagraph
17 (A) applies to a corporation for any tax-
18 able year, there is hereby imposed on such
19 corporation a tax in an amount equal to
20 the greater of—

21 “(I) \$50,000, or

22 “(II) the amount determined
23 (pursuant to regulations promulgated
24 by the Secretary) by multiplying the
25 net income generated by the assets

1 described in the schedule specified in
2 subparagraph (A)(i) for the period
3 specified in clause (ii) by the highest
4 rate of tax specified in section 11.

5 “(ii) PERIOD.—For purposes of clause
6 (i)(II), the period described in this clause
7 is the period beginning on the first date
8 that the failure to satisfy the requirements
9 of subsection (b)(3) occurs as a result of
10 the ownership of such assets and ending on
11 the earlier of the date on which the cor-
12 poration disposes of such assets or the end
13 of the first quarter when there is no longer
14 a failure to satisfy such subsection.

15 “(iii) ADMINISTRATIVE PROVISIONS.—
16 For purposes of subtitle F, the taxes im-
17 posed by this subparagraph shall be treat-
18 ed as excise taxes with respect to which the
19 deficiency procedures of such subtitle
20 apply.”.

21 (b) GROSS INCOME TEST.—Section 851 is amended
22 by adding at the end the following new subsection:

23 “(i) FAILURE TO SATISFY GROSS INCOME TEST.—

24 “(1) DISCLOSURE REQUIREMENT.—A corpora-
25 tion that fails to meet the requirement of paragraph

1 (2) of subsection (b) for any taxable year shall nev-
2 ertheless be considered to have satisfied the require-
3 ment of such paragraph for such taxable year if—

4 “(A) following the corporation’s identifica-
5 tion of the failure to meet such requirement for
6 such taxable year, a description of each item of
7 its gross income described in such paragraph is
8 set forth in a schedule for such taxable year
9 filed in the manner provided by the Secretary,
10 and

11 “(B) the failure to meet such requirement
12 is due to reasonable cause and not due to will-
13 ful neglect.

14 “(2) IMPOSITION OF TAX ON FAILURES.—If
15 paragraph (1) applies to a regulated investment
16 company for any taxable year, there is hereby im-
17 posed on such company a tax in an amount equal to
18 the excess of—

19 “(A) the gross income of such company
20 which is not derived from sources referred to in
21 subsection (b)(2), over

22 “(B) $\frac{1}{9}$ of the gross income of such com-
23 pany which is derived from such sources.”.

24 (c) DEDUCTION OF TAXES PAID FROM INVESTMENT
25 COMPANY TAXABLE INCOME.—Paragraph (2) of section

1 852(b) is amended by adding at the end the following new
2 subparagraph:

3 “(G) There shall be deducted an amount
4 equal to the tax imposed by subsections (d)(2)
5 and (i) of section 851 for the taxable year.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years with respect to
8 which the due date (determined with regard to any exten-
9 sions) of the return of tax for such taxable year is after
10 the date of the enactment of this Act.

11 **TITLE III—MODIFICATION OF**
12 **RULES RELATED TO DIVI-**
13 **DENDS AND OTHER DIS-**
14 **TRIBUTIONS**

15 **SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION RE-**
16 **QUIREMENTS AND ALLOCATION RULES FOR**
17 **REGULATED INVESTMENT COMPANIES.**

18 (a) CAPITAL GAIN DIVIDENDS.—

19 (1) IN GENERAL.—Subparagraph (C) of section
20 852(b)(3) is amended to read as follows:

21 “(C) DEFINITION OF CAPITAL GAIN DIVI-
22 DEND.—

23 “(i) IN GENERAL.—For purposes of
24 this part, a capital gain dividend is the ex-
25 cess of—

1 “(I) the portion of any dividend
2 which is reported by the company as
3 a capital gain dividend in a written
4 statement furnished to its share-
5 holders (hereafter in this subpara-
6 graph referred to as the ‘reported cap-
7 ital gain dividend amount’), over

8 “(II) the excess reported amount
9 (if any) which is allocable to the re-
10 ported capital gain dividend amount.

11 “(ii) ALLOCATION OF EXCESS RE-
12 PORTED AMOUNT.—

13 “(I) IN GENERAL.—Except as
14 provided in subclause (II), the excess
15 reported amount (if any) which is al-
16 locable to the reported capital gain
17 dividend amount is that portion of the
18 excess reported amount which bears
19 the same ratio to the excess reported
20 amount as the reported capital gain
21 dividend amount bears to the aggre-
22 gate reported amount.

23 “(II) SPECIAL RULE FOR NON-
24 CALENDAR YEAR TAXPAYERS.—In the
25 case of any taxable year which does

1 not begin and end in the same cal-
2 endar year, if the post-December re-
3 ported amount equals or exceeds the
4 excess reported amount for such tax-
5 able year, subclause (I) shall be ap-
6 plied by substituting ‘post-December
7 reported amount’ for ‘aggregate re-
8 ported amount’ and no excess re-
9 ported amount shall be allocated to
10 any dividend paid on or before De-
11 cember 31 of such taxable year.

12 “(iii) DEFINITIONS.—For purposes of
13 this subparagraph—

14 “(I) EXCESS REPORTED
15 AMOUNT.—The term ‘excess reported
16 amount’ means the excess of the ag-
17 gregate reported amount over the net
18 capital gain of the company for the
19 taxable year.

20 “(II) AGGREGATE REPORTED
21 AMOUNT.—The term ‘aggregate re-
22 ported amount’ means the aggregate
23 amount of dividends reported by the
24 company under clause (i)(I) as capital
25 gain dividends for the taxable year

1 (including capital gain dividends paid
2 after the close of the taxable year de-
3 scribed in section 855).

4 “(III) POST-DECEMBER RE-
5 PORTED AMOUNT.—The term ‘post-
6 December reported amount’ means
7 the aggregate reported amount deter-
8 mined by taking into account only
9 dividends paid after December 31 of
10 the taxable year.

11 “(iv) ADJUSTMENT FOR DETERMINA-
12 TIONS.—If there is an increase in the ex-
13 cess described in subparagraph (A) for the
14 taxable year which results from a deter-
15 mination (as defined in section 860(e)),
16 the company may, subject to the limita-
17 tions of this subparagraph, increase the
18 amount of capital gain dividends reported
19 under clause (i).

20 “(v) SPECIAL RULE FOR LOSSES LATE
21 IN THE CALENDAR YEAR.—For special rule
22 for certain losses after October 31, see
23 paragraph (8).”

1 (2) CONFORMING AMENDMENT.—Subparagraph
2 (B) of section 860(f)(2) is amended by inserting “or
3 reported (as the case may be)” after “designated”.

4 (b) EXEMPT-INTEREST DIVIDENDS.—Subparagraph
5 (A) of section 852(b)(5) is amended to read as follows:

6 “(A) DEFINITION OF EXEMPT-INTEREST
7 DIVIDEND.—

8 “(i) IN GENERAL.—An exempt-inter-
9 est dividend is the excess of—

10 “(I) the portion of any dividend
11 (other than a capital gain dividend)
12 paid by a regulated investment com-
13 pany and reported by the company as
14 an exempt-interest dividend in a writ-
15 ten statement furnished to its share-
16 holders (hereafter in this subpara-
17 graph referred to as the ‘reported ex-
18 empt-interest dividend amount’), over

19 “(II) the excess reported amount
20 (if any) which is allocable to the re-
21 ported exempt-interest dividend
22 amount.

23 “(ii) ALLOCATION OF EXCESS RE-
24 PORTED AMOUNT.—

1 “(I) IN GENERAL.—Except as
2 provided in subclause (II), the excess
3 reported amount (if any) which is al-
4 locable to the reported exempt-interest
5 dividend amount is that portion of the
6 excess reported amount which bears
7 the same ratio to the excess reported
8 amount as the reported exempt-inter-
9 est dividend amount bears to the ag-
10 gregate reported amount.

11 “(II) SPECIAL RULE FOR NON-
12 CALENDAR YEAR TAXPAYERS.—In the
13 case of any taxable year which does
14 not begin and end in the same cal-
15 endar year, if the post-December re-
16 ported amount equals or exceeds the
17 excess reported amount for such tax-
18 able year, subclause (I) shall be ap-
19 plied by substituting ‘post-December
20 reported amount’ for ‘aggregate re-
21 ported amount’ and no excess re-
22 ported amount shall be allocated to
23 any dividend paid on or before De-
24 cember 31 of such taxable year.

1 “(iii) DEFINITIONS.—For purposes of
2 this subparagraph—

3 “(I) EXCESS REPORTED
4 AMOUNT.—The term ‘excess reported
5 amount’ means the excess of the ag-
6 gregate reported amount over the ex-
7 empt interest of the company for the
8 taxable year.

9 “(II) AGGREGATE REPORTED
10 AMOUNT.—The term ‘aggregate re-
11 ported amount’ means the aggregate
12 amount of dividends reported by the
13 company under clause (i)(I) as ex-
14 empt-interest dividends for the taxable
15 year (including exempt-interest divi-
16 dends paid after the close of the tax-
17 able year described in section 855).

18 “(III) POST-DECEMBER RE-
19 PORTED AMOUNT.—The term ‘post-
20 December reported amount’ means
21 the aggregate reported amount deter-
22 mined by taking into account only
23 dividends paid after December 31 of
24 the taxable year.

1 “(IV) EXEMPT INTEREST.—The
2 term ‘exempt interest’ means, with re-
3 spect to any regulated investment
4 company, the excess of the amount of
5 interest excludable from gross income
6 under section 103(a) over the
7 amounts disallowed as deductions
8 under sections 265 and 171(a)(2).”.

9 (c) FOREIGN TAX CREDITS.—Subsection (c) of sec-
10 tion 853 is amended by striking “so designated by the
11 company in a written notice mailed to its shareholders not
12 later than 60 days after the close of the taxable year” and
13 inserting “so reported by the company in a written state-
14 ment furnished to its shareholders”.

15 (d) CREDITS FOR TAX CREDIT BONDS.—Subsection
16 (c) of section 853A is amended by striking “so designated
17 by the regulated investment company in a written notice
18 mailed to its shareholders not later than 60 days after
19 the close of its taxable year” and inserting “so reported
20 by the regulated investment company in a written state-
21 ment furnished to its shareholders”.

22 (e) DIVIDEND RECEIVED DEDUCTION, ETC.—

23 (1) IN GENERAL.—Paragraph (1) of section
24 854(b) is amended—

1 (A) by striking “designated under this sub-
2 paragraph by the regulated investment com-
3 pany” in subparagraph (A) and inserting “re-
4 ported by the regulated investment company as
5 eligible for such deduction in a written state-
6 ment furnished to its shareholders”,

7 (B) by striking “designated by the regu-
8 lated investment company” in subparagraph
9 (B)(i) and inserting “reported by the regulated
10 investment company as qualified dividend in-
11 come in a written statement furnished to its
12 shareholders”,

13 (C) by striking “designated” in subpara-
14 graph (C)(i) and inserting “reported”, and

15 (D) by striking “designated” in subpara-
16 graph (C)(ii) and inserting “reported”.

17 (2) CONFORMING AMENDMENTS.—Subsection
18 (b) of section 854 is amended by striking paragraph
19 (2) and by redesignating paragraphs (3), (4), and
20 (5), as paragraphs (2), (3), and (4), respectively.

21 (f) DIVIDENDS PAID TO CERTAIN FOREIGN PER-
22 SONS.—

23 (1) INTEREST-RELATED DIVIDENDS.—Subpara-
24 graph (C) of section 871(k)(1) is amended to read
25 as follows:

1 “(C) INTEREST-RELATED DIVIDEND.—

2 “(i) IN GENERAL.—For purposes of
3 this paragraph, the term ‘interest related
4 dividend’ means the excess of—

5 “(I) the portion of any dividend
6 which is reported by the company as
7 an interest related dividend in a writ-
8 ten statement furnished to its share-
9 holders (hereafter in this subpara-
10 graph referred to as the ‘reported in-
11 terest related dividend amount’), over

12 “(II) the excess reported amount
13 (if any) which is allocable to the re-
14 ported interest related dividend
15 amount.

16 “(ii) ALLOCATION OF EXCESS RE-
17 PORTED AMOUNT.—

18 “(I) IN GENERAL.—Except as
19 provided in subclause (II), the excess
20 reported amount (if any) which is al-
21 locable to the reported interest related
22 dividend amount is that portion of the
23 excess reported amount which bears
24 the same ratio to the excess reported
25 amount as the reported interest re-

1 lated dividend amount bears to the
2 aggregate reported amount.

3 “(II) SPECIAL RULE FOR NON-
4 CALENDAR YEAR TAXPAYERS.—In the
5 case of any taxable year which does
6 not begin and end in the same cal-
7 endar year, if the post-December re-
8 ported amount equals or exceeds the
9 excess reported amount for such tax-
10 able year, subclause (I) shall be ap-
11 plied by substituting ‘post-December
12 reported amount’ for ‘aggregate re-
13 ported amount’ and no excess re-
14 ported amount shall be allocated to
15 any dividend paid on or before De-
16 cember 31 of such taxable year.

17 “(iii) DEFINITIONS.—For purposes of
18 this subparagraph—

19 “(I) EXCESS REPORTED
20 AMOUNT.—The term ‘excess reported
21 amount’ means the excess of the ag-
22 gregate reported amount over the
23 qualified net interest income of the
24 company for the taxable year.

1 “(II) AGGREGATE REPORTED
2 AMOUNT.—The term ‘aggregate re-
3 ported amount’ means the aggregate
4 amount of dividends reported by the
5 company under clause (i)(I) as inter-
6 est related dividends for the taxable
7 year (including interest related divi-
8 dends paid after the close of the tax-
9 able year described in section 855).

10 “(III) POST-DECEMBER RE-
11 PORTED AMOUNT.—The term ‘post-
12 December reported amount’ means
13 the aggregate reported amount deter-
14 mined by taking into account only
15 dividends paid after December 31 of
16 the taxable year.

17 “(iv) TERMINATION.—The term ‘in-
18 terest related dividend’ shall not include
19 any dividend with respect to any taxable
20 year of the company beginning after De-
21 cember 31, 2009.”.

22 (2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—
23 Subparagraph (C) of section 871(k)(2) is amended
24 to read as follows:

1 “(C) SHORT-TERM CAPITAL GAIN DIVI-
2 DEND.—

3 “(i) IN GENERAL.—For purposes of
4 this paragraph, the term ‘short-term cap-
5 ital gain dividend’ means the excess of—

6 “(I) the portion of any dividend
7 which is reported by the company as
8 a short-term capital gain dividend in a
9 written statement furnished to its
10 shareholders (hereafter in this sub-
11 paragraph referred to as the ‘reported
12 short-term capital gain dividend
13 amount’), over

14 “(II) the excess reported amount
15 (if any) which is allocable to the re-
16 ported short-term capital gain divi-
17 dend amount.

18 “(ii) ALLOCATION OF EXCESS RE-
19 PORTED AMOUNT.—

20 “(I) IN GENERAL.—Except as
21 provided in subclause (II), the excess
22 reported amount (if any) which is al-
23 locable to the reported short-term cap-
24 ital gain dividend amount is that por-
25 tion of the excess reported amount

1 which bears the same ratio to the ex-
2 cess reported amount as the reported
3 short-term capital gain dividend
4 amount bears to the aggregate re-
5 ported amount.

6 “(II) SPECIAL RULE FOR NON-
7 CALENDAR YEAR TAXPAYERS.—In the
8 case of any taxable year which does
9 not begin and end in the same cal-
10 endar year, if the post-December re-
11 ported amount equals or exceeds the
12 excess reported amount for such tax-
13 able year, subclause (I) shall be ap-
14 plied by substituting ‘post-December
15 reported amount’ for ‘aggregate re-
16 ported amount’ and no excess re-
17 ported amount shall be allocated to
18 any dividend paid on or before De-
19 cember 31 of such taxable year.

20 “(iii) DEFINITIONS.—For purposes of
21 this subparagraph—

22 “(I) EXCESS REPORTED
23 AMOUNT.—The term ‘excess reported
24 amount’ means the excess of the ag-
25 gregate reported amount over the

1 qualified short-term gain of the com-
2 pany for the taxable year.

3 “(II) AGGREGATE REPORTED
4 AMOUNT.—The term ‘aggregate re-
5 ported amount’ means the aggregate
6 amount of dividends reported by the
7 company under clause (i)(I) as short-
8 term capital gain dividends for the
9 taxable year (including short-term
10 capital gain dividends paid after the
11 close of the taxable year described in
12 section 855).

13 “(III) POST-DECEMBER RE-
14 PORTED AMOUNT.—The term ‘post-
15 December reported amount’ means
16 the aggregate reported amount deter-
17 mined by taking into account only
18 dividends paid after December 31 of
19 the taxable year.

20 “(iv) TERMINATION.—The term
21 ‘short-term capital gain dividend’ shall not
22 include any dividend with respect to any
23 taxable year of the company beginning
24 after December 31, 2009.”

1 (g) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to distributions in taxable years
 3 beginning after the date of the enactment of this Act.

4 (h) APPLICATION OF JGTRRA SUNSET.—Section
 5 303 of the Jobs and Growth Tax Relief Reconciliation Act
 6 of 2003 shall apply to the amendments made by subpara-
 7 graphs (B) and (D) of subsection (e)(1) to the same extent
 8 and in the same manner as section 303 of such Act applies
 9 to the amendments made by section 302 of such Act.

10 **SEC. 302. EARNINGS AND PROFITS OF REGULATED INVEST-**
 11 **MENT COMPANIES.**

12 (a) IN GENERAL.—Paragraph (1) of section 852(c)
 13 is amended by inserting “(other than by reason of section
 14 265 or 171(a)(2))” after “not allowable as a deduction”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 the date of the enactment of this Act.

18 **SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS**
 19 **AND FOREIGN TAX CREDITS IN FUND OF**
 20 **FUNDS STRUCTURE.**

21 (a) IN GENERAL.—Section 852 is amended by adding
 22 at the end the following new subsection:

23 “(g) SPECIAL RULES FOR FUND OF FUNDS.—

24 “(1) IN GENERAL.—In the case of a qualified
 25 fund of funds—

1 “(A) such fund shall be qualified to pay
2 exempt-interest dividends to its shareholders
3 without regard to whether such fund satisfies
4 the requirements of the first sentence of sub-
5 section (b)(5), and

6 “(B) such fund may elect the application
7 of section 853 (relating to foreign tax credit al-
8 lowed to shareholders) without regard to the re-
9 quirement of subsection (a)(1) thereof.

10 “(2) QUALIFIED FUND OF FUNDS.—For pur-
11 poses of this subsection, the term ‘qualified fund of
12 funds’ means a regulated investment company if (at
13 the close of each quarter of the taxable year) at least
14 95 percent of the value of its total assets is rep-
15 resented by—

16 “(A) cash and cash items (including receiv-
17 ables), and

18 “(B) interests in other regulated invest-
19 ment companies.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 the date of the enactment of this Act.

1 **SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVI-**
2 **DENDS OF REGULATED INVESTMENT COMPA-**
3 **NIES.**

4 (a) DEADLINE FOR DECLARATION OF DIVIDEND.—
5 Paragraph (1) of section 855(a) is amended to read as
6 follows:

7 “(1) declares a dividend before the later of—

8 “(A) the 15th day of the 9th month fol-
9 lowing the close the taxable year, or

10 “(B) in the case of an extension of time
11 for filing the company’s return for the taxable
12 year, the due date for filing such return taking
13 into account such extension, and”.

14 (b) DEADLINE FOR DISTRIBUTION OF DIVIDEND.—
15 Paragraph (2) of section 855(a) is amended by striking
16 “the first regular dividend payment” and inserting “the
17 first dividend payment of the same type of dividend”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to distributions in taxable years
20 beginning after the date of the enactment of this Act.

21 **SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGU-**
22 **LATED INVESTMENT COMPANIES.**

23 (a) IN GENERAL.—Subsection (b) of section 316 is
24 amended by adding at the end the following new para-
25 graph:

1 paragraph (6) and by inserting after paragraph (4)
2 the following new paragraph:

3 “(5) REDEMPTIONS BY CERTAIN REGULATED
4 INVESTMENT COMPANIES.—Except to the extent
5 provided in regulations prescribed by the Secretary,
6 subsection (a) shall apply to any distribution in re-
7 demption of stock of a publicly offered regulated in-
8 vestment company (within the meaning of section
9 67(c)(2)(B)) if—

10 “(A) such redemption is upon the demand
11 of the stockholder, and

12 “(B) such company issues only stock which
13 is redeemable upon the demand of the stock-
14 holder.”.

15 (2) CONFORMING AMENDMENT.—Subsection (a)
16 of section 302 is amended by striking “or (4)” and
17 inserting “(4), or (5)”.

18 (b) LOSSES ON REDEMPTIONS NOT DISALLOWED
19 FOR FUND-OF-FUNDS REGULATED INVESTMENT COMPA-
20 NIES.—Paragraph (3) of section 267(f) is amended by
21 adding at the end the following new subparagraph:

22 “(D) REDEMPTIONS BY FUND-OF-FUNDS
23 REGULATED INVESTMENT COMPANIES.—Except
24 to the extent provided in regulations prescribed
25 by the Secretary, subsection (a)(1) shall not

1 apply to any distribution in redemption of stock
2 of a regulated investment company if—

3 “(i) such company issues only stock
4 which is redeemable upon the demand of
5 the stockholder, and

6 “(ii) such redemption is upon the de-
7 mand of another regulated investment
8 company.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to distributions after the date of
11 the enactment of this Act.

12 **SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**
13 **PUBLICLY OFFERED REGULATED INVEST-**
14 **MENT COMPANIES.**

15 (a) IN GENERAL.—Subsection (c) of section 562 is
16 amended by striking “The amount” and inserting “Except
17 in the case of a publicly offered regulated investment com-
18 pany (as defined in section 67(c)(2)(B)), the amount”.

19 (b) CONFORMING AMENDMENT.—Section 562(c) is
20 amended by inserting “(other than a publicly offered regu-
21 lated investment company (as so defined))” after “regu-
22 lated investment company” in the second sentence thereof.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to distributions in taxable years
25 beginning after the date of the enactment of this Act.

1 **SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR**
2 **LOSSES OF REGULATED INVESTMENT COM-**
3 **PANIES.**

4 (a) IN GENERAL.—Paragraph (8) of section 852(b)
5 is amended to read as follows:

6 “(8) ELECTIVE DEFERRAL OF CERTAIN LATE-
7 YEAR LOSSES.—

8 “(A) IN GENERAL.—Except as otherwise
9 provided by the Secretary, a regulated invest-
10 ment company may elect for any taxable year to
11 compute its taxable income, net capital gain,
12 and earnings and profits without regard to any
13 portion of any qualified late-year loss, and any
14 such portion shall be treated as arising on the
15 first day of the following taxable year for pur-
16 poses of such computations.

17 “(B) QUALIFIED LATE-YEAR LOSS.—For
18 purposes of this paragraph, the term ‘qualified
19 late-year loss’ means—

20 “(i) any post-October capital loss, and
21 “(ii) any late-year ordinary loss.

22 “(C) POST-OCTOBER CAPITAL LOSS.—For
23 purposes of this paragraph, the term ‘post-Oc-
24 tober capital loss’ means the greatest of—

1 “(i) the net capital loss attributable to
2 the portion of the taxable year after Octo-
3 ber 31,

4 “(ii) the net long-term capital loss at-
5 tributable to such portion of the taxable
6 year, or

7 “(iii) the net short-term capital loss
8 attributable to such portion of the taxable
9 year.

10 “(D) LATE-YEAR ORDINARY LOSS.—For
11 purposes of this paragraph, the term ‘late-year
12 ordinary loss’ means the excess (if any) of—

13 “(i) the sum of—

14 “(I) the ordinary losses attrib-
15 utable to the portion of the taxable
16 year after December 31, plus

17 “(II) the specified losses (as de-
18 fined in section 4982(e)(5)(B)(ii)) at-
19 tributable to the portion of the taxable
20 year after October 31 (and before
21 January 1), over

22 “(ii) the sum of—

23 “(I) the ordinary income attrib-
24 utable to the portion of the taxable
25 year after December 31, plus

1 “(II) the specified gains (as de-
2 fined in section 4982(e)(5)(B)(ii)) at-
3 tributable to the portion of the taxable
4 year after October 31 (and before
5 January 1).

6 “(E) SPECIAL RULE FOR COMPANIES DE-
7 TERMINING REQUIRED CAPITAL GAIN DISTRIBU-
8 TIONS ON TAXABLE YEAR BASIS.—In the case
9 of a company to which an election under section
10 4982(e)(4) applies—

11 “(i) if such company’s taxable year
12 ends with the month of November, sub-
13 paragraphs (C)(i), (D)(i)(II), and
14 (D)(ii)(II) shall each be applied by sub-
15 stituting ‘November 30’ for ‘October 31’,
16 and

17 “(ii) if such company’s taxable year
18 ends with the month of December, sub-
19 paragraph (A) shall not apply.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subsection (b) of section 852 is amended by
22 striking paragraph (10).

23 (2) Subsection (c) of section 852 is amended by
24 striking paragraph (2) and by redesignating para-
25 graph (3) as paragraph (2).

1 (3) Subparagraph (D) of section 871(k)(2) is
2 amended by striking the last two sentences and in-
3 serting the following: “For purposes of this subpara-
4 graph, the net short-term capital gain of the regu-
5 lated investment company shall be computed by
6 treating any short-term capital gain dividend includ-
7 ible in gross income with respect to stock of another
8 regulated investment company as a short-term cap-
9 ital gain.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **TITLE IV—MODIFICATIONS RE-**
14 **LATED TO EXCISE TAX APPLI-**
15 **CABLE TO REGULATED IN-**
16 **VESTMENT COMPANIES**

17 **SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGU-**
18 **LATED INVESTMENT COMPANIES OWNED BY**
19 **TAX EXEMPT ENTITIES.**

20 (a) IN GENERAL.—Subsection (f) of section 4982 is
21 amended—

22 (1) by striking “either” in the matter preceding
23 paragraph (1),

24 (2) by striking “or” at the end of paragraph

25 (1),

1 (3) by striking the period at the end of para-
2 graph (2) and inserting “or”, and

3 (4) by inserting after paragraph (2) the fol-
4 lowing new paragraph:

5 “(3) any other tax-exempt entity whose owner-
6 ship of beneficial interests in the company would not
7 preclude the application of section 817(h)(4).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to calendar years beginning after
10 the date of the enactment of this Act.

11 **SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF**
12 **REGULATED INVESTMENT COMPANIES FOR**
13 **EXCISE TAX PURPOSES.**

14 (a) IN GENERAL.—Subsection (e) of section 4982 is
15 amended by striking paragraphs (5) and (6) and inserting
16 the following new paragraphs:

17 “(5) TREATMENT OF SPECIFIED GAINS AND
18 LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—

19 “(A) IN GENERAL.—Any specified gain or
20 specified loss which (but for this paragraph)
21 would be properly taken into account for the
22 portion of the calendar year after October 31
23 shall be treated as arising on the 1st day of the
24 following calendar year.

1 “(B) SPECIFIED GAINS AND LOSSES.—For
2 purposes of this paragraph—

3 “(i) SPECIFIED GAIN.—The term
4 ‘specified gain’ means ordinary gain from
5 the sale, exchange, or other disposition of
6 property (including the termination of a
7 position with respect to such property).
8 Such term shall include any foreign cur-
9 rency gain attributable to a section 988
10 transaction (within the meaning of section
11 988) and any amount includible in gross
12 income under section 1296(a)(1).

13 “(ii) SPECIFIED LOSS.—The term
14 ‘specified loss’ means ordinary loss from
15 the sale, exchange, or other disposition of
16 property (including the termination of a
17 position with respect to such property).
18 Such term shall include any foreign cur-
19 rency loss attributable to a section 988
20 transaction (within the meaning of section
21 988) and any amount allowable as a de-
22 duction under section 1296(a)(2).

23 “(C) SPECIAL RULE FOR COMPANIES
24 ELECTING TO USE THE TAXABLE YEAR.—In the
25 case of any company making an election under

1 paragraph (4), subparagraph (A) shall be ap-
2 plied by substituting the last day of the com-
3 pany's taxable year for October 31.

4 “(6) TREATMENT OF MARK TO MARKET
5 GAIN.—

6 “(A) IN GENERAL.—For purposes of deter-
7 mining a regulated investment company's ordi-
8 nary income, notwithstanding paragraph (1)(C),
9 each specified mark to market provision shall be
10 applied as if such company's taxable year ended
11 on October 31. In the case of a company mak-
12 ing an election under paragraph (4), the pre-
13 ceding sentence shall be applied by substituting
14 the last day of the company's taxable year for
15 October 31.

16 “(B) SPECIFIED MARK TO MARKET PROVI-
17 SION.—For purposes of this paragraph, the
18 term ‘specified mark to market provision’
19 means sections 1256 and 1296 and any other
20 provision of this title which treats property as
21 disposed of on the last day of the taxable year.

22 “(7) ELECTIVE DEFERRAL OF CERTAIN ORDI-
23 NARY LOSSES.—Except as provided in regulations
24 prescribed by the Secretary, in the case of a regu-

1 lated investment company which has a taxable year
2 other than the calendar year—

3 “(A) such company may elect to determine
4 its ordinary income for the calendar year with-
5 out regard to any net ordinary loss (determined
6 without regard to specified gains and losses
7 taken into account under paragraph (5)) which
8 is attributable to the portion of such calendar
9 year which is after the beginning of the taxable
10 year which begins in such calendar year, and

11 “(B) any amount of net ordinary loss not
12 taken into account for a calendar year by rea-
13 son of subparagraph (A) shall be treated as
14 arising on the 1st day of the following calendar
15 year.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to calendar years beginning after
18 the date of the enactment of this Act.

19 **SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PUR-**
20 **POSES DETERMINED ON BASIS OF TAXES**
21 **PAID BY REGULATED INVESTMENT COM-**
22 **PANY.**

23 (a) IN GENERAL.—Subsection (c) of section 4982 is
24 amended by adding at the end the following new para-
25 graph:

1 “(4) SPECIAL RULE FOR ESTIMATED TAX PAY-
2 MENTS.—

3 “(A) IN GENERAL.—In the case of a regu-
4 lated investment company which elects the ap-
5 plication of this paragraph for any calendar
6 year—

7 “(i) the distributed amount with re-
8 spect to such company for such calendar
9 year shall be increased by the amount on
10 which qualified estimated tax payments are
11 made by such company during such cal-
12 endar year, and

13 “(ii) the distributed amount with re-
14 spect to such company for the following
15 calendar year shall be reduced by the
16 amount of such increase.

17 “(B) QUALIFIED ESTIMATED TAX PAY-
18 MENTS.—For purposes of this paragraph, the
19 term ‘qualified estimated tax payments’ means,
20 with respect to any calendar year, payments of
21 estimated tax of a tax described in paragraph
22 (1)(B) for any taxable year which begins (but
23 does not end) in such calendar year.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to calendar years beginning after
3 the date of the enactment of this Act.

4 **TITLE V—OTHER PROVISIONS**

5 **SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RE-** 6 **SPECT TO LIABILITY FOR TAX OF REGU-** 7 **LATED INVESTMENT COMPANIES.**

8 (a) IN GENERAL.—Part I of subchapter B of chapter
9 68 is amended by striking section 6697 (and by striking
10 the item relating to such section in the table of sections
11 of such part).

12 (b) CONFORMING AMENDMENT.—Section 860 is
13 amended by striking subsection (j).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 the date of the enactment of this Act.

17 **SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL** 18 **RULE FOR REGULATED INVESTMENT COMPA-** 19 **NIES.**

20 (a) IN GENERAL.—Subparagraph (C) of section
21 852(f)(1) is amended by striking “subsequently acquires”
22 and inserting “acquires, during the period beginning on
23 the date of the disposition referred to in subparagraph (B)
24 and ending on January 31 of the calendar year following

1 the calendar year that includes the date of such disposi-
2 tion,”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to charges incurred in taxable
5 years beginning after the date of the enactment of this
6 Act.

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