

112TH CONGRESS
1ST SESSION

H. R. 2056

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 31, 2011

Mr. WESTMORELAND (for himself, Mr. DAVID SCOTT of Georgia, Mr. BROWN of Georgia, Mr. GARY G. MILLER of California, Mr. POSEY, Mr. MARCHANT, and Mr. MACK) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, 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. INSPECTOR GENERAL STUDY.**

4 (a) STUDY.—The Inspector General of the Federal
5 Deposit Insurance Corporation (FDIC) shall conduct a
6 comprehensive study on the impact of the failure of in-
7 sured depository institutions.

8 (b) DEFINITIONS.—For purposes of this Act—

1 (1) the term “insured depository institution”
2 has the meaning given such term in section 3(e) of
3 the Federal Deposit Insurance Act (12 U.S.C.
4 1813(e));

5 (2) the term “private equity company” has the
6 meaning given the terms “hedge fund” and “private
7 equity fund” in section 13(h)(2) of the Bank Hold-
8 ing Company Act of 1956 (12 U.S.C. 1851(h)(2));
9 and

10 (3) the term “paper-loss” means any write
11 down on an asset held by an insured depository in-
12 stitution that causes such institution to raise more
13 capital in order to cover the write down.

14 (c) MATTERS TO BE STUDIED.—In conducting the
15 study under this section, the Inspector General shall ad-
16 dress the following:

17 (1) LOSS-SHARING AGREEMENTS.—The effect
18 of loss-sharing agreements (LSAs), including—

19 (A) The impact of loss-sharing on the in-
20 sured depository institutions that survive and
21 the borrowers of insured depository institutions
22 that fail, including—

23 (i) the impact on the rate of loan
24 modifications and adjustments;

1 (ii) whether more types of loans (such
2 as commercial, residential, or small busi-
3 ness loans) could be modified with fewer
4 LSAs, or if LSAs could be phased out alto-
5 gether;

6 (iii) the impact on current borrowers
7 seeking loan modification from an acquir-
8 ing institution with an LSA;

9 (iv) the impact on the availability of
10 credit; and

11 (v) the impact on loans with participa-
12 tion agreements outstanding with other in-
13 sured depository institutions;

14 (B) The effect of FDIC policies and proce-
15 dures regarding maturing LSAs, including—

16 (i) any impact LSAs may have on
17 continuing weakness in the real estate
18 market; and

19 (ii) the likelihood that banks will sell
20 off assets to take advantage of LSAs be-
21 fore such agreements are no longer avail-
22 able; and

23 (C) Methods of ensuring the orderly end of
24 expiring LSAs to prevent any adverse impact

1 on borrowing, real estate industry and the De-
2 positors Insurance Fund.

3 (2) PAPER LOSSES.—The significance of paper
4 losses, including—

5 (A) the number of insured depository insti-
6 tutions that have been placed into receivership
7 or conservatorship due to paper losses;

8 (B) the impact on paper losses of raising
9 more capital;

10 (C) the effect of changes in the application
11 of the fair value of real estate accounting rules
12 and other accounting standards;

13 (D) whether field examiners are using
14 proper appraisal procedures with respect to
15 paper losses; and

16 (E) methods of stopping the vicious down-
17 ward spiral of losses and write downs.

18 (3) WORKOUTS.—The success of FDIC field ex-
19 aminers in implementing FDIC guidelines titled
20 “Policy Statement on Prudent Commercial Real Es-
21 tate Loan Workouts” (October 31, 2009) regarding
22 workouts of commercial real estate, including—

23 (A) whether field examiners are using the
24 correct appraisals; and

1 (B) whether there is any difference in im-
2 plementation between residential workouts and
3 commercial workouts.

4 (4) ORDERS.—The application and impact of
5 consent orders and cease and desist orders, includ-
6 ing—

7 (A) whether such orders have been applied
8 uniformly and fairly across all insured deposi-
9 tory institutions;

10 (B) the reasons for failing to apply such
11 orders uniformly and fairly when such failure
12 occurs;

13 (C) the impact of such orders on the abil-
14 ity of insured depository institutions to raise
15 capital;

16 (D) the impact of such orders on the abil-
17 ity of insured depository institutions to extend
18 credit to existing and new borrowers;

19 (E) whether individual insured depository
20 institutions have improved enough to have such
21 orders removed; and

22 (F) the reasons for failure where insured
23 depository institutions have not so improved.

24 (5) FDIC POLICY.—The application and impact
25 of FDIC policies, including—

1 (A) the impact of FDIC policies on the pri-
2 vate capitalization of insured depository institu-
3 tions, especially in States where more than 10
4 such insitutions have failed since 2008;

5 (B) whether the FDIC fairly and consist-
6 ently applies capital standards when an insured
7 depository institution is successful in raising
8 private capital; and

9 (C) whether the FDIC steers potential in-
10 vestors away from insured depository institu-
11 tions that may be in danger of being placed in
12 receivership or conservatorship.

13 (6) PRIVATE EQUITY COMPANIES.—The FDIC’s
14 handling of potential investment from private equity
15 companies in insured depository institutions, includ-
16 ing—

17 (A) the number of insured depository insti-
18 tutions that have been approved to receive pri-
19 vate equity investment by the FDIC;

20 (B) the number of insured depository insti-
21 tutions that have been rejected from receiving
22 private equity investment by the FDIC; and

23 (C) the reasons for rejection of private eq-
24 uity investment when such rejection occurs.

1 (d) REPORT.—Not later than one year after the date
2 of the enactment of this Act, the Inspector General shall
3 submit to Congress a report—

4 (1) on the results of the study conducted pursu-
5 ant to this section; and

6 (2) any recommendations based on such study.

7 **SEC. 2. FUNDING.**

8 The FDIC shall make available from the portion of
9 the FDIC budget allocated to management expenses, sums
10 allowing the FDIC Inspector General to complete this
11 study.

