

113TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } 113-640

REGULATION D STUDY ACT

DECEMBER 2, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 3240]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3240) to instruct the Comptroller General of the United States to study the impact of Regulation D, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Section 19 of the Federal Reserve Act gives the Federal Reserve authority to impose reserve requirements on the deposits of member institutions. Section 19 is codified in the Federal Reserve's Reserve Requirements of Depository Institutions (12 CFR § 204), also known as Regulation D. Regulation D sets uniform requirements for all depository institutions to maintain reserve balances either with their Federal Reserve Bank or as cash.

Regulation D reserve requirements are calculated as a percentage of the amount of funds a financial institution's members hold in "transaction" accounts. A transaction account is typically an account from which the depositor or account holder is permitted to make unlimited transfers or withdrawals, such as a checking account. Because balances in those accounts can change quickly, the Federal Reserve requires institutions to reserve funds for those accounts as a stabilizing tool for the money supply. Regulation D limits the number of transfers and withdrawals from non-transaction accounts to six per month.

H.R. 3240, the "Regulation D Study Act," would require the Government Accountability Office (GAO), in consultation with credit unions and community banks, to conduct a study examining the

impact of the Federal Reserve Regulation D minimum reserve requirements on depository institutions, consumers, and monetary policy.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3240 addresses concerns expressed by representatives of America's community-based banks and credit unions regarding the effect that Regulation D is having on their institutions and the customers they serve.

On July 15, 2014, Mr. Doug Fecher, President and Chief Executive Officer, Wright-Patt Credit Union, on behalf of the Credit Union National Association, testified before the Committee that "[Regulation D] adversely impacts credit union members when they trigger more than six automatic transfers from savings to checking accounts in a month. Members are frustrated when their payments do not go through and they are hit with an unexpected [non-sufficient funds] fee. We think the cap on automatic transfers ought to be increased, and [H.R. 3240] is a first step in that regard." Mr. Fecher further testified that:

Regulation D, which I would imagine a lot of folks in this room have never ever heard of, causes unnecessary [non-sufficient funds] charges to consumers when they exceed the statutory maximum number of automatic transfers from a savings account to a checking account to cover drafts or debits that may come in. And it is not an uncommon occurrence, especially with the way money moves through the financial system today, that a member of the credit union, which happened at Wright-Patt Credit Union just last week, calls up and says, "Why did you charge this NSF fee?" We attempt to explain to them that they exceeded their number of statutorily required automatic transactions of six in the month and they say, "What?" And they first think it's the credit union's fault, and then we explain, no, this is a federal regulation that we have to enforce. And frankly, that makes them madder. So we advocate for the bill and we think it should be studied. We hope that the outcome of the study is that this tool for monetary policy, that number of transactions could almost be tripled without impacting the use of that regulation in terms of monetary policy. So real briefly, that's what that regulation is all about, and we support the study.

During that same hearing, Mr. David Clendaniel, President and Chief Executive Officer, Dover Federal Credit Union, on behalf of the National Association of Federal Credit Unions, testified in support of H.R. 3240:

Regulation D limits a credit union member's ability to transfer their money between savings and checking accounts to six transactions per month. Once a transaction is made beyond that limit, a member is either charged a fee or has their savings account re-classified as a "transaction account". Under current Regulation D rules, savings accounts are not subject to reserve requirements, while transaction accounts are. This discrepancy tends to be confusing for credit union members and often forces credit

union employees to focus their attention on the compliance issue rather than customer service. . . . Federal Reserve Regulation D is a prime example of a regulation that hasn't been reconsidered by Congress or the agencies in far too long.

In a July 28, 2014 letter to the Committee, the American Bankers Association wrote in support of H.R. 3240, stating, “[u]nder this regulation, such transaction accounts are subjected to higher reserve requirements. This rule is both confusing to financial institutions and consumers. A study of this regulation is long overdue and is the reason that ABA supports passage of H.R. 3240.”

HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on H.R. 3240 on July 15, 2014.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 29–30, 2014, and ordered H.R. 3240 to be reported favorably to the House without amendment by voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes during the consideration of H.R. 3240.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3240 will provide Congress with important information about the impact of Federal Reserve Regulation D.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 13, 2014.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3240, the Regulation D Study Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas W. Elmendorf, Director).

Enclosure.

H.R. 3240—Regulation D Study Act

H.R. 3240 would direct the Government Accountability Office (GAO) to conduct a study on the impact of reserve requirements on depository institutions (DIs), consumers, and monetary policy. CBO estimates that implementing this legislation would cost less than \$500,000 over the next five years. Such costs would be subject to the availability of appropriated funds. Enacting H.R. 3240 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Regulation D imposes reserve requirements on certain deposits and other liabilities of DIs. Currently, DIs must hold reserves equal to 3 percent of applicable deposits greater than \$13.3 million, plus an additional 7 percent for total deposits greater than \$89 million. Reserves must be held in the form of vault cash or deposits with a Federal Reserve Bank (FRB). FRBs pay interest on required and excess reserves held with the Federal Reserve.

H.R. 3240 would direct GAO to conduct a study on how Regulation D has been used to conduct monetary policy and how this affects the operational costs of DIs and how consumers manage their accounts. GAO would report to the Congress on the results and any recommendations within one year of enactment. Based on the resources used for similar studies, CBO estimates that producing such a report would cost GAO less than \$500,000 over the next five years.

H.R. 3240 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Daniel Hoople. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3240 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee states that no provision of H.R. 3240 establishes or re-authorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee states that H.R. 3240 requires no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section cites H.R. 3240 as the “Regulation D Study Act.”

Section 2. Government Accountability Office Study

This section directs the GAO, in consultation with credit unions and community banks, to study the impact that Federal Reserve Regulation D minimum reserve requirements have on depository institutions, consumers, and monetary policy. The study must consider: (i) a historic review of how the Board of Governors of the Federal Reserve System has used reserve requirements to conduct U.S. monetary policy; (ii) the impact of the maintenance of reserves upon depository institutions; (iii) the impact on consumers in managing their accounts; and (iv) alternatives the Board may have to the maintenance of reserves to effect monetary policy.