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To: Comments
Subject: Orderly Liquidation

The statutory treatment of shareholders, creditors and other stakeholders under the Dodd-Frank Reform Act seems unconstitutional.

When the government takes control of a company, it is a 5th Amendment taking of private property under the U.S. Constitution. The just compensation to which owners are entitled should be determined by the Judiciary, not by the FDIC nor by any Agency nor by any representative of the Executive Branch. According to Article III, Section 2 of the U.S. Constitution:

“The judicial power shall extend to all Cases, in Law and Equity, ... to Controversies to which the United States shall be a Party ...”

In accordance with Article III, Section 2, in 1855 Congress created the Court of Federal Claims (CFC) to determine private claims against the United States. The CFC's jurisdiction today is described in 28 U.S.C. 1491.

When the United States takes property for purposes addressed by the Dodd-Frank Reform Act, I believe the compensation due to private parties should be determined in an evidentiary hearing before the Court of Federal Claims.