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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. RANGEL (for himself, Mr. NEAL of Massachusetts, Mr. CROWLEY, and Ms. SCHWARTZ) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, 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, ETC.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Regulated Investment Company Modernization Act of  
6       2009”.

7       (b) REFERENCE.—Except as otherwise expressly pro-  
8       vided, whenever in this Act an amendment or repeal is

1 expressed in terms of an amendment to, or repeal of, a  
2 section or other provision, the reference shall be consid-  
3 ered to be made to a section or other provision of the In-  
4 ternal Revenue Code of 1986.

5 (c) TABLE OF CONTENTS.—The table of contents for  
6 this Act is as follows:

Sec. 1. Short title, etc.

#### TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED INVESTMENT COMPANIES

Sec. 101. Capital loss carryovers of regulated investment companies.

#### TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS OF REGULATED INVESTMENT COMPANIES

Sec. 201. Income from commodities counted toward gross income test of regu-  
lated investment companies.

Sec. 202. Savings provisions for failures of regulated investment companies to  
satisfy gross income and asset tests.

#### TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS AND OTHER DISTRIBUTIONS

Sec. 301. Modification of dividend designation requirements and allocation rules  
for regulated investment companies.

Sec. 302. Earnings and profits of regulated investment companies.

Sec. 303. Pass-thru of exempt-interest dividends and foreign tax credits in fund  
of funds structure.

Sec. 304. Modification of rules for spillover dividends of regulated investment  
companies.

Sec. 305. Return of capital distributions of regulated investment companies.

Sec. 306. Distributions in redemption of stock of a regulated investment com-  
pany.

Sec. 307. Repeal of preferential dividend rule for publicly offered regulated in-  
vestment companies.

Sec. 308. Elective deferral of certain late-year losses of regulated investment  
companies.

#### TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX APPLICABLE TO REGULATED INVESTMENT COMPANIES

Sec. 401. Excise tax exemption for certain regulated investment companies  
owned by tax exempt entities.

Sec. 402. Deferral of certain gains and losses of regulated investment compa-  
nies for excise tax purposes.

Sec. 403. Distributed amount for excise tax purposes determined on basis of  
taxes paid by regulated investment company.

#### TITLE V—OTHER PROVISIONS

Sec. 501. Repeal of assessable penalty with respect to liability for tax of regulated investment companies.

Sec. 502. Modification of sales load basis deferral rule for regulated investment companies.

1 **TITLE I—CAPITAL LOSS**  
2 **CARRYOVERS OF REGULATED**  
3 **INVESTMENT COMPANIES**

4 **SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED IN-**  
5 **VESTMENT COMPANIES.**

6 (a) IN GENERAL.—Subsection (a) of section 1212 is  
7 amended by redesignating paragraph (3) as paragraph (4)  
8 and by inserting after paragraph (2) the following new  
9 paragraph:

10 “(3) REGULATED INVESTMENT COMPANIES.—

11 “(A) IN GENERAL.—If a regulated invest-  
12 ment company has a net capital loss for any  
13 taxable year—

14 “(i) paragraph (1) shall not apply to  
15 such loss,

16 “(ii) the excess of the net short-term  
17 capital loss over the net long-term capital  
18 gain for such year shall be a short-term  
19 capital loss arising on the first day of the  
20 next taxable year, and

21 “(iii) the excess of the net long-term  
22 capital loss over the net short-term capital  
23 gain for such year shall be a long-term

1 capital loss arising on the first day of the  
2 next taxable year.

3 “(B) COORDINATION WITH GENERAL  
4 RULE.—If a net capital loss to which paragraph  
5 (1) applies is carried over to a taxable year of  
6 a regulated investment company—

7 “(i) LOSSES TO WHICH THIS PARA-  
8 GRAPH APPLIES.—Clauses (ii) and (iii) of  
9 subparagraph (A) shall be applied without  
10 regard to any amount treated as a short-  
11 term capital loss under paragraph (1).

12 “(ii) LOSSES TO WHICH GENERAL  
13 RULE APPLIES.—Paragraph (1) shall be  
14 applied by substituting ‘net capital loss for  
15 the loss year or any taxable year thereafter  
16 (other than a net capital loss to which  
17 paragraph (3)(A) applies)’ for ‘net capital  
18 loss for the loss year or any taxable year  
19 thereafter’.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (C) of section 1212(a)(1) is  
22 amended to read as follows:

23 “(C) a capital loss carryover to each of the  
24 10 taxable years succeeding the loss year, but

1           only to the extent such loss is attributable to a  
2           foreign expropriation loss,”.

3           (2) Paragraph (10) of section 1222 is amended  
4           by striking “section 1212” and inserting “section  
5           1212(a)(1)”.

6           (c) EFFECTIVE DATE.—

7           (1) IN GENERAL.—Except as provided in para-  
8           graph (2), the amendments made by this section  
9           shall apply to net capital losses for taxable years be-  
10          ginning after the date of the enactment of this Act.

11          (2) COORDINATION RULES.—Subparagraph (B)  
12          of section 1212(a)(3) of the Internal Revenue Code  
13          of 1986, as added by this section, shall apply to tax-  
14          able years beginning after the date of the enactment  
15          of this Act.

16   **TITLE     II—MODIFICATION     OF**  
17       **GROSS INCOME AND ASSET**  
18       **TESTS OF REGULATED IN-**  
19       **VESTMENT COMPANIES**

20   **SEC. 201. INCOME FROM COMMODITIES COUNTED TOWARD**  
21               **GROSS INCOME TEST OF REGULATED IN-**  
22               **VESTMENT COMPANIES.**

23          (a) GROSS INCOME TEST.—Subparagraph (A) of sec-  
24          tion 851(b)(2) is amended—

1 (1) by striking “foreign currencies” and insert-  
2 ing “commodities”, and

3 (2) by striking “or currencies” and inserting  
4 “or commodities”.

5 (b) REPEAL OF REGULATORY AUTHORITY TO EX-  
6 CLUDE CERTAIN FOREIGN CURRENCY GAINS FROM  
7 QUALIFYING INCOME.—Paragraph (3) of section 851(b)  
8 is amended by striking “For purposes of paragraph (2),  
9 the Secretary may by regulation exclude from qualifying  
10 income foreign currency gains which are not directly re-  
11 lated to the company’s principal business of investing in  
12 stock or securities (or options and futures with respect to  
13 stock or securities).”.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 the date of the enactment of this Act.

17 **SEC. 202. SAVINGS PROVISIONS FOR FAILURES OF REGU-**  
18 **LATED INVESTMENT COMPANIES TO SATISFY**  
19 **GROSS INCOME AND ASSET TESTS.**

20 (a) ASSET TEST.—Subsection (d) of section 851 is  
21 amended—

22 (1) by striking “A corporation which meets”  
23 and inserting the following:

24 “(1) IN GENERAL.—A corporation which  
25 meets”, and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(2) SPECIAL RULES REGARDING FAILURE TO  
4 SATISFY REQUIREMENTS.—

5           “(A) IN GENERAL.—A corporation that  
6 fails to meet the requirements of subsection  
7 (b)(3) (other than a failure described in sub-  
8 paragraph (B)(i)) for a particular quarter shall  
9 nevertheless be considered to have satisfied the  
10 requirements of such subsection for such quar-  
11 ter if—

12           “(i) following the corporation’s identi-  
13 fication of the failure to satisfy the re-  
14 quirements of such subsection for a par-  
15 ticular quarter, a description of each asset  
16 that causes the corporation to fail to sat-  
17 isfy the requirements of such subsection at  
18 the close of such quarter of any taxable  
19 year is set forth in a schedule for such  
20 quarter filed in the manner provided by  
21 the Secretary,

22           “(ii) the failure to meet the require-  
23 ments of such subsection for a particular  
24 quarter is due to reasonable cause and not  
25 due to willful neglect, and

1 “(iii)(I) the corporation disposes of  
2 the assets set forth on the schedule speci-  
3 fied in clause (i) within 6 months after the  
4 last day of the quarter in which the cor-  
5 poration’s identification of the failure to  
6 satisfy the requirements of such subsection  
7 occurred or such other time period pre-  
8 scribed by the Secretary and in the manner  
9 prescribed by the Secretary, or

10 “(II) the requirements of such sub-  
11 section are otherwise met within the time  
12 period specified in subclause (I).

13 “(B) RULE FOR CERTAIN DE MINIMIS  
14 FAILURES.—A corporation that fails to meet  
15 the requirements of subsection (b)(3) for a par-  
16 ticular quarter shall nevertheless be considered  
17 to have satisfied the requirements of such sub-  
18 section for such quarter if—

19 “(i) such failure is due to the owner-  
20 ship of assets the total value of which does  
21 not exceed the lesser of—

22 “(I) 1 percent of the total value  
23 of the corporation’s assets at the end  
24 of the quarter for which such meas-  
25 urement is done, and



1 “(II) \$10,000,000, and

2 “(ii)(I) the corporation, following the  
3 identification of such failure, disposes of  
4 assets in order to meet the requirements of  
5 such subsection within 6 months after the  
6 last day of the quarter in which the cor-  
7 poration’s identification of the failure to  
8 satisfy the requirements of such subsection  
9 occurred or such other time period pre-  
10 scribed by the Secretary and in the manner  
11 prescribed by the Secretary, or

12 “(II) the requirements of such sub-  
13 section are otherwise met within the time  
14 period specified in subclause (I).

15 “(C) TAX.—

16 “(i) TAX IMPOSED.—If subparagraph  
17 (A) applies to a corporation for any tax-  
18 able year, there is hereby imposed on such  
19 corporation a tax in an amount equal to  
20 the greater of—

21 “(I) \$50,000, or

22 “(II) the amount determined  
23 (pursuant to regulations promulgated  
24 by the Secretary) by multiplying the  
25 net income generated by the assets

1 described in the schedule specified in  
2 subparagraph (A)(i) for the period  
3 specified in clause (ii) by the highest  
4 rate of tax specified in section 11.

5 “(ii) PERIOD.—For purposes of clause  
6 (i)(II), the period described in this clause  
7 is the period beginning on the first date  
8 that the failure to satisfy the requirements  
9 of subsection (b)(3) occurs as a result of  
10 the ownership of such assets and ending on  
11 the earlier of the date on which the cor-  
12 poration disposes of such assets or the end  
13 of the first quarter when there is no longer  
14 a failure to satisfy such subsection.

15 “(iii) ADMINISTRATIVE PROVISIONS.—  
16 For purposes of subtitle F, the taxes im-  
17 posed by this subparagraph shall be treat-  
18 ed as excise taxes with respect to which the  
19 deficiency procedures of such subtitle  
20 apply.”.

21 (b) GROSS INCOME TEST.—Section 851 is amended  
22 by adding at the end the following new subsection:

23 “(i) FAILURE TO SATISFY GROSS INCOME TEST.—

24 “(1) DISCLOSURE REQUIREMENT.—A corpora-  
25 tion that fails to meet the requirement of paragraph

1 (2) of subsection (b) for any taxable year shall nev-  
2 ertheless be considered to have satisfied the require-  
3 ment of such paragraph for such taxable year if—

4 “(A) following the corporation’s identifica-  
5 tion of the failure to meet such requirement for  
6 such taxable year, a description of each item of  
7 its gross income described in such paragraph is  
8 set forth in a schedule for such taxable year  
9 filed in the manner provided by the Secretary,  
10 and

11 “(B) the failure to meet such requirement  
12 is due to reasonable cause and not due to will-  
13 ful neglect.

14 “(2) IMPOSITION OF TAX ON FAILURES.—If  
15 paragraph (1) applies to a regulated investment  
16 company for any taxable year, there is hereby im-  
17 posed on such company a tax in an amount equal to  
18 the excess of—

19 “(A) the gross income of such company  
20 which is not derived from sources referred to in  
21 subsection (b)(2), over

22 “(B)  $\frac{1}{9}$  of the gross income of such com-  
23 pany which is derived from such sources.”.

24 (c) DEDUCTION OF TAXES PAID FROM INVESTMENT  
25 COMPANY TAXABLE INCOME.—Paragraph (2) of section

1 852(b) is amended by adding at the end the following new  
2 subparagraph:

3 “(G) There shall be deducted an amount  
4 equal to the tax imposed by subsections (d)(2)  
5 and (i) of section 851 for the taxable year.”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years with respect to  
8 which the due date (determined with regard to any exten-  
9 sions) of the return of tax for such taxable year is after  
10 the date of the enactment of this Act.

11 **TITLE III—MODIFICATION OF**  
12 **RULES RELATED TO DIVI-**  
13 **DENDS AND OTHER DIS-**  
14 **TRIBUTIONS**

15 **SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION RE-**  
16 **QUIREMENTS AND ALLOCATION RULES FOR**  
17 **REGULATED INVESTMENT COMPANIES.**

18 (a) CAPITAL GAIN DIVIDENDS.—

19 (1) IN GENERAL.—Subparagraph (C) of section  
20 852(b)(3) is amended to read as follows:

21 “(C) DEFINITION OF CAPITAL GAIN DIVI-  
22 DEND.—

23 “(i) IN GENERAL.—For purposes of  
24 this part, a capital gain dividend is the ex-  
25 cess of—

1 “(I) the portion of any dividend  
2 which is reported by the company as  
3 a capital gain dividend in a written  
4 statement furnished to its share-  
5 holders (hereafter in this subpara-  
6 graph referred to as the ‘reported cap-  
7 ital gain dividend amount’), over

8 “(II) the excess reported amount  
9 (if any) which is allocable to the re-  
10 ported capital gain dividend amount.

11 “(ii) ALLOCATION OF EXCESS RE-  
12 PORTED AMOUNT.—

13 “(I) IN GENERAL.—Except as  
14 provided in subclause (II), the excess  
15 reported amount (if any) which is al-  
16 locable to the reported capital gain  
17 dividend amount is that portion of the  
18 excess reported amount which bears  
19 the same ratio to the excess reported  
20 amount as the reported capital gain  
21 dividend amount bears to the aggre-  
22 gate reported amount.

23 “(II) SPECIAL RULE FOR NON-  
24 CALENDAR YEAR TAXPAYERS.—In the  
25 case of any taxable year which does

1 not begin and end in the same cal-  
2 endar year, if the post-December re-  
3 ported amount equals or exceeds the  
4 excess reported amount for such tax-  
5 able year, subclause (I) shall be ap-  
6 plied by substituting ‘post-December  
7 reported amount’ for ‘aggregate re-  
8 ported amount’ and no excess re-  
9 ported amount shall be allocated to  
10 any dividend paid on or before De-  
11 cember 31 of such taxable year.

12 “(iii) DEFINITIONS.—For purposes of  
13 this subparagraph—

14 “(I) EXCESS REPORTED  
15 AMOUNT.—The term ‘excess reported  
16 amount’ means the excess of the ag-  
17 gregate reported amount over the net  
18 capital gain of the company for the  
19 taxable year.

20 “(II) AGGREGATE REPORTED  
21 AMOUNT.—The term ‘aggregate re-  
22 ported amount’ means the aggregate  
23 amount of dividends reported by the  
24 company under clause (i)(I) as capital  
25 gain dividends for the taxable year

1 (including capital gain dividends paid  
2 after the close of the taxable year de-  
3 scribed in section 855).

4 “(III) POST-DECEMBER RE-  
5 PORTED AMOUNT.—The term ‘post-  
6 December reported amount’ means  
7 the aggregate reported amount deter-  
8 mined by taking into account only  
9 dividends paid after December 31 of  
10 the taxable year.

11 “(iv) ADJUSTMENT FOR DETERMINA-  
12 TIONS.—If there is an increase in the ex-  
13 cess described in subparagraph (A) for the  
14 taxable year which results from a deter-  
15 mination (as defined in section 860(e)),  
16 the company may, subject to the limita-  
17 tions of this subparagraph, increase the  
18 amount of capital gain dividends reported  
19 under clause (i).

20 “(v) SPECIAL RULE FOR LOSSES LATE  
21 IN THE CALENDAR YEAR.—For special rule  
22 for certain losses after October 31, see  
23 paragraph (8).”.

1           (2) CONFORMING AMENDMENT.—Subparagraph  
2           (B) of section 860(f)(2) is amended by inserting “or  
3           reported (as the case may be)” after “designated”.

4           (b) EXEMPT-INTEREST DIVIDENDS.—Subparagraph  
5           (A) of section 852(b)(5) is amended to read as follows:

6                   “(A) DEFINITION OF EXEMPT-INTEREST  
7                   DIVIDEND.—

8                           “(i) IN GENERAL.—An exempt-inter-  
9                           est dividend is the excess of—

10                                   “(I) the portion of any dividend  
11                                   (other than a capital gain dividend)  
12                                   paid by a regulated investment com-  
13                                   pany and reported by the company as  
14                                   an exempt-interest dividend in a writ-  
15                                   ten statement furnished to its share-  
16                                   holders (hereafter in this subpara-  
17                                   graph referred to as the ‘reported ex-  
18                                   empt-interest dividend amount’), over

19                                   “(II) the excess reported amount  
20                                   (if any) which is allocable to the re-  
21                                   ported exempt-interest dividend  
22                                   amount.

23                           “(ii) ALLOCATION OF EXCESS RE-  
24                           PORTED AMOUNT.—



1           “(I) IN GENERAL.—Except as  
2           provided in subclause (II), the excess  
3           reported amount (if any) which is al-  
4           locable to the reported exempt-interest  
5           dividend amount is that portion of the  
6           excess reported amount which bears  
7           the same ratio to the excess reported  
8           amount as the reported exempt-inter-  
9           est dividend amount bears to the ag-  
10          gregate reported amount.

11           “(II) SPECIAL RULE FOR NON-  
12          CALENDAR YEAR TAXPAYERS.—In the  
13          case of any taxable year which does  
14          not begin and end in the same cal-  
15          endar year, if the post-December re-  
16          ported amount equals or exceeds the  
17          excess reported amount for such tax-  
18          able year, subclause (I) shall be ap-  
19          plied by substituting ‘post-December  
20          reported amount’ for ‘aggregate re-  
21          ported amount’ and no excess re-  
22          ported amount shall be allocated to  
23          any dividend paid on or before De-  
24          cember 31 of such taxable year.

1 “(iii) DEFINITIONS.—For purposes of  
2 this subparagraph—

3 “(I) EXCESS REPORTED  
4 AMOUNT.—The term ‘excess reported  
5 amount’ means the excess of the ag-  
6 gregate reported amount over the ex-  
7 empt interest of the company for the  
8 taxable year.

9 “(II) AGGREGATE REPORTED  
10 AMOUNT.—The term ‘aggregate re-  
11 ported amount’ means the aggregate  
12 amount of dividends reported by the  
13 company under clause (i)(I) as ex-  
14 empt-interest dividends for the taxable  
15 year (including exempt-interest divi-  
16 dends paid after the close of the tax-  
17 able year described in section 855).

18 “(III) POST-DECEMBER RE-  
19 PORTED AMOUNT.—The term ‘post-  
20 December reported amount’ means  
21 the aggregate reported amount deter-  
22 mined by taking into account only  
23 dividends paid after December 31 of  
24 the taxable year.

1                   “(IV) EXEMPT INTEREST.—The  
2                   term ‘exempt interest’ means, with re-  
3                   spect to any regulated investment  
4                   company, the excess of the amount of  
5                   interest excludable from gross income  
6                   under section 103(a) over the  
7                   amounts disallowed as deductions  
8                   under sections 265 and 171(a)(2).”.

9           (c) FOREIGN TAX CREDITS.—Subsection (c) of sec-  
10   tion 853 is amended by striking “so designated by the  
11   company in a written notice mailed to its shareholders not  
12   later than 60 days after the close of the taxable year” and  
13   inserting “so reported by the company in a written state-  
14   ment furnished to its shareholders”.

15           (d) CREDITS FOR TAX CREDIT BONDS.—Subsection  
16   (c) of section 853A is amended by striking “so designated  
17   by the regulated investment company in a written notice  
18   mailed to its shareholders not later than 60 days after  
19   the close of its taxable year” and inserting “so reported  
20   by the regulated investment company in a written state-  
21   ment furnished to its shareholders”.

22           (e) DIVIDEND RECEIVED DEDUCTION, ETC.—

23                   (1) IN GENERAL.—Paragraph (1) of section  
24           854(b) is amended—

1 (A) by striking “designated under this sub-  
2 paragraph by the regulated investment com-  
3 pany” in subparagraph (A) and inserting “re-  
4 ported by the regulated investment company as  
5 eligible for such deduction in a written state-  
6 ment furnished to its shareholders”,

7 (B) by striking “designated by the regu-  
8 lated investment company” in subparagraph  
9 (B)(i) and inserting “reported by the regulated  
10 investment company as qualified dividend in-  
11 come in a written statement furnished to its  
12 shareholders”,

13 (C) by striking “designated” in subpara-  
14 graph (C)(i) and inserting “reported”, and

15 (D) by striking “designated” in subpara-  
16 graph (C)(ii) and inserting “reported”.

17 (2) CONFORMING AMENDMENTS.—Subsection  
18 (b) of section 854 is amended by striking paragraph  
19 (2) and by redesignating paragraphs (3), (4), and  
20 (5), as paragraphs (2), (3), and (4), respectively.

21 (f) DIVIDENDS PAID TO CERTAIN FOREIGN PER-  
22 SONS.—

23 (1) INTEREST-RELATED DIVIDENDS.—Subpara-  
24 graph (C) of section 871(k)(1) is amended to read  
25 as follows:

1 “(C) INTEREST-RELATED DIVIDEND.—

2 “(i) IN GENERAL.—For purposes of  
3 this paragraph, the term ‘interest related  
4 dividend’ means the excess of—

5 “(I) the portion of any dividend  
6 which is reported by the company as  
7 an interest related dividend in a writ-  
8 ten statement furnished to its share-  
9 holders (hereafter in this subpara-  
10 graph referred to as the ‘reported in-  
11 terest related dividend amount’), over

12 “(II) the excess reported amount  
13 (if any) which is allocable to the re-  
14 ported interest related dividend  
15 amount.

16 “(ii) ALLOCATION OF EXCESS RE-  
17 PORTED AMOUNT.—

18 “(I) IN GENERAL.—Except as  
19 provided in subclause (II), the excess  
20 reported amount (if any) which is al-  
21 locable to the reported interest related  
22 dividend amount is that portion of the  
23 excess reported amount which bears  
24 the same ratio to the excess reported  
25 amount as the reported interest re-

1           lated dividend amount bears to the  
2           aggregate reported amount.

3                   “(II) SPECIAL RULE FOR NON-  
4           CALENDAR YEAR TAXPAYERS.—In the  
5           case of any taxable year which does  
6           not begin and end in the same cal-  
7           endar year, if the post-December re-  
8           ported amount equals or exceeds the  
9           excess reported amount for such tax-  
10          able year, subclause (I) shall be ap-  
11          plied by substituting ‘post-December  
12          reported amount’ for ‘aggregate re-  
13          ported amount’ and no excess re-  
14          ported amount shall be allocated to  
15          any dividend paid on or before De-  
16          cember 31 of such taxable year.

17                   “(iii) DEFINITIONS.—For purposes of  
18          this subparagraph—

19                   “(I)       EXCESS       REPORTED  
20          AMOUNT.—The term ‘excess reported  
21          amount’ means the excess of the ag-  
22          gregate reported amount over the  
23          qualified net interest income of the  
24          company for the taxable year.

1 “(II) AGGREGATE REPORTED  
2 AMOUNT.—The term ‘aggregate re-  
3 ported amount’ means the aggregate  
4 amount of dividends reported by the  
5 company under clause (i)(I) as inter-  
6 est related dividends for the taxable  
7 year (including interest related divi-  
8 dends paid after the close of the tax-  
9 able year described in section 855).

10 “(III) POST-DECEMBER RE-  
11 PORTED AMOUNT.—The term ‘post-  
12 December reported amount’ means  
13 the aggregate reported amount deter-  
14 mined by taking into account only  
15 dividends paid after December 31 of  
16 the taxable year.

17 “(iv) TERMINATION.—The term ‘in-  
18 terest related dividend’ shall not include  
19 any dividend with respect to any taxable  
20 year of the company beginning after De-  
21 cember 31, 2009.”.

22 (2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—  
23 Subparagraph (C) of section 871(k)(2) is amended  
24 to read as follows:

1                   “(C) SHORT-TERM CAPITAL GAIN DIVI-  
2                   DEND.—

3                   “(i) IN GENERAL.—For purposes of  
4                   this paragraph, the term ‘short-term cap-  
5                   ital gain dividend’ means the excess of—

6                   “(I) the portion of any dividend  
7                   which is reported by the company as  
8                   a short-term capital gain dividend in a  
9                   written statement furnished to its  
10                  shareholders (hereafter in this sub-  
11                  paragraph referred to as the ‘reported  
12                  short-term capital gain dividend  
13                  amount’), over

14                  “(II) the excess reported amount  
15                  (if any) which is allocable to the re-  
16                  ported short-term capital gain divi-  
17                  dend amount.

18                  “(ii) ALLOCATION OF EXCESS RE-  
19                  PORTED AMOUNT.—

20                  “(I) IN GENERAL.—Except as  
21                  provided in subclause (II), the excess  
22                  reported amount (if any) which is al-  
23                  locable to the reported short-term cap-  
24                  ital gain dividend amount is that por-  
25                  tion of the excess reported amount



1 which bears the same ratio to the ex-  
2 cess reported amount as the reported  
3 short-term capital gain dividend  
4 amount bears to the aggregate re-  
5 ported amount.

6 “(II) SPECIAL RULE FOR NON-  
7 CALENDAR YEAR TAXPAYERS.—In the  
8 case of any taxable year which does  
9 not begin and end in the same cal-  
10 endar year, if the post-December re-  
11 ported amount equals or exceeds the  
12 excess reported amount for such tax-  
13 able year, subclause (I) shall be ap-  
14 plied by substituting ‘post-December  
15 reported amount’ for ‘aggregate re-  
16 ported amount’ and no excess re-  
17 ported amount shall be allocated to  
18 any dividend paid on or before De-  
19 cember 31 of such taxable year.

20 “(iii) DEFINITIONS.—For purposes of  
21 this subparagraph—

22 “(I) EXCESS REPORTED  
23 AMOUNT.—The term ‘excess reported  
24 amount’ means the excess of the ag-  
25 gregate reported amount over the

1 qualified short-term gain of the com-  
2 pany for the taxable year.

3 “(II) AGGREGATE REPORTED  
4 AMOUNT.—The term ‘aggregate re-  
5 ported amount’ means the aggregate  
6 amount of dividends reported by the  
7 company under clause (i)(I) as short-  
8 term capital gain dividends for the  
9 taxable year (including short-term  
10 capital gain dividends paid after the  
11 close of the taxable year described in  
12 section 855).

13 “(III) POST-DECEMBER RE-  
14 PORTED AMOUNT.—The term ‘post-  
15 December reported amount’ means  
16 the aggregate reported amount deter-  
17 mined by taking into account only  
18 dividends paid after December 31 of  
19 the taxable year.

20 “(iv) TERMINATION.—The term  
21 ‘short-term capital gain dividend’ shall not  
22 include any dividend with respect to any  
23 taxable year of the company beginning  
24 after December 31, 2009.”.

1 (g) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions in taxable years  
3 beginning after the date of the enactment of this Act.

4 (h) APPLICATION OF JGTRRA SUNSET.—Section  
5 303 of the Jobs and Growth Tax Relief Reconciliation Act  
6 of 2003 shall apply to the amendments made by subpara-  
7 graphs (B) and (D) of subsection (e)(1) to the same extent  
8 and in the same manner as section 303 of such Act applies  
9 to the amendments made by section 302 of such Act.

10 **SEC. 302. EARNINGS AND PROFITS OF REGULATED INVEST-**  
11 **MENT COMPANIES.**

12 (a) IN GENERAL.—Paragraph (1) of section 852(c)  
13 is amended by inserting “(other than by reason of section  
14 265 or 171(a)(2))” after “not allowable as a deduction”.

15 (b) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to taxable years beginning after  
17 the date of the enactment of this Act.

18 **SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS**  
19 **AND FOREIGN TAX CREDITS IN FUND OF**  
20 **FUNDS STRUCTURE.**

21 (a) IN GENERAL.—Section 852 is amended by adding  
22 at the end the following new subsection:

23 “(g) SPECIAL RULES FOR FUND OF FUNDS.—

24 “(1) IN GENERAL.—In the case of a qualified  
25 fund of funds—

1           “(A) such fund shall be qualified to pay  
2           exempt-interest dividends to its shareholders  
3           without regard to whether such fund satisfies  
4           the requirements of the first sentence of sub-  
5           section (b)(5), and

6           “(B) such fund may elect the application  
7           of section 853 (relating to foreign tax credit al-  
8           lowed to shareholders) without regard to the re-  
9           quirement of subsection (a)(1) thereof.

10          “(2) QUALIFIED FUND OF FUNDS.—For pur-  
11          poses of this subsection, the term ‘qualified fund of  
12          funds’ means a regulated investment company if (at  
13          the close of each quarter of the taxable year) at least  
14          95 percent of the value of its total assets is rep-  
15          resented by—

16               “(A) cash and cash items (including receiv-  
17               ables), and

18               “(B) interests in other regulated invest-  
19               ment companies.”.

20          (b) EFFECTIVE DATE.—The amendment made by  
21          this section shall apply to taxable years beginning after  
22          the date of the enactment of this Act.

1 **SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVI-**  
2 **DENDS OF REGULATED INVESTMENT COMPA-**  
3 **NIES.**

4 (a) DEADLINE FOR DECLARATION OF DIVIDEND.—  
5 Paragraph (1) of section 855(a) is amended to read as  
6 follows:

7 “(1) declares a dividend before the later of—

8 “(A) the 15th day of the 9th month fol-  
9 lowing the close the taxable year, or

10 “(B) in the case of an extension of time  
11 for filing the company’s return for the taxable  
12 year, the due date for filing such return taking  
13 into account such extension, and”.

14 (b) DEADLINE FOR DISTRIBUTION OF DIVIDEND.—  
15 Paragraph (2) of section 855(a) is amended by striking  
16 “the first regular dividend payment” and inserting “the  
17 first dividend payment of the same type of dividend”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to distributions in taxable years  
20 beginning after the date of the enactment of this Act.

21 **SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGU-**  
22 **LATED INVESTMENT COMPANIES.**

23 (a) IN GENERAL.—Subsection (b) of section 316 is  
24 amended by adding at the end the following new para-  
25 graph:

1           “(4) CERTAIN DISTRIBUTIONS BY REGULATED  
2           INVESTMENT COMPANIES IN EXCESS OF EARNINGS  
3           AND PROFITS.—In the case of a regulated invest-  
4           ment company that has a taxable year other than a  
5           calendar year, if the distributions by the company  
6           with respect to any class of stock of such company  
7           for the taxable year (including distributions of prop-  
8           erty after the close of the taxable year described in  
9           section 855) exceed the company’s current and accu-  
10          mulated earnings and profits which may be used for  
11          the payment of dividends on such class of stock, the  
12          company’s current earnings and profits shall, for  
13          purposes of subsection (a), be allocated first to dis-  
14          tributions with respect to such class of stock made  
15          during the portion of the taxable year which pre-  
16          cedes January 1.”.

17          (b) EFFECTIVE DATE.—The amendment made by  
18          this section shall apply to distributions made in taxable  
19          years beginning after the date of the enactment of this  
20          Act.

21       **SEC. 306. DISTRIBUTIONS IN REDEMPTION OF STOCK OF A**  
22                               **REGULATED INVESTMENT COMPANY.**

23          (a) REDEMPTIONS TREATED AS EXCHANGES.—

24                  (1) IN GENERAL.—Subsection (b) of section  
25          302 is amended by redesignating paragraph (5) as

1 paragraph (6) and by inserting after paragraph (4)  
2 the following new paragraph:

3 “(5) REDEMPTIONS BY CERTAIN REGULATED  
4 INVESTMENT COMPANIES.—Except to the extent  
5 provided in regulations prescribed by the Secretary,  
6 subsection (a) shall apply to any distribution in re-  
7 demption of stock of a publicly offered regulated in-  
8 vestment company (within the meaning of section  
9 67(c)(2)(B)) if—

10 “(A) such redemption is upon the demand  
11 of the stockholder, and

12 “(B) such company issues only stock which  
13 is redeemable upon the demand of the stock-  
14 holder.”.

15 (2) CONFORMING AMENDMENT.—Subsection (a)  
16 of section 302 is amended by striking “or (4)” and  
17 inserting “(4), or (5)”.

18 (b) LOSSES ON REDEMPTIONS NOT DISALLOWED  
19 FOR FUND-OF-FUNDS REGULATED INVESTMENT COMPA-  
20 NIES.—Paragraph (3) of section 267(f) is amended by  
21 adding at the end the following new subparagraph:

22 “(D) REDEMPTIONS BY FUND-OF-FUNDS  
23 REGULATED INVESTMENT COMPANIES.—Except  
24 to the extent provided in regulations prescribed  
25 by the Secretary, subsection (a)(1) shall not

1           apply to any distribution in redemption of stock  
2           of a regulated investment company if—

3                   “(i) such company issues only stock  
4                   which is redeemable upon the demand of  
5                   the stockholder, and

6                   “(ii) such redemption is upon the de-  
7                   mand of another regulated investment  
8                   company.”.

9       (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to distributions after the date of  
11 the enactment of this Act.

12 **SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**  
13 **PUBLICLY OFFERED REGULATED INVEST-**  
14 **MENT COMPANIES.**

15       (a) IN GENERAL.—Subsection (c) of section 562 is  
16 amended by striking “The amount” and inserting “Except  
17 in the case of a publicly offered regulated investment com-  
18 pany (as defined in section 67(c)(2)(B)), the amount”.

19       (b) CONFORMING AMENDMENT.—Section 562(c) is  
20 amended by inserting “(other than a publicly offered regu-  
21 lated investment company (as so defined))” after “regu-  
22 lated investment company” in the second sentence thereof.

23       (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to distributions in taxable years  
25 beginning after the date of the enactment of this Act.



1 **SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR**  
2 **LOSSES OF REGULATED INVESTMENT COM-**  
3 **PANIES.**

4 (a) IN GENERAL.—Paragraph (8) of section 852(b)  
5 is amended to read as follows:

6 “(8) ELECTIVE DEFERRAL OF CERTAIN LATE-  
7 YEAR LOSSES.—

8 “(A) IN GENERAL.—Except as otherwise  
9 provided by the Secretary, a regulated invest-  
10 ment company may elect for any taxable year to  
11 compute its taxable income, net capital gain,  
12 and earnings and profits without regard to any  
13 portion of any qualified late-year loss, and any  
14 such portion shall be treated as arising on the  
15 first day of the following taxable year for pur-  
16 poses of such computations.

17 “(B) QUALIFIED LATE-YEAR LOSS.—For  
18 purposes of this paragraph, the term ‘qualified  
19 late-year loss’ means—

20 “(i) any post-October capital loss, and

21 “(ii) any late-year ordinary loss.

22 “(C) POST-OCTOBER CAPITAL LOSS.—For  
23 purposes of this paragraph, the term ‘post-Oc-  
24 tober capital loss’ means the greatest of—

1 “(i) the net capital loss attributable to  
2 the portion of the taxable year after Octo-  
3 ber 31,

4 “(ii) the net long-term capital loss at-  
5 tributable to such portion of the taxable  
6 year, or

7 “(iii) the net short-term capital loss  
8 attributable to such portion of the taxable  
9 year.

10 “(D) LATE-YEAR ORDINARY LOSS.—For  
11 purposes of this paragraph, the term ‘late-year  
12 ordinary loss’ means the excess (if any) of—

13 “(i) the sum of—

14 “(I) the ordinary losses attrib-  
15 utable to the portion of the taxable  
16 year after December 31, plus

17 “(II) the specified losses (as de-  
18 fined in section 4982(e)(5)(B)(ii)) at-  
19 tributable to the portion of the taxable  
20 year after October 31 (and before  
21 January 1), over

22 “(ii) the sum of—

23 “(I) the ordinary income attrib-  
24 utable to the portion of the taxable  
25 year after December 31, plus

1                   “(II) the specified gains (as de-  
2                   fined in section 4982(e)(5)(B)(ii)) at-  
3                   tributable to the portion of the taxable  
4                   year after October 31 (and before  
5                   January 1).

6                   “(E) SPECIAL RULE FOR COMPANIES DE-  
7                   TERMINING REQUIRED CAPITAL GAIN DISTRIBUTU-  
8                   TIONS ON TAXABLE YEAR BASIS.—In the case  
9                   of a company to which an election under section  
10                  4982(e)(4) applies—

11                  “(i) if such company’s taxable year  
12                  ends with the month of November, sub-  
13                  paragraphs (C)(i), (D)(i)(II), and  
14                  (D)(ii)(II) shall each be applied by sub-  
15                  stituting ‘November 30’ for ‘October 31’,  
16                  and

17                  “(ii) if such company’s taxable year  
18                  ends with the month of December, sub-  
19                  paragraph (A) shall not apply.”.

20                  (b) CONFORMING AMENDMENTS.—

21                  (1) Subsection (b) of section 852 is amended by  
22                  striking paragraph (10).

23                  (2) Subsection (c) of section 852 is amended by  
24                  striking paragraph (2) and by redesignating para-  
25                  graph (3) as paragraph (2).

1           (3) Subparagraph (D) of section 871(k)(2) is  
2           amended by striking the last two sentences and in-  
3           serting the following: “For purposes of this subpara-  
4           graph, the net short-term capital gain of the regu-  
5           lated investment company shall be computed by  
6           treating any short-term capital gain dividend includ-  
7           ible in gross income with respect to stock of another  
8           regulated investment company as a short-term cap-  
9           ital gain.”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 the date of the enactment of this Act.

13 **TITLE IV—MODIFICATIONS RE-**  
14 **LATED TO EXCISE TAX APPLI-**  
15 **CABLE TO REGULATED IN-**  
16 **VESTMENT COMPANIES**

17 **SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGU-**  
18 **LATED INVESTMENT COMPANIES OWNED BY**  
19 **TAX EXEMPT ENTITIES.**

20          (a) IN GENERAL.—Subsection (f) of section 4982 is  
21 amended—

22           (1) by striking “either” in the matter preceding  
23 paragraph (1),

24           (2) by striking “or” at the end of paragraph  
25 (1),

1 (3) by striking the period at the end of para-  
2 graph (2) and inserting “or”, and

3 (4) by inserting after paragraph (2) the fol-  
4 lowing new paragraph:

5 “(3) any other tax-exempt entity whose owner-  
6 ship of beneficial interests in the company would not  
7 preclude the application of section 817(h)(4).”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to calendar years beginning after  
10 the date of the enactment of this Act.

11 **SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF**  
12 **REGULATED INVESTMENT COMPANIES FOR**  
13 **EXCISE TAX PURPOSES.**

14 (a) IN GENERAL.—Subsection (e) of section 4982 is  
15 amended by striking paragraphs (5) and (6) and inserting  
16 the following new paragraphs:

17 “(5) TREATMENT OF SPECIFIED GAINS AND  
18 LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—

19 “(A) IN GENERAL.—Any specified gain or  
20 specified loss which (but for this paragraph)  
21 would be properly taken into account for the  
22 portion of the calendar year after October 31  
23 shall be treated as arising on the 1st day of the  
24 following calendar year.

1                   “(B) SPECIFIED GAINS AND LOSSES.—For  
2                   purposes of this paragraph—

3                   “(i) SPECIFIED GAIN.—The term  
4                   ‘specified gain’ means ordinary gain from  
5                   the sale, exchange, or other disposition of  
6                   property (including the termination of a  
7                   position with respect to such property).  
8                   Such term shall include any foreign cur-  
9                   rency gain attributable to a section 988  
10                  transaction (within the meaning of section  
11                  988) and any amount includible in gross  
12                  income under section 1296(a)(1).

13                  “(ii) SPECIFIED LOSS.—The term  
14                  ‘specified loss’ means ordinary loss from  
15                  the sale, exchange, or other disposition of  
16                  property (including the termination of a  
17                  position with respect to such property).  
18                  Such term shall include any foreign cur-  
19                  rency loss attributable to a section 988  
20                  transaction (within the meaning of section  
21                  988) and any amount allowable as a de-  
22                  duction under section 1296(a)(2).

23                  “(C) SPECIAL RULE FOR COMPANIES  
24                  ELECTING TO USE THE TAXABLE YEAR.—In the  
25                  case of any company making an election under

1 paragraph (4), subparagraph (A) shall be ap-  
2 plied by substituting the last day of the com-  
3 pany's taxable year for October 31.

4 “(6) TREATMENT OF MARK TO MARKET  
5 GAIN.—

6 “(A) IN GENERAL.—For purposes of deter-  
7 mining a regulated investment company's ordi-  
8 nary income, notwithstanding paragraph (1)(C),  
9 each specified mark to market provision shall be  
10 applied as if such company's taxable year ended  
11 on October 31. In the case of a company mak-  
12 ing an election under paragraph (4), the pre-  
13 ceding sentence shall be applied by substituting  
14 the last day of the company's taxable year for  
15 October 31.

16 “(B) SPECIFIED MARK TO MARKET PROVI-  
17 SION.—For purposes of this paragraph, the  
18 term ‘specified mark to market provision’  
19 means sections 1256 and 1296 and any other  
20 provision of this title which treats property as  
21 disposed of on the last day of the taxable year.

22 “(7) ELECTIVE DEFERRAL OF CERTAIN ORDI-  
23 NARY LOSSES.—Except as provided in regulations  
24 prescribed by the Secretary, in the case of a regu-

1       lated investment company which has a taxable year  
2       other than the calendar year—

3               “(A) such company may elect to determine  
4       its ordinary income for the calendar year with-  
5       out regard to any net ordinary loss (determined  
6       without regard to specified gains and losses  
7       taken into account under paragraph (5)) which  
8       is attributable to the portion of such calendar  
9       year which is after the beginning of the taxable  
10      year which begins in such calendar year, and

11              “(B) any amount of net ordinary loss not  
12      taken into account for a calendar year by rea-  
13      son of subparagraph (A) shall be treated as  
14      arising on the 1st day of the following calendar  
15      year.”.

16      (b) EFFECTIVE DATE.—The amendments made by  
17      this section shall apply to calendar years beginning after  
18      the date of the enactment of this Act.

19      **SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PUR-**  
20                      **POSES DETERMINED ON BASIS OF TAXES**  
21                      **PAID BY REGULATED INVESTMENT COM-**  
22                      **PANY.**

23      (a) IN GENERAL.—Subsection (c) of section 4982 is  
24      amended by adding at the end the following new para-  
25      graph:



1           “(4) SPECIAL RULE FOR ESTIMATED TAX PAY-  
2           MENTS.—

3           “(A) IN GENERAL.—In the case of a regu-  
4           lated investment company which elects the ap-  
5           plication of this paragraph for any calendar  
6           year—

7                   “(i) the distributed amount with re-  
8                   spect to such company for such calendar  
9                   year shall be increased by the amount on  
10                  which qualified estimated tax payments are  
11                  made by such company during such cal-  
12                  endar year, and

13                  “(ii) the distributed amount with re-  
14                  spect to such company for the following  
15                  calendar year shall be reduced by the  
16                  amount of such increase.

17           “(B) QUALIFIED ESTIMATED TAX PAY-  
18           MENTS.—For purposes of this paragraph, the  
19           term ‘qualified estimated tax payments’ means,  
20           with respect to any calendar year, payments of  
21           estimated tax of a tax described in paragraph  
22           (1)(B) for any taxable year which begins (but  
23           does not end) in such calendar year.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to calendar years beginning after  
3 the date of the enactment of this Act.

## 4 **TITLE V—OTHER PROVISIONS**

### 5 **SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RE-** 6 **SPECT TO LIABILITY FOR TAX OF REGU-** 7 **LATED INVESTMENT COMPANIES.**

8 (a) IN GENERAL.—Part I of subchapter B of chapter  
9 68 is amended by striking section 6697 (and by striking  
10 the item relating to such section in the table of sections  
11 of such part).

12 (b) CONFORMING AMENDMENT.—Section 860 is  
13 amended by striking subsection (j).

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to taxable years beginning after  
16 the date of the enactment of this Act.

### 17 **SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL** 18 **RULE FOR REGULATED INVESTMENT COMPA-** 19 **NIES.**

20 (a) IN GENERAL.—Subparagraph (C) of section  
21 852(f)(1) is amended by striking “subsequently acquires”  
22 and inserting “acquires, during the period beginning on  
23 the date of the disposition referred to in subparagraph (B)  
24 and ending on January 31 of the calendar year following

1 the calendar year that includes the date of such disposi-  
2 tion,”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to charges incurred in taxable  
5 years beginning after the date of the enactment of this  
6 Act.