To amend the Federal Deposit Insurance Act to clarify that the Federal Deposit Insurance Corporation and appropriate Federal regulators have the authority to claw back certain compensation paid to executives.

IN THE SENATE OF THE UNITED STATES

Ms. Warren (for herself, Mr. Hawley, Ms. Cortez Masto, and Mr. Braun) introduced the following bill; which was read twice and referred to the Committee on ________

A BILL

To amend the Federal Deposit Insurance Act to clarify that the Federal Deposit Insurance Corporation and appropriate Federal regulators have the authority to claw back certain compensation paid to executives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Failed Bank Executives Clawback Act”.

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2  tives of the United States of America in Congress assembled,
3  
4  This Act may be cited as the “Failed Bank Execu-
5  tives Clawback Act”.


SEC. 2. CLAW BACK.

Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by inserting after paragraph (8) the following:

“(9) **CLAWBACK.**—

“(A) **DEFINITION.**—In this paragraph, the term ‘covered compensation’ means—

“(i) salary;

“(ii) bonuses;

“(iii) any compensation that is granted, earned, or vested based wholly or in part upon the attainment of any financial reporting measure or other performance metric;

“(iv) equity-based compensation;

“(v) time- or service-based awards;

“(vi) awards based on nonfinancial metrics; and

“(vii) any profits realized from the buying or selling of securities.

“(B) **CLAWBACK.**—

“(i) **LIABILITY OF INSTITUTION-AFFILIATED PARTY.**—An institution-affiliated party that is responsible for the condition of the insured depository institution is liable to the Corporation for any covered
compensation clawed back under clause (ii).

“(ii) REQUIRED CLAWBACKS.—In the case of insolvency or resolution of any insured depository institution, the Corporation shall claw back all or part of the covered compensation received by an institution-affiliated party during the preceding 5 years as is necessary to prevent unjust enrichment and assure that the party bears losses consistent with the responsibility of the party.

“(iii) DEPOSIT.—Any covered compensation clawed back under this subparagraph shall be deposited into the Deposit Insurance Fund or into the general fund of the Treasury.”.

SEC. 3. ORDERLY LIQUIDATION OF COVERED FINANCIAL COMPANIES.

Section 204(a)(3) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5384(a)(3)) is amended by striking “the financial company” and inserting “of a financial company for which the Corporation is appointed receiver, regardless of the process by which the Corporation is appointed,”.
SEC. 4. RESOLVED INSURED DEPOSITORY INSTITUTIONS.

If an insured depository institution is resolved by the Federal Deposit Insurance Corporation, the creditors and shareholders of any corresponding depository institution holding company shall bear the losses of the insured depository institution.