

114TH CONGRESS
1ST SESSION

H. R. 1233

To provide regulatory relief to community financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2015

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide regulatory relief to community financial institutions, 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.**

4 This Act may be cited as the “Community Lending
5 Enhancement and Regulatory Relief Act of 2015” or the
6 “CLEARRR Act of 2015”.

1 **SEC. 2. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIRE-**
2 **MENT UNDER THE GRAMM-LEACH-BLILEY**
3 **ACT.**

4 Section 503 of the Gramm-Leach-Bliley Act (15
5 U.S.C. 6803) is amended by adding at the end the fol-
6 lowing:

7 “(f) EXCEPTION TO ANNUAL NOTICE REQUIRE-
8 MENT.—A financial institution that—

9 “(1) provides nonpublic personal information
10 only in accordance with the provisions of subsection
11 (b)(2) or (e) of section 502 or regulations prescribed
12 under section 504(b), and

13 “(2) has not changed its policies and practices
14 with regard to disclosing nonpublic personal infor-
15 mation from the policies and practices that were dis-
16 closed in the most recent disclosure sent to con-
17 sumers in accordance with this section,

18 shall not be required to provide an annual disclosure under
19 this section until such time as the financial institution
20 fails to comply with any criteria described in paragraph
21 (1) or (2).”.

22 **SEC. 3. COMMUNITY BANK MORTGAGE SERVICING ASSET**
23 **CAPITAL REQUIREMENTS STUDY.**

24 (a) DEFINITIONS.—For purposes of this section:

25 (1) BANKING INSTITUTION.—The term “bank-
26 ing institution” means an insured depository institu-

1 tion, Federal credit union, State credit union, bank
2 holding company, or savings and loan holding com-
3 pany.

4 (2) BASEL III CAPITAL REQUIREMENTS.—The
5 term “Basel III capital requirements” means the
6 Global Regulatory Framework for More Resilient
7 Banks and Banking Systems issued by the Basel
8 Committee on Banking Supervision on December 16,
9 2010, as revised on June 1, 2011.

10 (3) FEDERAL BANKING AGENCIES.—The term
11 “Federal banking agencies” means the Board of
12 Governors of the Federal Reserve System, the Office
13 of the Comptroller of the Currency, the Federal De-
14 posit Insurance Corporation, and the National Cred-
15 it Union Administration.

16 (4) MORTGAGE SERVICING ASSET.—The term
17 “mortgage servicing asset” means those assets that
18 result from contracts to service loans secured by real
19 estate, where such loans are owned by third parties.

20 (5) NCUA CAPITAL REQUIREMENTS.—The
21 term “NCUA capital requirements” means the pro-
22 posed rule of the National Credit Union Administra-
23 tion titled “Risk-Based Capital” (80 Fed. Reg.
24 4340; January 27, 2015).

1 (6) NONSYSTEMIC BANKING INSTITUTION.—
2 The term “nonsystemic banking institution” means
3 any banking institution other than an institution
4 identified by the Financial Stability Board as a
5 “global systemically important bank”.

6 (7) OTHER DEFINITIONS.—

7 (A) BANKING DEFINITIONS.—The terms
8 “bank holding company”, “insured depository
9 institution”, and “savings and loan holding
10 company” have the meanings given such terms,
11 respectively, under section 3 of the Federal De-
12 posit Insurance Act (12 U.S.C. 1813).

13 (B) CREDIT UNION DEFINITIONS.—The
14 terms “Federal credit union” and “State credit
15 union” have the meanings given such terms, re-
16 spectively, under section 101 of the Federal
17 Credit Union Act (12 U.S.C. 1752).

18 (b) STUDY OF THE APPROPRIATE CAPITAL FOR
19 MORTGAGE SERVICING ASSETS.—

20 (1) IN GENERAL.—The Federal banking agen-
21 cies shall, jointly, conduct a study of the appropriate
22 capital requirements for mortgage servicing assets
23 for nonsystemic banking institutions.

1 (2) ISSUES TO BE STUDIED.—The study re-
2 quired by this subsection shall include, with a spe-
3 cific focus on nonsystemic banking institutions—

4 (A) the risk to banking institutions of
5 holding mortgage servicing assets;

6 (B) the history of the market for mortgage
7 servicing assets, including particularly the mar-
8 ket for such assets in the period of the financial
9 crisis;

10 (C) the ability of banking institutions to
11 establish a value for their mortgage servicing
12 assets through periodic sales or other means;

13 (D) regulatory approaches to mortgage
14 servicing assets in addition to capital require-
15 ments that could be used to address concerns
16 about the value of and ability to sell mortgage
17 servicing assets;

18 (E) the impact of imposing the Basel III
19 capital requirements and the NCUA capital re-
20 quirements on nonsystemic banking institutions
21 on their ability to compete in the mortgage
22 servicing business, including the need for econo-
23 mies of scale to compete in that business, and
24 on their ability to provide service to consumers
25 to whom they have made a mortgage loan;

1 (F) an analysis of what the mortgage serv-
2 icing marketplace would look like if the Basel
3 III capital requirements and the NCUA capital
4 requirements on mortgage servicing assets were
5 fully implemented;

6 (G) the significance of problems with mort-
7 gage servicing assets, if any, in banking institu-
8 tion failures and problem banking institutions,
9 including specifically identifying failed banking
10 institutions where mortgage servicing assets
11 contributed to the failure; and

12 (H) an analysis of the relevance of the
13 Basel III capital requirements and the NCUA
14 capital requirements on mortgage servicing as-
15 sets to the banking systems of other significant
16 developed countries.

17 (3) REPORT TO CONGRESS.—Not later than the
18 end of the 1-year period beginning on the date of the
19 enactment of this Act, the Federal banking agencies
20 shall issue a report to the Committee on Banking,
21 Housing, and Urban Affairs of the Senate and the
22 Committee on Financial Services of the House of
23 Representatives containing—

24 (A) the results of the study required under
25 paragraph (1); and

1 (B) any analysis on the specific issue of
2 mortgage servicing assets undertaken by the
3 Federal banking agencies prior to finalizing
4 regulations implementing the Basel III capital
5 requirements and the NCUA capital require-
6 ments.

7 (c) DELAY OF RULEMAKING.—

8 (1) RULES ON MORTGAGE SERVICING ASSETS.—
9 Notwithstanding any other provision of law, no regu-
10 lation to implement the Basel III capital require-
11 ments or the NCUA capital requirements with re-
12 spect to mortgage servicing assets for nonsystemic
13 banking institutions shall take effect before the end
14 of the 6-month period beginning on the date the re-
15 port is issued under subsection (b)(3).

16 (2) FINAL RULE REQUIREMENTS.—Before any
17 final rule is issued by a Federal banking agency with
18 respect to capital requirements on mortgage serv-
19 icing assets for nonsystemic banking institutions, the
20 Federal banking agency shall—

21 (A) if the related proposed rule was issued
22 before the date on which the report is issued
23 under subsection (b)(3), issue a new proposed
24 rule for public comment; and

1 (B) consider regulatory approaches to
2 mortgage servicing assets that could address
3 concerns about the value of and ability to sell
4 mortgage servicing assets.

5 **SEC. 4. COMMUNITY INSTITUTION MORTGAGE RELIEF.**

6 (a) EXEMPTION FROM ESCROW REQUIREMENTS FOR
7 LOANS HELD BY SMALL CREDITORS.—Section 129D(c)
8 of the Truth in Lending Act (15 U.S.C. 1639d(c)), as
9 added by section 1461(a) of the Dodd-Frank Wall Street
10 Reform and Consumer Protection Act, is amended—

11 (1) by redesignating paragraphs (1), (2), (3),
12 and (4) as subparagraphs (A), (B), (C), and (D)
13 and moving such subparagraphs 2 ems to the right;

14 (2) by striking “The Board” and inserting the
15 following:

16 “(1) IN GENERAL.—The Board”; and

17 (3) by adding at the end the following new
18 paragraph:

19 “(2) TREATMENT OF LOANS HELD BY SMALLER
20 CREDITORS.—The Board shall, by regulation, exempt
21 from the requirements of subsection (a) any loan secured
22 by a first lien on a consumer’s principle dwelling, if such
23 loan is held by a creditor with assets of \$10,000,000,000
24 or less.”.

1 (b) MODIFICATION TO EXEMPTION FOR SMALL
2 SERVICERS OF MORTGAGE LOANS.—Section 6 of the Real
3 Estate Settlement Procedures Act of 1974 (12 U.S.C.
4 2605) is amended by adding at the end the following:

5 “(n) SMALL SERVICER EXEMPTION.—The Bureau
6 shall, by regulation, provide exemptions to, or adjustments
7 for, the provisions of this section for servicers that annu-
8 ally service 20,000 or fewer mortgage loans, in order to
9 reduce regulatory burdens while appropriately balancing
10 consumer protections.”.

11 **SEC. 5. ACCESS TO AFFORDABLE MORTGAGES.**

12 (a) EXEMPTION FROM PROPERTY APPRAISAL RE-
13 QUIREMENTS FOR LOWER-COST DWELLINGS.—Section
14 129H of the Truth in Lending Act (15 U.S.C. 1639h) is
15 amended by adding at the end the following new sub-
16 section:

17 “(g) EXEMPTION FOR HIGHER-RISK MORTGAGES.—
18 This section shall not apply to a higher-risk mortgage loan
19 of \$250,000 or less if such loan appears on the balance
20 sheet of the creditor of such loan for a period of not less
21 than 3 years.”.

22 (b) EXEMPTION FROM PENALTIES FOR FAILURE TO
23 REPORT APPRAISERS.—Paragraph (1) of section 129E(k)
24 of the Truth in Lending Act (15 U.S.C. 1639e(k)(1)) is

1 amended by inserting after “this section” the following:
2 “, other than subsection (e),”.

3 (c) EXEMPTION FROM APPRAISAL STANDARD RE-
4 QUIREMENTS FOR LOWER-COST DWELLINGS.—Section
5 1110 of the Financial Institutions Reform, Recovery, and
6 Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

7 (1) by striking “Each Federal financial institu-
8 tions regulatory agency” and inserting the following:

9 “(a) REAL ESTATE APPRAISALS IN CONNECTION
10 WITH FEDERALLY RELATED TRANSACTIONS.—Each
11 Federal financial institutions regulatory agency”;

12 (2) by striking “Each such agency or instru-
13 mentality” and inserting the following:

14 “(b) ADDITIONAL STANDARDS.—Each such agency
15 or instrumentality described under subsection (a)”;

16 (3) by adding at the end the following new sub-
17 section:

18 “(c) EXCEPTION FOR CERTAIN HIGHER-RISK MORT-
19 GAGE LOANS.—Standards prescribed under this section
20 shall not apply to a real estate appraisal or evaluation con-
21 ducted in connection with a higher-risk mortgage loan (as
22 defined in section 129H(f) of the Truth in Lending Act
23 (15 U.S.C. 1639h(f))) of \$250,000 or less if such loan
24 appears on the balance sheet of the creditor of such loan
25 for a period of not less than 3 years.”.

1 **SEC. 6. SHORT FORM CALL REPORT AND EXAMINATION**
2 **CYCLE.**

3 (a) IN GENERAL.—Section 7(a) of the Federal De-
4 posit Insurance Act (12 U.S.C. 1817(a)) is amended by
5 adding at the end the following:

6 “(12) SHORT FORM REPORTING.—

7 “(A) IN GENERAL.—The appropriate Fed-
8 eral banking agencies shall issue regulations al-
9 lowing for a reduced reporting requirement for
10 covered depository institutions when making the
11 first and third report of condition for a year, as
12 required pursuant to paragraph (3).

13 “(B) COVERED DEPOSITORY INSTITUTION
14 DEFINED.—For purposes of this paragraph, the
15 term ‘covered depository institution’ means an
16 insured depository institution that—

17 “(i) has a CAMELS composite rating
18 of 1 or 2 under the Uniform Financial In-
19 stitutions Rating System (or an equivalent
20 rating under a comparable rating system)
21 as of the most recent examination of such
22 institution; and

23 “(ii) satisfies such other criteria as
24 the appropriate Federal banking agencies
25 determine appropriate.”.

1 (b) LONGER EXAMINATION CYCLE.—Section 10(d) of
2 the Federal Deposit Insurance Act (12 U.S.C. 1820(d))
3 is amended—

4 (1) by redesignating paragraphs (5) through
5 (10) as paragraphs (6) through (11), respectively;

6 (2) in each of paragraphs (8) and (9), as so re-
7 designated, by striking “paragraph (6)” and insert-
8 ing “paragraph (7)”; and

9 (3) by inserting after paragraph (4) the fol-
10 lowing:

11 “(5) 24-MONTH RULE FOR CERTAIN INSTITU-
12 TIONS.—With respect to an insured depository insti-
13 tution and notwithstanding paragraph (4), para-
14 graphs (1), (2), and (3) shall apply with ‘24-month’
15 substituted for ‘12-month’ if the insured depository
16 institution—

17 “(A) meets the requirements under sub-
18 paragraphs (B) through (D) of paragraph (4);

19 and

20 “(B) is a covered depository institution, as
21 defined under section 7(a)(12)(B).”.

22 **SEC. 7. COORDINATION AMONG FINANCIAL INSTITUTIONS.**

23 Chapter 53 of title 31, United States Code, is amend-
24 ed—

1 (1) by inserting after section 5332 the following
2 new section:

3 **“§ 5333. Coordination among financial institutions**

4 “(a) IN GENERAL.—In the case of an entry received
5 via an automated clearing house, no receiving depository
6 financial institution shall be required to verify that the
7 entry is not a prohibited transaction, if the originating de-
8 pository financial institution has warranted, pursuant to
9 the automated clearing house rules governing such entry
10 or otherwise, that the originating depository financial in-
11 stitution has complied with the sanctions programs admin-
12 istered by the Office of Foreign Assets Control in connec-
13 tion with such entry.

14 “(b) DEFINITIONS.—For purposes of this section:

15 “(1) AUTOMATED CLEARING HOUSE.—The
16 term ‘automated clearing house’ means a funds
17 transfer system governed by rules which provide for
18 the interbank clearing of electronic entries for par-
19 ticipating depository financial institutions.

20 “(2) DEPOSITORY FINANCIAL INSTITUTION.—

21 The term ‘depository financial institution’ means—

22 “(A) any insured depository institution, as
23 such term is defined under section 3 of the
24 Federal Deposit Insurance Act (12 U.S.C.
25 1813);

1 “(B) any depository institution which is el-
2 igible to apply to become an insured depository
3 institution under section 5 of the Federal De-
4 posit Insurance Act (12 U.S.C. 1815);

5 “(C) any insured credit union, as defined
6 in section 101 of the Federal Credit Union Act
7 (12 U.S.C. 1752); and

8 “(D) any credit union which is eligible to
9 apply to become an insured credit union pursu-
10 ant to section 201 of the Federal Credit Union
11 Act (12 U.S.C. 1781).

12 “(3) ENTRY.—The term ‘entry’ means an order
13 to request for the transfer of funds through an auto-
14 mated clearing house.

15 “(4) ORIGINATING DEPOSITORY FINANCIAL IN-
16 STITUTION.—The term ‘originating depository finan-
17 cial institution’ means a depository financial institu-
18 tion that transmits entries via an automated clearing
19 house for transmittal to a receiving depository finan-
20 cial institution.

21 “(5) PROHIBITED TRANSACTION.—The term
22 ‘prohibited transaction’ means a funds transfer
23 originated on behalf of a person to or from whom
24 funds transfers are restricted by a sanctions pro-
25 gram administered by the Office of Foreign Assets

1 Control, including persons appearing on the list of
2 specially designated nationals and blocked persons
3 maintained by the Office of Foreign Assets Control.

4 “(6) RECEIVING DEPOSITORY FINANCIAL INSTI-
5 TUTION.—The term ‘receiving depository financial
6 institution’ means a depository financial institution
7 that receives entries via an automated clearing house
8 from an originating depository financial institution
9 for debit or credit to the accounts of its customers.”;
10 and

11 (2) in the table of contents for such chapter by
12 inserting after the item relating to section 5332 the
13 following new item:

“5333. Coordination among financial institutions.”.

14 **SEC. 8. CHANGES REQUIRED TO SMALL BANK HOLDING**
15 **COMPANY POLICY STATEMENT ON ASSESS-**
16 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
17 **TORS.**

18 Before the end of the 6-month period beginning on
19 the date of the enactment of this Act, the Board of Gov-
20 ernors of the Federal Reserve System shall revise the
21 Small Bank Holding Company Policy Statement on As-
22 sessment of Financial and Managerial Factors (12 C.F.R.
23 part 225—appendix C) to raise the consolidated asset
24 threshold under such policy statement from

1 \$1,000,000,000 (as adjusted by Public Law 113–250) to
2 \$5,000,000,000.

3 **SEC. 9. SAFE HARBOR FOR CERTAIN LOANS HELD ON**
4 **PORTFOLIO.**

5 (a) IN GENERAL.—Section 129C of the Truth in
6 Lending Act (15 U.S.C. 1639c) is amended by adding at
7 the end the following:

8 “(j) SAFE HARBOR FOR CERTAIN LOANS HELD ON
9 PORTFOLIO.—

10 “(1) SAFE HARBOR FOR CREDITORS THAT ARE
11 DEPOSITORY INSTITUTIONS.—

12 “(A) IN GENERAL.—A creditor that is a
13 depository institution shall not be subject to
14 suit for failure to comply with subsection (a),
15 (c)(1), or (f)(2) of this section or section 129H
16 with respect to a residential mortgage loan, and
17 the banking regulators shall treat such loan as
18 a qualified mortgage, if—

19 “(i) the creditor has, since the origi-
20 nation of the loan, held the loan on the
21 balance sheet of the creditor; and

22 “(ii) all prepayment penalties with re-
23 spect to the loan comply with the limita-
24 tions described under subsection (c)(3).

1 “(B) EXCEPTION FOR CERTAIN TRANS-
2 FERS.—In the case of a depository institution
3 that transfers a loan originated by that institu-
4 tion to another depository institution by reason
5 of the bankruptcy or failure of the originating
6 depository institution or the purchase of the
7 originating depository institution, the depository
8 institution transferring such loan shall be
9 deemed to have complied with the requirement
10 under subparagraph (A)(i).

11 “(2) SAFE HARBOR FOR MORTGAGE ORIGINA-
12 TORS.—A mortgage originator shall not be subject
13 to suit for a violation of section 129B(c)(3)(B) for
14 steering a consumer to a residential mortgage loan
15 if—

16 “(A) the creditor of such loan is a depository
17 institution and has informed the mortgage
18 originator that the creditor intends to hold the
19 loan on the balance sheet of the creditor for the
20 life of the loan; and

21 “(B) the mortgage originator informs the
22 consumer that the creditor intends to hold the
23 loan on the balance sheet of the creditor for the
24 life of the loan.

1 “(3) DEFINITIONS.—For purposes of this sub-
2 section:

3 “(A) BANKING REGULATORS.—The term
4 ‘banking regulators’ means the Federal banking
5 agencies, the Bureau, and the National Credit
6 Union Administration.

7 “(B) DEPOSITORY INSTITUTION.—The
8 term ‘depository institution’ has the meaning
9 given that term under section 19(b)(1) of the
10 Federal Reserve Act (12 U.S.C. 505(b)(1)).

11 “(C) FEDERAL BANKING AGENCIES.—The
12 term ‘Federal banking agencies’ has the mean-
13 ing given that term under section 3 of the Fed-
14 eral Deposit Insurance Act.”.

15 (b) RULE OF CONSTRUCTION.—Nothing in the
16 amendment made by this section may be construed as pre-
17 venting a balloon loan from qualifying for the safe harbor
18 provided under section 129C(j) of the Truth in Lending
19 Act if the balloon loan otherwise meets all of the require-
20 ments under such subsection (j), regardless of whether the
21 balloon loan meets the requirements described under
22 clauses (i) through (iv) of section 129C(b)(2)(E) of such
23 Act.

○