THE WON'T GET FOOLED AGAIN ACT

The Emergency Version: Summary for Policy Experts

The plan for a crash already under way, in one paragraph, in bullet points, and on one page

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In One Paragraph

This is the Won't Get Fooled Again Act for a crash that has already begun. Its central rule: any bank, and any systemically important technology company, that needs public money to survive has failed, and help comes only on the terms of this Act, from any federal agency, including the Federal Reserve. Shareholders are wiped out, lenders are paid only what their collateral is worth, executives return their pay, and the institution becomes a bank owned by its depositors or by the public, a public research institute, or a public computing utility. Workers, depositors, and pensioners are protected, and the largest firms are barred from buying up the wreckage. Because nothing was prepared, the public advances the cost and the industry repays it. It is harder and more expensive than planning ahead, but it is far better than a bailout.

What You Need to Know

Where things stand

- The Act was designed to be passed in advance. Then the industry would have paid premiums for years, a registry would show who owns the nation's AI chips, the important firms would have filed plans for their own conversion, and lenders would have known the rules when they lent.
- None of that exists. The funds are empty, nobody knows who owns which chips, lenders are already seizing and selling hardware, failed companies are already in bankruptcy court, and the largest banks and technology companies are already in Washington asking for money, with a bill of their own.

The central rule: aid means conversion

- In 2008, the entire U.S. financial system nearly collapsed. Our biggest banks were at risk of failing without public support. Our government authorized $700 billion in direct bailouts, plus a whole range of other support, with almost no conditions.
- A national economy cannot function without a financial system. But U.S. for-profit banks have proven over and over that they cannot refrain from risky speculation. The public pays for the losses with bailouts, while bank shareholders and executives grow rich from the profits. This can't go on. From now on, every failed bank that is still a functioning bank will be converted into a not-for-profit bank with no shareholders, owned by its depositors or by the public. This is not an unusual arrangement: Germany's public savings banks and the Bank of North Dakota, founded in 1919, are public banks that have served their communities for generations, and America's mutual savings banks and credit unions have long belonged to the people who bank with them.
- Under this Act, any bank, and any systemically important technology company, that needs emergency public support has failed. It is placed in receivership and converted. Shareholders lose everything, lenders get the current value of their collateral, and executives' pay is clawed back.
- A technology company is also in receivership automatically, with no vote, if it files for bankruptcy or leaves a payment of $100 million or more unpaid when its grace period runs out (30 days at most).

Acting earlier than that takes the agreement of the FDIC's board, the Federal Reserve Board, and the Treasury Secretary.

- The rule binds every federal agency and the Federal Reserve by name. The Fed may keep lending to sound banks against good collateral. It may not quietly prop up the debts of failing AI companies or the funds that lent to them.
- Conditions a firm accepts in exchange for help are much harder to challenge in court than terms imposed on it.

What changes because we waited

- The money is borrowed first. A $250 billion Treasury credit line pays for the resolutions up front, and the Treasury Secretary can raise it to $400 billion by certifying the need to Congress. The industry repays it over 10 years or more through a tax on high-end chips and large training runs, premiums on the largest technology companies, and a surcharge on the largest banks. If repayment falls behind, the rates rise automatically.
- Capital for converted banks is borrowed from the Treasury on the same terms, up to $75 billion on top of that line, and repaid by the surcharge on the largest banks. A wave of failures the size of 2023 would need about $43 billion to $53 billion. That capital stays inside working banks, and if a giant fails, its own loss-absorbing debt comes first.
- The FDIC acts as receiver for failed technology companies from the first day, with the national laboratories supplying operators. A separate agency is set up later.
- Firms are designated as systemically important by numeric thresholds written into the bill, applied within days.
- Until a chip registry exists, the companies barred from buying distressed chips and data centers are set by a simple formula: the five largest cloud providers by revenue. They are also barred from leasing those chips from someone else, and from buying a firm that is on the edge of failure.
- The public gets first pick. On any distressed sale of chips or data centers, the public can match the best eligible bid and take the assets for its computing utility.
- The rules take effect on the day the bill is introduced, so the weeks of debate do not become a race to grab assets. From that day, at any firm that meets the thresholds, and for 90 days after a receiver is appointed, lenders may not seize or sell collateral and suppliers may not cancel contracts.
- The loophole that let JPMorgan Chase, already over the national cap on any one bank's share of deposits, absorb First Republic in 2023 is repealed on the day the bill is introduced.
- Sales of distressed computing assets to the dominant firms since the crisis began can be unwound.
- Failed companies already in bankruptcy court are moved into the new process, as Congress did with the bankrupt northeastern railroads when it created Conrail.
- Every bank deposit is guaranteed immediately by Act of Congress, free at first, with the cost billed to the banks afterward. Since 2010 the FDIC has not been allowed to do this without a vote of Congress.
- If banks' short-term funding has to be supported, the government guarantees new borrowing for a fee. It never guarantees the bonds investors already hold.

- Because no firm has prepared for conversion, destroying data or sabotaging a firm in receivership is a federal crime, officers must hand over system access within 24 hours, and retention pay goes to the staff who keep services running.

What stays the same

- Every failed bank that is still a functioning bank becomes a Public Benefit Bank with no shareholders, whatever its size. Local and regional banks pass to their depositors, who elect the board, or to a state or city, and only the largest become federal public banks. A bank not worth converting has its accounts and sound loans moved to a nearby converted bank, credit union, or community bank, never to one of the giants. Failed AI labs become public research institutes. Failed data centers become a National Research Cloud with affordable access for researchers, startups, nonprofits, government at every level, and the public at large.
- Once lenders have received the value of their collateral, workers, small suppliers, customers, and local governments are paid before banks and investment funds get anything more, by a priority list written into the law. Pensioners are protected through an industry-funded Pension Protection Facility, not by rescuing the lenders who hold their money.
- Secured lenders receive the value of their collateral and every creditor receives at least what a liquidation would have paid, as the Constitution requires. Courts have the final word on value.
- The public pays only what tangible assets are worth today, and nothing for hype. Courts review the price afterward and can award money, but cannot stop a conversion.
- Community Innovation Hubs, free places to work and start a business, are funded in every congressional district by a fee on the largest AI and cloud companies.

Why waiting costs more

- Data centers will have gone dark and staff will have left. A dark site is much harder to restart than a live one is to keep running.
- Some of the best hardware will already have been sold to the giants.
- Lenders who never expected losses will have lent more, against worse collateral, and their lawsuits are stronger because the rules changed after they lent.
- The public advances all of the money and carries the risk until the industry repays it.

Why it is a full bill

- The first draft of the 2008 bank rescue was three pages long. It asked for $700 billion and put the Treasury Secretary's decisions beyond the reach of any court. Congress saw a blank check and refused to pass it, and the bill that passed days later was hundreds of pages written in a hurry, some of it shaped by industry lobbyists.
- In a crisis, whoever arrives with a finished text wins. This one is staged: the freeze, the guarantee, the receiver, the credit line, and the aid rule take effect at once; the registry, the licensing, and the new agency phase in over the following 18 months.

The One-Page Summary

The crash has come, and the law that was meant to be waiting for it was never passed. The companies that rent out computing power are defaulting on loans secured by chips that are losing value by the week. Their lenders are seizing the hardware and selling it to the few technology giants with cash. Private credit funds have stopped paying out, pension funds and insurers are reporting losses, and deposits are fleeing mid-size banks for the handful everyone believes are too big to fail. In Washington, the largest banks and technology companies are offering to buy their failed competitors if the government will cover the losses. They have a bill ready.

The emergency version of the Won't Get Fooled Again Act is the other bill. Its central rule is that any bank, and any systemically important technology company, that needs public money to survive has failed. Help comes on one set of terms only: shareholders are wiped out, lenders are paid what their collateral is worth today and no more, executives return their pay, and the institution is converted. Failed banks of every size become banks with no shareholders, owned by their depositors or by the public, that lend to the productive economy, from local businesses to big national undertakings. Failed AI labs become public research institutes, and failed data centers become a public computing utility that keeps services running and opens access to everyone. No federal agency, and specifically not the Federal Reserve, may offer a rescue on easier terms. In 2008 the government authorized $700 billion for the banks, plus a whole range of other support, with almost no conditions. This time, public money buys public ownership.

Everything else follows from having to act late. There are no accumulated premiums, so a $250 billion Treasury credit line pays for the resolutions up front and the industry repays it over 10 years or more. There is no agency, so the FDIC, which already knows how to take over a failed institution in a weekend, acts as receiver from the first day. There is no registry of who owns the country's AI chips, so the five largest cloud providers are barred by formula from buying distressed chips and data centers, and an emergency census fills in the picture within two weeks. The rules take effect on the day the bill is introduced, so that the debate does not become a race to grab assets, and sales already made to the giants can be unwound. Companies already in bankruptcy court are moved into the new process, as Congress did with the bankrupt railroads when it created Conrail. Every bank deposit is guaranteed at once, and the banks are billed for it afterward.

The people who did not cause the crash are protected. Workers keep their jobs and are paid ahead of the banks and funds, along with small suppliers, customers, and local governments. Depositors lose nothing. Pensioners whose funds were steered into the failed loans are protected directly, through an industry-funded facility, not by bailing out the lenders who hold their money.

Waiting has a price. Sites have gone dark, engineers have scattered, assets have been sold, the lawsuits are stronger because the rules changed after the loans were made, and the public has to put up all of the money first. Planning ahead would have been cheaper and far less painful. But the choice in a crisis is never between this plan and a better-prepared one. It is between this plan and a third bailout. This is a complete bill, not an outline, because in a crisis whoever arrives with a finished text wins.