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HOUSE OF REPRESENTATIVES
REPORT
118–725

BANK SAFETY ACT OF 2024

NOVEMBER 1, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4206]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4206) to amend the Financial Stability Act of 2010 to require covered financial institutions to include elements of accumulated other comprehensive income when calculating capital for purposes of meeting capital requirements, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Safety Act of 2024".

SEC. 2. CAPITAL REQUIREMENTS RELATING TO ACCUMULATED OTHER COMPREHENSIVE INCOME.

(a) IN GENERAL.—Section 171 of the Financial Stability Act of 2010 (12 U.S.C. 5371) is amended by adding at the end the following new subsection:

"(d) INCLUSION OF ELEMENTS OF ACCUMULATED OTHER COMPREHENSIVE INCOME.—

"(1) IN GENERAL.—The computation of capital for purposes of meeting capital requirements for a covered financial institution shall include AOCI.

"(2) DEFINITIONS.—In this subsection:

"(A) AOCI.—The term 'AOCI' means—

"(i) all accumulated other comprehensive income components, except for accumulated net gains and losses on cash flow hedges related to items that are not recognized at fair value; or

"(ii) such other definition as the Federal banking agencies may establish, by rule.

"(B) COVERED FINANCIAL INSTITUTION.—

"(i) IN GENERAL.—The term 'covered financial institution' means—

"(I) a depository institution holding company (as defined in section 3 of the Federal Deposit Insurance Act) with total consolidated assets greater than $100,000,000,000;

"(II) an insured depository institution over which a bank holding company does not have control with total consolidated assets greater than $100,000,000,000; or

"(III) such other category of depository institution holding companies or insured depository institutions as may be jointly determined by the Federal banking agencies, by rule, based on an analysis of financial risk-related factors.

"(ii) EXCEPTION.—Unless the Board of Governors determines it to be necessary to ensure the safety and soundness of a covered financial institution, the term 'covered financial institution' does not include a savings and loan holding company—

"(I) that is substantially engaged in insurance underwriting or commercial activities; or

"(II) with respect to which the Small Bank Holding Company and Savings and Loan Holding Company Policy Statement of the Board of Governors applies (12 CFR 225 app. C).".

(b) TRANSITION PROVISION.—

(1) IN GENERAL.—The Federal banking agencies shall, jointly, establish a transition period for the application of the requirement under subsection (d) of section 171 of the Financial Stability Act of 2010 to a covered financial institution (including an opt out institution) that—

(A) phases in such requirement over time; and

(B) fully applies such requirement to covered financial institutions on or before July 1, 2028.

(2) DEFINITIONS.—In this subsection:

(A) COVERED FINANCIAL INSTITUTION.—The term "covered financial institution" has the meaning given that term under section 171(d) of the Financial Stability Act of 2010.

(B) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given that term under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(C) OPT OUT INSTITUTION.—The term "opt out institution" means a covered financial institution that elected to opt out of the requirement to report accumulated other comprehensive income components pursuant to the rule titled "Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements" (84 Fed. Reg. 59230; November 1, 2019).

PURPOSE AND SUMMARY

Introduced on June 20, 2023, by Representative Brad Sherman, H.R. 4206, the *Bank Safety Act of 2023*, would require bank holding companies (and banks without a holding company) with total consolidated assets over $100 billion to include certain net gain and losses ("accumulated other comprehensive income" or "AOCI") in their regulatory capital calculations. The bill would authorize the

Federal banking agencies to further define AOCI through the rulemaking process and would require the Federal banking agencies to phase-in the inclusion of AOCI, such that it is fully phased-in by July 1, 2028.

BACKGROUND AND NEED FOR LEGISLATION

AOCI is a ledger account within the equity section of a firm's balance sheet that is used to accumulate unrealized gains and unrealized losses from certain line items in the income statement. With respect to banks and bank holding companies, firms generally hold securities in either a trading book, where the securities are used for trading, or a banking book, where securities are held as a long-term investment. Within the banking book, securities may be held as available-for-sale (AFS), meaning that the bank is holding the securities as an investment, but may sell them; or as held-to-maturity (HTM), meaning that the bank intends to hold the securities to maturity. Consistent with current GAAP rules, firms are required to calculate AOCI for unrealized gains and losses (i.e., marking to market) on securities held as AFS. Under current regulations, non-advanced approach firms (i.e., banks and bank holding companies with less than $250 billion and minimal on-balance sheet foreign exposure) are allowed to "opt out" of recognizing AOCI on AFS securities when calculating their regulatory capital.

H.R. 4206 would require (i) bank holding companies with greater than $100 billion in consolidated assets, (ii) banks without holding companies with greater than $100 billion in consolidated assets, and (iii) other bank holding companies and banks in the discretion of the Federal banking agencies to recognize AOCI for purposes of calculating regulatory capital.

RELATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 4206: The Committee on Financial Services held a hearing on March 29, 2023, titled "The Federal Regulators' Response to Recent Bank Failures."

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 4116: The Subcommittee on Financial Institutions and Monetary Policy of the Committee on Financial Services held a hearing on May 10, 2023, titled "Federal Responses to Recent Bank Failures."

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 4116: The Subcommittee on Financial Institutions and Monetary Policy and Subcommittee on Oversight and Investigations of the Committee on Financial Services held a joint hearing on May 17, 2023, titled "Continued Oversight Over Regional Bank Failures."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on April 17, 2024, and ordered H.R. 4206 to be reported favorably to the House as amended by a voice vote, a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Sherman by voice vote.

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 order to report legislation and amendments thereto. H.R. 4206 was ordered reported favorably to the House as amended by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 4206 is to require bank holding companies (and banks without a holding company) with total consolidated assets over $100 billion to include certain net gain and losses ("accumulated other comprehensive income" or "AOCI") in their regulatory capital calculations.

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:

H.R. 4206, Bank Safety Act of 2023
As ordered reported by the House Committee on Financial Services on April 17, 2024

By Fiscal Year, Millions of Dollars	2025	2025-2029	2025-2034
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	0	0	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2035?	*	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2035?	*	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

* = between -$500,000 and $500,000.

H.R. 4206 would require banks and bank holding companies with more than $100 billion in assets to include specified net gains and losses when calculating the capital they need to meet risk-based capital requirements. Currently, only large institutions with more than $700 billion in assets are required to include that information in their capital calculations. H.R. 4206 would provide a three-year period for that transition to take place.

Banks and bank holding companies are regulated by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC).

In September 2023, the federal banking regulators published in the *Federal Register* a proposed rule amending bank capital rules that is very similar to the requirements in H.R. 4206.[1]

Federal costs: Costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. The operating costs for the FDIC and the OCC are classified as direct spending. The OCC collects fees from financial institutions to offset its operating costs; those fees are recorded as offsetting receipts—that is, as reductions in direct spending. Using information from the affected agencies, CBO estimates that any increases in direct spending or revenues for administrative costs would be insignificant.

CBO has estimated only the additional administrative costs of enacting H.R. 4206 and has not estimated any budgetary effects that might arise from changing the formula for calculating required capital reserves. CBO expects that enacting H.R. 4206 could change the amounts and types of capital that banks hold, which could affect systemic risk in the banking system and thus increase or decrease fees paid by those institutions to the federal government. However, given the range of factors that could have significant effects on bank capital under the new methodology, CBO cannot estimate the direction or magnitude of the effect on the federal budget of the bill's new methodology.

Mandates: H.R. 4206 would impose private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) on banks and bank holding companies. CBO estimates that the aggregate cost of the mandates would not exceed the threshold established in UMRA ($200 million in 2024, adjusted annually for inflation).

The bill would require banks and bank holding companies with consolidated assets of more than $100 billion to include certain net gains and losses in their regulatory capital calculations. Because those private entities already collect and calculate such gains and losses, the cost for them to comply with the mandate would be small.

If federal banking regulators increase annual fees to offset the costs of implementing provisions of H.R. 4206, it would increase the costs of an existing private-sector mandate on entities required to pay those fees. CBO estimates that the incremental cost of the mandate would be small.

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Julia Aman (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

[1] Comptroller of the Currency, the Federal Reserve System, and the Federal Deposit Insurance Corporation, "Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity," Notice of Proposed Rulemaking, 88 *Fed. Reg.* 64028 (September 18, 2023), https://tinyurl.com/24udslkx.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 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 1973.

FEDERAL MANDATES STATEMENT

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

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 section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 4206 as the "Bank Safety Act of 2024".

Section 2. Capital requirements relating to accumulated other comprehensive income

This section amends section 171 of the Financial Stability Act of 2010 to require that the calculation of capital for purposes of determining whether a covered financial institution has sufficient capital includes accumulated other comprehensive income (AOCI). This section defines AOCI but grants authority to the Federal banking agencies to alter the definition through rulemaking. This

section also defines covered financial institutions and grants authority to the Board of Governors of the Federal Reserve System to exclude certain savings and loan holding companies from the definition.

Further, this section establishes a transition period, requiring that the Federal banking agencies provide a phase-in period for recognizing AOCI in capital calculations that ends on or before July 1, 2028.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

FINANCIAL STABILITY ACT OF 2010

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TITLE I—FINANCIAL STABILITY

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Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

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SEC. 171. LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) GENERALLY APPLICABLE LEVERAGE CAPITAL REQUIREMENTS.—The term "generally applicable leverage capital requirements" means—

(A) the minimum ratios of tier 1 capital to average total assets, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of that capital requirement, average total assets in the denominator of that capital requirement, and the required ratio of the numerator to the denominator.

(2) GENERALLY APPLICABLE RISK-BASED CAPITAL REQUIREMENTS.—The term "generally applicable risk-based capital requirements" means—

(A) the risk-based capital requirements, as established by the appropriate Federal banking agencies to apply to insured depository institutions under the prompt corrective action regulations implementing section 38 of the Federal

Deposit Insurance Act, regardless of total consolidated asset size or foreign financial exposure; and

(B) includes the regulatory capital components in the numerator of those capital requirements, the risk-weighted assets in the denominator of those capital requirements, and the required ratio of the numerator to the denominator.

(3) DEFINITION OF DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" means a bank holding company or a savings and loan holding company (as those terms are defined in section 3 of the Federal Deposit Insurance Act) that is organized in the United States, including any bank or savings and loan holding company that is owned or controlled by a foreign organization, but does not include the foreign organization.

(4) BUSINESS OF INSURANCE.—The term "business of insurance" has the same meaning as in section 1002(3).

(5) PERSON REGULATED BY A STATE INSURANCE REGULATOR.—The term "person regulated by a State insurance regulator" has the same meaning as in section 1002(22).

(6) REGULATED FOREIGN SUBSIDIARY AND REGULATED FOREIGN AFFILIATE.—The terms "regulated foreign subsidiary" and "regulated foreign affiliate" mean a person engaged in the business of insurance in a foreign country that is regulated by a foreign insurance regulatory authority that is a member of the International Association of Insurance Supervisors or other comparable foreign insurance regulatory authority as determined by the Board of Governors following consultation with the State insurance regulators, including the lead State insurance commissioner (or similar State official) of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners, where the person, or its principal United States insurance affiliate, has its principal place of business or is domiciled, but only to the extent that—

(A) such person acts in its capacity as a regulated insurance entity; and

(B) the Board of Governors does not determine that the capital requirements in a specific foreign jurisdiction are inadequate.

(7) CAPACITY AS A REGULATED INSURANCE ENTITY.—The term "capacity as a regulated insurance entity"—

(A) includes any action or activity undertaken by a person regulated by a State insurance regulator or a regulated foreign subsidiary or regulated foreign affiliate of such person, as those actions relate to the provision of insurance, or other activities necessary to engage in the business of insurance; and

(B) does not include any action or activity, including any financial activity, that is not regulated by a State insurance regulator or a foreign agency or authority and subject to State insurance capital requirements or, in the case of a regulated foreign subsidiary or regulated foreign affil-

iate, capital requirements imposed by a foreign insurance regulatory authority.

(b) MINIMUM CAPITAL REQUIREMENTS.—

(1) MINIMUM LEVERAGE CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum leverage capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors. The minimum leverage capital requirements established under this paragraph shall not be less than the generally applicable leverage capital requirements, which shall serve as a floor for any capital requirements that the agency may require, nor quantitatively lower than the generally applicable leverage capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(2) MINIMUM RISK-BASED CAPITAL REQUIREMENTS.—The appropriate Federal banking agencies shall establish minimum risk-based capital requirements on a consolidated basis for insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors. The minimum risk-based capital requirements established under this paragraph shall not be less than the generally applicable risk-based capital requirements, which shall serve as a floor for any capital requirements that the agency may require, nor quantitatively lower than the generally applicable risk-based capital requirements that were in effect for insured depository institutions as of the date of enactment of this Act.

(3) INVESTMENTS IN FINANCIAL SUBSIDIARIES.—For purposes of this section, investments in financial subsidiaries that insured depository institutions are required to deduct from regulatory capital under section 5136A of the Revised Statutes of the United States or section 46(a)(2) of the Federal Deposit Insurance Act need not be deducted from regulatory capital by depository institution holding companies or nonbank financial companies supervised by the Board of Governors, unless such capital deduction is required by the Board of Governors or the primary financial regulatory agency in the case of nonbank financial companies supervised by the Board of Governors.

(4) EFFECTIVE DATES AND PHASE-IN PERIODS.—

(A) DEBT OR EQUITY INSTRUMENTS ON OR AFTER MAY 19, 2010.—For debt or equity instruments issued on or after May 19, 2010, by depository institution holding companies or by nonbank financial companies supervised by the Board of Governors, this section shall be deemed to have become effective as of May 19, 2010.

(B) DEBT OR EQUITY INSTRUMENTS ISSUED BEFORE MAY 19, 2010.—For debt or equity instruments issued before May 19, 2010, by depository institution holding companies or by nonbank financial companies supervised by the Board of Governors, any regulatory capital deductions required under this section shall be phased in incrementally over a period of 3 years, with the phase-in period to begin

on January 1, 2013, except as set forth in subparagraph (C).

(C) DEBT OR EQUITY INSTRUMENTS OF SMALLER INSTITUTIONS.—For debt or equity instruments issued before May 19, 2010, by depository institution holding companies with total consolidated assets of less than $15,000,000,000 as of December 31, 2009, or March 31, 2010, and by organizations that were mutual holding companies on May 19, 2010, the capital deductions that would be required for other institutions under this section are not required as a result of this section.

(D) DEPOSITORY INSTITUTION HOLDING COMPANIES NOT PREVIOUSLY SUPERVISED BY THE BOARD OF GOVERNORS.—For any depository institution holding company that was not supervised by the Board of Governors as of May 19, 2010, the requirements of this section, except as set forth in subparagraphs (A) and (B), shall be effective 5 years after the date of enactment of this Act

(E) CERTAIN BANK HOLDING COMPANY SUBSIDIARIES OF FOREIGN BANKING ORGANIZATIONS.—For bank holding company subsidiaries of foreign banking organizations that have relied on Supervision and Regulation Letter SR-01-1 issued by the Board of Governors (as in effect on May 19, 2010), the requirements of this section, except as set forth in subparagraph (A), shall be effective 5 years after the date of enactment of this Act.

(5) EXCEPTIONS.—This section shall not apply to—

(A) debt or equity instruments issued to the United States or any agency or instrumentality thereof pursuant to the Emergency Economic Stabilization Act of 2008, and prior to October 4, 2010;

(B) any Federal home loan bank; or

(C) any bank holding company or savings and loan holding company that is subject to the application of appendix C to part 225 of title 12, Code of Federal Regulations (commonly known as the "Small Bank Holding Company and Savings and Loan Holding Company Policy Statement").

(6) STUDY AND REPORT ON SMALL INSTITUTION ACCESS TO CAPITAL.—

(A) STUDY REQUIRED.—The Comptroller General of the United States, after consultation with the Federal banking agencies, shall conduct a study of access to capital by smaller insured depository institutions.

(B) SCOPE.—For purposes of this study required by subparagraph (A), the term "smaller insured depository institution" means an insured depository institution with total consolidated assets of $5,000,000,000 or less.

(C) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report summarizing the results of the study conducted under subparagraph (A), together with any recommendations for legislative or regulatory action

that would enhance the access to capital of smaller insured depository institutions, in a manner that is consistent with safe and sound banking operations.

(7) CAPITAL REQUIREMENTS TO ADDRESS ACTIVITIES THAT POSE RISKS TO THE FINANCIAL SYSTEM.—

(A) IN GENERAL.—Subject to the recommendations of the Council, in accordance with section 120, the Federal banking agencies shall develop capital requirements applicable to insured depository institutions, depository institution holding companies, and nonbank financial companies supervised by the Board of Governors that address the risks that the activities of such institutions pose, not only to the institution engaging in the activity, but to other public and private stakeholders in the event of adverse performance, disruption, or failure of the institution or the activity.

(B) CONTENT.—Such rules shall address, at a minimum, the risks arising from—

(i) significant volumes of activity in derivatives, securitized products purchased and sold, financial guarantees purchased and sold, securities borrowing and lending, and repurchase agreements and reverse repurchase agreements;

(ii) concentrations in assets for which the values presented in financial reports are based on models rather than historical cost or prices deriving from deep and liquid 2-way markets; and

(iii) concentrations in market share for any activity that would substantially disrupt financial markets if the institution is forced to unexpectedly cease the activity.

(c) CLARIFICATION.—

(1) IN GENERAL.—In establishing the minimum leverage capital requirements and minimum risk-based capital requirements on a consolidated basis for a depository institution holding company or a nonbank financial company supervised by the Board of Governors as required under paragraphs (1) and (2) of subsection (b), the appropriate Federal banking agencies shall not be required to include, for any purpose of this section (including in any determination of consolidation), a person regulated by a State insurance regulator or a regulated foreign subsidiary or a regulated foreign affiliate of such person engaged in the business of insurance, to the extent that such person acts in its capacity as a regulated insurance entity.

(2) RULE OF CONSTRUCTION ON BOARD'S AUTHORITY.—This subsection shall not be construed to prohibit, modify, limit, or otherwise supersede any other provision of Federal law that provides the Board of Governors authority to issue regulations and orders relating to capital requirements for depository institution holding companies or nonbank financial companies supervised by the Board of Governors.

(3) RULE OF CONSTRUCTION ON ACCOUNTING PRINCIPLES.—

(A) IN GENERAL.—A depository institution holding company or nonbank financial company supervised by the Board of Governors of the Federal Reserve that is also a person regulated by a State insurance regulator that is en-

gaged in the business of insurance that files financial statements with a State insurance regulator or the National Association of Insurance Commissioners utilizing only Statutory Accounting Principles in accordance with State law, shall not be required by the Board under the authority of this section or the authority of the Home Owners' Loan Act to prepare such financial statements in accordance with Generally Accepted Accounting Principles.

(B) PRESERVATION OF AUTHORITY.—Nothing in subparagraph (A) shall limit the authority of the Board under any other applicable provision of law to conduct any regulatory or supervisory activity of a depository institution holding company or non-bank financial company supervised by the Board of Governors, including the collection or reporting of any information on an entity or group-wide basis. Nothing in this paragraph shall excuse the Board from its obligations to comply with section 161(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5361(a)) and section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)), as appropriate.

(d) INCLUSION OF ELEMENTS OF ACCUMULATED OTHER COMPREHENSIVE INCOME.—

(1) IN GENERAL.—The computation of capital for purposes of meeting capital requirements for a covered financial institution shall include AOCI.

(2) DEFINITIONS.—In this subsection:

(A) AOCI.—The term "AOCI" means—

(i) all accumulated other comprehensive income components, except for accumulated net gains and losses on cash flow hedges related to items that are not recognized at fair value; or

(ii) such other definition as the Federal banking agencies may establish, by rule.

(B) COVERED FINANCIAL INSTITUTION.—

(i) IN GENERAL.—The term "covered financial institution" means—

(I) a depository institution holding company (as defined in section 3 of the Federal Deposit Insurance Act) with total consolidated assets greater than $100,000,000,000;

(II) an insured depository institution over which a bank holding company does not have control with total consolidated assets greater than $100,000,000,000; or

(III) such other category of depository institution holding companies or insured depository institutions as may be jointly determined by the Federal banking agencies, by rule, based on an analysis of financial risk-related factors.

(ii) EXCEPTION.—Unless the Board of Governors determines it to be necessary to ensure the safety and soundness of a covered financial institution, the term "covered financial institution" does not include a savings and loan holding company—

(I) that is substantially engaged in insurance underwriting or commercial activities; or

(II) with respect to which the Small Bank Holding Company and Savings and Loan Holding Company Policy Statement of the Board of Governors applies (12 CFR 225 app. C).

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