

COMMUNITY BANK DEPOSIT ACCESS ACT OF 2025

NOVEMBER 4, 2025.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HILL of Arkansas, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 5317]

The Committee on Financial Services, to whom was referred the bill (H.R. 5317) to amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of well capitalized insured depository institutions are not considered to be funds obtained by or through deposit brokers, 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 “Community Bank Deposit Access Act of 2025”.

SEC. 2. LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.

(a) **IN GENERAL.**—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

“(j) **LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.**—

“(1) **IN GENERAL.**—Custodial deposits of an eligible institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such custodial deposits does not exceed an amount equal to 20 percent of the total liabilities of the eligible institution.

“(2) **DEFINITIONS.**—In this subsection:

“(A) **CUSTODIAL DEPOSIT.**—The term ‘custodial deposit’ means a deposit that is not deposited at an insured depository institution in return for fees paid by the insured depository institution pursuant to an agreement with a third party and that would otherwise be considered to be obtained, directly or indirectly, by or through a deposit broker, if the deposit is deposited at 1 or more insured depository institutions, for the purpose of providing or maintaining deposit insurance for the benefit of a third party, by or through any of the following, each acting in a formal custodial or fiduciary capacity for the benefit of a third party:

“(i) An insured depository institution serving as agent, trustee, or custodian.

“(ii) A trust entity controlled by an insured depository institution serving as agent, trustee, or custodian.

“(iii) A State-chartered trust company serving as agent, trustee, or custodian.

“(iv) A plan administrator or investment advisor, acting in a formal custodial or fiduciary capacity for the benefit of a plan.

“(B) **ELIGIBLE INSTITUTION.**—The term ‘eligible institution’ means an insured depository institution that accepts custodial deposits, if the insured depository institution has less than \$10,000,000,000 in total assets as reported on the consolidated report of condition and income as reported quarterly to the appropriate Federal banking agency and—

“(i)(I) when most recently examined under section 10(d) was assigned a composite rating of 1, 2, or 3 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system); and

“(II) is well capitalized; or

“(ii) has obtained a waiver pursuant to subsection (c).

“(C) **PLAN.**—The term ‘plan’ has the meaning given the term in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

“(D) **PLAN ADMINISTRATOR.**—The term ‘plan administrator’ has the meaning given the term ‘administrator’ in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

“(E) **WELL CAPITALIZED.**—The term ‘well capitalized’ has the meaning given the term in section 38(b).”.

(b) **INTEREST RATE RESTRICTION.**—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f), as amended by subsection (a), is further amended by adding at the end the following:

“(k) **RESTRICTION ON INTEREST RATE PAID ON CERTAIN CUSTODIAL DEPOSITS.**—

“(1) **DEFINITIONS.**—In this subsection—

“(A) the terms ‘custodial deposit’, ‘eligible institution’, and ‘well capitalized’ have the meanings given those terms in subsection (j); and

“(B) the term ‘covered insured depository institution’ means an insured depository institution that while acting as an eligible institution under subsection (j), accepts custodial deposits while not well capitalized.

“(2) **PROHIBITION.**—A covered insured depository institution may not pay a rate of interest on custodial deposits that are accepted while not well capitalized that, at the time the funds or custodial deposits are accepted, significantly exceeds the limit set forth in paragraph (3).

“(3) **LIMIT ON INTEREST RATES.**—The limit on the rate of interest referred to in paragraph (2) shall be not greater than—

“(A) the rate paid on deposits of similar maturity in the normal market area of the covered insured depository institution for deposits accepted in the normal market area of the covered insured depository institution; or

“(B) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the normal market area of the covered insured depository institution.”.

PURPOSE AND SUMMARY

H.R. 5317, the *Community Bank Deposit Access Act of 2025*, was introduced on September 11, 2025, by Republican Representative French Hill (AR-02). This bill would amend the *Federal Deposit Insurance Act* to establish that custodial deposits of an insured depository institution are not considered to be brokered deposits as long as the total amount does not exceed 20 percent of an institution's total liabilities. This applies to well-capitalized institutions with less than \$10 billion in assets that were assigned a composite rating of 1, 2, or 3 under the Uniform Financial Institutions Rating System, or have obtained a waiver.

BACKGROUND AND NEED FOR LEGISLATION

Custodial deposit accounts are deposit accounts opened by a third party at a bank on behalf of others who may own the funds but typically do not have a direct relationship with the bank. Custodial deposit accounts are popular among various businesses, including mortgage servicers, securities broker-dealers, and attorneys, among others. Recently, custodial deposit accounts have become popular with financial technology companies. Such an arrangement presents several benefits for both banks and third parties. For banks, custodial deposits provide access to new, low-cost sources of additional funding. For third parties, they offer the convenience of maintaining a single account with a bank—rather than opening hundreds or even thousands of individual accounts for each customer—along with the added advantage of deposit insurance. The FDIC has long recognized that deposit insurance can apply on a pass-through basis—meaning that even if a custodial deposit account holds more than \$250,000, the funds will still be insured, as the actual beneficiaries each hold less than \$250,000 and their funds are simply pooled within the custodial account.

This bill applies only to well-capitalized and well-managed institutions with less than \$10 billion in assets, allowing small community banks to increase access to diverse sources of funding.

COMMITTEE CONSIDERATION

119TH CONGRESS

On September 11, 2025, Representative Hill introduced H.R. 5317, the *Community Bank Deposit Access Act of 2025*. The bill was referred solely to the Committee on Financial Services.

The bill was attached to the September 9, 2025, hearing titled “Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience.”

On September 16, 2025, the Committee on Financial Services met in open session to consider, among others, H.R. 5317. The Committee ordered H.R. 5317, as amended, to be favorably reported to the House of Representatives.

116TH CONGRESS

On September 18, 2019, Democratic Representative Charlie Crist (FL-13) introduced H.R. 4384, the *Community Bank Deposit Access Act of 2019*, with Representative Hill as an original cosponsor. The bill was referred solely to the Committee on Financial Services.

RELATED HEARINGS

Pursuant to clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearing was used to develop H.R. 5317:

The Subcommittee on Financial Institutions held a September 9, 2025, hearing titled “Promoting the Health of the Banking Sector: Reforming Resolution and Broadening Funding Access for Long-Term Resilience.” A draft version of the bill was attached to the hearing. The subcommittee heard testimony from the following witnesses: Mr. Dory Wiley, President and CEO, Commerce Street Holdings; Mr. James B. Barresi, Partner, Squire Patton Boggs; Mr. Hugh Carney, Executive Vice President of Financial Institution Policy and Regulatory Affairs, American Bankers Association; Dr. Norbert Michel, Vice President and Director, Cato Institute Center for Monetary and Financial Alternatives; and Mr. Robert James, President and CEO, Carver Financial Corporation, on behalf of the National Bankers Association.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include record votes on the motion to report legislation and amendments thereto.

On September 16, 2025, the Committee ordered H.R. 5317, as amended, to be reported favorably to the House by a recorded vote of 48 yeas and 2 nays, a quorum being present. (Record Vote No. FC-197).

The Committee considered the following amendments to H.R. 5317:

- Representative Hill offered an amendment in the nature of a substitute, designated HILLAR 047, which made minor edits and technical changes. This amendment was adopted by a voice vote.
- Representative Hill offered an amendment (No. 1), designated HILLAR 050. This amendment would clarify conditions for an eligible institution to include those that were assigned a composite rating of 1, 2, or 3 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable rating system. This amendment was adopted by a voice vote.

Committee on Financial Services

Markup 8

Bill: H.R. 5317

September 16, 2025

Measure: H.R. 5317 (as amended)

Amdt/Designated:

Motion: to report favorably

Record Vote No.

FC-197

Disposition:

AGREED TO (48-2)

Member	Yea	Nay	Not Recorded	Member	Yea	Nay	Not Recorded
Chairman Hill	X			Ranking Member Waters	X		
Mr. Lucas	X			Ms. Velázquez	X		
Mr. Sessions	X			Mr. Sherman	X		
Mr. Huizenga	X			Mr. Meeks	X		
Mrs. Wagner	X			Mr. Scott	X		
Mr. Barr	X			Mr. Lynch	X		
Mr. Williams (TX)	X			Mr. Green (TX)	X		
Mr. Emmer	X			Mr. Cleaver	X		
Mr. Loudermilk	X			Mr. Himes	X		
Mr. Davidson	X			Mr. Foster	X		
Mr. Rose	X			Mrs. Beatty	X		
Mr. Steil	X			Mr. Vargas	X		
Mr. Timmons	X			Mr. Gottheimer	X		
Mr. Stutzman	X			Mr. Gonzalez	X		
Mr. Norman			X	Mr. Casten	X		
Mr. Meuser	X			Ms. Pressley		X	
Mrs. Kim	X			Ms. Tlaib		X	
Mr. Donalds			X	Mr. Torres (NY)	X		
Mr. Garbarino	X			Ms. Garcia (TX)	X		
Mr. Fitzgerald	X			Ms. Williams of GA	X		
Mr. Flood	X			Ms. Pettersen	X		
Mr. Lawler	X			Mr. Fields	X		
Ms. De La Cruz	X			Ms. Bynum	X		
Mr. Ogles			X	Mr. Liccardo	X		
Mr. Nunn	X						
Mrs. McClain	X						
Ms. Salazar			X				
Mr. Downing	X						
Mr. Haridopolos	X						
Mr. Moore (NC)	X						
26 0 4				22 2 0			

Committee Totals:

48	2	4
Yeas	Nays	Not Voting

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) 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. 5317 is to expand access to diverse sources of funding for small financial institutions that are well-managed and well-capitalized.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 5317. The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee will adopt as its own the cost estimate by the Director of the Congressional Budget Office once it has been prepared.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee will adopt as its own the cost estimate for the bill prepared by the Director of the Congressional Budget Office. However, a cost estimate was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

UNFUNDED MANDATES STATEMENT

The Committee has requested but not received from the Director of the Congressional Budget Office an estimate of the Federal mandates pursuant to section 423 of the *Unfunded Mandates Reform Act*. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

EARMARK STATEMENT

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

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

APPLICABILITY TO THE 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*.

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

Section 1 provides the short title is the “Community Bank Deposit Access Act”.

Section 2. Limited exception for custodial deposits

Section 2 provides a limited exception for custodial deposits of an eligible institution to not be considered funds obtained by or through a deposit broker if the total amount of such custodial deposits does not exceed 20 percent of the liabilities of the institution. This section defines the term “custodial deposit” as a deposit that is not deposited at an eligible institution in return for fees in an arrangement with a third party, that would otherwise be considered to be obtained by a deposit broker, if the deposit is deposited at one or more institutions. This section defines the term “eligible institution” as an insured depository institution with less than \$10 billion in assets that has received a composite rating of outstanding or good when most recently examined, is well capitalized, or has obtained a waiver.

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):

FEDERAL DEPOSIT INSURANCE ACT

* * * * *

SEC. 29. BROKERED DEPOSITS.

(a) IN GENERAL.—An insured depository institution that is not well capitalized may not accept funds obtained, directly or indi-

rectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

(b) RENEWALS AND ROLLOVERS TREATED AS ACCEPTANCE OF FUNDS.—Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

(c) WAIVER AUTHORITY.—The Corporation may, on a case-by-case basis and upon application by an insured depository institution which is adequately capitalized (but not well capitalized), waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

(d) LIMITED EXCEPTION FOR CERTAIN CONSERVATORSHIPS.—In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

(1) is not an unsafe or unsound practice;

(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.

(e) RESTRICTION ON INTEREST RATE PAID.—

(1) DEFINITIONS.—In this subsection—

(A) the terms “agent institution”, “reciprocal deposits”, and “well capitalized” have the meanings given those terms in subsection (i); and

(B) the term “covered insured depository institution” means an insured depository institution that—

(i) under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker; or

(ii) while acting as an agent institution under subsection (i), accepts reciprocal deposits while not well capitalized.

(2) PROHIBITION.—A covered insured depository institution may not pay a rate of interest on funds or reciprocal deposits described in paragraph (1) that, at the time that the funds or reciprocal deposits are accepted, significantly exceeds the limit set forth in paragraph (3).

(3) LIMIT ON INTEREST RATES.—The limit on the rate of interest referred to in paragraph (2) shall be—

(A) the rate paid on deposits of similar maturity in the normal market area of the covered insured depository institution for deposits accepted in the normal market area of the covered insured depository institution; or

(B) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the normal market area of the covered insured depository institution.

(f) **ADDITIONAL RESTRICTIONS.**—The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any institution as the Corporation may determine to be appropriate.

(g) **DEFINITIONS RELATING TO DEPOSIT BROKER.**—

(1) **DEPOSIT BROKER.**—The term “deposit broker” means—

(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

(2) **EXCLUSIONS.**—The term “deposit broker” does not include—

(A) an insured depository institution, with respect to funds placed with that depository institution;

(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

(F) the trustee of a testamentary account;

(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

(3) **INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.**—Notwithstanding paragraph (2), the term “deposit broker” includes any insured depository institution that is not well capitalized (as defined in section 38), and any employee of such institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution’s normal market area.

(4) **EMPLOYEE.**—For purposes of this subsection, the term “employee” means any employee—

- (A) who is employed exclusively by the insured depository institution;
 - (B) whose compensation is primarily in the form of a salary;
 - (C) who does not share such employee's compensation with a deposit broker; and
 - (D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.
- (h) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—
- (1) in such institution's normal market areas; or
 - (2) in the market area in which such deposits would otherwise be accepted.
- (i) LIMITED EXCEPTION FOR RECIPROCAL DEPOSITS.—
- (1) IN GENERAL.—Reciprocal deposits of an agent institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such reciprocal deposits does not exceed the lesser of—
 - (A) \$5,000,000,000; or
 - (B) an amount equal to 20 percent of the total liabilities of the agent institution.
 - (2) DEFINITIONS.—In this subsection:
 - (A) AGENT INSTITUTION.—The term “agent institution” means an insured depository institution that places a covered deposit through a deposit placement network at other insured depository institutions in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the insured depository institution—
 - (i)(I) when most recently examined under section 10(d) was found to have a composite condition of outstanding or good; and
 - (II) is well capitalized;
 - (ii) has obtained a waiver pursuant to subsection (c);
 or
 - (iii) does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the 4 calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.
 - (B) COVERED DEPOSIT.—The term “covered deposit” means a deposit that—
 - (i) is submitted for placement through a deposit placement network by an agent institution; and
 - (ii) does not consist of funds that were obtained for the agent institution, directly or indirectly, by or

through a deposit broker before submission for placement through a deposit placement network.

(C) DEPOSIT PLACEMENT NETWORK.—The term “deposit placement network” means a network in which an insured depository institution participates, together with other insured depository institutions, for the processing and receipt of reciprocal deposits.

(D) NETWORK MEMBER BANK.—The term “network member bank” means an insured depository institution that is a member of a deposit placement network.

(E) RECIPROCAL DEPOSITS.—The term “reciprocal deposits” means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

(F) WELL CAPITALIZED.—The term “well capitalized” has the meaning given the term in section 38(b)(1).

(j) *LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.*—

(1) *IN GENERAL.*—*Custodial deposits of an eligible institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such custodial deposits does not exceed an amount equal to 20 percent of the total liabilities of the eligible institution.*

(2) *DEFINITIONS.*—*In this subsection:*

(A) *CUSTODIAL DEPOSIT.*—*The term “custodial deposit” means a deposit that is not deposited at an insured depository institution in return for fees paid by the insured depository institution pursuant to an agreement with a third party and that would otherwise be considered to be obtained, directly or indirectly, by or through a deposit broker, if the deposit is deposited at 1 or more insured depository institutions, for the purpose of providing or maintaining deposit insurance for the benefit of a third party, by or through any of the following, each acting in a formal custodial or fiduciary capacity for the benefit of a third party:*

(i) *An insured depository institution serving as agent, trustee, or custodian.*

(ii) *A trust entity controlled by an insured depository institution serving as agent, trustee, or custodian.*

(iii) *A State-chartered trust company serving as agent, trustee, or custodian.*

(iv) *A plan administrator or investment advisor, acting in a formal custodial or fiduciary capacity for the benefit of a plan.*

(B) *ELIGIBLE INSTITUTION.*—*The term “eligible institution” means an insured depository institution that accepts custodial deposits, if the insured depository institution has less than \$10,000,000,000 in total assets as reported on the consolidated report of condition and income as reported quarterly to the appropriate Federal banking agency and—*

(i) *when most recently examined under section 10(d) was assigned a composite rating of 1, 2, or 3*

under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system); and

(II) is well capitalized; or

(ii) has obtained a waiver pursuant to subsection (c).

(C) PLAN.—The term “plan” has the meaning given the term in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(D) PLAN ADMINISTRATOR.—The term “plan administrator” has the meaning given the term “administrator” in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(E) WELL CAPITALIZED.—The term “well capitalized” has the meaning given the term in section 38(b).

(k) RESTRICTION ON INTEREST RATE PAID ON CERTAIN CUSTODIAL DEPOSITS.—

(1) DEFINITIONS.—In this subsection—

(A) the terms “custodial deposit”, “eligible institution”, and “well capitalized” have the meanings given those terms in subsection (j); and

(B) the term “covered insured depository institution” means an insured depository institution that while acting as an eligible institution under subsection (j), accepts custodial deposits while not well capitalized.

(2) PROHIBITION.—A covered insured depository institution may not pay a rate of interest on custodial deposits that are accepted while not well capitalized that, at the time the funds or custodial deposits are accepted, significantly exceeds the limit set forth in paragraph (3).

(3) LIMIT ON INTEREST RATES.—The limit on the rate of interest referred to in paragraph (2) shall be not greater than—

(A) the rate paid on deposits of similar maturity in the normal market area of the covered insured depository institution for deposits accepted in the normal market area of the covered insured depository institution; or

(B) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the normal market area of the covered insured depository institution.

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