

Senate Bill 2155

Regulatory Relief for Community Banks

On November 16, 2017, Senate Banking Committee Chairman Mike Crapo (R-ID) introduced S. 2155. The “Economic Growth, Regulatory Relief and Consumer Protection Act.”

The U.S. Senate appears poised to pass this piece of legislation intended to roll back selected Dodd-Frank regulations applicable to community banks. Earlier last year, the House passed H.R. 10, the “Financial CHOICE Act of 2017” (the “FCA”) a bill to comprehensively reform the Dodd-Frank Act. The Senate version is narrower in scope than the House bill and, if enacted as drafted, contains only a handful of provisions that will meaningfully impact community banks.

Below is a synopsis of some of the key provisions of the Senate bill affecting commercial banks:

TITLE I IMPROVING CONSUMER ACCESS TO MORTGAGE CREDIT

Section 101. Minimum Standards for Residential Mortgage Loans.

This section provides that certain mortgage loans that are originated and retained in portfolio by an insured depository institution with less than \$10 billion in total consolidated assets will be deemed “qualified mortgages” under the Truth in Lending Act (TILA) while maintaining consumer protections.

Section 103. Access to Affordable Mortgages

This section provides a tailored exemption from appraisal

requirements under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for certain mortgage loans with a balance of less than \$400,000 if the originator is unable to find a State certified or State licensed appraiser to perform an appraisal after a good faith effort to do so.

Section 104. Home Mortgage Disclosure Act Adjustment and Study.

This Section provides regulatory relief to small depository institutions that have originated less than 500 closed-end mortgage loans or less than 500 open-end lines of credit in each of the two preceding calendar years by exempting them from certain disclosure requirements under the Home Mortgage Disclosure Act.

Section 110. No Wait for Lower Mortgage Rates.

This section (1) removes the three-day wait period required for the combined TILA/RESPA mortgage disclosure if a creditor extends to a consumer of second offer of credit with a lower annual percentage rate, and (2) expresses the sense of Congress that the CFPB should endeavor to provide clearer, authoritative guidance with respect to certain other issues.

TITLE II REGULATORY RELIEF AND PROTECTING CONSUMER ACCESS TO CREDIT

Section 201. Capital Simplification for Qualifying Community Banks.

This section requires that the Federal banking agencies establish a community bank leverage ratio of

March 9, 2018

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tangible equity to average consolidated assets of not less than 8% and not more than 10%. Banks with less than \$10 billion in total consolidated assets who maintain tangible equity in an amount that equals or exceeds the community bank leverage ratio will be deemed to be in compliance with capital and leverage requirements.

Section 202. Limited Exception for Reciprocal Deposits.

This section provides that certain reciprocal deposits made through a deposit placement network and totaling less than 20% of total liabilities will not be considered to be funds obtained, directly or indirectly, by or through a deposit broker under the Federal Deposit Insurance Act.

Section 203. Community Bank Relief.

This section provides that banking entities will be exempt from Section 13 of the Bank Holding Company Act (the “Volcker Rule”) if they have (1) less than \$10 billion in total consolidated assets, and (2) total trading assets and trading liabilities that are not more than 5% of total consolidated assets.

Section 207. Small Banking Holding Company Policy Statement.

This section raises the consolidated asset threshold of the Federal Reserve’s Small Banking Holding Company Policy Statement from \$1 billion to \$3 billion, allowing more community banks to qualify for increased leverage at the holding-company level. This provision applies to community banks that do not engage in significant nonbanking activities, do not conduct significant off-

balance-sheet activities, and do not have a material amount of debt or equity securities outstanding (other than trust preferred securities) that are registered with the SEC. The foregoing is the only reference to “trust preferred securities” in the bill.

Section 211. Examination Cycle.

This section raises the consolidated asset threshold from \$1 billion to \$3 billion for well managed and well capitalized banks to qualify for an 18-month examination cycle.

TITLE IV TAILORING REGULATIONS FOR CERTAIN BANK HOLDING COMPANIES

Section 401. Enhanced Prudential Standards for Certain Bank Holding Companies.

This section raises the threshold for applying “SIFI” (“Systemically Important Financial Institutions”) enhanced prudential standards from \$50 billion to \$250 billion.

Section 403. Treatment of Certain Municipal Obligations.

This section directs the FDIC, the Federal Reserve, and the OCC to classify qualifying investment-grade, liquid and readily-marketable municipal securities as level 2B liquid assets under the agencies’ Liquidity Coverage Ratio final rule, which applies to banks with consolidated assets of \$250 billion or more or \$10 billion or more in on-balance sheet foreign exposure.

Sources for this article: SSW Research Department

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