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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Deposit Insurance Act to provide an exception to
the least-cost resolution requirement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FLOOD introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Federal Deposit Insurance Act to provide
an exception to the least-cost resolution requirement, 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 “Least Cost Exception
5 Act”.

1 **SEC. 2. LEAST COST RESOLUTION EXCEPTION TO AVOID**
2 **FURTHER CONCENTRATION AMONG GLOBAL**
3 **SYSTEMICALLY IMPORTANT BANKING ORGA-**
4 **NIZATIONS.**

5 (a) IN GENERAL.—Section 13(c)(4) of the Federal
6 Deposit Insurance Act (12 U.S.C. 1823(c)(4)) is amend-
7 ed—

8 (1) in subparagraph (A)(ii), by inserting “ex-
9 cept as provided in subparagraph (I),” before “the
10 total amount”;

11 (2) in subparagraph (E)(i), by inserting “and
12 except as provided in subparagraph (I),” after “ap-
13 propriate,”; and

14 (3) by adding at the end the following:

15 “(I) LEAST COST RESOLUTION EXCEP-
16 TION.—

17 “(i) IN GENERAL.—With respect to an
18 exercise of authority by the Corporation
19 described in subparagraph (A), the Cor-
20 poration may, at the discretion of the Cor-
21 poration, select an alternative method of
22 exercising such authority that is not the
23 least costly to the Deposit Insurance Fund,
24 if—

25 “(I) the Corporation determines
26 that the selected alternative complies

1 with the requirements of clause (iii);
2 and

3 “(II) the Corporation and the
4 Board of Governors of the Federal
5 Reserve System, after consultation
6 with the Secretary of the Treasury,
7 determine that the potential addi-
8 tional risks to the Deposit Insurance
9 Fund of the selected alternative are
10 outweighed by the reasonably expected
11 benefits of limiting further concentra-
12 tion of the United States banking sys-
13 tem in global systemically important
14 banking organizations.

15 “(ii) MAXIMUM COST TO THE DEPOSIT
16 INSURANCE FUND.—Not later than 1 year
17 after the date of enactment of this sub-
18 paragraph, the Corporation, by rule, shall
19 specify the maximum amount of the net
20 worth of the Deposit Insurance Fund that
21 may be utilized to account for any deter-
22 mination under clause (i).

23 “(iii) REQUIREMENTS DESCRIBED.—
24 The requirements for the selected alter-

1 native described in clause (i) are as fol-
2 lows:

3 “(I) The selected alternative is
4 least costly to the Deposit Insurance
5 Fund of all alternatives that do not
6 involve a transaction with a global
7 systemically important banking orga-
8 nization and that do not exceed the
9 cost of liquidating the insured deposi-
10 tory institution.

11 “(II) The difference between the
12 cost of the selected alternative and the
13 cost of a covered alternative is less
14 than the maximum cost to the Deposit
15 Insurance Fund specified pursuant to
16 the rule adopted under clause (ii).

17 “(III) In the case of a selected
18 alternative that involves another per-
19 son purchasing assets of the insured
20 depository institution or assuming li-
21 abilities of the insured depository in-
22 stitution, such person agrees to pay
23 an assessment to the Deposit Insur-
24 ance Fund comprised of payments—

1 “(aa) made over a period to
2 be determined by the Corpora-
3 tion, but which may not be less
4 than 5 years; and

5 “(bb) that, taking into ac-
6 count a realistic discount rate,
7 are in an aggregate amount equal
8 to the difference calculated in
9 subclause (II).

10 “(iv) REPORT TO CONGRESS.—Not
11 later than 30 days after selecting an alter-
12 native described in clause (i), the Corpora-
13 tion shall issue a report to the Committee
14 on Financial Services of the House of Rep-
15 resentatives and the Committee on Bank-
16 ing, Housing, and Urban Affairs of the
17 Senate containing an analysis of the eco-
18 nomic difference between the cost to the
19 Deposit Insurance Fund of the selected al-
20 ternative and the cost to the Deposit In-
21 surance Fund of the least costly alternative
22 that would have been selected absent the
23 application of this subparagraph.

24 “(v) DEFINITIONS.—In this subpara-
25 graph:

1 “(I) COVERED ALTERNATIVE.—

2 The term ‘covered alternative’ means
3 a method of exercising authority de-
4 scribed in subparagraph (A) that is
5 the least costly to the Deposit Insur-
6 ance Fund of all such methods that
7 involve a sale of all or substantially all
8 assets of the insured depository insti-
9 tution to, and assumption of all or
10 substantially all liabilities of the in-
11 sured depository institution by, a
12 global systemically important banking
13 organization.

14 “(II) GLOBAL SYSTEMICALLY IM-
15 PORTANT BANKING ORGANIZATION.—

16 The term ‘global systemically impor-
17 tant banking organization’ means a
18 global systemically important BHC
19 (as such term is defined in section
20 217.402 of title 12, Code of Federal
21 Regulations, or any successor thereto)
22 and any affiliate thereof.”.

23 (b) RULE OF CONSTRUCTION.—Section 13(c)(4)(H)
24 of the Federal Deposit Insurance Act (12 U.S.C.

1 1823(c)(4)(H)) does not apply to the amendments made
2 by subsection (a).