

**AMENDMENT TO COMMITTEE PRINT**  
**OFFERED BY MR. SHERMAN OF CALIFORNIA**

Page 69, after line 16, insert the following (and re-designate succeeding sections accordingly):

1 **SEC. 1110. CORPORATION MUST RECEIVE WARRANTS WHEN**  
2 **PAYING OR RISKING TAXPAYER FUNDS.**

3 (a) IN GENERAL.—The Federal Deposit Insurance  
4 Corporation (hereinafter in this section referred to as the  
5 “Corporation”) may not provide any payment, credit ex-  
6 tension, or guarantee, or make any such commitment  
7 under the authority of section 1109 or 1604, unless the  
8 Corporation receives from the financial company for which  
9 the credit extension or guarantee is intended, as fair mar-  
10 ket value consideration for such payment, credit extension  
11 or guarantee—

12 (1) in the case of a financial company, the secu-  
13 rities of which are traded on a national securities ex-  
14 change, a warrant giving the right to the Corpora-  
15 tion to receive nonvoting common stock or preferred  
16 stock in such financial institution, or voting stock  
17 with respect to which, the Corporation agrees not to  
18 exercise voting power, as the Corporation determines  
19 appropriate; or

1           (2) in the case of any financial company other  
2           than one described in paragraph (1), a warrant for  
3           common or preferred stock, or a senior debt instru-  
4           ment from such financial institution, as described in  
5           subsection (b)(3).

6           (b) TERMS AND CONDITIONS.—The terms and condi-  
7           tions of any warrant or senior debt instrument required  
8           under subsection (a) shall meet the following require-  
9           ments:

10           (1) PURPOSES.—Such terms and conditions  
11           shall, at a minimum, be designed—

12                   (A) to provide for reasonable participation  
13                   by the Corporation, for the benefit of taxpayers,  
14                   in equity appreciation in the case of a warrant  
15                   or other equity security, or a reasonable interest  
16                   rate premium, in the case of a debt instrument;  
17                   and

18                   (B) to provide additional protection for the  
19                   taxpayer against losses from such payment, ex-  
20                   tension of credit, or guarantee by the Corpora-  
21                   tion under this Act.

22           (2) AUTHORITY TO SELL, EXERCISE, OR SUR-  
23           RENDER.— The Corporation may sell, exercise, or  
24           surrender a warrant or any senior debt instrument

1 received under this subsection, based on the condi-  
2 tions established under paragraph (1).

3 (3) CONVERSION.—The warrant shall provide  
4 that if, after the warrant is received by the Corpora-  
5 tion under this subsection, the financial company  
6 that issued the warrant is no longer listed or traded  
7 on a national securities exchange or securities asso-  
8 ciation, as described in subsection (a)(1), such war-  
9 rants shall convert to senior debt, or contain appro-  
10 priate protections for the Corporation to ensure that  
11 the Corporation is appropriately compensated for the  
12 value of the warrant, in an amount determined by  
13 the Corporation.

14 (4) PROTECTIONS.—Any warrant representing  
15 securities to be received by the Corporation under  
16 this subsection shall contain anti-dilution provisions  
17 of the type employed in capital market transactions,  
18 as determined by the Corporation. Such provisions  
19 shall protect the value of the securities from market  
20 transactions such as stock splits, stock distributions,  
21 dividends, and other distributions, mergers, and  
22 other forms of reorganization or recapitalization.

23 (5) EXERCISE PRICE.—The exercise price for  
24 any warrant issued pursuant to this subsection shall

1 be set by the Corporation, in the interest of the tax-  
2 payers.

3 (6) SUFFICIENCY.—The financial company  
4 shall guarantee to the Corporation that it has au-  
5 thorized shares of nonvoting stock available to fulfill  
6 its obligations under this subsection. Should the fi-  
7 nancial company not have sufficient authorized  
8 shares, including preferred shares that may carry  
9 dividend rights equal to a multiple number of com-  
10 mon shares, the Corporation may, to the extent nec-  
11 essary, accept a senior debt note in an amount, and  
12 on such terms as will compensate the Corporation  
13 with equivalent value, in the event that a sufficient  
14 shareholder vote to authorize the necessary addi-  
15 tional shares cannot be obtained.

16 (c) EXCEPTIONS.—

17 (1) The Corporation shall establish an exception  
18 to the requirements of this section and appropriate  
19 alternative requirements for any participating finan-  
20 cial company that is legally prohibited from issuing  
21 securities and debt instruments, so as not to allow  
22 circumvention of the requirements of this section.

23 (2) If the Corporation is providing a payment,  
24 extension of credit, or guarantee with regard to its  
25 authority under section 1604 and the Corporate de-

1       termines that it is certain that at the conclusion of  
2       the Resolution Process the shareholders of all classes  
3       shall lose their entire investment and receive nothing  
4       therefor, then the requirements of this section shall  
5       not apply.

