II

113TH CONGRESS
2D SESSION

S. 2102

To clarify the application of certain leverage and risk-based requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2014

Ms. COLLINS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To clarify the application of certain leverage and risk-based requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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

SECTION 1. CLARIFICATION OF APPLICATION OF LEVERAGE AND RISK-BASED CAPITAL REQUIREMENTS.

Section 171 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5371) is amended—

(a) in subsection (a), by adding at the end the following:

"(4) BUSINESS OF INSURANCE.—The term 'business of insurance' has the same meaning as in section 1002(3).

"(5) PERSON REGULATED BY A STATE INSURANCE REGULATOR.—The term 'person regulated by a State insurance regulator' has the same meaning as in section 1002(22).

"(6) REGULATED FOREIGN SUBSIDIARY AND REGULATED FOREIGN AFFILIATE.—The terms 'regulated foreign subsidiary' and 'regulated foreign affiliate' mean a person engaged in the business of insurance in a foreign country that is regulated by a foreign insurance regulatory authority that is a member of the International Association of Insurance Supervisors or other comparable foreign insurance regulatory authority as determined by the Board of Governors following consultation with the State insurance regulators, including the lead State insurance commissioner (or similar State official) of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners, where the person, or its principal United States insurance affiliate, has its principal place of business or is domiciled, but only to the extent that—

"(A) such person acts in its capacity as a regulated insurance entity; and

"(B) the Board of Governors does not determine that the capital requirements in a specific foreign jurisdiction are inadequate.

"(7) CAPACITY AS A REGULATED INSURANCE ENTITY.—The term 'capacity as a regulated insurance entity'—

"(A) includes any action or activity undertaken by a person regulated by a State insurance regulator or a regulated foreign subsidiary or a regulated foreign affiliate of such person, as those actions relate to the provision of insurance, or other activities necessary to engage in the business of insurance; and

"(B) does not include any action or activity, including any financial activity, that is not regulated by a State insurance regulator or a foreign agency or authority and subject to State insurance capital requirements."; and

(b) by adding at the end the following new subsection:

"(c) CLARIFICATION.—

"(1) IN GENERAL.—In establishing the minimum leverage capital requirements and minimum risk-based capital requirements on a consolidated basis for a depository institution holding company or a nonbank financial company supervised by the Board of Governors as required under paragraphs (1) and (2) of subsection (b), the appropriate Federal banking agencies shall not be required to include, for any purpose of this section (including in any determination of consolidation), a person regulated by a State insurance regulator or a regulated foreign subsidiary or a regulated foreign affiliate of such person engaged in the business of insurance, to the extent that such person acts in its capacity as a regulated insurance entity.

"(2) RULE OF CONSTRUCTION.—This subsection shall not be construed to prohibit, modify, limit, or otherwise supersede any other provision of Federal law that provides the Board of Governors authority to issue regulations and orders relating to capital requirements for depository institution holding companies or nonbank financial companies supervised by the Board of Governors.".

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