

112TH CONGRESS  
2D SESSION

# S. 3497

To amend the Financial Stability Act of 2010 to repeal certain designation authority of the Financial Stability Oversight Council, to repeal the Payment, Clearing, and Settlement Supervision Act of 2010, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2012

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Financial Stability Act of 2010 to repeal certain designation authority of the Financial Stability Oversight Council, to repeal the Payment, Clearing, and Settlement Supervision Act of 2010, 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 “Terminating the Ex-  
5 pansion of Too-Big-To-Fail Act of 2012”.

1 **SEC. 2. REPEAL OF DESIGNATION AUTHORITY UNDER THE**  
 2 **FINANCIAL STABILITY ACT OF 2010.**

3 (a) IN GENERAL.—The Dodd Frank Wall Street Re-  
 4 form and Consumer Protection Act (Public Law 111–203)  
 5 is amended—

6 (1) in section 102 (12 U.S.C. 5311)—

7 (A) in subsection (a)—

8 (i) by striking paragraph (4); and

9 (ii) by amending paragraph (7) to  
 10 read as follows:

11 “(7) SIGNIFICANT BANK HOLDING COMPANY.—

12 The term ‘significant bank holding company’ has the  
 13 meanings given to it by rule of the Board of Gov-  
 14 ernors.”; and

15 (B) by striking subsection (c);

16 (2) in section 112 (12 U.S.C. 5322)—

17 (A) in subsection (a)—

18 (i) in paragraph (1)(A), by striking

19 “or nonbank financial companies”; and

20 (ii) in paragraph (2)—

21 (I) in subparagraph (A), by strik-  
 22 ing “and nonbank financial compa-  
 23 nies”;

24 (II) by striking subparagraphs  
 25 (H) and (J);

1 (III) by redesignating subpara-  
2 graphs (I), (K), (L), (M), and (N) as  
3 subparagraphs (H), (I), (J), (K), and  
4 (L), respectively;

5 (IV) in subparagraph (H), as so  
6 redesignated, by striking “nonbank fi-  
7 nancial companies and”;

8 (V) in subparagraph (I), as so re-  
9 designated, by striking “, nonbank fi-  
10 nancial companies,”; and

11 (VI) in subparagraph (L), as so  
12 redesignated—

13 (aa) by striking clause (iv);

14 and

15 (bb) by redesignating  
16 clauses (v) and (vi) as clauses  
17 (iv) and (v), respectively; and

18 (B) in subsection (d)—

19 (i) in paragraph (3)—

20 (I) in subparagraph (A), by strik-  
21 ing “nonbank financial company or”  
22 each place such term appears;

23 (II) in subparagraph (B), by  
24 striking “nonbank financial company  
25 or”; and

1 (III) in subparagraph (C), by  
2 striking “foreign nonbank financial  
3 company or”; and

4 (ii) by striking paragraph (4);

5 (3) by striking sections 113 (12 U.S.C. 5323),  
6 114 (12 U.S.C. 5324), 161 (12 U.S.C. 5361), 162  
7 (12 U.S.C. 5362), 164 (12 U.S.C. 5364), 167 (12  
8 U.S.C. 5367), 170 (12 U.S.C. 5370), 216 (124 Stat.  
9 1519), and 217 (124 Stat. 1519);

10 (4) in section 115 (12 U.S.C. 5325)—

11 (A) in the heading for such section, by  
12 striking “**NONBANK FINANCIAL COMPANIES**  
13 **SUPERVISED BY THE BOARD OF GOV-**  
14 **ERNORS AND**”;

15 (B) in subsection (a)(1)—

16 (i) by striking “nonbank financial  
17 companies supervised by the Board of Gov-  
18 ernors and”; and

19 (ii) in subparagraph (A), by striking  
20 “nonbank financial companies and”;

21 (C) in subsection (b)—

22 (i) in paragraph (2)—

23 (I) in the heading for such para-  
24 graph, by striking “**FINANCIAL COM-**

1 PANIES” and inserting “BANK HOLD-  
2 ING COMPANIES”;

3 (II) by striking “foreign nonbank  
4 financial companies supervised by the  
5 Board of Governors or”; and

6 (III) in subparagraph (B), by  
7 striking “foreign nonbank financial  
8 company or”; and

9 (ii) in paragraph (3)—

10 (I) in subparagraph (A)—

11 (aa) by striking “nonbank  
12 financial companies supervised by  
13 the Board of Governors and”;  
14 and

15 (bb) in clause (i), by insert-  
16 ing before the semicolon the fol-  
17 lowing: “(as in effect on the day  
18 before the date of the enactment  
19 of the Terminating the Expans-  
20 sion of Too-Big-To-Fail Act of  
21 2012)”; and

22 (II) in subparagraph (B), by in-  
23 sserting after “section 113” the fol-  
24 lowing: “(as in effect on the day be-  
25 fore the date of the enactment of the

1 Terminating the Expansion of Too-  
2 Big-To-Fail Act of 2012)”;

3 (D) in subsection (c)—

4 (i) in paragraph (1), by striking  
5 “nonbank financial companies supervised  
6 by the Board of Governors and”; and

7 (ii) in paragraph (3)—

8 (I) in subparagraph (A), by strik-  
9 ing “any nonbank financial company  
10 supervised by the Board of Governors  
11 and”; and

12 (II) in subparagraph (B)(iii), by  
13 striking “a nonbank financial com-  
14 pany supervised by the Board of Gov-  
15 ernors or”;

16 (E) in subsection (d)—

17 (i) in paragraph (1), by striking “each  
18 nonbank financial company supervised by  
19 the Board of Governors and”; and

20 (ii) in paragraph (2)—

21 (I) by striking “nonbank finan-  
22 cial company supervised by the Board  
23 of Governors and”; and

1 (II) by striking “significant  
2 nonbank financial companies and”  
3 each place such term appears;

4 (F) in subsection (e), by striking “nonbank  
5 financial companies supervised by the Board of  
6 Governors or”;

7 (G) in subsection (f), by striking “and by  
8 nonbank financial companies supervised by the  
9 Board of Governors”; and

10 (H) in subsection (g), by striking “,  
11 nonbank financial companies supervised by the  
12 Board of Governors,”;

13 (5) in section 116 (12 U.S.C. 5326)—

14 (A) in subsection (a), by striking “or a  
15 nonbank financial company supervised by the  
16 Board of Governors”; and

17 (B) in subsection (b)—

18 (i) in paragraph (1)(A), by striking “,  
19 nonbank financial company supervised by  
20 the Board of Governors,”; and

21 (ii) in paragraph (2), by striking “and  
22 nonbank financial company supervised by  
23 the Board of Governors”;

24 (6) in section 117 (12 U.S.C. 5327)—

1 (A) in subsection (b), by striking “such en-  
2 tity shall be treated as a nonbank financial  
3 company supervised by the Board of Governors,  
4 as if the Council had made a determination  
5 under section 113 with respect to that entity”  
6 and inserting “for purposes of this title, such  
7 entity shall be treated as a bank holding com-  
8 pany with total consolidated assets of  
9 \$50,000,000,000”; and

10 (B) in subsection (c)—

11 (i) in paragraph (1), by striking “a  
12 nonbank financial company supervised by  
13 the Board of Governors” and inserting “a  
14 bank holding company with total consoli-  
15 dated assets of \$50,000,000,000”; and

16 (ii) in paragraph (2), by striking sub-  
17 paragraph (C);

18 (7) in section 119(a) (12 U.S.C. 5329(a)), by  
19 striking “, nonbank financial company,”;

20 (8) in section 120 (12 U.S.C. 5330)—

21 (A) in subsection (a)—

22 (i) by striking “or nonbank financial  
23 companies”; and

24 (ii) by striking “and nonbank finan-  
25 cial companies”; and



1 (B) in subsection (d)—

2 (i) in paragraph (1), by adding “and”  
3 at the end;

4 (ii) in paragraph (2), by striking “;  
5 and” and inserting a period; and

6 (iii) by striking paragraph (3);

7 (9) in section 121 (12 U.S.C. 5331)—

8 (A) in subsection (a), by striking “, or a  
9 nonbank financial company supervised by the  
10 Board of Governors,”;

11 (B) in subsection (c), by inserting after  
12 “section 113” the following: “(as in effect on  
13 the day before the date of the enactment of the  
14 Terminating the Expansion of Too-Big-To-Fail  
15 Act of 2012)”;

16 (C) in subsection (d)—

17 (i) in the heading for such subsection,  
18 by striking “FOREIGN FINANCIAL COMPA-  
19 NIES” and inserting “FOREIGN-BASED  
20 BANK HOLDING COMPANIES”;

21 (ii) by striking “foreign nonbank fi-  
22 nancial companies supervised by the Board  
23 of Governors and”;

24 (iii) by amending paragraph (2) to  
25 read as follows:

1           “(2) taking into account the extent to which the  
2 foreign-based bank holding company is subject on a  
3 consolidated basis to home country standards that  
4 are comparable to those applied to bank holding  
5 companies in the United States.”;

6           (10) in the heading for subtitle C, by striking  
7 **“Certain Nonbank Financial Companies**  
8 **and”**;

9           (11) in section 155(d) (12 U.S.C. 5345(d)), by  
10 striking “and nonbank financial companies super-  
11 vised by the Board of Governors”;

12           (12) in section 163 (12 U.S.C. 5363)—

13                 (A) by striking subsection (a),

14                 (B) by redesignating subsection (b) as sub-  
15 section (a); and

16                 (C) in subsection (a), as so redesignated,  
17 by striking “or a nonbank financial company  
18 supervised by the Board of Governors” each  
19 place such term appears;

20           (13) in section 165 (12 U.S.C. 5365)—

21                 (A) in the heading for such section, by  
22 striking **“NONBANK FINANCIAL COMPANIES**  
23 **SUPERVISED BY THE BOARD OF GOV-**  
24 **ERNORS AND”**;

25                 (B) in subsection (a)(1)—

- 1 (i) by striking “nonbank financial  
2 companies supervised by the Board of Gov-  
3 ernors and”; and
- 4 (ii) in subparagraph (A), by striking  
5 “nonbank financial companies and”;  
6 (C) in subsection (b)—
- 7 (i) in paragraph (1), by striking  
8 “nonbank financial companies supervised  
9 by the Board of Governors and” each place  
10 such term appears;
- 11 (ii) in paragraph (2)—
- 12 (I) in the heading for such para-  
13 graph, by striking “FOREIGN FINAN-  
14 CIAL COMPANIES” and inserting  
15 “FOREIGN-BASED BANK HOLDING  
16 COMPANIES”;
- 17 (II) by striking “foreign nonbank  
18 financial company supervised by the  
19 Board of Governors or”; and
- 20 (III) in subparagraph (B)—
- 21 (aa) by striking “foreign fi-  
22 nancial company” and inserting  
23 “foreign-based bank holding com-  
24 pany”; and

1 (bb) by striking “financial  
2 companies” and inserting “bank  
3 holding companies”;

4 (iii) in paragraph (3)—

5 (I) by inserting after “section  
6 113” each place such term appears  
7 the following: “(as in effect on the day  
8 before the date of the enactment of  
9 the Terminating the Expansion of  
10 Too-Big-To-Fail Act of 2012)”; and

11 (II) in subparagraph (A), by  
12 striking “nonbank financial companies  
13 supervised by the Board of Governors  
14 and”; and

15 (iv) in paragraph (4), by striking “a  
16 nonbank financial company supervised by  
17 the Board of Governors or”;

18 (D) in subsection (c)—

19 (i) in paragraph (1)—

20 (I) by striking “nonbank finan-  
21 cial company supervised by the Board  
22 of Governors and”; and

23 (II) by striking “bank holding  
24 companies” and inserting “bank hold-  
25 ing company”; and

1 (ii) in paragraph (2)(D), by striking  
2 “nonbank financial company supervised by  
3 the Board of Governors or a”;

4 (E) in subsection (d)—

5 (i) by striking “nonbank financial  
6 company supervised by the Board of Gov-  
7 ernors and” each place such term appears;

8 (ii) in paragraph (1), by striking  
9 “bank holding companies” and inserting  
10 “bank holding company”;

11 (iii) in paragraph (2)—

12 (I) by striking “significant  
13 nonbank financial companies and”  
14 each place such term appears; and

15 (II) by striking “bank holding  
16 companies” and inserting “bank hold-  
17 ing company”;

18 (iv) in paragraph (4), by striking “a  
19 nonbank financial company supervised by  
20 the Board of Governors or”;

21 (v) in paragraph (5), by striking “a  
22 nonbank financial company supervised by  
23 the Board of Governors or” each place  
24 such term appears; and

1 (vi) in paragraph (6), by striking “the  
2 nonbank financial company supervised by  
3 the Board, any bank holding company, or  
4 any subsidiary or affiliate of the foregoing”  
5 and inserting “any bank holding company  
6 or any subsidiary or affiliate of the bank  
7 holding company”;

8 (F) in subsection (e)—

9 (i) in paragraph (1), by striking “a  
10 nonbank financial company supervised by  
11 the Board of Governors or”;

12 (ii) in paragraph (2), by striking  
13 “nonbank financial company supervised by  
14 the Board of Governors and”;

15 (iii) in paragraph (3), by striking “the  
16 nonbank financial company supervised by  
17 the Board of Governors or” each place  
18 such term appears; and

19 (iv) in paragraph (4), by striking “a  
20 nonbank financial company supervised by  
21 the Board of Governors or”;

22 (G) in subsection (f), by striking “nonbank  
23 financial companies supervised by the Board of  
24 Governors and”;

1 (H) in subsection (g)(1), by striking “and  
2 any nonbank financial company supervised by  
3 the Board of Governors”;

4 (I) in subsection (h)—

5 (i) by striking paragraph (1);

6 (ii) by redesignating paragraphs (2)  
7 and (3) as paragraphs (1) and (2), respec-  
8 tively;

9 (iii) in paragraph (1), as so redesign-  
10 nated, by striking “paragraph (3)” each  
11 place such term appears and inserting  
12 “paragraph (2)”; and

13 (iv) in paragraph (2), as so redesign-  
14 nated, by striking “nonbank financial com-  
15 pany supervised by the Board of Governors  
16 or” each place such term appears;

17 (J) in subsection (i)—

18 (i) in paragraph (1)—

19 (I) in subparagraph (A), by strik-  
20 ing “nonbank financial companies su-  
21 pervised by the Board of Governors  
22 and”; and

23 (II) in subparagraph (B), by  
24 striking “and nonbank financial com-  
25 panies”; and

1 (ii) in paragraph (2)(A), by striking  
2 “nonbank financial company supervised by  
3 the Board of Governors and a”;

4 (K) in subsection (j)—

5 (i) in paragraph (1), by striking “or a  
6 nonbank financial company supervised by  
7 the Board of Governors”; and

8 (ii) in paragraph (2), by inserting  
9 after “section 113” the following: “(as in  
10 effect on the day before the date of the en-  
11 actment of the Terminating the Expansion  
12 of Too-Big-To-Fail Act of 2012)”; and

13 (L) in subsection (k)(1), by striking “or  
14 nonbank financial company supervised by the  
15 Board of Governors”;

16 (14) in section 166 (12 U.S.C. 5366), by strik-  
17 ing “a nonbank financial company supervised by the  
18 Board of Governors or” each place such term ap-  
19 pears;

20 (15) in section 169 (12 U.S.C. 5369), by strik-  
21 ing “and nonbank financial companies”;

22 (16) in section 171(b) (12 U.S.C. 5371(b))—

23 (A) by striking “, depository institution  
24 holding companies, and nonbank financial com-  
25 panies supervised by the Board of Governors”



1 each place such term appears and inserting  
 2 “and depository institution holding companies”;

3 (B) in paragraph (3)—

4 (i) by striking “or nonbank financial  
 5 companies supervised by the Board of Gov-  
 6 ernors”; and

7 (ii) by striking “or the primary finan-  
 8 cial regulatory agency in the case of  
 9 nonbank financial companies supervised by  
 10 the Board of Governors”; and

11 (C) in paragraph (4)—

12 (i) by striking “or by nonbank finan-  
 13 cial companies supervised by the Board of  
 14 Governors” each place such term appears;  
 15 and

16 (ii) by adding a period at the end.

17 (b) CONFORMING AMENDMENTS.—

18 (1) BANK HOLDING COMPANY ACT OF 1956.—

19 The Bank Holding Company Act of 1956 (12 U.S.C.  
 20 1841 et seq.) is amended—

21 (A) in section 13 (12 U.S.C. 1851)—

22 (i) in subsection (a), by striking para-  
 23 graph (2);

24 (ii) in subsection (b)(2)(B)—

1 (I) in clause (i)(II), by striking “,  
2 any nonbank financial company super-  
3 vised by the Board”; and

4 (II) in clause (ii), by striking  
5 “and nonbank financial companies su-  
6 pervised by the Board”;

7 (iii) in subsection (c)(2)—

8 (I) by striking “or nonbank fi-  
9 nancial company supervised by the  
10 Board”; and

11 (II) by striking “or 2 years after  
12 the date on which the entity or com-  
13 pany becomes a nonbank financial  
14 company supervised by the Board”;

15 (iv) in subsection (e)(2), by striking  
16 “or nonbank financial company supervised  
17 by the Board” each place such term ap-  
18 pears;

19 (v) in subsection (g), by striking “or  
20 nonbank financial company supervised by  
21 the Board” each place such term appears;  
22 and

23 (vi) in subsection (h)—

24 (I) by striking paragraph (3);

1 (II) by redesignating paragraphs  
 2 (4), (5), (6), and (7) as paragraphs  
 3 (3), (4), (5), and (6), respectively; and

4 (III) in paragraph (3), as so re-  
 5 designated, by striking “or nonbank  
 6 financial company supervised by the  
 7 Board” each place such term appears;

8 (B) in section 14(a) (12 U.S.C.  
 9 1852(a))—

10 (i) in paragraph (2)—

11 (I) by striking subparagraph (E);

12 and

13 (II) by redesignating subpara-  
 14 graph (F) as subparagraph (E); and

15 (ii) in paragraph (3)(C), by striking  
 16 “or other nonbank financial company su-  
 17 pervised by the Board”.

18 (2) DODD-FRANK WALL STREET REFORM AND  
 19 CONSUMER PROTECTION ACT.—The Dodd-Frank  
 20 Wall Street Reform and Consumer Protection Act  
 21 (Public Law 111–203) is amended—

22 (A) in the table of contents for such Act  
 23 under section 1(b)—

1 (i) by striking the items relating to  
2 sections 113, 114, 161, 162, 164, 167,  
3 170, 216, and 217;

4 (ii) in the item relating to section  
5 115, by striking “nonbank financial com-  
6 panies supervised by the Board of Gov-  
7 ernors and”;

8 (iii) in the item relating to subtitle C  
9 of title II, by striking “certain nonbank fi-  
10 nancial companies and”; and

11 (iv) in the item relating to section  
12 165, by striking “nonbank financial com-  
13 panies supervised by the Board of Gov-  
14 ernors and”;

15 (B) in section 201(a) (12 U.S.C.  
16 5381(a))—

17 (i) in paragraph (11)(B)—

18 (I) by striking clause (ii); and

19 (II) by redesignating clauses (iii)  
20 and (iv) as clauses (ii) and (iii), re-  
21 spectively;

22 (ii) by striking paragraphs (14) and  
23 (15); and

24 (iii) by redesignating paragraph (16)  
25 as paragraph (14);

1 (C) in section 210(o)(1)(A) (12 U.S.C.  
2 5390(o)(1)(A)), by striking “and any nonbank  
3 financial company supervised by the Board of  
4 Governors”;

5 (D) in section 618(a)(4)(B) (12 U.S.C.  
6 1850a(a)(4)(B))—

7 (i) by striking clause (i); and

8 (ii) by redesignating clauses (ii), (iii),  
9 (iv), (v), and (vi) as clauses (i), (ii), (iii),  
10 (iv), and (v), respectively;

11 (E) in section 716(i)(1) (15 U.S.C.  
12 8305(i)(1))—

13 (i) by striking subparagraph (B);

14 (ii) by redesignating subparagraph  
15 (C) as subparagraph (B); and

16 (iii) in subparagraph (B), as so reded-  
17 igned—

18 (I) in the heading for such sub-  
19 paragraph, by striking “, NON-SYS-  
20 TEMICALLY SIGNIFICANT INSTITU-  
21 TIONS NOT SUBJECT TO HEIGHTENED  
22 PRUDENTIAL SUPERVISION AS REGU-  
23 LATED UNDER SECTION 113” and in-  
24 serting “SWAPS ENTITIES”; and

1 (II) by striking “, non-system-  
2 ically significant institutions not sub-  
3 ject to heightened prudential super-  
4 vision as regulated under section  
5 113”; and

6 (F) in section 726(a) (15 U.S.C. 8323(i)),  
7 by striking “a nonbank financial company (as  
8 defined in section 102) supervised by the  
9 Board, an affiliate of such a bank holding com-  
10 pany or nonbank financial company,” and in-  
11 sserting “an affiliate of such a bank holding  
12 company,”; and

13 (G) in section 765(a) (15 U.S.C. 8343(a)),  
14 by striking “a nonbank financial company (as  
15 defined in section 102) supervised by the Board  
16 of Governors of the Federal Reserve System, af-  
17 filiate of such a bank holding company or  
18 nonbank financial company,” and inserting “af-  
19 filiate of such a bank holding company,”.

20 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
21 tion 10(b)(3) of the Federal Deposit Insurance Act  
22 (12 U.S.C. 1820(b)(3)) is amended—

23 (A) in subparagraph (A)—

1 (i) by striking “or nonbank financial  
2 company supervised by the Board of Gov-  
3 ernors”; and

4 (ii) by striking “or of such nonbank  
5 financial company supervised by the Board  
6 of Governors”; and

7 (B) in subparagraph (B), by striking “a  
8 nonbank financial company supervised by the  
9 Board of Governors or”.

10 (4) FEDERAL RESERVE ACT.—Section 11 of the  
11 Federal Reserve Act (12 U.S.C. 248) is amended—

12 (A) by redesignating the second subsection  
13 (s), as added by section 318(c) of the Dodd-  
14 Frank Wall Street Reform and Consumer Pro-  
15 tection Act, as subsection (t); and

16 (B) in paragraph (2) of subsection (t), as  
17 so redesignated—

18 (i) in subparagraph (A), by adding  
19 “and” at the end;

20 (ii) in subparagraph (B), by striking  
21 “; and” and inserting a period; and

22 (iii) by striking subparagraph (C);

23 (5) TITLE 31.—Section 313(c)(1) of title 31,  
24 United States Code, is amended—

25 (A) by striking subparagraph (C); and

1                   (B) by redesignating subparagraphs (D),  
2                   (E), (F), (G), and (H) as subparagraphs (C),  
3                   (D), (E), (F), and (G), respectively.

4 **SEC. 3. REPEAL OF THE PAYMENT, CLEARING, AND SETTLE-**  
5 **MENT SUPERVISION ACT OF 2010.**

6           Title VIII of the Dodd-Frank Wall Street Reform  
7 and Consumer Protection Act (12 U.S.C. 5461 et seq.),  
8 and the item relating to that title in the table of contents  
9 in section 1(b) of such Act, are hereby repealed.

○