

115TH CONGRESS  
2D SESSION

# H. R. 7383

To break up large financial entities.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2018

Mr. SHERMAN introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To break up large financial entities.

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 “Too Big To Fail, Too  
5 Big To Exist Act”.

6 **SEC. 2. TOO BIG TO FAIL, TOO BIG TO EXIST.**

7 (a) DEFINITIONS.—In this section—

8 (1) the term “covered entity”—

9 (A) means a financial institution, as de-  
10 fined in section 803 of the Payment, Clearing,  
11 and Settlement Supervision Act of 2010 (12  
12 U.S.C. 5462); and

1 (B) does not include—

2 (i) a Farm Credit System institution  
3 chartered under and subject to the provi-  
4 sions of the Farm Credit Act of 1971 (12  
5 U.S.C. 2001 et seq.);

6 (ii) a governmental entity; or

7 (iii) a regulated entity, as defined in  
8 section 1303 of the Federal Housing En-  
9 terprises Financial Safety and Soundness  
10 Act of 1992 (12 U.S.C. 4502); and

11 (2) the term “gross domestic product” means  
12 gross domestic product as calculated by the Bureau  
13 of Economic Analysis of the Department of Com-  
14 merce.

15 (b) LIMITATIONS.—

16 (1) IN GENERAL.—

17 (A) IN GENERAL.—On February 1, May 1,  
18 August 1, and November 1 of each year, no  
19 covered entity may be a “Too Big To Exist In-  
20 stitution”.

21 (B) ENTITIES REQUIRED TO FILE FED-  
22 ERAL RESERVE SYSTEMIC RISK PROFILE  
23 FORM.—If, on February 1, May 1, August 1, or  
24 November 1 of any year, a covered entity has  
25 a total exposure, as reported by the covered en-

1           tity on the Federal Reserve form required to  
2           monitor the systemic risk profile of financial in-  
3           stitutions for the previous reporting period,  
4           equal to or greater than 3 percent of the most  
5           recent estimate for annual gross domestic prod-  
6           uct of the United States (in current dollars) for  
7           the previous calendar year, the Financial Sta-  
8           bility Oversight Council may designate such  
9           covered entity as a “Too Big To Exist Institu-  
10          tion”.

11                   (C) OTHER REPORTING.—

12                   (i) IN GENERAL.—If a covered entity  
13                   is not required to complete the Federal Re-  
14                   serve form required to monitor the sys-  
15                   temic risk profile of financial institutions,  
16                   the Financial Stability Oversight Council  
17                   shall design and assign a quarterly report-  
18                   ing form as appropriate for each covered  
19                   entity with total assets greater than  
20                   \$50,000,000,000 that reflects the total li-  
21                   ability to U.S. persons of the financial in-  
22                   stitution, within 18 months of the date of  
23                   enactment of this Act.

24                   (ii) DESIGNATION OF COMPANIES  
25                   WITH TOTAL LIABILITY TO U.S. PERSONS

1 BETWEEN 3 TO 4 PERCENT OF GDP.—If,  
2 on February 1, May 1, August 1, or No-  
3 vember 1 of any year, a covered entity de-  
4 scribed under clause (i) has a total liability  
5 to U.S. persons, as reported by the covered  
6 entity on the form described under clause  
7 (i), equal to or greater than 3 percent but  
8 less than 4 percent of the most recent esti-  
9 mate for annual gross domestic product of  
10 the United States (in current dollars) for  
11 the previous calendar year, the Financial  
12 Stability Oversight Council may designate  
13 such covered entity as a “Too Big To  
14 Exist Institution”, if the Council deter-  
15 mines such designation is appropriate.

16 (iii) DESIGNATION OF COMPANIES  
17 WITH TOTAL LIABILITY TO U.S. PERSONS  
18 OVER 4 PERCENT OF GDP.—If, on Feb-  
19 ruary 1, May 1, August 1, or November 1  
20 of any year, a covered entity described  
21 under clause (i) has a total liability to U.S.  
22 persons, as reported by the covered entity  
23 on the form described under clause (i),  
24 greater than 4 percent of the most recent  
25 estimate for annual gross domestic product

1 of the United States (in current dollars)  
2 for the previous calendar year, the Finan-  
3 cial Stability Oversight Council may des-  
4 ignate such covered entity as a “Too Big  
5 To Exist Institution”, if the Council deter-  
6 mines such designation is appropriate.

7 (iv) EXEMPTIONS WHEN CALCU-  
8 LATING LIABILITIES.—In calculating a cov-  
9 ered entity’s total liability to U.S. persons  
10 under this subparagraph, such calculation  
11 shall not include—

12 (I) any assets under management  
13 by the covered entity; and

14 (II) with respect to a covered en-  
15 tity that is an insurance company, any  
16 liabilities to pay out an insurance  
17 claim, so long as the insurance com-  
18 pany meets all capital standards set  
19 by any State that regulates the insur-  
20 ance company.

21 (2) RESTRUCTURING.—

22 (A) SUPERVISION.—The Vice Chair for  
23 Supervision of the Board of Governors of the  
24 Federal Reserve System, or during any period  
25 in which that position is vacant, the Chair of

1 the Board of Governors of the Federal Reserve  
2 System, shall require and supervise a “Too Big  
3 To Exist Institution” to restructure such that  
4 the entity is no longer a “Too Big To Exist In-  
5 stitution” not later than 2 years after the date  
6 on which the entity was designated as a “Too  
7 Big To Exist Institution”.

8 (B) SUBSEQUENT REQUIREMENTS.—After  
9 the date on which a covered entity is required  
10 to restructure under subparagraph (A), the  
11 Vice Chair for Supervision of the Board of Gov-  
12 ernors of the Federal Reserve System or, dur-  
13 ing any period in which that position is vacant,  
14 the Chair of the Board of Governors of the  
15 Federal Reserve System, shall require and su-  
16 pervise any “Too Big To Exist Institution” to  
17 restructure such that the entity is no longer a  
18 “Too Big To Exist Institution” not later than  
19 1 year after the entity is again designated as a  
20 “Too Big To Exist Institution”.

21 (c) PROHIBITION AGAINST USE OF FEDERAL RE-  
22 SERVE FINANCING.—Notwithstanding any other provision  
23 of law (including regulations), any “Too Big To Exist In-  
24 stitution” may not use or otherwise have access to ad-  
25 vances from any Federal Reserve credit facility, the Fed-

1 eral Reserve discount window, or any other program or  
2 facility made available under the Federal Reserve Act (12  
3 U.S.C. 221 et seq.), including any asset purchases, tem-  
4 porary or bridge loans, government investments in debt  
5 or equity, or capital injections from any Federal institu-  
6 tion.

7 (d) PROHIBITION ON USE OF INSURED DEPOSITS.—

8 (1) IN GENERAL.—Any “Too Big To Exist In-  
9 stitution” that is an insured depository institution,  
10 or owns such an institution, may not use any in-  
11 sured deposit amounts to fund—

12 (A) any activity relating to hedging that is  
13 not directly related to commercial banking ac-  
14 tivity at the insured bank;

15 (B) any creation or use of derivatives for  
16 speculative purposes;

17 (C) any activity related to the dealing of  
18 derivatives;

19 (D) any creation of, or lending against,  
20 new or existing forms of structured or struc-  
21 tured derivatives products, including collatera-  
22 lized debt obligations, collateralized loan obliga-  
23 tions, and synthetic derivatives of collateralized  
24 debt obligations and collateralized loan obliga-  
25 tions; or

1                   (E) any other form of speculative activity  
2                   that regulators specify.

3                   (2) RISK OF LOSS.—A “Too Big To Exist Insti-  
4                   tution” may not conduct any activity listed in para-  
5                   graph (1) in such a manner that—

6                   (A) puts insured deposits at risk; or

7                   (B) creates a risk of loss to the Deposit  
8                   Insurance Fund.

9                   (e) REPORT; TESTIMONY.—The Vice Chair for Su-  
10                  pervision of the Board of Governors of the Federal Re-  
11                  serve System, or during any period in which that position  
12                  is vacant, the Chair of the Board of Governors of the Fed-  
13                  eral Reserve System, and the Chair of the Financial Sta-  
14                  bility Oversight Council shall annually testify before the  
15                  Committee on Banking, Housing, and Urban Affairs of  
16                  the Senate and the Committee on Financial Services of  
17                  the House of Representatives and submit to those commit-  
18                  tees an annual report the restructuring and designation  
19                  under subsection (b)(2).

20                  (f) EFFECTIVE DATE.—Subsections (c) and (d) shall  
21                  apply to a covered entity 90 days after the date on which  
22                  a covered entity is designated as a “Too Big To Exist  
23                  Institution”.

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