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112TH CONGRESS
2D SESSION

H. R. 6037

To include focusing on credit availability in the mission of each Federal banking regulator, to provide insured depository institutions with certain amortization authority and authority to include allowances for loan and lease losses when calculating the institution's capital, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2012

Mr. COFFMAN of Colorado (for himself and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To include focusing on credit availability in the mission of each Federal banking regulator, to provide insured depository institutions with certain amortization authority and authority to include allowances for loan and lease losses when calculating the institution's capital, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Lending for Jobs Act of 2012".

SEC. 2. FOCUS ON CREDIT AVAILABILITY.

(a) MISSION MODIFICATION.—

(1) IN GENERAL.—In addition to the missions of the Federal banking agencies included in other law, the Federal banking agencies shall include focusing on—

(A) generally fostering and facilitating credit availability to customers of insured depository institutions, so long as that credit is provided in a safe and sound manner; and

(B) generally assisting insured depository institutions to provide such credit responsibly, so as to encourage business development and employment, by utilizing regulatory policies and procedures that promote credit availability in a safe and sound manner.

(2) PROHIBITION.—In carrying out the elements of their missions added by paragraph (1), the Federal banking agencies may not require or pressure insured depository institutions, directly or indirectly, to provide particular kinds of credit or on particular terms.

(3) IMPLEMENTATION PLAN.—Not later than the end of the 120-day period beginning on the date of the enactment of this Act, each Federal banking

agency shall issue a report to the Congress containing an implementation plan that addresses—

(A) how the agency will modify specific rules, regulations, interpretative opinions, and other policies of the agency to address the modification of the agency's mission under paragraph (1);

(B) how and when those modifications will be put into effect, but in no case later than the end of the 180-day period beginning on the date of the enactment of this Act; and

(C) how examiners, other agency personnel who have direct contact with insured depository institutions, and the supervisors of those agency personnel are to be trained and evaluated on their individual performance on implementation of the modified mission.

(4) REPORTS.—Not later than the end of the 360-day period beginning on the date of the enactment of this Act, and annually thereafter, each Federal banking agency shall issue a report to the Congress on—

(A) a current assessment of the degree to which the agency's policies foster and facilitate the availability of credit to customers of insured depository institutions in a safe and sound manner;

(B) the agency's progress on implementing the modified mission;

(C) results of ongoing evaluation methods to assess how the agency and its individual examiners, other employees who have direct contact with insured depository institutions, and supervisors of those personnel have performed in implementing the modified mission; and

(D) corrective measures the agency will take to address deficiencies in accomplishing the requirements described under subparagraphs (A) through (C).

(b) CREDIT AVAILABILITY COUNCIL.—There is hereby established the Credit Availability Council, which shall—

(1) consist of the head of each Federal banking agency, or a designee; and

(2) coordinate the efforts of the Federal banking agencies in—

(A) fostering and facilitating credit availability to customers of insured depository institutions, so long as that credit is provided in a safe and sound manner; and

(B) assisting insured depository institutions to provide such credit responsibly, so as to encourage business development and employment.

(c) DEFINITIONS.—For purposes of this section:

(1) FEDERAL BANKING AGENCY.—The term "Federal banking agency" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Bureau of Consumer Financial Protection;

(C) the Federal Deposit Insurance Corporation;

(D) the Office of the Comptroller of the Currency; and

(E) the National Credit Union Administration.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" means—

(A) an insured depository institution, as such term is defined under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

(B) an insured credit union, as such term is defined under section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

SEC. 3. COMMERCIAL REAL ESTATE LOAN LOSS AMORTIZATION.

(a) IN GENERAL.—For purposes of capital calculation under the Financial Institutions Examination Council's Consolidated Reports of Condition and Income, an insured depository institution with assets of less than $10,000,000,000 may choose to amortize any loss or write-down, on a quarterly straight-line basis over the 7-year period beginning with the month in which such loss or write-down occurs, incurred with respect to—

(1) a loan secured by commercial real estate; or

(2) other real estate owned.

(b) EFFECTIVE DATE.—The provisions of this section shall apply to capital calculations described under subsection (a) occurring after the date of the enactment of this Act for losses and write-downs that occurred—

(1) on or after January 1, 2007; and

(2) before the end of the 2-year period beginning on the date of the enactment of this Act.

(c) DISCLOSURE ON CONSOLIDATED REPORTS OF CONDITION AND INCOME.—With respect to an insured depository institution choosing to make use of the amortization provided for under subsection (a), such institution shall, on the Financial Institutions Examination Council's Consolidated Reports of Condition and Income, disclose the difference between the amount of the institution's capital when calculated using such amortization and when calculated without using such amortization.

(d) REPORTING ON PRIOR LOSSES AND WRITE-DOWNS.—An insured depository institution that chooses to make use of the amortization provided for under subsection (a) with respect to losses and write-downs occurring prior to the date of the enactment of this Act shall do so by making a one-time adjustment to the institution's Consolidated Reports of Condition and Income.

(e) DEFINITIONS.—For purposes of this section:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' shall have the meaning given such term under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

(2) OTHER REAL ESTATE OWNED.—The term ''other real estate owned'' shall have the meaning given such term under section 34.81 of title 12, Code of Federal Regulations.

SEC. 4. INCLUSION OF LOAN LOSS RESERVES IN COMPUTATION OF CAPITAL RESERVES.

(a) IN GENERAL.—The appropriate Federal banking agencies shall issue regulations to permit an insured depository institution to include all of such institution's allowance for loan and lease losses when computing such institution's capital for purposes of satisfying risk-based capital requirements.

(b) EXCEPTION FOR LOSS CLASSIFICATION.—Notwithstanding subsection (a), this section shall not apply to allowances for loans or lease losses where such loan or lease is classified as a "loss".

(c) RULEMAKING.—The appropriate Federal banking agencies shall issue regulations required under this section no later than the end of the 120-day period beginning on the date of the enactment of this Act.

(d) REPORT TO THE CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, each appropriate Federal banking agency shall issue a report to the Congress on—

(1) the implementation of the provisions of this section;

(2) the impact of the provisions of this section on the availability of lending; and

(3) the impact of the provisions of this section on the safety and soundness of insured depository institutions.

(e) DEFINITIONS.—For purposes of this section:

(1) ALLOWANCE FOR LOAN AND LEASE LOSSES.—

(A) IN GENERAL.—The term "allowance for loan and lease losses" means those general valuation allowances that have been established through charges against earnings to absorb losses on loans and lease financing receivables.

(B) EXCLUSION.—The term "allowance for loan and lease losses" does not include allocated transfer risk reserves established pursuant to section 905 of the International Lending Supervision Act of 1983 (12 U.S.C. 3904) and specific reserves created against identified losses.

(2) APPROPRIATE FEDERAL BANKING AGENCIES.—The term "appropriate Federal banking agencies" shall have the meaning given such term under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" shall have the meaning given such term under section 3(c)(2) of

the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

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