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113TH CONGRESS
1ST SESSION

H. R. 613

To establish a market-based trigger to determine the capital adequacy of bank holding companies and decrease systemic risk, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2013

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

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A BILL

To establish a market-based trigger to determine the capital adequacy of bank holding companies and decrease systemic risk, 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 "Systemic Risk Mitigation Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) AVERAGE DAILY CLOSING PRICE.—

(A) IN GENERAL.—The term "average daily closing price" means the average daily closing price of a credit default swap on long-term subordinated debt of a bank holding company during a 30-day period.

(B) REGULATIONS.—The Board, through regulations, shall develop a method to determine the daily closing price of a credit default swap on long-term subordinated debt of a bank holding company and shall calculate the average daily closing price accordingly.

(2) BANK HOLDING COMPANY.—The term ‘‘bank holding company’’ has the same meaning given such term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), but shall only include such companies with total consolidated assets greater than or equal to $50,000,000,000.

(3) BOARD.—The term ‘‘Board’’ means the Board of Governors of the Federal Reserve System.

(4) CREDIT DEFAULT SWAP.—The term ‘‘credit default swap’’ has the same meaning given the term ‘‘swap agreement’’ in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c nt).

(5) LONG-TERM SUBORDINATED DEBT.—The term ‘‘long-term subordinated debt’’ means unsecured bonds or other debt instruments issued by a bank holding company that—

(A) is subordinated to the claims of depositors or general creditors; and

(B) has a maturity date not less than 5 years.

(6) STRESS TEST.—

(A) IN GENERAL.—The term "stress test" means an evaluation designed by the Board to determine whether a bank holding company—

(i) has the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions; and

(ii) is sufficiently capitalized to meet systemically important obligations.

(B) REGULATIONS.—The term "systemically important obligation" shall be defined in regulations prescribed by the Board.

(7) TIER 1 CAPITAL.—The term "tier 1 capital" has the same meaning given in part 225 of title 12, Code of Federal Regulations, as in effect on the date of enactment of this Act, or any successor thereto.

SEC. 3. MARKET-BASED TRIGGER TO DETERMINE ADEQUACY OF CAPITAL.

(a) MARKET-BASED TRIGGER.—

(1) GREATER THAN 50 BASIS POINTS.—

(A) IN GENERAL.—In the case that the average daily closing price exceeds 50 basis points—

(i) the Board shall notify the bank holding company that it needs to raise additional tier 1 capital in order to reduce such closing price below 50 basis points;

(ii) not later than 14 days (or less if the Board makes a determination that conditions warrant a shorter period of time) after such notification under clause (i), such company shall submit to the Board an action plan detailing how the company intends on remediating its capital deficiency;

(iii) such company has 30 days to implement the plan submitted under clause (ii) after such plan is approved by the Board; and

(iv) if after the end of the 30-day period described in clause (iii) the average daily closing price exceeds 50 basis points, the Board and such company shall repeat clause (i) through (iii) until such closing price is less than or equal to 50 basis points.

(B) APPEAL.—

(i) IN GENERAL.—A bank holding company may appeal the findings of the Board under subparagraph (A) and request that the Board conduct a stress test.

(ii) TOLLING.—An appeal made pursuant to clause (i) shall toll any deadline specified under subparagraph (A) until the conclusion of the appeals process.

(iii) CAPITAL DEFICIENCY.—If the Board determines, after conducting a stress test pursuant to clause (i), that the bank holding company has a capital deficiency, the Board and the bank holding company shall repeat clause (i) through (iii) of subparagraph (A) in accordance with clause (iv) of such subparagraph.

(2) GREATER THAN 75 BASIS POINTS.—In the case that the average daily closing price exceeds 75 basis points—

(A) the Board shall notify the bank holding company in accordance with clause (i) of paragraph (1)(A);

(B) such company shall submit and implement an action plan in accordance with clause (ii) and (iii) of paragraph (1)(A);

(C) the Board may suspend or limit dividends paid by the bank holding company until such company's average daily closing price is less than or equal to 50 basis points;

(D) the Board shall notify the company that it will be placed into receivership in accordance with paragraph (3) if the average daily closing price exceeds 100 basis points;

(E) the Board shall conduct a stress test; and

(F) if the Board determines, after conducting a stress test pursuant to subparagraph (E), that such company has a capital deficiency, not later than 14 days (or less if the Board makes a determination that conditions warrant a shorter period of time) after such stress test is completed, such company shall submit and implement an action plan in accordance with clause (ii) and (iii) of paragraph (1)(A).

(3) GREATER THAN 100 BASIS POINTS.—In the case that the average daily closing price exceeds 100 basis points, the Board shall place the company into

receivership in accordance with the orderly liquidation authority provided under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5381 et seq.).

(b) FAILURE TO SUBMIT ACTION PLAN.—A failure by a bank holding company to submit an action plan pursuant to subsection (a) within the time period required under such subsection shall result in the Board placing such company into receivership as described in subsection (a)(3).

(c) LIMITATION ON CLAIMS FOR HOLDERS OF LONG-TERM SUBORDINATED DEBT.—Any entity that is a holder of long-term subordinated debt of a bank holding company that has been placed into receivership pursuant to this section shall receive the lesser of—

(1) 80 percent of the face value of such debt; or

(2) the residual value of such company after all other claims of other creditors have been satisfied.

(d) SUBORDINATED DEBT REQUIREMENT.—

(1) IN GENERAL.—The Board shall require each bank holding company to issue and maintain long-term subordinated debt in an amount greater than or equal to 15 percent of the total consolidated assets of such company.

(2) DEADLINE.—A bank holding company shall meet the requirement set forth in paragraph (1) no later than the effective date of this section.

(3) FAILURE TO MEET REQUIREMENT.—If a bank holding company fails to meet the requirement set forth in paragraph (1), such company shall submit a plan to the Board describing the steps the company will take to meet such requirement.

(e) EFFECTIVE DATE.—This section shall take effect 2 years after the date of the enactment of this Act.

SEC. 4. REPEAL.

(a) PROHIBITIONS ON PROPRIETARY TRADING.—Section 13 of the Bank Holding Company Act of 1956 (12 U.S.C. 1851) is repealed.

(b) ENHANCED PRUDENTIAL STANDARDS.—Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365) is repealed.

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