

113TH CONGRESS
1ST SESSION

H. R. 2140

To permit insurance companies that are depository holding companies, or are subsidiaries of depository holding companies, to comply with the accounting and capital requirements applicable to the insurance company under State law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2013

Mr. GARY G. MILLER of California (for himself and Mrs. McCARTHY of New York) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To permit insurance companies that are depository holding companies, or are subsidiaries of depository holding companies, to comply with the accounting and capital requirements applicable to the insurance company under State law, and for other purposes.

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 “Insurance Capital and
5 Accounting Standards Act of 2013”.

1 **SEC. 2. LEVERAGE AND RISK-BASED CAPITAL REQUIRE-**
2 **MENTS.**

3 Subsection (b) of section 171 of the Dodd-Frank Wall
4 Street Reform and Consumer Protection Act (12 U.S.C.
5 5371(b)) is amended—

6 (1) by redesignating paragraphs (3), (4), (5),
7 (6), and (7) as paragraphs (4), (5), (6), (7), and
8 (8), respectively; and

9 (2) by inserting after paragraph (2) the fol-
10 lowing new paragraph:

11 “(3) INSURANCE COMPANIES.—

12 “(A) IN GENERAL.—The minimum lever-
13 age capital requirements and the minimum
14 risk-based capital requirements established
15 under paragraphs (1) and (2) shall, for deposi-
16 tory institution holding companies and nonbank
17 financial companies supervised by the Board of
18 Governors that is an insurance company, or
19 that has one or more subsidiaries that are in-
20 surance companies—

21 “(i) with respect to the insurance
22 company, adhere to the regulatory account-
23 ing practices and procedures applicable to,
24 and the capital structure of, such compa-
25 nies; and

1 “(ii) with respect to the insurance
2 company, utilize the governing State law
3 capital requirements for insurance compa-
4 nies.

5 “(B) COMPLIANCE WITH CAPITAL RE-
6 QUIREMENTS UNDER STATE LAW.—

7 “(i) PRESUMPTION.—Any insurance
8 company, insurance affiliate, or insurance
9 subsidiary in compliance with applicable
10 risk-based capital standards established
11 under State law shall be presumed to sat-
12 isfy any minimum capital requirements of
13 this section.

14 “(ii) DETERMINATION OF BOARD
15 WITH RESPECT TO PRESUMPTION.—The
16 Board of Governors may, on a case-by-case
17 basis on the record, determine that the
18 presumption in clause (i) should not apply,
19 provided that the Board first establishes
20 through rulemaking the general procedures
21 and standards to be utilized for such pro-
22 ceedings.

23 “(iii) EFFECT OF DETERMINATION.—
24 Where the Board of Governors makes a de-
25 termination under clause (ii) that the pre-

1 sumption should not apply to a company,
2 the requirements of subparagraphs (A),
3 (C), and (D) remain applicable in estab-
4 lishing capital rules for such company.

5 “(C) ANALYSIS OF LEVERAGE AND RISK
6 BASED CAPITAL REQUIREMENTS.—No require-
7 ments under paragraph (1) and (2) for a com-
8 pany described under subparagraph (A) shall
9 apply unless the Board—

10 “(i) carries out a cost-benefit analysis
11 of the application of those requirements
12 specific to a company described under sub-
13 paragraph (A), including soliciting and re-
14 viewing public comment of the analysis
15 prior to any final rulemaking, and the
16 Board of Governors determines that the
17 benefits of applying the requirements out-
18 weigh the cost; and

19 “(ii) carries out a quantitative impact
20 study of the application of those require-
21 ments specific to a company described
22 under subparagraph (A), including solie-
23 iting and reviewing public comment of the
24 study prior to any final rulemaking, and
25 only apply the requirements if the Board

1 of Governors determines that the study
2 shows the requirements are appropriate.

3 “(D) RULEMAKING REQUIREMENTS.—Any
4 rulemaking implementing paragraphs (1) and
5 (2) shall separately incorporate and reflect the
6 requirements provided for under subparagraphs
7 (A), (B), and (C).”.

8 **SEC. 3. ACCOUNTING STANDARDS APPLICABLE TO INSUR-**
9 **ANCE COMPANIES.**

10 Section 115 of the Dodd-Frank Wall Street Reform
11 and Consumer Protection Act (12 U.S.C. 5325) is amend-
12 ed by adding at the end the following:

13 “(h) ACCOUNTING STANDARDS APPLICABLE TO IN-
14 SURANCE COMPANIES.—With respect to a nonbank finan-
15 cial company supervised by the Board of Governors that
16 is an insurance company, the Board of Governors may not
17 require the insurance company to comply with accounting
18 standards, including generally accepted accounting prin-
19 ciples, that are different than those regulatory accounting
20 standards applicable to the insurance company under ap-
21 plicable State law.”.

1 **SEC. 4. SOLVENCY, CAPITAL, AND ACCOUNTING REQUIRE-**
 2 **MENTS FOR INSURANCE-BASED SAVINGS AND**
 3 **LOAN HOLDING COMPANIES.**

4 Section 10(g) of the Home Owners' Loan Act (12
 5 U.S.C. 1467a(g)) is amended by adding at the end the
 6 following:

7 “(6) SOLVENCY, CAPITAL, AND ACCOUNTING
 8 REQUIREMENTS FOR INSURANCE-BASED SAVINGS
 9 AND LOAN HOLDING COMPANIES.—

10 “(A) IN GENERAL.—Notwithstanding any
 11 other provision of this section, in establishing
 12 capital standards required for a savings and
 13 loan holding company that is an insurance com-
 14 pany or that has one or more subsidiaries that
 15 are insurance companies, the Board shall—

16 “(i) with respect to the insurance
 17 company, adhere to the regulatory account-
 18 ing practices and procedures applicable to,
 19 and the capital structure of, such com-
 20 pany;

21 “(ii) with respect to the insurance
 22 company, utilize the governing State law
 23 capital requirements for insurers; and

24 “(iii) not require any insurance com-
 25 pany to comply with accounting standards,
 26 including generally accepted accounting

1 principles, that are different than those ac-
2 counting standards the company is re-
3 quired to comply with by the company's
4 State regulator.

5 “(B) COMPLIANCE WITH CAPITAL RE-
6 QUIREMENTS UNDER STATE LAW.—

7 “(i) PRESUMPTION.—Any insurance
8 company, insurance affiliate, or insurance
9 subsidiary in compliance with applicable
10 risk-based capital standards established
11 under State law shall be presumed to sat-
12 isfy any capital requirements of this Act.

13 “(ii) DETERMINATION OF BOARD
14 WITH RESPECT TO PRESUMPTION.—The
15 Board may, on a case-by-case basis on the
16 record, determine that the presumption in
17 clause (i) should not apply, provided that
18 the Board first establishes through rule-
19 making the general procedures and stand-
20 ards to be utilized for such proceedings.

21 “(iii) EFFECT OF DETERMINATION.—
22 Where the Board makes a determination
23 under clause (ii) that the presumption
24 should not apply to a company, the re-
25 quirements of subparagraphs (A), (C), and

1 (D) remain applicable in establishing cap-
2 ital rules for such company.

3 “(C) ANALYSIS OF CAPITAL REQUIRE-
4 MENTS.—No capital requirements under this
5 Act for a company described under subpara-
6 graph (A) shall apply unless the Board—

7 “(i) carries out a cost-benefit analysis
8 of the application of those requirements
9 specific to a company described under sub-
10 paragraph (A), including soliciting and re-
11 viewing public comment of the analysis
12 prior to any final rulemaking, and the
13 Board determines that the benefits of ap-
14 plying the requirements outweigh the cost;
15 and

16 “(ii) carries out a quantitative impact
17 study of the application of those require-
18 ments specific to a company described
19 under subparagraph (A), including solici-
20 ting and reviewing public comment of the
21 study prior to any final rulemaking, and
22 only apply the requirements if the Board
23 determines that the study shows the re-
24 quirements are appropriate.

1 “(D) RULEMAKING REQUIREMENTS.—Any
 2 rulemaking setting capital rules for companies
 3 described in subparagraph (A) shall separately
 4 incorporate and reflect the requirements pro-
 5 vided for under subparagraphs (A), (B), and
 6 (C).”.

7 **SEC. 5. SOURCE OF STRENGTH.**

8 Section 38A of the Federal Deposit Insurance Act
 9 (12 U.S.C. 1831o–1) is amended—

- 10 (1) by redesignating subsections (c), (d), and
 11 (e) as subsections (d), (e), and (f), respectively; and
 12 (2) by inserting after subsection (b) the fol-
 13 lowing:

14 “(c) INSURANCE REGULATOR CONSENT.—In cases
 15 involving a depository institution holding company that is
 16 an insurance company or that has one or more subsidi-
 17 aries that are insurance companies, before the appropriate
 18 Federal banking agency may require such insurance com-
 19 pany to be used directly or indirectly as a source of finan-
 20 cial strength pursuant to subsection (a) or (b), the appro-
 21 priate Federal banking agency shall obtain—

22 “(1) the consent of the insurance commissioner
 23 (or similar official charged with the principal respon-
 24 sibility of supervising the business of insurance with-
 25 in each State, territory, or insular possession of the

1 United States) of the insurance company's domi-
2 ciliary State; and

3 “(2) a certification from such commissioner
4 that the commissioner considered the safety and
5 soundness of the insurance company or subsidiary
6 insurance company prior to providing such con-
7 sent.”.

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