

111TH CONGRESS
1ST SESSION

H. R. 2660

To amend the Federal Deposit Insurance Act to require the appropriate Federal banking agencies to prescribe capital standards for certain special purpose entities.

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2009

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

A BILL

To amend the Federal Deposit Insurance Act to require the appropriate Federal banking agencies to prescribe capital standards for certain special purpose entities.

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 “Regulatory Capital En-
5 hancement Act of 2009”.

6 **SEC. 2. REGULATION OF SPECIAL PURPOSE ENTITIES.**

7 The Federal Deposit Insurance Act (12 U.S.C. 1811
8 et seq.) is amended by inserting after section 38 the fol-
9 lowing new section:

1 **“SEC. 38A CAPITAL STANDARDS FOR CERTAIN SPECIAL**
2 **PURPOSE ENTITIES.**

3 “(a) IN GENERAL.—Each appropriate Federal bank-
4 ing agency shall prescribe capital standards, including a
5 leverage limit and a risk-based capital requirement, for
6 special purpose entities, or similar types of vehicles or en-
7 tities, that are sponsored by insured depository institu-
8 tions regulated by such agency. Such capital standards
9 shall conform, to the extent practicable, with the capital
10 standards prescribed for such institution under section
11 38(c).

12 “(b) ADDITIONAL MEASURES.—An appropriate Fed-
13 eral banking agency may, by regulation, establish any ad-
14 ditional relevant capital measures for special purpose enti-
15 ties, or similar types of vehicles or entities, that are spon-
16 sored by insured depository institutions that such agency
17 determines necessary to guard against the risk that such
18 special purpose entities, or similar types of vehicles or en-
19 tities, become undercapitalized.

20 “(c) DETERMINATION OF SPONSORSHIP.—For pur-
21 poses of subsection (a), a special purpose entity, or similar
22 type of vehicle or entity, is sponsored by an insured deposi-
23 tory institution if the finances of the special purpose enti-
24 ty, or similar type of vehicle or entity, and the insured
25 depository institution are intertwined such that the failure
26 of the special purpose entity, or similar type of vehicle or

1 entity, would have a significant impact on the insured de-
2 pository institution.

3 “(d) SPECIAL PURPOSE ENTITY DEFINED.—The ap-
4 propriate Federal banking agencies shall jointly define the
5 term ‘special purpose entity’ for purposes of this section.
6 In defining such term, the appropriate Federal banking
7 agencies shall focus on trusts and other legal entities es-
8 tablished by or for an insured depository institution to ful-
9 fill narrow, specific, or temporary objectives, including—
10 “(1) the holding of financial assets transferred
11 during a securitization process;
12 “(2) issuing applicable securities representing
13 claims on such assets;
14 “(3) receiving and reinvesting cash flows from
15 such assets; and
16 “(4) distributing proceeds to holders of the se-
17 curities.”.

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